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DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Housing Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1940

RIN 0570–AA30

Methodology and Formulas for Allocation of Loan and Grant Program Funds

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Business-Cooperative Service (RBS) is amending the regulations for allocating program funds to its State Offices. This action is needed to add the Rural Business Opportunity Grant (RBOG) Program and update the formulas used for the Rural Business Enterprise Grant (RBEG) and Business and Industry (B&I) Guaranteed and Direct Loan programs. The intended effect of this action is to update the formula used for allocating B&I and RBEG funds among State Offices and provide a regulatory formula for allocating RBOG funds.

EFFECTIVE DATE: April 25, 2003.

FOR FURTHER INFORMATION CONTACT: Diane Berger, Loan Specialist, Specialty Lenders Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, Room 6868, 1400 Independence Ave. SW., Washington, DC 20250–3225, Telephone (202) 720–2383. The TTD number is (800) 877–8339 or (202) 708–9300.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not-significant and has not been reviewed by the Office of Management and Budget.

Programs Affected

The Catalog of Federal Domestic Assistance numbers for the programs impacted by this action are 10.773, Rural Business Opportunity Grants; 10.769, Rural Business Enterprise Grants; and 10.768, Business and Industry loans.

Intergovernmental Consultation

The Programs listed are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

Paperwork Reduction Act

There are no reporting and recordkeeping requirements associated with this final rule.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. This rule is intended to foster cooperation between the Federal Government and the states and local governments, and reduces, where possible, any regulatory burden imposed by the Federal Government that impedes the ability of states and local governments to solve pressing economic, social and physical problems in their state.

Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given this rule; and (3) administrative proceedings in accordance with the regulations of the Agency at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule, unless those regulations specifically allow bringing suit at an earlier time.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' RBS has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, RBS must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RBS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or the private sector. Thus this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Background

RBS is amending its regulations for allocating program funds among its State Offices. This action is necessary to provide a regulatory basis for allocating funds for a new program, RBOG. Also, adjustments need to be made in the formulas for allocating RBEG and B&I funds to reflect current policies and to add that one of the factors used for RBEG is the State percentage of national rural population with income below the poverty level.

Discussion of Comments

This rule was published in the **Federal Register** as a proposed rule on

August 3, 2000 (65 FR 47695) with public comments invited through October 2, 2000. No comments were received.

List of Subjects in 7 CFR Part 1940

Administrative practice and procedure, Agriculture, Allocations, Grant programs—Housing and community development, Loan programs—Agriculture, Rural areas.

Therefore, chapter XVIII, title 7, Code of Federal Regulations, is amended as follows:

PART 1940—GENERAL

1. The authority citation for part 1940 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989, 42 U.S.C. 1480.

Subpart L—Methodology and Formulas for Allocation of Loan and Grant Program Funds

2. Amend section 1940.588 by removing paragraph (k) and revising the heading and paragraphs (d), (g), (h), and (j) to read as follows:

§ 1940.588 Business and Industry Guaranteed and Direct Loans.

* * * * *

(d) *Transition formula.* The transition formula is not used for B&I Guaranteed and Direct Loans.

* * * * *

(g) *Reserve. See* § 1940.552(g). States may request reserve funds from the B&I reserve when all of the state allocation has been obligated or will be obligated to the project for which the request is made.

(h) *Pooling of funds. See* § 1940.552(h). Funds are pooled near fiscal year-end. Pooled funds will be placed in a reserve and made available on a priority basis to all States.

* * * * *

(j) *Suballocation by the State Director.* Suballocation by the State Director is authorized for this program.

3. Amend section 1940.589 by removing paragraph (k) and revising paragraphs (b)(1)(ii), (g), and (h) to read as follows:

§ 1940.589 Rural Business Enterprise Grants.

* * * * *

(b) * * *

(1) * * *

(ii) State's percentage of national rural population with incomes below the poverty level—25 percent.

* * * * *

(g) *Reserve. See* § 1940.552(g).

(h) *Pooling of funds. See* § 1940.552(h). Funds are pooled near fiscal year-end. Pooled funds will be placed in the National Office reserve and will be made available administratively.

* * * * *

4. Add section 1940.593 to read as follows:

§ 1940.593 Rural Business Opportunity Grants.

(a) *Amount available for allocations. See* § 1940.552(a).

(b) *Basic formula criteria, data source, and weight. See* § 1940.552(b).

(1) The criteria used in the basic formula are:

(i) State's percentage of national rural population—50 percent.

(ii) State's percentage of national rural population with incomes below the poverty level—25 percent.

(iii) State's percentage of national nonmetropolitan unemployment—25 percent.

(2) The data source for each criterion is based on the latest census data available. The percentage representing each criterion is multiplied by the weight factor and added to arrive at a State Factor (SF). The SF cannot exceed .05.

SF = (criterion (b)(1)(i) × 50 percent) + (criterion (b)(1)(ii) × 25 percent) + (criterion (b)(1)(iii) × 25 percent)

(c) *Basic formula allocation. See* § 1940.552(c).

(d) *Transition formula.* The transition formula is not used for Rural Business Opportunity Grants (RBOG).

(e) *Base allocation. See* § 1940.552(e).

(f) *Administrative allocation.* The administrative allocation is not used for RBOG.

(a) *Reserve. See* § 1940.552(g).

(h) *Pooling of funds. See* § 1940.552(h). Funds are pooled near fiscal year-end. Pooled funds will be placed in the National Office reserve and will be made available administratively.

(i) *Availability of the allocation. See* § 1940.552(i). The allocation of funds is made available to States on an annual basis.

(j) *Suballocation by the State Director.* Suballocation by the State Director is authorized for this program.

Dated: March 17, 2003.

Thomas C. Dorr,

Under Secretary, Rural Development.

[FR Doc. 03–7237 Filed 3–25–03; 8:45 am]

BILLING CODE 3410–XY–U

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 70, 71, and 73

RIN 3150–AH09

Filing and Notification Requirements for the Shipments of Certain Radioactive Materials

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to revise filing and advance notification requirements for the shipments of certain radioactive materials. These amendments are necessary to reflect the recent organizational and administrative changes within NRC and to inform the public and licensees of these changes.

EFFECTIVE DATE: March 26, 2003.

FOR FURTHER INFORMATION, CONTACT: Kim Karcagi, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6701, e-mail: *kxk2@nrc.gov,* or Philip Brochman, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6557, e-mail: *PGB@nrc.gov.*

SUPPLEMENTARY INFORMATION: In 1995, NRC transferred responsibility for receiving advance notification of shipments of certain licensed radioactive material from the Office of Nuclear Material Safety and Safeguards (NMSS), Division of Industrial and Medical Nuclear Safety, and NRC Regional Administrators, to the Spent Fuel Project Office (SFPO) in NMSS. On January 25, 2002, NRC issued a final rule (67 FR 3584) that amended the regulations in 10 CFR Parts 1, 20, 34, 70, 71, 72, and 73, to reflect these and other changes. On April 2, 2002, the Commission created the Office of Nuclear Security and Incident Response (NSIR). The Division of Nuclear Security (DNS) within NSIR was assigned the responsibility for receiving advance notifications, under Parts 70, 71, and 73, for shipments of certain radioactive materials. Accordingly, licensees should address these advance notifications to the DNS, rather than the SFPO. This final rule will inform licensees and the public of these organizational changes.

Because these minor amendments only reflect organizational changes, the notice and comment provisions of the Administrative Procedures Act do not

apply, pursuant to 5 U.S.C. 553(b)(A). These amendments are effective on publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date, pursuant to 5 U.S.C. 553(d)(3), because these amendments are of a minor and administrative nature, dealing with NRC's organization.

Environmental Impact: Categorical Exclusion

NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0009, 3150–0008, and 3150–0002.

Public Protection Notification

The NRC may not conduct nor sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

A regulatory analysis has not been prepared for this final rule, because this rule is administrative, in that it amends the regulations to update the filing and advance notification requirements. These are considered minor non-substantive amendments and will not have a significant impact on NRC licensees or the public.

Backfit Analysis

NRC has determined that the backfit rules do not apply to this final rule, because this rule does not involve any provisions that would impose a backfit, as defined in 10 CFR Chapter 1. Therefore, a backfit analysis is not required for this rule.

List of Subjects

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 71

Criminal penalties, Hazardous materials transportation, Nuclear materials, Packaging and containers, Reporting and recordkeeping requirements.

10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, NRC is adopting the following amendments to 10 CFR Parts 70, 71, and 73.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. The authority citation for Part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.81 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.82 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

§ 70.5 [Amended]

2. Section 70.5 is amended as follows:

a. In paragraphs (a)(1) and (a)(2), after the words ''Director, Office of Nuclear Material Safety and Safeguards'' add the words ''and Director, Office of Nuclear Security and Incident Response,''.

b. In paragraph (b), remove the word ''five'' and add, in its place, the word ''four''.

§ 70.20b [Amended]

3. Section 70.20b is amended as follows:

a. In paragraphs (f)(1) and (g)(1), remove the words ''Director, Spent Fuel Project Office,'' and add, in their place, the words ''Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security,''.

b. In paragraphs (f)(2)(ii) and (f)(2)(iii), remove the words ''Director, Spent Fuel Project Office has been notified by telephone at (301) 415–8500,'' and add, in their place, the words ''Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security has been notified by telephone at (301) 415–6828,''.

§ 70.32 [Amended]

4. Section 70.32 is amended as follows:

a. In paragraph (c)(2), remove the word ''five'' and add, in its place, the word ''four''.

b. In paragraph (c)(2), after the words ''Director, Office of Nuclear Material Safety and Safeguards,'' add the words ''and Director, Office of Nuclear Security and Incident Response,''.

c. In paragraph (e), after the words ''Director, Office of Nuclear Material Safety and Safeguards,'' add the words ''and Director, Office of Nuclear Security and Incident Response,''.

d. In paragraph (i), after the words ''Director, Office of Nuclear Material Safety and Safeguards,'' add the words ''and Director, Office of Nuclear Security and Incident Response,''.

PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

5. The authority citation for Part 71 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201, 2232, 2233, 2297f); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 71.97 also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789–790.

§ 71.97 [Amended]

6. Section 71.97 is amended as follows:

a. In paragraphs (c)(1) and (f)(1), remove the words ''Director, Spent Fuel Project Office.'' and add, in their place, the words ''Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security.''.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

7. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701,

106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C, 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

§ 73.4 [Amended]

8. Section 73.4 is amended as follows:

a. In the first sentence, after the words ''as appropriate,'' add the words ''and Director, Office of Nuclear Security and Incident Response,''.

§ 73.26 [Amended]

9. Section 73.26 is amended as follows:

a. In paragraph (i)(6), remove the words ''Director, Spent Fuel Project Office'' and add, in their place, the words ''Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security''.

§ 73.27 [Amended]

10. Section 73.27 is amended as follows:

a. In paragraph (b), in the first, second, third, and fourth sentences, remove the words ''Director, Spent Fuel Project Office'' and add, in their place, the words ''Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security''.

§ 73.67 [Amended]

11. Section 73.67 is amended as follows:

a. In paragraph (e)(7)(ii), remove the words ''Director, Spent Fuel Project Office'' and add, in their place, the words ''Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security''.

§ 73.71 [Amended]

12. Section 73.71 is amended as follows:

a. In paragraph (a)(4), remove the words ''Director, Spent Fuel Project Office.'' and add, in their place, the words ''Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security.''.

§ 73.72 [Amended]

13. Section 73.72 is amended as follows:

a. In paragraph (a)(1), remove the words ''Director, Spent Fuel Project Office,'' and add, in their place, the words ''Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security,''.

b. In paragraphs (a)(4) and (a)(5), remove the words ''Director, Spent Fuel Project Office by telephone at (301) 415–8500'' and add, in their place, the words ''Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security at (301) 415–6828''.

§ 73.73 [Amended]

14. Section 73.73 is amended as follows:

a. In paragraph (a)(1), remove the words ''Director, Spent Fuel Project Office,'' and add, in their place, the words ''Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security,''.

b. In paragraph (b), remove the words ''Director, Spent Fuel Project Office at (301) 415–8500.'' and add, in their place, the words ''Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security at (301) 415–6828.''.

§ 73.74 [Amended]

15. Section 73.74 is amended as follows:

a. In paragraph (a)(1), remove the words ''Director, Spent Fuel Project Office,'' and add, in their place, the words ''Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security,''.

b. In paragraph (b), remove the words ''Director, Spent Fuel Project Office at (301) 415–8500.'' and add, in their place, the words ''Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security at (301) 415–6828.''.

Dated at Rockville, Maryland, this 11th day of March, 2003.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 03–7265 Filed 3–25–03; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–18–AD; Amendment 39–13093; AD 2003–06–06]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Hawker 800XP and 800 (Including Variant U–125A) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Raytheon Model Hawker 800XP and 800 (including variant U–125A) airplanes, that requires a one-time inspection to identify the bolts installed at certain locations in the wing or fuselage, and corrective actions if necessary. The actions specified by this AD are intended to prevent failure of certain attachment bolts due to manufacturing discrepancies, which could result in reduced structural integrity of the airplane, and loss of system function for flaps, controls, and landing gear. This action is intended to address the identified unsafe condition.

DATES: Effective April 30, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 30, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David Ostrodka, Senior Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4129; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Raytheon Model Hawker 800XP and 800 (including variant U–125A) airplanes was published in the **Federal Register** on December 2, 2002 (67 FR 71505). That action proposed to require a one-time inspection to identify the bolts installed at certain locations in the wing or fuselage, and corrective actions if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Editorial Changes

In the notice of proposed rulemaking (NPRM) we stated that, for Model

Hawker 800 (including variant U–125A) airplanes, the proposed actions should be accomplished in accordance with Raytheon Service Bulletin SB 51–3421, Revision 1, dated November 2001. Both Revision 1 and the original issue of that service bulletin reference Appendix 1, dated December 2000, as an additional source of service information for performing the actions required by this final rule. Therefore, we have changed the service bulletin citation throughout this final rule to include Appendix 1.

We also stated in the NPRM that the proposed actions were to be accomplished per Raytheon Service Bulletins SB 51–3408, dated October 2000; and SB 51–3426, Revision 1, dated November 2001. However, SB 51–3408, SB 51–3426, and SB 51–3421 have an attached form titled Service Bulletin/Kit Drawing Report Fax. Throughout this final rule the citations for these service bulletins have been changed to exclude the form. Although this final rule does include a reporting requirement, it does not require that this form be completed by operators and submitted to the airplane manufacturer.

Conclusion

After careful review of the available data, we have determined that air safety and the public interest require the adoption of the rule with the changes previously described. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 104 airplanes of the affected design in the worldwide fleet. We estimate that 76 airplanes of U.S. registry will be affected by this AD, that it will take approximately 44 or 600 work hours per airplane (depending on configuration) to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $2,640 or $36,000 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. The manufacturer may cover the cost of replacement parts associated with this AD, subject to warranty conditions. Manufacturer warranty remedies may also be available for labor costs associated with this AD. As a result, the costs attributable to the AD may be less than stated above.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2003–06–06 Raytheon Aircraft Company: Amendment 39–13093. Docket 2001–NM–18–AD.

Applicability: Model Hawker 800XP and 800 (including variant U–125A) airplanes, certificated in any category; serial numbers 258287 through 258390, excluding the following serial numbers:

258289, 258291, 258292, 258293, 258294, 258295, 258301, 258303, 258310, 258312, 258313, 258315, 258321, 258336, 258343

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of certain attachment bolts due to manufacturing discrepancies, which could result in reduced structural integrity of the airplane, and loss of system function for flaps, controls, and landing gear, accomplish the following:

Inspection for Ravenstone Jackson Bolts

(a) Perform a general visual inspection to identify the type of bolts installed at specified locations of the wing and fuselage, in accordance with paragraphs (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5), as applicable, of this AD.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) For Model Hawker 800XP airplanes identified in the effectivity of Raytheon Service Bulletin SB 51–3408, dated October 2000, excluding Service Bulletin/Kit Drawing Report Fax: Inspect within 12 months after the effective date of this AD in accordance with the service bulletin.

(2) For Model Hawker 800XP airplanes identified in the effectivity of Raytheon Service Bulletin SB 51–3426, Revision 1, dated November 2001, excluding Service Bulletin/Kit Drawing Report Fax: Inspect within 18 months after the effective date of this AD in accordance with the service bulletin. Inspection before the effective date of this AD in accordance with Raytheon Service Bulletin SB 51–3426, dated December 2000, excluding Service Bulletin/Kit Drawing Report Fax, is acceptable for compliance with the inspection requirements

only for those locations identified in the original service bulletin; this AD requires inspections at additional locations in accordance with Revision 1 of the service bulletin.

(3) For Model Hawker 800 (including variant U–125A) airplanes identified as Group A airplanes in Raytheon Service Bulletin SB 51–3421, Revision 1, dated November 2001, including Appendix 1, dated December 2000, excluding Service Bulletin/Kit Drawing Report Fax: Inspect within 12 months after the effective date of this AD in accordance with the service bulletin. Inspection before the effective date of this AD in accordance with Raytheon Service Bulletin SB 51–3421, including Appendix 1, dated December 2000, excluding Service Bulletin/Kit Drawing Report Fax, is acceptable for compliance with this inspection requirement for Group A airplanes.

(4) For Model Hawker 800 (including variant U–125A) airplanes identified as Group B airplanes in Raytheon Service Bulletin SB 51–3421, Revision 1, dated November 2001, including Appendix 1, dated December 2000, excluding Service Bulletin/Kit Drawing Report Fax: Inspect within 18 months after the effective date of this AD in accordance with the service bulletin. Inspection before the effective date of this AD in accordance with Raytheon Service Bulletin SB 51–3421, including Appendix 1, dated December 2000, excluding Service Bulletin/Kit Drawing Report Fax, is acceptable for compliance with the inspection requirement only for those locations identified in the original service bulletin; this AD requires inspections at additional locations in accordance with Revision 1 of the service bulletin.

(5) For Model Hawker 800 (including variant U–125A) airplanes identified as Group C airplanes in Raytheon Service Bulletin SB 51–3421, Revision 1, dated November 2001, including Appendix 1, dated December 2000, excluding Service Bulletin/Kit Drawing Report Fax: Inspect within 12 months after the effective date of this AD in accordance with the service bulletin. Inspection before the effective date of this AD in accordance with Raytheon Service Bulletin SB 51–3421, including Appendix 1, dated December 2000, excluding Service Bulletin/Kit Drawing Report Fax, is acceptable for compliance with the inspection requirement only for those locations identified in the original service bulletin; this AD requires inspections at additional locations in accordance with Revision 1 of the service bulletin.

Inspection for Broken Bolts

(b) For any discrepant bolt (any Ravenstone Jackson DHS bolt or any bolt that cannot be identified) found during the inspection required by paragraph (a) of this AD: Before further flight following detection of the discrepant bolt, perform an ultrasonic inspection to determine if the bolt is broken, in accordance with the applicable service bulletin identified in paragraph (a) of this AD. Replace any broken bolt with a new bolt before further flight, in accordance with the applicable service bulletin.

Reporting Requirement

(c) If any broken bolt is found during the inspection specified in paragraph (b) of this AD: Send an inspection report at the applicable time specified in paragraph (c)(1) or (c)(2) of this AD to the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; fax (316) 946–4407. The report must include the inspection results, a description of all discrepancies found, and the airplane serial number. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the inspection is accomplished after the effective date of this AD: Submit the report within 30 days after performing the inspection required by paragraph (a) of this AD.

(2) For airplanes on which the inspection has been accomplished prior to the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

Part Installation

(d) As of the effective date of this AD, no person may install on any airplane a Ravenstone Jackson DHS bolt having a batch number identified in paragraph 3.B. of Raytheon Service Bulletin SB 51–3426, Revision 1, dated November 2001; paragraph 3.A. Raytheon Service Bulletin SB 51–3421, Revision 1, dated November 2001; or paragraph 2.B. of Raytheon Service Bulletin SB 51–3408, dated October 2000.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

Special Flight Permits

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

Incorporation by Reference

(g) Unless otherwise specified in this AD, the actions shall be done in accordance with Raytheon Service Bulletin SB 51–3408, dated October 2000, excluding Service Bulletin/Kit Drawing Report Fax; Raytheon Service Bulletin SB 51–3426, Revision 1, dated November 2001, excluding Service Bulletin/Kit Drawing Report Fax; or Raytheon Service Bulletin SB 51–3421, Revision 1, dated November 2001, including Appendix 1, dated December 2000, and excluding Service Bulletin/Kit Drawing Report Fax; as applicable. Raytheon Service Bulletin SB 51–3421, Revision 1, contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 3, 37, 49–51	1	November 2001.
2, 4–36, 38–48, 52–171	Original	December 2000.
	Appendix 1	
1–11	Original	December 2000.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on April 30, 2003.

Issued in Renton, Washington, on March 18, 2003.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–6966 Filed 3–25–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–420–AD; Amendment 39–13092; AD 2003–06–05]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB SF340A series airplanes, that requires modifying the structure of the air recirculation fan support, and replacing the air recirculation fans with two upgraded air recirculation fans; or replacing the air recirculation fans with two new air recirculation fans with brushless motors. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent incidents of smoke or a burning smell in the cabin during flight, caused by incorrect brush insulation in the motors of the air recirculation fans that provide air to the flight compartment and the passenger compartment.

DATES: Effective April 30, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 30, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gary Lium, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 980545–4056; telephone (425) 227–1112; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on April 3, 2002 (67 FR 15758). That action proposed to require modifying the structure of the air recirculation fan support, and replacing the air recirculation fans with two upgraded air recirculation fans; or replacing the air recirculation fans with two new air recirculation fans with brushless motors.

Comments

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

Request to Reference Alternative Part Numbers

One commenter, the airplane manufacturer, states that it has issued Revision 03 of Saab Service Bulletin 340–21–018, dated March 22, 2001. The commenter notes that this service bulletin specifies alternative recirculation fans with brushless motors having part number (P/N) EVCTA465, EVCTA465A, or EVCTA465B. The commenter also states that P/N 9302882–002, as listed in the supplemental NPRM, is an internal Saab Aircraft AB P/N, which should not to be used.

From this comment, the FAA infers that the commenter is requesting that the supplemental NPRM be revised to reference the P/Ns of the alternative recirculation fans, rather than the internal Saab part number. We agree and have revised the final rule accordingly.

Request To Revise Cost Impact

The commenter requests that we revise the Cost Impact figures. The commenter states that, based on 7 work hours with an average labor cost of $60 and $59,360 for a kit with two new fans with brushless motors, the cost of the replacement with new fans with brushless motors should be $59,780 per airplane.

We agree and have revised the Cost Impact estimate in this final rule.

Request for Editorial Changes

The commenter also states that the air recirculation fans are ''for'' the flight and passenger compartments, and that they are not located in these areas. From this comment, we infer that the commenter is requesting that the supplemental NPRM be revised to clarify that the recirculation fans provide air to the flight and passenger compartments, rather than that the fans are actually located in those compartments. We agree and have revised the phrase ''air recirculation fans in the flight compartment and the passenger compartment'' to ''air recirculation fans that provide air to the flight compartment and the passenger compartment'' throughout the final rule.

In addition, the commenter also states that the fans with brushless motors are different types of fans, not ''modified'' fans. From this comment, we infer that the commenter is requesting that we revise the wording in the supplemental NPRM from ''modified'' air recirculation fans to ''new'' air recirculation fans. We agree and have revised the final rule accordingly.

Conclusion

After careful review of the available data, including the comments noted above, we have determined that air safety and the public interest require the adoption of the rule with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 35 airplanes of U.S. registry will be affected by this AD and that the average labor rate is $60 per work hour.

It will take approximately 4 work hours per airplane to accomplish the required removal of the two air recirculation fans having P/N C209–690B, C209–690B1, or C209–690C, and their replacement with two upgraded air recirculation fans having P/N C209–690D. Based on these figures, the cost impact of the required replacement on U.S. operators is estimated to be $8,400, or $240 per airplane.

It will take approximately another 3 work hours per airplane to accomplish the required modification of the fan support structure. Based on these figures, the cost impact of the required modification on U.S. operators is estimated to be $6,300, or $180 per airplane.

It will take approximately 7 work hours per airplane to accomplish the removal and replacement of the two air recirculation fans with new, brushless motors. The cost of the brushless motors is $59,360 per airplane. Based on these figures, the cost impact of the optional modification on U.S. operators is estimated to be $59,780 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and

that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2003–06–05 Saab Aircraft AB: Amendment 39–13092. Docket 2000–NM–420–AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers –004 through –108 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent incidents of smoke or a burning smell in the cabin during flight caused by incorrect brush insulation in the motors of the air recirculation fans that provide air to the flight compartment and the passenger compartment, accomplish the following:

Replacement

(a) Within 1,000 flight hours after the effective date of this AD: Perform either paragraph (a)(1) or (a)(2) of this AD.

(1) Remove the two air recirculation fans having part number (P/N) C209–690B, C209–690B1, or C209–690C, modify the structure of the fan support, and replace the fans with two upgraded air recirculation fans having P/N C209–690D, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–21–039, Revision 01, dated April 18, 2001.

Note 2: The upgraded fans are larger than the original fans and will interfere with the structure of the fan support. A modification to the structure of the fan support to include a small cutout is contained in Paragraph 2.C. of Saab Service Bulletin 340–21–039, Revision 01.

Note 3: The modification to the structure of the fan support to include a small cutout is also described in Saab Service Bulletin SF340–21–001, Revision 1, dated February 20, 1985. For those airplanes on which the requirements of paragraph (a)(1) have been performed prior to the effective date of this AD, modification of the structure of the fan support to include a small cutout in accordance with that service bulletin is acceptable as a means of compliance with the applicable requirements of paragraph (a)(1) of this AD.

(2) Remove the two air recirculation fans having P/N C209–690B, C209–690B1, or C209–690C, and replace the fans with two new air recirculation fans with brushless motors having P/N EVCTA465, EVCTA465A, or EVCTA465B (these alternative fans could have been previously identified with the internal Saab P/N 9302882–002), in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–21–018, Revision 02, dated June 21, 2000.

Parts Installation

(b) As of the effective date of this AD, no air recirculation fans having P/N C209–690B, C209–690B1, or C209–690C may be installed on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Saab Service Bulletin 340–21–039, Revision 01, dated April 18, 2001; or Saab Service Bulletin 340–21–018, Revision 02, dated June 21, 2000; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in Swedish airworthiness directive 1–160 R1, dated June 13, 2001.

Effective Date

(f) This amendment becomes effective on April 30, 2003.

Issued in Renton, Washington, on March 18, 2003.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–6994 Filed 3–25–03; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Parts 1260 and 1274

RIN 2700–AC53

NASA Grant and Cooperative Agreement Handbook—Approvals and Reviews

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This final rule revises the NASA Grant and Cooperative Agreement Handbook by establishing a requirement for the prior approval of the Assistant Administrator for Procurement for the award of all grants and cooperative agreements that will exceed both $5 million and 5 years. This final rule also clarifies the requirement to obtain new proposals, certifications, and technical evaluations for the renewal of cooperative agreements with commercial firms consistent with the current requirement for agreements with nonprofits and educational institutions. This final rule results from NASA's plans for reviews and recompetitions of contracts and partnerships identified in inventories submitted as a result of an agreement entered into with OMB on an action plan regarding the President's Management Agenda Competitive Sourcing element. These changes will establish greater consistency in the approval requirements for contracts, grants, and cooperative agreements with anticipated periods of performance exceeding 5 years, and the procedures used for renewals of grants and cooperative agreements with nonprofits and educational institutions and cooperative agreements with commercial firms.

EFFECTIVE DATE: March 26, 2003.

FOR FURTHER INFORMATION CONTACT: Joseph Le Cren, NASA, Headquarters, Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546–0001, (202) 358–0431, e-mail: *joseph.f.lecren@nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

OMB and NASA entered into an agreement on an action plan regarding the President's Management Agenda Competitive Sourcing element. That agreement called for NASA to put in place plans for reviews and recompetitions of contracts and partnerships identified in inventories submitted to OMB in September 2002. NASA's partnerships are primarily established through grants and cooperative agreements with nonprofit organizations, educational institutions, and commercial firms. In developing NASA's plan for reviews and recompetitions, existing guidance pertaining to grants and cooperative agreements was reviewed and areas requiring revision or coverage were identified.

Contracts that are planned to exceed 5 years, inclusive of options, generally require the prior approval of the Assistant Administrator for Procurement. Grants and cooperative agreements are generally limited to 3 years; however, it is not a firm limit as is the case for contracts. This final rule establishes a similar requirement for grants and cooperative agreements that have a significant dollar value.

NASA grants and cooperative agreements with nonprofit organizations and educational institutions currently have a requirement for new proposals, certifications, and technical evaluations for renewals. Renewals provide for continuation of research beyond the original scope, period of performance, and funding levels. While the same requirements are understood to apply to renewals of cooperative agreements with commercial firms, they have not been explicitly stated. This final rule eliminates any possible ambiguity by specifying the requirement to obtain new proposals, certifications, and technical evaluations for renewals of cooperative agreements with commercial firms. This will ensure that consistent treatment is provided for these awards as is done for grants and cooperative agreements with nonprofits and educational institutions.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This final rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it only makes changes to internal approval requirements, clarifies existing requirements, and does not impose any new requirements on contractors.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose any recordkeeping or information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 14 CFR Parts 1260 and 1274

Grant Programs—Science and Technology.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 14 CFR Parts 1260 and 1274 are amended as follows:

PART 1260—GRANTS AND COOPERATIVE AGREEMENTS

1. The authority citation for 14 CFR Part 1260 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301 *et seq.*), and OMB Circular A–110.

2. In 1260.13, add the following after the last sentence of paragraph (a)(2) to read as follows:

§ 1260.13 Award procedures.

(a)(1) * * *

(2) * * *. However, grants that will exceed $5 million and have a period of performance in excess of 5 years shall require the approval of the Assistant Administrator for Procurement (Code HS) prior to award. Requests for approval shall include a justification for exceeding 5 years and evidence that the extended years can be reasonably estimated. Requests for approval are not required when the 5-year limitation is exceeded due to a no cost extension.

* * * * *

PART 1274—COOPERATIVE AGREEMENTS WITH COMMERCIAL FIRMS

3. The authority citation for Part 1274 continues to read as follows:

Authority: 31 U.S.C. 6301 to 6308; 42 U.S.C. 2451 *et seq.*

4. Amend § 1274.207 by redesignating paragraph (b) as paragraph (d), and adding new paragraphs (b) and (c) to read as follows:

§ 1274.207 Extended agreements.

* * * * *

(b) Cooperative agreements that will exceed $5 million and have a period of performance in excess of 5 years shall require the approval of the Assistant Administrator for Procurement prior to award. Requests for approval shall include a justification for exceeding 5 years and evidence that the extended years can be reasonably priced. Requests for approval are not required when the 5-year limitation is exceeded due to a no cost extension.

(c) Cooperative agreement renewals provide for the continuation of research beyond the original scope, period of performance and funding levels; therefore, new proposals, certifications, and technical evaluations are required prior to the execution of a cooperative agreement renewal. Renewals will be awarded as new cooperative agreements. Continued performance within a period specified under a multiple year cooperative agreement provision does not constitute a renewal.

* * * * *

[FR Doc. 03–7086 Filed 3–25–03; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–03–009]

RIN 1625–AA09

Drawbridge Operation Regulation; Illinois Waterway, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Commander, Eighth Coast Guard District is temporarily changing the regulation governing the McDonough Street Bridge, mile 287.3; Jefferson Street Bridge, mile 287.9; Cass Street Bridge, mile 288.1; Jackson Street Bridge, mile 288.4 and the Ruby Street Bridge, mile 288.7, Illinois Waterway. The drawbridges, with the exception of the Ruby Street Bridge, will be allowed to remain closed to navigation from 7:30 a.m. to 9 a.m. and 4 p.m. to 5:30 p.m., Monday through Saturday. The Ruby Street Bridge will remain in the open to navigation position while unscheduled structural steel repairs are made. This temporary rule is issued to facilitate vehicle traffic management and structural steel repairs to the Ruby Street Bridge.

DATES: This temporary rule is effective from March 12, 2003 until 7:30 a.m. on July 18, 2003.

ADDRESSES: Documents referred to in this rule are available for inspection or copying at room 2.107f in the Robert A. Young Federal Building at Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m. Monday through Friday, except Federal holidays. The telephone number is (314) 539–3900, extension 2378. The Bridge Branch maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Roger K. Wiebusch, Bridge Administrator, (314) 539–3900, extension 2378.

SUPPLEMENTARY INFORMATION:

Good Cause for Not Publishing an NPRM

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Structural steel deficiencies were discovered on the Ruby Street Bridge that require immediate repair to keep the bridge in operation. Until such time as the Ruby Street Bridge is repaired, vehicular traffic in the City of Joliet, Illinois must be diverted to other bridges in the area resulting in greater congestion and an increased likelihood of vehicular accidents and injuries. Since the repairs will take approximately five months to complete, it is important that the other bridges in the area immediately modify their hours to allow rush hour traffic to flow efficiently, reducing the likelihood of accident or injury.

Good Cause for Making Rule Effective in Less Than 30 Days

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same safety reasons cited in the preceding paragraph, the rule should become effective immediately upon publication.

Background and Purpose

Due to routine maintenance to the Ruby Street Bridge, mile 288.7, Illinois Waterway, the bridge must remain in the open to navigation (closed to motor vehicle traffic) position at all times. As a result, the Illinois Department of Transportation requested a temporary change to the current regulations for the remaining four bascule leaf drawbridges within the City of Joliet that carry vehicular traffic across the Illinois Waterway. Increasing the hours that the four remaining bridges are closed to navigation and available for vehicle use during peak traffic periods will reduce traffic jams in the City of Joliet while having minimal impact on vessel traffic on the Illinois Waterway. Repairs to the Ruby Street Bridge are expected to be complete by July 18, 2003.

The current regulations permit the bridges to remain closed to navigation during the commuter hours of 7:30 a.m. to 8:30 a.m. and 4:15 p.m. to 5:15 p.m., Monday through Saturday. By increasing the time the remaining bridges may remain closed to navigation by thirty minutes in the morning and afternoon, traffic buildup in the city will be greatly alleviated. This regulation will result in these bridges, with the exception of the Ruby Street Bridge, being closed to navigation from 7:30 a.m. to 9 a.m. and from 4 p.m. to 5:30 p.m., Monday through Saturday. The Ruby Street Bridge will remain in the open to navigation position for structural steel repairs. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary drawbridge operation regulation has been coordinated with commercial waterway operators. No objections to the proposed temporary rule were raised.

Regulatory Evaluation

This 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 Homeland Security.

The Coast Guard expects the economic impact of the temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DHS is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The temporary rule will have a negligible impact on vessel traffic. The primary users of the Illinois Waterway in Joliet, IL are commercial towboat operators. On average, eight vessels per day transit the affected bridges. Of these, one or two may have to adjust their speed and schedules to arrive at the affected bridges prior to, or after, the times the bridges are closed to navigation.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement

Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Any individual that qualifies or, believes he or she qualifies as a small entity and requires assistance with the provisions of this rule, may contact Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 539–3900, extension 2378.

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

Collection of Information

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

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 rule under that Order and have determined that it does not have implications for federalism.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

Energy Effects

We have analyzed this 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

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. Promulgation of changes to drawbridge regulations has been found not to have significant effect on the human environment. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard is amending part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. From March 12, 2003, through 7:30 a.m. on July 18, 2003, paragraph (c) of § 117.393, is suspended and a new paragraph (e) is added to read as follows:

§ 117.393 Illinois Waterway.

* * * * *

(e) The draws of the McDonough Street Bridge, mile 287.3; Jefferson Street Bridge, mile 287.9; Cass Street Bridge, mile 288.1; Jackson Street Bridge, mile 288.4; all of Joliet, shall open on signal, except that they need not open from 7:30 a.m. to 9 a.m. and from 4 p.m. to 5:30 p.m. Monday through Saturday. The Ruby Street Bridge shall remain in the open to navigation position from March 12, 2003, through 7:30 a.m. on July 18, 2003.

Dated: March 12, 2003.

Roy J. Casto,

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

[FR Doc. 03–7078 Filed 3–25–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 177–1177a; FRL–7471–6]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing it is approving a revision to the Missouri State Implementation Plan (SIP) which pertains to the control of emissions from surface coating operations in the Kansas City, Missouri, area. This revision clarifies an inconsistency between the SIP approved version of the rule and the state adopted version. Approval of this revision will ensure consistency

between the state and federally-approved rules, and ensure Federal enforceability of the current state rule.

DATES: This direct final rule will be effective May 27, 2003, unless EPA receives adverse comments by April 25, 2003. 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?

Missouri rule 10 CSR 10–2.300 relates to the control of emissions from manufacture of surface coating products. The current SIP approved version of this rule, as noted in 40 CFR 52.1320(c), Chapter 2, states that section (1)(A) of this rule is not SIP approved. In the state version of the rule, section (1)(A) identifies the area of applicability. It reads, ''This regulation shall apply throughout Clay, Jackson and Platte Counties.''

A review of the historical record shows that this section was added to the rule by the state and became effective on August 27, 1987. This rule was meant to apply to the then-existing Kansas City ozone non-attainment area, and the addition of this section makes that clarification.

The state subsequently revised the rule again and this action became effective on December 2, 1987. This version of the rule was submitted to us for approval, and we approved it into the SIP on August 24, 1994 (59 FR 43480). However, the relevant section of the CFR was not revised to reflect that section (1)(A) has been SIP approved. On January 23, 2003, Missouri submitted a request to EPA to correct this error. The purpose of this action is to make the correction to 40 CFR 52.1320(c), to delete the note indicating that section (1)(A) has not been approved.

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 approving as an amendment to the Missouri SIP a revision to rule 10 CSR 10–2.300, Control of Emissions from the Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products, which was state effective November 29, 1991.

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.

Statutory and Executive Order Reviews

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 (Public Law 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 May 27, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 52

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

Dated: March 13, 2003.

Nat Scurry,

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 for Chapter 2 is amended by revising the entry for 10–2.300 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 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area				
*	*	*	*	*
10–2.300	Control of Emissions from the Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products.	11/29/91	3/26/03 and FR page citation.	4/3/95, 60 FR 16806 (correction).
*	*	*	*	*

* * * * *

[FR Doc. 03–7053 Filed 3–25–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KS 172–1172a; FRL–7471–9]

Approval and Promulgation of Implementation Plans and Approval Under Sections 110 and 112(l); State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to approve a State Implementation Plan (SIP) revision submitted by the state of Kansas. This revision applies to small sources and creates a permit-by-rule that provides an alternative for certain small emission sources which otherwise would be required to apply for an operating permit. Small sources not operating at or above the threshold levels which trigger source-specific operating permit requirements are provided an option to operate under the conditions of this permit-by-rule in lieu of applying for the operating permit. The effect of this approval is to ensure Federal enforceability of the state air program rules and to maintain consistency between the state-adopted rules and the approved SIP.

DATES: This direct final rule will be effective May 27, 2003, unless EPA receives adverse comments by April 25, 2003. 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 Heather Hamilton, 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. Interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039.

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 approval under Section 112(l)?
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 Approval Under Section 112(l)?

Section 112(l) of the CAA provides authority for EPA to delegate a program to regulate hazardous air pollutants (HAPs) to the states and local agencies. EPA has delegated authority for this program to Kansas and has approved the state's Class II rules as they pertain to HAPs under this authority.

What Is Being Addressed in This Document?

On October 4, 2002, Kansas made revisions to state rule K.A.R. 28–19–564; Class II Operating Permits; Permits-by-Rule; Operating Permits for Sources with Actual Emissions Less Than 50 Percent of Major Source Thresholds.

This rule creates a permit-by-rule that provides an alternative for certain small emission sources which otherwise would be required to apply for a full Class I (major source) or Class II (minor source) operating permit. Small sources which have emissions at 25 percent of the Class I or Class II threshold levels are required to notify the state of their desire to operate under this regulation and to maintain the required records. Small sources which have emissions at 50 percent of the threshold levels are required to apply to the state, pay the appropriate fee and maintain the required records. These provisions reduce the burden associated with the time and effort otherwise required to apply for and obtain a Class I or Class II operating permit.

The exemption is not available for sources which are subject to Title V operating permit requirements for reasons other that their potential to emit at major source levels (*e.g.*, 100 or more tons per year of a criteria pollutant). The exemption only relates to the operating permit program. It requires sources to continue to operate well below the levels which trigger the Class I or Class II permitting requirements and demonstrate, through appropriate

recordkeeping as specified in the rule, that they are operating within those levels. Any source which exceeds the 25 or 50 percent actual emissions level must apply for an appropriate operating permit based on potential emissions.

This regulation was adopted by the Kansas Department of Health and Environment on September 9, 2002, and became effective on October 4, 2002.

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?

EPA is approving as a revision to the Kansas SIP rule K.A.R. 28–19–564; Class II Operating Permits; Permits-by-Rule; Sources With Actual Emissions Less Than 50 Percent of Major Source Thresholds, which was submitted on December 19, 2002.

This rule is also being approved pursuant to section 112(l) of the CAA.

We are processing this action as a final action because it adds noncontroversial regulations to the SIP. 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.

Statutory and Executive Order Reviews

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 (Public Law 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 May 27, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 52

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

Dated: March 13, 2003.

Nat Scurry,

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 R—Kansas

2. In § 52.870 the table in paragraph (c) is amended by adding in numerical order an entry for ''K.A.R. 28–19–564'' under the table heading ''Class II Operating Permits.''

The addition reads as follows:

§ 52.870 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED KANSAS REGULATIONS

Kansas citation	Title	State effective date	EPA approval date	Comments
Kansas Department of Health and Environment Ambient Air Quality Standards and Air Pollution Control				
*	*	*	*	*
Class II Operating Permits				
*	*	*	*	*
K.A.R. 28–19-564	Permit-by-Rule; Sources with Actual Emissions Less Than 50 Percent of Major Source Thresholds.	10/04/02	3/26/03 and FR page citation.	
*	*	*	*	*

* * * * *

[FR Doc. 03–7051 Filed 3–25–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA099–5048; FRL–7472–8]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Approval of Revision to Opacity Limit for Dryer Stacks at Georgia-Pacific Corporation Softboard Plant in Jarratt, VA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revised opacity limit for dryer zone stacks #1 and #2 associated with the Georgia Pacific Corporation (GP) Plant in Jarratt, Virginia. The new opacity limit is contained in a consent order between the Virginia Department of Environmental Quality (DEQ) and GP. The consent order was submitted by DEQ as a State Implementation Plan (SIP) revision on February 3, 1999.

EFFECTIVE DATE: This final rule is effective on April 25, 2003.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Kathleen Anderson, (215) 814–2173, or by e-mail at *anderson.kathleen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On February 3, 1999, DEQ submitted a SIP revision to revise the opacity limits for dryer zone stacks #1 and #2 at the GP plant in Jarratt, Virginia. The new limits are contained in Consent Order No. 50253 which states that GP shall not exceed 50 percent opacity from the softboard dryer zone stacks except for one six-minute period in any one hour of not more than 60 percent opacity. GP must also perform stack tests every two years to determine compliance with the particulate matter standards in 9 VAC 5–40–260 of the Commonwealths regulations and perform quarterly visible emissions evaluations. The consent order also provides that the source may have a waiver of 60 percent opacity for one six-minute period in any hour during periods of start-up, shutdown and malfunction.

On July 19, 2000 (65 FR 44683), EPA published a direct final rule approving the SIP revision for revised opacity limits for dryer zone stacks #1 and #2, with the exception of the opacity waiver for periods of start-up, shutdown and malfunction. EPA published the final rule without prior proposal because we viewed this as a noncontroversial revision and anticipated no adverse comments. On the same day (65 FR 44709), EPA published a notice of proposed rulemaking (NPR) should adverse comments be filed. Adverse comments were received and the direct final rule was withdrawn on August 30, 2000 (65 FR 52650).

Other specific details on the consent order and EPA's analysis may be found in the direct final rule and will not be restated here.

II. Response to Public Comment

EPA received adverse comments on our proposed approval of the revised opacity limits for the GP facility. A summary of those comments and EPA's responses are provided as follows:

Comment: The commentor notes that GP has asked for relief from an opacity limit that the facility has been subject to for at least ten years and raised the possibility that emissions may have increased due to a modification at the plant.

Response: The Technical Support Document prepared by DEQ in support of the SIP revision indicates that GP is an existing source for which construction, modification or relocation occurred prior to March 17, 1972 and that the dryers, which date back to 1948, have never been modified.

EPA and DEQ conducted a joint inspection of the facility on March 12, May 20 and May 21, 1997 for compliance with the Virginia SIP, including Rule 4–1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions). These inspections prompted EPA to issue a notice of violation to GP based on the observation of visible emissions from dryer #2 in excess of the SIP limits. On July 1, 1997, EPA issued a Clean Air Act section 114 request for information, testing and monitoring to GP's Jarratt facility. In response to this request, GP performed stack tests for particulate matter emissions on both dryer stacks using EPA Reference Methods 5 and 202 as well as concurrent visible emission testing. These tests confirmed that both stacks were in compliance with the particulate matter standards but that dryer stack #2 had emissions in excess of the opacity limit. GP's request for a waiver is based on the results of this testing. There is nothing in DEQ's Technical Support Document to indicate that the facility has requested the waiver due to increased emissions associated with a

modification at the plant or that GP has ever been able to comply with the opacity standard.

Comment: The commentor interprets the opacity limit waiver provision in DEQ's regulations at 9 VAC 5–40–120 to mean that a waiver cannot be granted unless emission test data shows that there is no correlation between particulate matter or volatile organic compound (VOC) emissions and opacity. The commentor further notes that it appears that VOC emissions were not considered in evaluating whether the waiver was appropriate.

Response: The waiver provision in 9 VAC 5–40–120 states that a waiver may be granted provided that ''a technical decision is reached that the plume opacity observations * * * are not representative of the pollutant loading of the plume.'' Opacity observations are generally viewed as a surrogate for monitoring particulate matter emissions. In fact, it is highly unlikely that any source could demonstrate that there is absolutely no correlation between opacity and particulate matter emissions. However, DEQ's regulations appropriately use the term ''representative'' as a test for whether or not a waiver should be considered. In other words, a waiver would only be appropriate if existing opacity limits are incapable of representing or ensuring compliance with a pollutant loading standard, in this case, the emission standard for particulate matter. Based on the testing conducted by GP, the new opacity standard granted by the waiver will be representative of compliance with Virginia's particulate matter standard.

EPA did not consider VOC emissions in our evaluation of the waiver because opacity has not been generally established as an accurate or appropriate surrogate for VOC emissions.

Comment: The Commentor questioned whether the relaxation of the opacity limit will result in particulate matter or VOC emission increases that could subject the facility to new source review requirements, specifically the prevention of significant deterioration (PSD) program.

Response: As noted elsewhere in this document, the new opacity limit is based on stack testing and visible emissions observations conducted during normal operating conditions for the existing facility. The new opacity limit is being established to accurately reflect the observed visible emissions that correspond to actual measured particulate matter emissions from the dryers. A SIP relaxation would only trigger PSD if the relaxation would have the potential to allow a significant increase in emissions above an actual emissions baseline. Since the new opacity limit is based on actual criteria pollutant emission levels, it does not have the potential to significantly increase emissions above PSD thresholds.

Comment: The commentor questioned whether EPA considered the impact of increased VOC emissions on the Richmond area, which has previously been designated as an ozone nonattainment area.

Response: As discussed previously, the new opacity limit reflects existing operations and pollutant emission levels at the GP facility. Regardless of whether opacity is an appropriate indicator of VOC emissions, the opacity limit is being changed to reflect the visible emissions occurring during actual operating conditions. There is no reason to conclude that making this adjustment would permit the facility to increase its VOC emissions.

Comment: The commentor states that the purpose of the Clean Air Act is to protect and enhance air quality so as to promote the public health and welfare and believes that the new opacity limit fails to do this. He also questions why the facility was not required to install economically reasonable control technology to meet a lower opacity limit.

Response: EPA agrees with the commentor in so far as one of the purposes of subchapter I of the Clean Air Act is to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population.'' 42 U.S.C.A. 7401(b)(1). This subchapter outlines the specific requirements that EPA and states must do to fulfill this purpose including, but not limited to establishing ambient air quality standards, imposing standards of performance for stationary sources and sources of hazardous air pollutants, adopting permit programs for new and modified sources and state implementation plans for achieving and maintaining ambient air quality standards. In other words, subchapter I of the Clean Air Act establishes specific requirements that apply equally to many emission sources to ensure that its purposes are met. With respect to the GP facility, the Virginia SIP has had an opacity limit waiver in place since the mid-1980s. The waiver provision does not require the source to consider or install reasonably available control technology. Furthermore, there is no indication at this time that any other state or federal requirement established under subchapter I of the CAA would preclude granting the waiver or to require the source to consider economically available control technology. Therefore, EPA believes that approval of this SIP revision is consistent with the purposes and requirements of subchapter I of the Clean Air Act and that it is not within EPA's authority to require an analysis of reasonably economical control technology prior to approving the new opacity limit for GP as a SIP revision.

III. Final Action

EPA is approving Consent Order No. 50253, with the exception of the opacity waiver during periods of start-up, shutdown and malfunction, as a revision to the Virginia SIP. The revision consists of revised opacity limits for dryer zone stack #1 and #2 located at the Georgia-Pacific Softboard Plant in Jarratt, Virginia.

IV. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege

law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. * * *'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law, any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.'' Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

V. Statutory and Executive Order Reviews

A. General 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 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.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for one named source.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 27, 2003. Filing a petition for reconsideration by the Administrator of this final rule to approve revised opacity limits for the Georgia Pacific Softboard Plant in Jarratt, Virginia 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 19, 2003.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart VV—Virginia

2. In § 52.2420, the table in paragraph (d) is amended by adding the entry for Georgia Pacific—Jarratt Softboard Plant at the end of the table to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED VIRGINIA SOURCE—SPECIFIC REQUIREMENTS

Source name	Permit/order or registration No.	State effectivePdate	EPA approval date	40 CFR part 52 citation
*	*	*	*	*
Georgia Pacific—Jarratt Softboard Plant.	Registration No. 50253.	9/28/98	[3/26/03 Federal Register cite].	40 FR 52.2420(d); NOTE: In Section E, Provision 1, the portion of the text which reads'' * * * and during periods of start-up, shutdown, and malfunction.'' is not part of the SIP.

[FR Doc. 03–7244 Filed 3–25–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.021017239 2322–02; I.D. 032003B]

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of the Quarter I Fishery for Loligo Squid

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

ACTION: Closure.

SUMMARY: NMFS announces that the directed fishery for Loligo squid in the exclusive economic zone (EEZ) will be closed effective March 25, 2003. Vessels issued a Federal permit to harvest Loligo squid may not possess or land more than 2,500 lb (1.13 mt) of Loligo squid per calendar day for the remainder of the quarter (through March 31, 2003). This action is necessary to prevent the fishery from exceeding its Quarter I quota and allow for effective management of this stock.

DATES: Effective 0001 hours, March 25, 2003, through 2400 hours, March 31, 2003.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978–281–9273, fax 978–281–9135, e-mail *paul.h.jones@noaa.gov.*

SUPPLEMENTARY INFORMATION: Regulations governing the *Loligo* squid fishery are found at 50 CFR part 648. The regulations require specifications for maximum sustainable yield, initial optimum yield, allowable biological catch, domestic annual harvest (DAH), domestic annual processing, joint venture processing and total allowable levels of foreign fishing for the species managed under the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. The procedures for setting the annual initial specifications are described in § 648.21.

The 2003 specification of DAH for *Loligo* squid was set at 16,872.5 mt (68 FR 57, January 2, 2003). This amount is allocated by quarter, as shown below.

TABLE. 1 *Loligo* SQUID QUARTERLY ALLOCATIONS.

Quarter	Percent	Metric Tons [1]	Research Set-aside
I (Jan-Mar)	33.23	5,606.7	N/A
II(Apr-Jun)	17.61	2,971.3	N/A
III(Jul-Sep)	17.3	2,918.9	N/A
IV (Oct-Dec)	31.86	5,375.6	N/A
Total	100	16,872.5	127.5

[1]Quarterly allocations after 127.5 mt research set-aside deduction.

Section 648.22 requires NMFS to close the directed Loligo squid fishery in the EEZ when 80 percent of the quarterly allocation is harvested in Quarters I, II and III, and when 95 percent of the total annual DAH has been harvested. NMFS is further required to notify, in advance of the closure, the Executive Directors of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils; mail notification of the closure to all holders of *Loligo* squid permits at least 72 hours before the effective date of the closure; provide adequate notice of the closure to recreational participants in the fishery; and publish notification of the closure in the **Federal Register**. The Administrator, Northeast Region, NMFS, based on dealer reports and other available information, has determined that 80 percent of the DAH for *Loligo* squid in Quarter I will be harvested. Therefore, effective 0001 hours, March 25, 2003, the directed fishery for *Loligo* squid is closed and vessels issued Federal permits for Loligo squid may not possess or land more than 2,500 lb (1.13 mt) of Loligo. Such vessels may not land more than 2,500 lb (1.13 mt) of *Loligo* during a calendar day. The directed fishery will reopen effective 0001 hours, April 1, 2003, when the Quarter II quota becomes available.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 20, 2003.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–7242 Filed 3–21–03; 2:37 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 58
Wednesday, March 26, 2003

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

Foreign Agricultural Service

7 CFR Part 1599

RIN 0551–AA64

McGovern-Dole International Food for Education and Child Nutrition Program

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Foreign Agricultural Service proposes to establish rules governing the foreign donation of resources, including agricultural commodities, to implement the McGovern-Dole International Food for Education and Child Nutrition Program. This program would provide agricultural commodities and financial and technical assistance to carry out preschool and school food for education programs and maternal, infant, and child nutrition programs, in foreign countries.

DATES: Submit comments on or before April 25, 2003.

ADDRESSES: Address all comments concerning this proposed rule to William S. Hawkins, Director, Program Administration Division, Foreign Agricultural Service, United States Department of Agriculture, 1400 Independence Ave., SW., Stop 1031, Washington, DC 20250–1031; telephone (202) 720–3241.

You may submit comments and data by sending electronic mail (E-mail) to: *Lorie.Jacobs@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Lorie Jacobs, Branch Chief, Financial Analysis Branch, Program Administration Division, Foreign Agricultural Service, U.S. Department of Agriculture (USDA), Ag. Box 1034, Washington, DC 20250–1031; telephone (202) 720–2074; FAX (202) 690–1595. The USDA prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs and marital or familial status. Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact the USDA Office of Communications at (202) 820–5881 (voice) or (202) 720–7808 (TDD).

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule is issued in conformance with Executive Order 12866. It has been determined to be significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget. A cost-benefit assessment has been completed and is available to the public by contacting Lorie Jacobs at (202) 720–2074.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This proposed rule would have preemptive effect with respect to any State or local laws, regulations or policies which conflict with such provisions or which otherwise impede their full implementation; does not have retroactive effect; and does not require administrative proceedings before suit may be filed.

Executive Order 12372

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

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule because FAS is not required by any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this proposed rule.

Paperwork Reduction Act

This proposed rule would add new information collection requirements applicable to the McGovern-Dole International Food for Education and Child Nutrition Program. In accordance with the Paperwork Reduction Act of 1995, the Foreign Agricultural Service (FAS) requests approval of a new information collection in support of the McGovern-Dole International Food for Education and Child Nutrition Program.

Title: McGovern-Dole International Food for Education and Child Nutrition Program.

OMB Control Number: xxxx-xxxx.

Type of Request: Approval of an information collection.

Abstract: This information is needed to administer the McGovern-Dole International Food for Education and Child Nutrition Program. The information will be gathered from applicants desiring to receive grants under the program to determine the viability of requests for resources to implement school feeding and maternal and child nutrition programs in foreign countries and other periodic reports during the course of implementing the activities.

Estimate of Burden: Public reporting burden for this collection of the additional information is estimated to average 74 hours per applicant.

Respondents: Private voluntary organizations, shipping agents, ship owners/brokers, and survey companies.

Estimated Number of Respondents: 156.

Estimated Number of Responses per Respondent: 7.

Estimated Total Annual Burden on Respondents: 11,607 hours.

Copies of the information collection may be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, at (202) 720–2568.

Request for Comments: Send comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to: William

S. Hawkins, Director, Program Administration Division, Foreign Agricultural Service, United States Department of Agriculture, 1400 Independence Ave., SW., Stop 1031, Washington, DC 20250–1031; telephone (202) 720–3241.

All responses to this notice will be summarized. All comments will also become a matter of public record.

Government Paperwork Elimination Act

FAS is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Background

Section 3107 of the Farm Security and Rural Investment Act of 2002, Pub. L. 107–171, authorized the President to establish a program to be known as the McGovern-Dole International Food for Education and Child Nutrition Program. This program would provide agricultural commodities and financial and technical assistance to carry out preschool and school food for education programs and maternal, infant, and child nutrition programs, in foreign countries. By Presidential Memorandum, March 11, 2003, the President delegated the responsibility for implementing this program to the Secretary of Agriculture and it has been further delegated, within the Department of Agriculture, to the Administrator, Foreign Agricultural Service. Congress directed that $100 million of Commodity Credit Corporation (CCC) funds be used for this program in fiscal year 2003. Thereafter, the program is subject to annual appropriations.

In comparison to the pilot Global Food for Education Initiative, there will be an increased emphasis on education and nutrition under the McGovern-Dole International Food for Education and Child Nutrition Program. The Farm Security and Rural Investment Act of 2002 (Farm Act of 2002) indicates that funds should be used in part to improve literacy and primary education, particularly with respect to girls, and to put emphasis on identifying beneficiaries who are malnourished or undernourished. In addition, cooperating sponsors should attempt to coordinate supplementary feeding and nutrition programs with existing programs that provide health-needs interventions.

The McGovern-Dole International Food for Education and Child Nutrition Program is implemented under the authorities of the Foreign Agricultural Service and, therefore, this new program will be subject to regulations that are separate from other foreign assistance commodity grant programs operated under the authority of the Commodity Credit Corporation (CCC), *i.e.*, section 416(b) and Food for Progress. However, because there are many similarities between these programs and it would be advisable to retain the same procedures and rules to the extent practical, this proposed rule would adopt, and repeat in 7 CFR part 1599, most of the regulations currently in 7 CFR part 1499 that are applicable to the section 416(b) and Food for Progress programs. Sections 1599.7 and 1599.8, which cover procedures that apply to procuring ocean transportation, and arranging for entry and handling of commodities in the foreign country, are nearly identical to 7 CFR part 1499. Comments are encouraged regarding whether using this identical language could cause any unforeseen problems under the new program.

The legislation authorizing the new program would require certain additional information to support proposals for funding and authorizes certain expenditures not generally permitted under section 416(b) or Food for Progress. Also, certain department-wide grant regulations not presently applicable to CCC authorized grants would be applicable to the McGovern-Dole International Food for Education and Child Nutrition Program. These department-wide regulations are referenced in the proposed rule. The applicability of these department-wide rules has necessitated certain deviations from the rules applicable to section 416(b) and Food for Progress grants. Of particular note are the provisions on advances, interest earned on advances, changes to Program Budgets, and audit requirements.

Under the McGovern-Dole International Food for Education and Child Nutrition Program, FAS may pay certain costs not permitted under the earlier pilot Global Food for Education Initiative operated under the authority of section 416(b). This includes costs for transportation, storage and handling within the recipient country in non-emergency situations when certain specified findings are met. FAS may also pay administrative expenses of nongovernmental Cooperating Sponsors and other costs of nongovernmental Cooperating sponsors that enhance the effectiveness of program activities. These costs, to the extent FAS agrees to pay them, would be detailed in the Program Operations Budget, which becomes part of the program agreement. The Farm Act of 2002 provides for participation by the Food and Nutrition Service (FNS) under the McGovern-Dole International Food for Education and Child Nutrition Program, wherein FNS may provide technical advice on the establishment and implementation of programs, including providing field expertise in recipient countries.

Costs that ''enhance the effectiveness'' of activities is a vague concept. FAS is proposing to give priority coverage of these costs to those that would increase the likelihood of meeting the activities objectives. Examples of costs that may enhance the effectiveness of a school feeding program may be the purchase of text books, utensils and food trays, the provision of incentives to teachers, as well as the use of consultancies to provide technical assistance in the educational improvement area when conducting teacher training. While monetization proceeds could also be requested and used to cover any program costs that are necessary to have a successful activity to enhance the effectiveness of a program, organizations need to demonstrate that monetization offers more benefits than a direct cash outlay.

Another significant difference between the McGovern-Dole International Food for Education and Child Nutrition Program and the prior pilot program is that the new authority requires that Cooperating Sponsors demonstrate that the activities undertaken with program resources must be sustainable after FAS assistance ends. Consequently, FAS will require that proposals include sufficient information to allow the Associate Administrator to make a determination that this will be the case.

The development and implementation of the McGovern-Dole International Food for Education and Child Nutrition Program helps to meet the objective of supporting international economic development and trade capacity building set forth in the USDA Strategic Plan for FY 2002–2007. Under that objective USDA provides targeted foreign food assistance to developing countries to foster economic growth and development.

USDA uses an interagency process to review food aid policies and programs to ensure the necessary coordination and management of these programs, and will continue to use this process for the McGovern-Dole International Food for Education and Child Nutrition Program. FAS will cooperate with USAID, FNS and other Federal Agencies in the

development and implementation of the McGovern-Dole International Food for Education and Child Nutrition Program.

The Farm Act of 2002 stipulates that funds may be used to pay for the packaging, enrichment, preservation, and fortification of agricultural commodities under the McGovern-Dole International Food for Education and Child Nutrition Program. This proposed rule contains that information in Section 1599.6 (a) Apportionment of Costs and Advances, in order to emphasize the intent of the Farm Act of 2002 to allow for coverage of these costs.

List of Subjects in 7 CFR Part 1599

Agricultural commodities, Exports, Foreign aid.

Accordingly, the Foreign Agricultural Service proposes that chapter XV of title 7 of the Code of Federal Regulations be amended by adding a new part 1599 to read as follows:

PART 1599—MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM

1599.1 What special definitions apply?
1599.2 What is the general purpose and scope of the regulations?
1599.3 Are there eligibility requirements for Cooperating Sponsors?
1599.4 How do I apply?
1599.5 When is a usual marketing requirement included?
1599.6 How are costs and advances apportioned?
1599.7 What procedures apply to procuring ocean transportation?
1599.8 Who arranges for entry and handling in the foreign country?
1599.9 What are the restrictions on commodity use and distribution?
1599.10 Are there special requirements for agreements between Cooperating Sponsor and Recipient Agencies?
1599.11 What procedures apply to sales and barter of commodities provided and the use of proceeds?
1599.12 What procedures apply to the processing, packaging and labeling of commodities in the foreign country?
1599.13 How does the Cooperating Sponsor dispose of commodities unfit for authorized use?
1599.14 How is liability established for loss, damage, or improper distribution of commodities?
1599.15 Are there special record keeping and reporting requirements?
1599.16 What are the Cooperating Sponsor's audit requirements?
1599.17 When may FAS suspend a program?
1599.18 Are there sample documents and guidelines available for developing proposals and reports?

Authority: 7 U.S.C. 1736–1; Presidential Memorandum, March 11, 2003 (68 FR 12569).

§ 1599.1 What special definitions apply?

Activity—a Cooperating Sponsor's use of agricultural commodities and financial and technical assistance provided under Program Agreements.

Agricultural Counselor or Attache—the United States Foreign Agricultural Service representative stationed abroad, who has been assigned responsibilities with regard to the country into which the commodities provided are imported, or such representative's designee.

Associate Administrator—Associate Administrator, Foreign Agricultural Service.

CCC—the Commodity Credit Corporation.

Commodities— U.S. agricultural commodities or products.

Deputy Administrator—Deputy Administrator for Export Credits, Foreign Agricultural Service, USDA.

Director, CCC–OD—the Director, CCC Operations Division, Foreign Agricultural Service, USDA.

Director, PAD—the Director, Program Administration Division, Foreign Agricultural Service, USDA.

Director, PPDED—the Director, Program Planning, Development & Evaluation Division, Foreign Agricultural Service, USDA.

FAS—Foreign Agricultural Service, USDA.

Force Majeure—damage caused by perils of the sea or other waters; collisions; wrecks; stranding without the fault of the carrier; jettison; fire from any cause; Act of God; public enemies or pirates; arrest or restraint of princes, princesses, rulers of peoples without the fault of the carrier; wars; public disorders; captures; or detention by public authority in the interest of public safety.

KCCO—Kansas City Commodity Office, Farm Services Agency, USDA, P.O. Box 419205, Kansas City, Missouri, 64141–6205.

KCMO/DMD—Debt Management Division, Kansas City Management Office, Farm Services Agency, USDA, P.O. Box 419205, Kansas City, Missouri, 64141–6205.

Ocean freight differential—the amount, as determined by FAS, by which the cost of ocean transportation is higher than would otherwise be the case by reason of the requirement that the commodities be transported on U.S.-flag vessels.

Program Agreement—an agreement entered into by FAS and Cooperating Sponsors to implement the McGovern-Dole International Food for Education and Child Nutrition Program.

Program income—interest on sale proceeds and money received by the Cooperating Sponsor, other than sales proceeds, as a result of carrying out approved activities.

Recipient agency—an entity located in the importing country which receives commodities or commodity sale proceeds from a Cooperating Sponsor for the purpose of implementing activities.

Sale proceeds—money received by a Cooperating Sponsor from the sale of commodities.

USDA—the United States Department of Agriculture.

§ 1599.2 What is the general purpose and scope of the regulations?

(a) This part establishes the general terms and conditions governing the donation of commodities and financial and technical assistance to Cooperating Sponsors under the McGovern-Dole International Food for Education and Child Nutrition Program. This part does not apply to donations to intergovernmental agencies or organizations (such as the World Food Program) unless FAS and such intergovernmental agency or organization enter into an agreement incorporating this part. Cooperating Sponsors should also familiarize themselves with regulations at 7 CFR part 3019-Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

(b) In addition to the regulations in this part 1599, grants awarded to non-governmental Cooperating Sponsors by FAS are subject to 7 CFR 3015.205, 7 CFR part 3019 and 7 CFR part 3052.

§ 1599.3 Are there eligibility requirements for Cooperating Sponsors?

A Cooperating Sponsor may be either:

(a) A foreign government;

(b) An entity registered with the Agency for International Development (AID) in accordance with AID regulations; or

(c) An entity that demonstrates to FAS'' satisfaction:

(1) Organizational experience and resources available to implement and manage the type of program proposed, *i.e.*, targeted food assistance, activities that improve the food security, health and nutrition of women and children, and economic development activities;

(2) Experience working in the targeted country; and

(3) Experience and knowledge on the part of personnel who will be responsible for implementing and managing the program. FAS may require

that an entity submit a financial statement demonstrating that it has the financial means to implement an effective donation program.

§ 1599.4 How do I apply?

To apply for this program, a Cooperating Sponsor shall submit an SF–424, a Program Introduction, a Plan of Operation, and a Budget Proposal to the Director, PPDED and to the Agricultural Counselor or Attaché responsible for the country where activities are to be implemented. Electronic submissions of these items are preferred, particularly through the FAS on-line system. If on-line submission is not available, e-mail or hard copy are acceptable.

(a) Submit an SF–424.

(b) Program Introduction shall include the following:

(1) Information about the organization's past food aid activities with particular emphasis on school feeding, maternal child health or other relevant development activities, its experience within the country where the program is proposed, and any other relevant information to demonstrate its capability to implement the program in the country, with particular emphasis on the organizations ability to:

(i) Identify and assess the needs of beneficiaries, especially malnourished or undernourished mothers and their children who are 5 years of age or younger, and school-age children who are malnourished, undernourished, or do not regularly attend school;

(ii) In the case of preschool and school-age children, target low-income areas where children's enrollment and attendance in school is low or girls' enrollment and participation in preschool or school is low;

(iii) Incorporate developmental objectives for improving literacy and primary education (especially with girls); and,

(iv) In the case of maternal and child nutrition activities, coordinate supplementary feeding and nutrition programs with existing or newly established maternal, infant, and child programs that meet maternal, prenatal, postnatal, and newborns health needs;

(2) Reasons for the need for the food aid and in particular a school feeding program in the country. The organization shall include statistics on poverty, food deficits, and related items such as literacy rates for the target population; percentage of school age children attending schools, especially females; malnutrition rates; public expenditures on primary education; country's current school feeding operations, if they exists, along with current funding resources; any information regarding teacher training, community infrastructure (PTAs), health, nutrition, and water and sanitation information; and lastly, other potential donors;

(3) Verification that the national government is committed to or is working toward, through a national action plan, the goals of the World Declaration on Education for All convened in 1990 in Jomtien, Thailand, and the follow-up Dakar Framework for Action of the World Education Forum, convened in 2000;

(4) Steps to graduate the program from food aid and address sustainability, or sustainable program components, which will continue after the end of food aid donations. In addressing graduation or sustainability, address how the program will sustain the benefits of the education, enrollment, and attendance of children in schools in the targeted communities when the provision of commodities and assistance to a recipient country under FFE terminates; and estimate the time required until the recipient country or eligible organizations will be able to provide sufficient assistance without additional assistance under FFE; or in the absence of sustainability explain how the program will provide other long term benefits to targeted populations of the recipient country;

(5) Information on methods used to involve indigenous institutions as well as local communities and governments in the development and implementation of the programs and activities to foster local capacity building and leadership;

(6) An explanation of how each requested expenditure identified in § 1599.6(b)(4)(i) would enhance the effectiveness of the activities implemented under this subpart. For purposes of this section, ''expenditures that would enhance the effectiveness of the activities implemented under this subpart'' are those expenditures which would increase the likelihood of meeting the objectives of the activities as stated in the Plan of Operation. Examples of costs that may enhance the effectiveness of a school feeding program may be the purchase of utensils and food trays, text books, and incentives for teachers, as well as the use of consultancies to provide technical assistance in the educational improvement area when conducting teacher training. These costs may include a limited amount to procure locally produced foods.

(7) If your proposal includes monetization or barter, demonstrate that monetization or bartering of commodities offers more benefits than a direct cash outlay.

(c) A Plan of Operation shall provide the following information:

(1) Country of donation.

(2) Kind, quantity and delivery schedule of commodities requested.

(3) Activity objectives. Briefly state what the goals to be accomplished for the program are.

(4) Program description shall include the following:

(i) Fully describe the steps involved in program implementation;

(ii) Method for choosing beneficiaries of activities;

(iii) Program administration, including a description of the Cooperating Sponsors plan to develop, implement, monitor, report on, and provide accountability for activities. The Cooperating Sponsor shall also include, as appropriate, plans for administering the distribution or sale of commodities and the expenditure of sale proceeds, and identification of the administrative or technical personnel who will implement the activities;

(iv) Activity budgets, including costs that will be borne by the Cooperating Sponsor, other organizations or local governments. If a nongovernmental Cooperating Sponsor requests FAS to fund costs identified in § 1599.6 (b)(4)(i), the Cooperating Sponsor shall include a detailed description of:

(A) The costs for which funding is requested; and,

(B) The amount of funding requested for each cost;

(v) The recipient agency, if any, that will be involved in the program and a description of each recipient agency's capability to perform its responsibilities as stated in the Plan of Operation;

(vi) Governmental or nongovernmental entities involved in the program and the extent to which the program will strengthen or increase the capabilities of such entities to further economic development in the recipient country. The Cooperating Sponsor shall also include a description of the steps that the government of the host country is taking to improve the preschool and school systems in the country;

(vii) Method of educating consumers as to the source of the provided commodities and, where appropriate, preparation and use of the commodity; and

(viii) Criteria for measuring progress towards achieving the objectives of activities and evaluating program outcome, including health, nutrition and education.

(5) Use of funds or goods and services generated. If the activity involves the use of sale proceeds, the receipt of

goods or services from the barter of commodities, or the use of program income, the cooperating sponsor shall provide the following information:

(i) The quantity and type of commodities to be sold or bartered;

(ii) Extent to which any sale or barter of the agricultural commodities provided would displace or interfere with any sales that may otherwise be made;

(iii) The amount of sale proceeds anticipated to be generated from the sale, the value of the goods or services anticipated to be generated from the barter of the agricultural commodities provided, or the amount of program income expected to be generated;

(iv) The steps taken to use, to the extent possible, the private sector in the process of selling commodities;

(v) The specific uses of sale proceeds or program income and a timetable for their expenditure; and

(vi) Procedures for assuring the receipt and deposit of sale proceeds and program income into a separate special account and procedures for the disbursement of the proceeds and program income from such special account.

(6) Distribution methods:

(i) A description of the transportation and storage system which will be used to move the agricultural commodities from the receiving port to the point at which distribution is made to the recipient;

(ii) A description of any reprocessing or repackaging of the commodities that will take place; and

(iii) A logistics plan that demonstrates the adequacy of port, transportation, storage, and warehouse facilities to handle the flow of commodities to recipients without undue spoilage or waste.

(7) Duty free entry: Documentation indicating that any commodities to be distributed to recipients, rather than sold, will be imported and distributed free from all customs, duties, tolls, and taxes.

(8) Economic impact: Information indicating that the commodities can be imported and distributed without a disruptive impact upon production, prices and marketing of the same or like products within the importing country.

(d) Budget Proposals shall include funds requested, from either cash or monetization resources, to fund administrative, ITSH, technical and financial assistance costs. Budget proposals shall be submitted in a spreadsheet format.

(e) After submission and approval by FAS, a Program Agreement will be developed. The Program Agreement, which will incorporate the terms and conditions set forth in this Part, the commodities provided by FAS, and any packaging, will meet the specifications set forth in such Program Agreement. A Program Agreement may contain special terms or conditions, in addition to or in lieu of, the terms and conditions set forth in the regulations in this part when FAS determines that such special terms or conditions are necessary to effectively carry out the particular Program Agreement. The Plan of Operation, Budget Proposal, and Commodity specifications will be incorporated into the Program Agreement as Attachments.

§ 1599.5 When is a usual marketing requirement included?

(a) A foreign government Cooperating Sponsor shall provide to the Director, PPDED, data showing commercial and non-commercial imports of the types of agricultural commodities requested during the prior five years, by country of origin, and an estimate of imports of such commodities during the current year.

(b) FAS may require that a Program Agreement with a foreign government include a ''usual marketing requirement'' that establishes a specific level of imports for a specified period. The Program Agreement may also include a prohibition on the export of provided commodities, as well as of other similar commodities specified in the Program Agreement.

§ 1599.6 How are costs and advances apportioned?

(a) FAS will bear the costs of the packaging, enrichment, preservation, and fortification of agricultural commodities, and the processing, transportation, handling and other incidental charges incurred in delivering commodities to Cooperating Sponsors. FAS will deliver bulk grain shipments f.o.b. vessel, and shipments of all other commodities f.a.s. vessel or intermodal points. FAS will choose the point of delivery based on lowest cost to FAS.

(b) When the Associate Administrator approves in advance and in writing, FAS may agree to bear all or a portion of reasonable costs associated with:

(1) Transportation from U.S. ports to designated ports or points of entry abroad;

(2) Maritime survey costs;

(3) Transportation from designated ports or points of entry abroad to designated storage and distribution sites, and reasonable storage and distribution costs if the recipient country is a low income, net food-importing country that:

(i) Meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference; and

(ii) Has a national government that is committed to or is working toward, through a national action plan, the goals of the World Declaration on Education for All and the Dakar Framework for Action of the World Education Forum; and

(4) The costs of a nongovernmental Cooperating Sponsor:

(i) In the recipient country that enhance the effectiveness of the activities including packaging, enrichment, preservation and fortification of agricultural commodities; and

(ii) For administrative or monitoring expenses specified in the program agreement.

(5) The administrative expenses of any Federal agency implementing or assisting in the implementation of the McGovern-Dole International Food for Education and Child Nutrition Program, including the administrative costs of the Food and Nutrition Service to provide technical advice on the establishment and implementation of programs, including providing field expertise in recipient countries.

(c) FAS will not pay any costs incurred by the Cooperating Sponsor prior to the date of the Program Agreement.

(d) Except as provided in paragraph (b) of this section, the Cooperating Sponsor shall ordinarily bear all costs incurred subsequent to FAS' delivery of commodities at U.S. ports or intermodal points.

(e) A Cooperating Sponsor seeking agreement by FAS to bear the storage and distribution costs identified in paragraph (b)(3) or the costs identified in paragraph (b)(4) of this section shall submit to the Director, PPDED, a Program Operation Budget detailing such costs. If approved, the Program Operation Budget shall become part of the Program Agreement. The non-governmental Cooperating Sponsor may make adjustments between line items of an approved Program Operation Budget up to 10 percent of the total amount of the budget as last approved without any further approval. Adjustments beyond these limits must be specifically approved by the Director, PPDED.

(f) The Cooperating Sponsor may request advance of up to 100 percent of the amount of an approved Program Operating Budget if FAS determines that the Cooperating Sponsor's financial management system meets the

requirements of 7 CFR 3019.21. However, FAS will not approve any request for an advance received earlier than 60 days after the date of a previous advance made in connection with the same Program Agreement.

(g) Funds advanced shall be deposited in an interest bearing account until expended. Interest earned on advance of funds must be returned to FAS.

(h) The Cooperating Sponsor shall return to FAS any funds not obligated as of the 180th day after being advanced, together with interest earned on such unexpended funds. Funds and interest shall be returned within 30 days of such date.

(i) The Cooperating Sponsor shall, not later than 10 days after the end of each calendar quarter, submit a financial statement to the Director, PPDED, accounting for all funds advanced and all interest earned.

(j) FAS will pay all other costs for which it is obligated under the Program Agreement by reimbursement. However, FAS will not pay any cost incurred after the final date specified in the Program Agreement.

(k) Program income may be used to further eligible activity objectives.

§ 1599.7 What procedures apply to procuring ocean transportation?

(a) *Cargo preference.* Shipments of commodities are subject to the requirements of sections 901(b) and 901b of the Merchant Marine Act, 1936, regarding carriage on U.S.-flag vessels. A Cooperating Sponsor shall comply with the instructions of FAS regarding the quantity of commodities that must be carried on U.S. flag vessels.

(b) *Freight procurement requirements.* When FAS is financing any portion of the ocean freight, whether on U.S. flag or non-U.S. flag vessels, and the Cooperating Sponsor arranges ocean transportation:

(1) The Cooperating Sponsor shall arrange ocean transportation through competitive bidding and shall obtain approval of all invitations for bids from the Director, CCC–OD.

(2) Invitations for bids shall be issued through the Transportation News Ticker (TNT), New York, and at least one other comparable means of trade communication.

(3) Freight invitations for bids shall include specified procedures for payment of freight, including the party responsible for the freight payments, and expressly require that:

(i) Offers include a contract canceling date no later than the last contract layday specified in the invitation for bids;

(ii) Offered rates be quoted in U.S. dollars per metric ton;

(iii) If destination bagging or transportation to a point beyond the discharge port is required, the offer separately state the total rate and the portion thereof attributable to the ocean segment of the movement;

(iv) Any non-liner U.S. flag vessel 15 years or older offer, in addition to any other offered rate, a one-way rate applicable in the event the vessel is scrapped or transferred to foreign flag registry prior to the end of the return voyage to the United States;

(v) In the case of packaged commodities, U.S. flag carriers specify whether delivery will be direct breakbulk shipment, container shipment, or breakbulk transshipment and identify whether transshipment (including container relays) will be via U.S. or foreign flag vessel;

(vi) Vessels offered subject to Maritime Administration approval will not be accepted; and

(vii) Offers be received by a specified closing time, which must be the same for both U.S. and non-U.S. flag vessels.

(4) In the case of shipments of bulk commodities and non-liner shipments of packaged commodities, the Cooperating Sponsor shall open offers in public in the United States at the time and place specified in the invitation for bids and consider only offers that are responsive to the invitation for bids without negotiation. Late offers shall not be considered or accepted.

(5) All responsive offers received for both U.S. flag and foreign flag service shall be presented to KCCO which will determine the extent to which U.S.-flag vessels will be used.

(6) The Cooperating Sponsor shall promptly furnish the Director, CCC–OD, or other official specified in the Program Agreement, copies of all offers received with the time of receipt indicated thereon. The Director, CCC–OD, or other official specified in the Program Agreement, will approve all vessel fixtures. The Cooperating Sponsor may fix vessels subject to the required approval; however, the Cooperating Sponsor shall not confirm a vessel fixture until advised of the required approval and the results of the Maritime Administration's guideline rate review. The Cooperating Sponsor shall not request guideline rate advice from the Maritime Administration. The Cooperating Sponsor will, promptly after receipt of vessel approval, issue a public notice of the fixture details on the TNT or other means of communication approved by the Director, CCC–OD.

(7) Non-Vessel Operating Common Carriers may not be employed to carry shipments on either U.S. or foreign-flag vessels.

(8) The Cooperating Sponsor shall promptly furnish the Director CCC–OD, a copy of the signed laytime statement and statement of facts at the discharge port.

(c) *Shipping agents.* (1) The Cooperating Sponsor may appoint a shipping agent to assist in the procurement of ocean transportation. The Cooperating Sponsor shall nominate the shipping agent in writing to the Deputy Administrator, Room 4077-S, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1031, and include a copy of the proposed agency agreement. The Cooperating Sponsor shall specify the time period of the nomination.

(2) The shipping agent so nominated shall submit the information and certifications required by 7 CFR 17.4 to the Deputy Administrator.

(3) A person may not act as a shipping agent for a Cooperating Sponsor unless the Deputy Administrator has notified the Cooperating Sponsor in writing that the nomination is accepted.

(d) *Commissions.* (1) When any portion of the ocean freight is paid by FAS, total commissions earned on U.S. and foreign flag bookings by all parties arranging vessel fixtures, shall not exceed 2–1/2 percent of the total freight costs.

(2) Address commissions are prohibited.

(e) *Contract terms.* When FAS is paying any portion of the ocean freight, charter parties and liner booking contracts must conform to the following requirements, as applicable:

(1) Packaged commodities on liner vessels shall be shipped on the basis of full berth terms with no demurrage or despatch;

(2) Shipments of bulk liquid commodities may be contracted in accordance with trade custom. Other bulk commodities, including shipments that require bagging or stacking for the account of the vessel, shall be shipped on the basis of vessel load, free out, with demurrage and despatch applicable at load and discharge ports; except that, if bulk commodities require further inland distribution, they shall be shipped on the basis of vessel load with demurrage and despatch at load and berth terms discharge, *i.e.*, no demurrage, despatch, or detention at discharge. Demurrage and despatch shall be settled between the ocean carrier and commodity suppliers at load port and between the ocean carrier and charterers at discharge ports. FAS is not responsible for resolving disputes involving the

calculation of laytime or the payment of demurrage or despatch.

(3) If the Program Agreement requires the Cooperating Sponsor to arrange an irrevocable letter of credit for ocean freight, the Cooperating Sponsor shall be liable for detention of the vessel for loading delays attributable solely to the decision of the ocean carrier not to commence loading because of the failure of the Cooperating Sponsor to establish such letter of credit. Charter parties and liner booking contracts may not contain a specified detention rate. The ocean carrier shall be entitled to reimbursement, as damages for detention for all time so lost, for each calendar day or any part of the calendar day, including Saturdays, Sundays and holidays. The period of such delay shall not commence earlier than upon presentation of the vessel at the designated loading port within the laydays specified in the charter party or liner booking contract, and upon notification of the vessel's readiness to load in accordance with the terms of the applicable charter party or liner booking contract. The period of such delay shall end at the time that operable irrevocable letters of credit have been established for ocean freight or the time the vessel begins loading, whichever is earlier. Time calculated as detention shall not count as laytime. Reimbursement for such detention shall be payable no later than upon the vessel's arrival at the first port of discharge.

(4) Charges including, but not limited to charges for inspection, fumigation, and carrying charges, attributable to the failure of the vessel to present before the canceling date will be for the account of the ocean carrier.

(5) Ocean freight is earned under a charter party when the vessel and cargo arrive at the first port of discharge, Provided, That if a force majeure prevents the vessel's arrival at the first port of discharge, 100% of the ocean freight is payable or, if the charter party provides for completing additional requirements after discharge such as bagging, stacking, or inland transportation, not more than 85% of the ocean freight is payable, at the time the Associate Administrator determines that such force majeure was the cause of nonarrival; and

(6) When the ocean carrier offers delivery to destination ports on U.S.-flag vessels, but foreign-flag vessels are used for any part of the voyage to the destination port without first obtaining the approval of the Cooperating Sponsor, KCCO, and any other approval that may be required by the Program Agreement, the ocean freight rate will be reduced to the lowest responsive foreign-flag vessel rate offered in response to the same invitation for bids and the carrier agrees to pay FAS the difference between the contracted ocean freight rate and the freight rate offered by such foreign-flag vessel.

(f) *Coordination between FAS and the Cooperating Sponsor.* When a Program Agreement specifies that the Cooperating Sponsor will arrange ocean transportation:

(1) FAS will provide that KCCO furnishes the Cooperating Sponsor, or its agent, a Notice of Commodity Availability (Form FAS–512) which will specify the receiving country, commodity, quantity, and date at U.S. port or intermodal delivery point.

(2) The Cooperating Sponsor shall complete the Form FAS–512 indicating name of steamship company, vessel name, vessel flag and estimated time of arrival at U.S. port; and shall sign and return the completed form to KCCO, with a copy to the Director, CCC–OD. If FAS agrees to pay any part of the ocean transportation for liner cargoes, the Cooperating Sponsor shall also indicate on the Form FAS–512 the applicable Federal Maritime Commission tariff rate, and tariff identification.

(3) FAS will arrange for KCCO to issue instructions to have the commodity delivered f.a.s. or f.o.b. vessel, U.S. port of export or intermodal delivery point, consigned to the Cooperating Sponsor.

(g) *Documents required for payment of freight*—(1) *General rule.* To receive payment for ocean freight, the Cooperating Sponsor shall submit the following documents to the Director, CCC–OD:

(i) One signed copy of completed Form FAS–512;

(ii) Four copies of the original on-board bills of lading indicating the freight rate and signed by the originating carrier;

(iii) For all non-containerized grain cargoes,

(A) One signed copy of the Federal Grain Inspection Service (FGIS) Official Stowage Examination Certificate (Vessel Hold Certificate);

(B) One signed copy of the National Cargo Bureau Certificate of Readiness (Vessel Hold Inspection Certificate); and

(C) One signed copy of the National Cargo Bureau Certificate of Loading;

(iv) For all containerized grain and grain product cargoes, one copy of the FGIS Container Condition Inspection Certificate;

(v) One signed copy of liner booking note or charter party covering ocean transportation of cargo;

(vi) For charter shipments, a signed notice of arrival at first discharge port submitted by the Cooperating Sponsor;

(vii) For all liner cargoes, a copy of the tariff page;

(viii) Four copies of either:

(A) A request by the Cooperating Sponsor for reimbursement of ocean freight or ocean freight differential indicating the amount due, and accompanied by a certification from the ocean carrier that payment has been received from the Cooperating Sponsor; or

(B) A request for direct payment to the ocean carrier, indicating amount due; or

(C) A request for direct payment of ocean freight differential to the ocean carrier accompanied by a certification from the carrier that payment of the Cooperating Sponsor's portion of the ocean freight has been received.

(ix) Each request to FAS for payment must provide a document, on letterhead and signed by an official or agent of the requester, the name of the entity to receive payment, the bank ABA number to which payment is to be made; the account number for the deposit at the bank; the requester's taxpayer identification number; and the type of the account into which funds will be deposited.

(2) *In cases of force majeure.* To receive payment in cases where the Associate Administrator determines that circumstances of force majeure have prevented the vessel's arrival at the first port of discharge, the Cooperating Sponsor shall submit all documents required by paragraph (g)(1) of this section except for the notice of arrival required by paragraph (g)(1)(vi) of this section.

(h) *FAS payment of ocean freight or ocean freight differential.* (1) *General rule.* FAS will pay, not later than 30 days after receipt in good order of the required documentation, 100 percent of either the ocean freight or the ocean freight differential, whichever is specified in the Program Agreement.

(2) *Additional requirements after discharge.* Where the charter party or liner booking note provide for the completion of additional services after discharge, such as bagging, stacking or inland transportation, FAS will pay, not later than 30 days after receipt in good order of the required documentation, either not more than 85 percent of the total freight charges or 100 percent of the ocean freight differential, whichever is specified in the Program Agreement. FAS will pay the remaining balance, if any, of the freight charges not later than 30 days after receipt of notification from the Cooperating Sponsor that such additional services have been provided;

except that FAS will not pay any remaining balance where the Associate Administrator determines that the vessel's arrival at first port of discharge was prevented by force majeure.

(3) *No demurrage.* FAS will not pay demurrage.

§ 1599.8 Who arranges for entry and handling in the foreign country?

(a) The Cooperating Sponsor shall make all necessary arrangements for receiving the commodities in the recipient country, including obtaining appropriate approvals for entry and transit. The Cooperating Sponsor shall store and maintain the commodities from time of delivery at port of entry or point of receipt from originating carrier in good condition until their distribution, sale or barter.

(b) When FAS has agreed to pay costs of transporting, storing, and distributing commodities from designated points of entry or ports of entry, the Cooperating Sponsor shall arrange for such services, by through bill of lading, or by contracting directly with suppliers of services, as FAS may approve. If the Cooperating Sponsor contracts directly with the suppliers of such services, the Cooperating Sponsor may seek reimbursement by submitting documentation to FAS indicating actual costs incurred. All supporting documentation must be sent to the Director, CCC–OD. FAS, at its option, will reimburse the Cooperating Sponsor for the cost of such services in U.S. dollars at the exchange rate in effect on the date of payment by FAS, or in foreign currency.

§ 1599.9 What are the restrictions on commodity use and distribution?

(a) The Cooperating Sponsor may use the commodities provided only in accordance with the terms of the Program Agreement.

(b) In the event that its participation in the program terminates, the nongovernmental Cooperating Sponsor will safeguard any undistributed commodities and sales proceeds and dispose of such commodities and proceeds as directed by FAS.

§ 1599.10 Are there special requirements for agreements between Cooperating Sponsor and Recipient Agencies?

(a) The Cooperating Sponsor shall enter into a written agreement with a recipient agency prior to the transfer of any commodities, sale proceeds or program income to the recipient agency. Copies of such agreements shall be provided to the Agricultural Counselor or Attache, and the Director, PPDED. Such agreements shall require the recipient agency to pay the Cooperating Sponsor the value of any commodities, sale proceeds or program income that are used for purposes not expressly permitted under the Program Agreement, or that are lost, damaged, or misused as a result of the recipient agency's failure to exercise reasonable care;

(b) FAS may waive the requirements of paragraph (a) of this section where it determines that such an agreement is not feasible or appropriate.

§ 1599.11 What procedures apply to sales and barter of commodities provided and the use of proceeds?

(a) Commodities may be sold or bartered without the prior approval of FAS where damage has rendered the commodities unfit for intended program purposes and sale or barter is necessary to mitigate loss of value.

(b) A Cooperating Sponsor may, but is not required to, negotiate an agreement with the host government under which the commodities imported for a sale or barter may be imported, sold, or bartered without assessment of duties or taxes. In such cases and where the commodities are sold, they shall be sold at prices reflecting prevailing local market value.

(c) The Cooperating Sponsor shall deposit all sale proceeds into an interest-bearing account unless prohibited by the laws or customs of the importing country or FAS determines that to do so would constitute an undue burden. Interest earned on such deposits shall only be used for approved activities.

(d) Except as otherwise provided in this part, the Cooperating Sponsor may use sale proceeds and resulting interest only for those purposes approved in the applicable Plan of Operation.

(e) FAS will approve the use of sale proceeds and interest to purchase real and personal property where local law permits the Cooperating Sponsor to retain title to such property, but will not approve the use of sale proceeds or interest to pay for the acquisition, development, construction, alteration or upgrade of real property that is:

(1) Owned or managed by a church or other organization engaged exclusively in religious activity, or

(2) Used in whole or in part for sectarian purposes; except that, a Cooperating Sponsor may use such sale proceeds or interest to pay for repairs or rehabilitation of a structure located on such real property to the extent necessary to avoid spoilage or loss of provided commodities but only if such structure is not used in whole or in part for any religious or sectarian purposes while the provided commodities are stored in such structure. When not approved in the Plan of Operation, such use may be approved by the Agricultural Counselor or Attache.

(f) The Cooperating Sponsor shall follow commercially reasonable practices in procuring goods and services and when engaging in construction activity in accordance with the approved Plan of Operation. Such practices shall include procedures to prevent fraud, self-dealing and conflicts of interest, and shall foster free and open competition to the maximum extent practicable.

(g) To the extent required by the Program Agreement, the Cooperating Sponsor shall submit to the Director, PPDED, an inventory of all assets acquired with sale proceeds or interest or program income. In the event that its participation in the program terminates, the Cooperating Sponsor shall dispose, at the direction of the Director, PPDED, of any property, real or personal, so acquired.

§ 1599.12 What procedures apply to the processing, packaging and labeling of commodities in the foreign country?

(a) Cooperating Sponsors may arrange for the processing of commodities provided under the Program Agreement, or for packaging or repackaging prior to distribution. When a third party provides such processing, packaging or repackaging, the Cooperating Sponsor shall enter into a written agreement requiring that the provider of such services maintain adequate records to account for all commodities delivered and submit periodic reports to the Cooperating Sponsor. The Cooperating Sponsor shall submit a copy of the executed agreement to the Agricultural Counselor or Attache.

(b) If, prior to distribution, the Cooperating Sponsor arranges for packaging or repackaging commodities, the packaging shall be plainly labeled in the language of the country in which the commodities are to be distributed with the name of the commodity and, except where the commodities are to be sold or bartered after processing, packaging or repackaging, to indicate that the commodity is furnished by the people of the United States of America and not to be sold or exchanged. If the commodities are not packaged, the Cooperating Sponsor shall, to the extent practicable, display banners, posters or other media containing the information prescribed in this paragraph.

(c) FAS will reimburse Cooperating Sponsors that are nonprofit private voluntary organizations or cooperatives for expenses incurred for repackaging if the packages of commodities are

discharged from the vessel in damaged condition, and are repackaged to ensure that the commodities arrive at the distribution point in wholesome condition. No prior approval is required for such expenses equaling $500 or less. If such expense is estimated to exceed $500, the authority to repackage and incur such expense must be approved by the Agricultural Counselor or Attache in advance of repackaging.

§ 1599.13 How does the Cooperating Sponsor dispose of commodities unfit for authorized use?

(a) *Prior to delivery to Cooperating Sponsor at discharge port or point of entry.* If the commodity is damaged prior to delivery to a governmental Cooperating Sponsor at discharge port or point of entry overseas, the Agricultural Counselor or Attache will immediately arrange for inspection by a public health official or other competent authority. If the commodity is damaged prior to delivery to a nongovernmental Cooperating Sponsor at the discharge port or point of entry, the nongovernmental Cooperating Sponsor shall arrange for such inspection. If inspection discloses the commodity to be unfit for the use authorized in the Program Agreement, the Agricultural Counselor or Attache or the nongovernmental Cooperating Sponsor shall dispose of the commodities in accordance with the priority set forth in paragraph (b) of this section. Expenses incidental to the handling and disposition of the damaged commodity will be paid by FAS from the sale proceeds or from an appropriate FAS account designated by FAS. The net proceeds of sales shall be deposited with the U.S. Disbursing Officer, American Embassy, in an account designated by FAS; however, if the commodities are provided for a sales program, the net sale proceeds, net of expenses incidental to handling and disposition of the damaged commodity, shall be deposited to the special account established for sale proceeds. The Cooperating Sponsor shall consult with FAS regarding the inspection and disposition of commodities and accounting for sale proceeds in the event the Cooperating Sponsor executed a sales agreement under which title passed to the purchaser prior to delivery to the Cooperating Sponsor.

(b) *After delivery to Cooperating Sponsor.* (1) If after arrival in a foreign country and after delivery to a Cooperating Sponsor, it appears that the commodity, or any part thereof, may be unfit for the use authorized in the Program Agreement, the Cooperating Sponsor shall immediately arrange for inspection of the commodity by a public health official or other competent authority approved by the Agricultural Counselor or Attache. If no competent local authority is available, the Agricultural Counselor or Attache may determine whether the commodities are unfit for the use authorized in the Program Agreement and, if so, may direct disposal in accordance with this paragraph. The Cooperating Sponsor shall arrange for the recovery of that portion of the commodities designated during the inspection as suitable for authorized use. If, upon inspection, the commodity (or any part thereof) is determined to be unfit for the authorized use, the Cooperating Sponsor shall notify the Agricultural Counselor or Attache of the circumstances pertaining to the loss or damage. With the concurrence of the Agricultural Counselor or Attache, the commodity determined to be unfit for authorized use shall be disposed of in the following order of priority:

(i) By transfer to an approved USDA sponsored program for use as livestock feed. FAS shall be advised promptly of any such transfer so that shipments from the United States to the livestock feeding program can be reduced by an equivalent amount;

(ii) Sale for the most appropriate use, *i.e.*, animal feed, fertilizer, or industrial use, at the highest obtainable price. When the commodity is sold, all U.S. Government markings shall be obliterated or removed;

(iii) By donation to a governmental or charitable organization for use as animal feed or for other non-food use; or

(iv) If the commodity is unfit for any use or if disposal in accordance with paragraph (b)(1)(i), (ii) or (iii) of this section is not possible, the commodity shall be destroyed under the observation of a representative of the Agricultural Counselor or Attache, if practicable, in such manner as to prevent its use for any purpose.

(2) Actual expenses incurred, including third party costs, in effecting any sale may be deducted from the sale proceeds and, if the commodities were intended for direct distribution, the Cooperating Sponsor shall deposit the net proceeds with the U.S. Disbursing Officer, American Embassy, with instructions to credit the deposit to an account as designated by FAS. If the commodities were intended to be sold, the Cooperating Sponsor shall deposit the gross proceeds into the special interest bearing account and, after approved costs related to the handling and disposition of damaged commodities are paid, shall use the remaining funds for purposes of the approved program. The Cooperating Sponsor shall promptly furnish to the Agricultural Counselor or Attache a written report of all circumstances relating to the loss and damage on any commodity loss in excess of $5,000; quarterly reports shall be made on all other losses. If the commodity was inspected by a public health official or other competent authority, the report and any supplemental report shall include a certification by such public health official or other competent authority as to the condition of the commodity and the exact quantity of the damaged commodity disposed. Such certification shall be obtained as soon as possible after the discharge of the cargo. A report must also be provided to the Chief, Debt Management Division, KCMO/DMD, of action taken to dispose of commodities unfit for authorized use.

§ 1599.14 How is liability established for loss, damage, or improper distribution of commodities?

(a) *Fault of Cooperating Sponsor prior to loading on ocean vessel.* The Cooperating Sponsor shall immediately notify KCCO, Chief, Export Operations Division if the Cooperating Sponsor will not have a vessel for loading at the U.S. port of export in accordance with the agreed shipping schedule. FAS will determine whether the commodity will be: moved to another available outlet; stored at the port for delivery to the Cooperating Sponsor when a vessel is available for loading; or disposed of as FAS may deem proper. The Cooperating Sponsor shall take such action as directed by FAS and shall reimburse FAS for expenses incurred if FAS determines that the expenses were incurred because of the fault or negligence of the Cooperating Sponsor.

(b) *Fault of others prior to loading on ocean vessel.* The Cooperating Sponsor shall immediately notify the Chief, Debt Management Office, KCMO/DMD, when any damage or loss to the commodity occurs that is attributable to a warehouseman, carrier, or other person between the time title is transferred to a Cooperating Sponsor and the time the commodity is loaded on board vessel at the designated port of export. The Cooperating Sponsor shall promptly assign to CCC any rights to claims which may arise as a result of such loss or damage and shall promptly forward to CCC all documents pertaining thereto. CCC shall have the right to initiate claims, and retain the proceeds of all claims, for such loss or damage.

(c) *Survey and outturn reports related to claims against ocean carriers.* (1) If the Program Agreement provides that CCC will arrange for an independent

cargo surveyor to attend the discharge of the cargo, CCC will require the surveyor to provide a copy of the report to the Cooperating Sponsor.

(2)(i) If the Cooperating Sponsor arranges for an independent cargo surveyor, the Cooperating Sponsor shall forward to the Chief, Debt Management Office, KCMO/DMD, any narrative chronology or other commentary it can provide to assist in the adjudication of ocean transportation claims and shall prepare such a narrative in any case where the loss is estimated to be in excess of $5,000.00. The Cooperating Sponsor may, at its option, also engage the independent surveyor to supervise clearance and delivery of the cargo from customs or port areas to the Cooperating Sponsor or its agent and to issue delivery survey reports thereon.

(ii) In the event of cargo loss and damage, the Cooperating Sponsor shall provide to the Chief, Debt Management Office, KCMO/DMD, the names and addresses of individuals who were present at the time of discharge and during survey and who can verify the quantity lost or damaged. For bulk grain shipments, in those cases where the Cooperating Sponsor is responsible for survey and outturn reports, the Cooperating Sponsor shall obtain the services of an independent surveyor to:

(A) Observe the discharge of the cargo;

(B) Report on discharging methods including scale type, calibrations and any other factor which may affect the accuracy of scale weights, and, if scales are not used, state the reason therefore and describe the actual method used to determine weights;

(C) Estimate the quantity of cargo, if any, lost during discharge through carrier negligence;

(D) Advise on the quality of sweepings;

(E) Obtain copies of port or vessel records, if possible, showing quantity discharged;

(F) Provide immediate notification to the Cooperating Sponsor if additional services are necessary to protect cargo interests or if the surveyor has reason to believe that the correct quantity was not discharged; and

(G) In the case of shipments arriving in container vans, list the container van numbers and seal numbers shown on the container vans, and indicate whether the seals were intact at the time the container vans were opened, and whether the container vans were in any way damaged. To the extent possible, the independent surveyor should observe discharge of container vans from the vessel to ascertain whether any damage to the container van occurred and arrange for surveying as container vans are opened.

(iii) Cooperating Sponsors shall send copies to KCMO/DMD, Chief, Debt Management Office of all reports and documents pertaining to the discharge of commodities.

(iv) FAS will reimburse the Cooperating Sponsor for costs incurred upon receipt of the survey report and the surveyor's invoice or other documents that establish the survey cost. FAS will not reimburse a Cooperating Sponsor for the costs of a delivery survey unless the surveyor also prepares a discharge survey, or for any other survey not taken contemporaneously with the discharge of the vessel, unless FAS determines that such action was justified in the circumstances.

(3) Survey contracts shall be let on a competitive bid basis unless FAS determines that the use of competitive bids would not be practicable. FAS may preclude the use of certain surveyors because of conflicts of interest or lack of demonstrated capability to properly carry out surveying responsibilities.

(4) If practicable, all surveys shall be conducted jointly by the surveyor, the consignee, and the ocean carrier, and the survey report shall be signed by all parties.

(d) *Ocean carrier loss and damage.* (1) Notwithstanding transfer of title, CCC shall have the right to file, pursue, and retain the proceeds of collection from claims arising from ocean transportation cargo loss and damage arising out of shipments of commodities provided to governmental Cooperating Sponsors; however, when the Cooperating Sponsor pays the ocean freight or a portion thereof, it shall be entitled to pro rata reimbursement received from any claims related to ocean freight charged. FAS will pay general average contributions for all valid general average incidents which may arise from the movement of commodity to the destination ports. CCC shall receive and retain all allowances in general average.

(2) Nongovernmental Cooperating Sponsors shall: file notice with the ocean carrier immediately upon discovery of any cargo loss or damage, promptly initiate claims against the ocean carriers for such loss and damage, take all necessary action to obtain restitution for losses, and provide CCC copies of all such claims. Notwithstanding the preceding sentence, the nongovernmental Cooperating Sponsor need not file a claim when the cargo loss is less than $100, or in any case when the loss is between $100 and $300 and the nongovernmental Cooperating Sponsor determines that the cost of filing and collecting the claim will exceed the amount of the claim. The nongovernmental Cooperating Sponsor shall transmit to KCMO/DMD, Chief, Debt Management Office information and documentation on such lost or damaged shipments when no claim is to be filed. In the event of a declaration of General Average:

(i) The Cooperating sponsor shall assign all claim rights to CCC and shall provide CCC all documentation relating to the claim, if applicable;

(ii) CCC shall be responsible for settling general average and marine salvage claims;

(iii) FAS has sole authority to authorize any dispositions of commodities which have not commenced ocean transit or of which the ocean transit is interrupted;

(iv) FAS will receive and retain any monetary proceeds resulting from such disposition;

(v) CCC will initiate, prosecute, and retain all proceeds of cargo loss and damage against ocean carriers and any allowance in general average; and

(vi) FAS will pay any general average or marine salvage claims determined to be due.

(3) Amounts collected by nongovernmental Cooperating Sponsors on claims against ocean carriers which are less than $200 may be retained by the nongovernmental Cooperating Sponsor. On claims involving loss or damage of $200 or more, nongovernmental Cooperating Sponsors may retain from collections received by them, either $200 plus 10 percent of the difference between $200 and the total amount collected on the claim, up to a maximum of $500; or the actual administrative expenses incurred in collection of the claim, provided retention of such administrative expenses is approved by CCC. Allowable collection costs shall not include attorneys fees, fees of collection agencies, and similar costs. In no event will FAS pay collection costs in excess of the amount collected on the claim.

(4) A nongovernmental Cooperating Sponsor also may retain from claim recoveries remaining after allowable deductions for administrative expenses of collection, the amount of any special charges, such as handling and packing costs, which the nongovernmental Cooperating Sponsor has incurred on the lost or damaged commodity and which are included in the claims and paid by the liable party.

(5) A nongovernmental Cooperating Sponsor may redetermine claims on the basis of additional documentation or information not considered when the

claims were originally filed when such documentation or information clearly changes the ocean carrier's liability. Approval of such changes by FAS is not required regardless of amount. However, copies of redetermined claims and supporting documentation or information shall be furnished to FAS.

(6) A nongovernmental Cooperating Sponsor may negotiate compromise settlements of claims of any amount, provided that proposed compromise settlements of claims having a value of $5,000 or more shall require prior approval in writing by FAS. When a claim is compromised, a nongovernmental Cooperating Sponsor may retain from the amount collected, the amounts authorized in paragraph (d)(3) of this section, and in addition, an amount representing such percentage of the special charges described in paragraph (d)(4) of this section as compromised amount is to the full amount of the claim. When a claim is less than $600, a nongovernmental Cooperating Sponsor may terminate collection activity when it is determined that pursuit of such claims will not be economically sound. Approval for such termination by FAS is not required; however, the nongovernmental Cooperating Sponsor shall notify KCMO/DMD, Chief, Debt Management Division when collection activity on a claim is terminated.

(7) All amounts collected in excess of the amounts authorized in this section to be retained shall be remitted to CCC. For the purpose of determining the amount to be retained by a nongovernmental Cooperating Sponsor from the proceeds of claims filed against ocean carriers, the word ''claim'' shall refer to the loss and damage to commodities which are shipped on the same voyage of the same vessel to the same port destination, irrespective of the kinds of commodities shipped or the number of different bills of lading issued by the carrier.

(8) If a nongovernmental Cooperating Sponsor is unable to effect collection of a claim or negotiate an acceptable compromise settlement within the applicable period of limitation or any extension thereof granted in writing by the party alleged responsible for the damage, the nongovernmental Cooperating Sponsor shall assign its rights to the claim to CCC in sufficient time to permit the filing of legal action prior to the expiration of the period of limitation or any extension thereof. Generally, a nongovernmental Cooperating Sponsor should assign claim rights to CCC no later than 60 days prior to the expiration of the period of limitation or any extension thereof. In all cases, a nongovernmental Cooperating Sponsor shall keep CCC informed of the progress of its collection efforts and shall promptly assign their claim rights to CCC upon request. Subsequently, if CCC collects on or settles the claim, CCC shall, except as indicated in this paragraph, pay to a nongovernmental Cooperating Sponsor the amount to which it would have been entitled had it collected on the claim. The additional 10 percent on amounts collected in excess of $200 will be payable, however, only if CCC determines that reasonable efforts were made to collect the claim prior to the assignment, or if payment is determined to be commensurate with the extra efforts exerted in further documenting the claim. If documentation requirements have not been fulfilled and the lack of such documentation has not been justified to the satisfaction of CCC, CCC will deny payment of all allowances to the nongovernmental Cooperating Sponsor.

(9) When a nongovernmental Cooperating Sponsor permits a claim to become time-barred, or fails to take timely actions to insure the right of CCC to assert such claims, and CCC determines that the nongovernmental Cooperating Sponsor failed to properly exercise its responsibilities under the Agreement, the nongovernmental Cooperating Sponsor shall be liable to the United States for the cost and freight value of the commodities lost to the program.

(e) *Fault of Cooperating Sponsor in country of distribution.* If a commodity, sale proceeds or program income is used for a purpose not permitted by the Program Agreement, or if a Cooperating Sponsor causes loss or damage to a commodity, sale proceeds, or program income through any act or omission or failure to provide proper storage, care and handling, FAS may require the Cooperating Sponsor to pay to the United States the value of the commodities, sale proceeds or program income lost, damaged or misused, or undertake other remedies FAS deems appropriate. FAS will consider normal commercial practices in the country of distribution in determining whether there was a proper exercise of the Cooperating Sponsor's responsibility. Payment by the Cooperating Sponsor shall be made in accordance with paragraph (g) of this section.

(f) *Fault of others in country of distribution and in intermediate country.* (1) In addition to survey or outturn reports to determine ocean carrier loss and damage, the Cooperating Sponsor shall, in the case of landlocked countries, arrange for an independent survey at the point of entry into the recipient country and make a report as set forth in paragraph (c)(l) of this section. FAS will reimburse the Cooperating Sponsor for the costs of survey as set forth in paragraph (c)(2)(iv) of this section.

(2) Where any damage to or loss of the commodity or any loss of sale proceeds or program income is attributable to a warehouseman, carrier or other person, the Cooperating Sponsor shall make every reasonable effort to pursue collection of claims for such loss or damage. The Cooperating Sponsor shall furnish a copy of the claim and related documents to the Agricultural Counselor or Attache. Cooperating Sponsors who fail to file or pursue such claims shall be liable to FAS for the value of the commodities or sale proceeds or program income lost, damaged, or misused: Provided, however, that the Cooperating Sponsor may elect not to file a claim if the loss is less than $500. The Cooperating Sponsor may retain $150 of any amount collected on an individual claim. In addition, Cooperating Sponsors may, with the written approval of the Agricultural Counselor or Attache, retain amounts to cover special costs of collection such as legal fees, or pay such collection costs with sale proceeds or program income. Any proposed settlement for less than the full amount of the claim requires prior approval by the Agricultural Counselor or Attache. When the Cooperating Sponsor has exhausted all reasonable attempts to collect a claim, it shall request the Agricultural Counselor or Attache to provide further instructions.

(3) The Cooperating Sponsor shall pursue any claim by initial billings and at least three subsequent demands at not more than 30 day intervals. If these efforts fail to elicit a satisfactory response, the cooperating sponsor shall pursue legal action in the judicial system of country unless otherwise agreed by the Agricultural Counselor or Attache. The Cooperating Sponsors must inform the Agricultural Counselor or Attache in writing of the reasons for not pursuing legal action; and the Agricultural Counselor or Attache may require the Cooperating Sponsor to obtain the opinion of competent legal counsel to support its decision prior to granting approval. If the Agricultural Counselor or Attache approves a Cooperating Sponsor's decision not to take further action on the claim, the Cooperating Sponsor shall assign the claim to CCC and shall forward all documentation relating to the claim to CCC.

(4) As an alternative to legal action in the judicial system of the country with regard to claims against a public entity of the government of the cooperating country, the Cooperating Sponsor and the cooperating country may agree in writing to settle disputed claims by an appropriate administrative procedure or arbitration.

(g) *Determination of value.* The Cooperating Sponsor shall determine the value of commodities misused, lost or damaged on the basis of the domestic market price at the time and place the misuse, loss or damage occurred. When it is not feasible to determine such market price, the value shall be the f.o.b. or f.a.s. commercial export price of the commodity at the time and place of export, plus ocean freight charges and other costs incurred by the U.S. Government in making delivery to the Cooperating Sponsor. When the value is determined on a cost basis, the Cooperating Sponsor may add to the value any provable costs it has incurred prior to delivery by the ocean carrier. In preparing the claim statement, these costs shall be clearly segregated from costs incurred by the Government of the United States. With respect to claims other than ocean carrier loss or damage claims, the Cooperating Sponsor may request the Agricultural Counselor or Attache to approve a commercially reasonable alternative basis to value the claim.

(h) *Reporting losses to the Agricultural Counselor or Attache or FAS designated representative.* (1) The Cooperating Sponsor shall promptly notify the Agricultural Counselor or Attache or FAS designated representative, in writing, of the circumstances pertaining to any loss, damage, or misuse of commodities valued at $500 or more occurring within the country of distribution or intermediate country. The report shall be made as soon as the Cooperating Sponsor has adequately investigated the circumstances, but in no event more than ninety days from the date the loss became known to the Cooperating Sponsor. The report shall identify the party in possession of the commodities and the party responsible for the loss, damage or misuse; the kind and quantities of commodities; the size and type of containers; the time and place of misuse, loss, or damage; the current location of the commodity; the Program Agreement number, the procurement contract numbers, or if unknown, other identifying numbers printed on the commodity containers; the action taken by the Cooperating Sponsor with respect to recovery or disposal; and the estimated value of the commodity. The report shall explain why any of the above-required information can not be provided. The Cooperating Sponsor shall also report the details regarding any loss or misuse of sale proceeds or program income.

(2) The Cooperating Sponsor shall report quarterly to the Agricultural Counselor or Attache any loss, damage to or misuse of commodities resulting in loss of less than $500. The Cooperating Sponsor shall inform the Agricultural Counselor or Attache or FAS designated representative if it has reason to believe there is a pattern or trend in the loss, damage, or misuse of such commodities and submit a report as described in paragraph (h)(1) of this section, together with any other relevant information the Cooperating Sponsor has available to it. The Agricultural Counselor or Attache may require additional information about any commodities lost, damaged or misused.

(i) *Handling claims proceeds.* Claims against ocean carriers shall be collected in U.S. dollars (or in the currency in which freight is paid) and shall be remitted (less amounts authorized to be retained) by Cooperating Sponsors to CCC. Claims against Cooperating Sponsors shall be paid to CCC in U.S. dollars. With respect to commodities lost, damaged or misused, amounts paid by Cooperating Sponsors and third parties in the country of distribution shall be deposited with the U.S. Disbursing Officer, American Embassy, preferably in U.S. dollars with instructions to credit the deposit to an account as determined by FAS, or in local currency at the highest rate of exchange legally obtainable on the date of deposit with instructions to credit the deposit to an FAS account as determined by FAS. With respect to sale proceeds and program income, amounts recovered may be deposited in the same account as the sale proceeds and may be used for purposes of the program.

§ 1599.15 Are there special recordkeeping and reporting requirements?

(a) *Records and reports—general requirements.* The Cooperating Sponsor shall maintain records for a period of three (3) years from the final date specified in the program agreement. FAS may, at reasonable times, inspect the Cooperating Sponsor's records pertaining to the receipt and use of the commodities and proceeds realized from the sale of the commodities, and have access to the Cooperating Sponsor's commodity storage and distribution sites and to locations of activities supported with proceeds realized from the sale of the commodities.

(b) *Evidence of export.* The Cooperating Sponsor's freight forwarder shall, within thirty (30) days after export, submit evidence of export of the agricultural commodities to the Chief, Export Operations Division, KCCO. If export is by sea or air, the Cooperating Sponsor's freight forwarder shall submit five copies of the carrier's on board bill of lading or consignee's receipt authenticated by a representative of the U.S. Customs Service. The evidence of export must show the kind and quantity of agricultural commodities exported, the date of export, and the destination country.

(c) *Reports.* (1) The Cooperating Sponsor shall submit a semiannual logistics report to the Agricultural Counselor or Attache and to the Director, PPDED, FAS/USDA, Washington, DC 20250–1034, covering the receipt of commodities. Cooperating sponsors must submit reports on Form CCC–620 and submit the first report by May 16 for agreements signed during the period, October 1 through March 31, or by November 16 for agreements signed during the period, April 1 through September 30. The first report must cover the time period from the date of signing and subsequent reports must be provided at six months intervals covering the period from the due date of the last report until all commodities have been distributed or sold and such distribution or sale reported to FAS. The report must contain the following data:

(i) Receipts of agricultural commodities including the name of each vessel, discharge port(s) or point(s) of entry, the date discharge was completed, the condition of the commodities on arrival, any significant loss or damage in transit; advice of any claim for, or recovery of, or reduction of freight charges due to loss or damage in transit on U.S. flag vessels;

(ii) Estimated commodity inventory at the end of the reporting period;

(iii) Quantity of commodity on order during the reporting period;

(iv) Status of claims for commodity losses both resolved and unresolved during the reporting period;

(v) Quantity of commodity damaged or declared unfit during the reporting period; and

(vi) Quantity and type of the commodity that has been directly distributed by the Cooperating Sponsor, distribution date, region of distribution, and estimated number of individuals benefitting from the distribution.

(2) Program Agreements will require Cooperating Sponsors to report periodically, against collected, established baseline indicators, on the

number of meals served, enrollment levels, total attendance numbers, including female attendance levels, learning developments, nutrition and health progress of mothers and children, and progress towards sustaining the feeding program.

(3) If the Program Agreement authorizes the sale or barter of commodities by the Cooperating Sponsor, the Cooperating Sponsor shall also submit a semiannual monetization report to the Agricultural Counselor or Attache and to the Director, PPDED, FAS/USDA, Washington, DC 20250–1034, covering the deposits into and disbursements from the special account for the purposes specified in the Program Agreement. Cooperating Sponsors must submit reports on Form CCC–621 and submit the first report by May 16 for agreements signed during the period, October 1 through March 31, or by November 16 for agreements signed during the period, April 1 through September 30. The first report must cover the time period from the date of signing and subsequent reports must be provided at six months intervals covering the period from the due date of the last report until all funds generated from commodity sales have been distributed and such distribution reported to FAS. The report must contain the following information and include both local currency amounts and U.S. dollar equivalents:

(i) Quantity and type of commodities sold;

(ii) Proceeds generated from the sale;

(iii) Proceeds deposited to the special account including the date of deposit;

(iv) Interest earned on the special account;

(v) Disbursements from the special account, including date, amount and purpose of the disbursement; and

(vi) Any balance carried forward in the special account from the previous reporting period.

(4) The Cooperating Sponsor shall furnish FAS such additional information and reports relating to this agreement as FAS may reasonably request.

§ 1599.16 What are the Cooperating Sponsor's audit requirements?

Non-governmental Cooperating Sponsors are subject to the audit requirements of OMB Circular A–133 as implemented in USDA by 7 CFR part 3052, ''Audits of States, Local Governments, and Non-Profit Organizations.'' The Cooperating Sponsor is also responsible for auditing the activities of recipient agencies that receive more than $25,000 of provided commodities or sale proceeds. This responsibility may be satisfied by relying upon independent audits of the recipient agency or upon a review conducted by the Cooperating Sponsor.

§ 1599.17 When may FAS suspend a program?

All or any part of the assistance provided under a Program Agreement, including commodities in transit, may be suspended by FAS if:

(a) The Cooperating Sponsor fails to comply with the provisions of the Program Agreement or this part;

(b) FAS determines that the continuation of such assistance is no longer necessary or desirable; or

(c) FAS determines that storage facilities are inadequate to prevent spoilage or waste, or that distribution of commodities will result in substantial disincentive to, or interference with, domestic production or marketing in the recipient country.

§ 1599.18 Are there sample documents and guidelines available for developing proposals and reports?

FAS has developed guidelines to assist the Cooperating Sponsors with effective reporting on program logistics and commodity sales. Cooperating Sponsors may obtain these guidelines from the Director, PPDED.

Signed March 19th, 2003, in Washington, DC.

Kenneth J. Roberts,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 03–7028 Filed 3–25–03; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–27–AD]

RIN 2120–AA64

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. MU–2B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); Reopening of the comment period.

SUMMARY: This document proposes to revise an earlier proposed airworthiness directive (AD) that would apply to certain Mitsubishi Heavy Industries, Ltd. (Mitsubishi) MU–2B series airplanes. The earlier NPRM would have required you to repetitively inspect the cockpit windshield and cabin window surfaces for damage (damage would be defined as crazing, scratches, and cracks). If any of the windshield or window surfaces have damage that exceeds certain limits, the proposed AD would have required you to replace the windshield or window. If the damage does not exceed certain limits, then the proposed AD would have allowed you to blend out the damage following maintenance manual procedures. The earlier NPRM resulted from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Japan. The manufacturer has issued revision C to the current service information and issued service information applicable to additional MU–2B model airplanes. The manufacturer has also informed us that they will not provide replacement parts free of charge. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these additional actions.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before May 2, 2003.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–27–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 97–CE–27–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from:

—Mitsubishi Heavy Industries America, Inc., 15303 Dallas Parkway, suite 685, LB–77, Dallas, Texas 75248; telephone: (972) 980–5001; facsimile: (972) 980–5091; or

—Mitsubishi Heavy Industries, Ltd., Nagoya Aerospace Systems Works, 10, OYE–CHO, MINATO–KU, Nagoya, Japan, telephone: NAGOYA (611) 2141, telex: 4464561HISI.

You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Direct all questions to:

—For the airplanes manufactured in Japan (Type Certificate A2PC): Mr.

Carl Fountain, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California, 90712; telephone: (562) 627–5222; facsimile: (562) 627–5210; and

—For the airplanes manufactured in the United States (Type Certificate A10SW): Mr. Andy McAnaul, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5156; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of This Proposed AD I Should Pay Attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the proposed rule. You may view all comments we receive before and after the closing date of the proposed rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 97–CE–27–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The Japanese Civil Airworthiness Bureau (JCAB), which is the airworthiness authority for Japan, notified the FAA that an unsafe condition may exist on certain Mitsubishi MU–2B series airplanes. The JCAB reports that several Mitsubishi MU–2B series airplanes have had windshield or window separation during flight. Separation is defined as shattering glass. Further analysis shows that the separation is happening as a result of repeated cabin pressurization cycles.

What Are the Consequences if the Condition Is Not Corrected?

This condition, if not corrected, could result in shattering or separation of the cockpit windshield or cabin windows during flight, which could cause loss of control of the airplane.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Mitsubishi MU–2B series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on April 14, 1998 (63 FR 18151). The NPRM proposed to require you to repetitively inspect the cockpit windshield and cabin window surfaces for damage (damage would be defined as crazing, scratches, and cracks). If any of the windshield or window surfaces have damage that exceeds certain limits, the NPRM proposed to require you to replace the windshield or window. If the damage does not exceed certain limits, then the NPRM proposed to allow blending out the damage following maintenance manual procedures.

Accomplishment of these proposed actions would be in accordance with Mitsubishi MU–2 Service Bulletin (SB) No. 224, dated June 30, 1995, and MU–2 SB No. 224A, dated October 30, 1995.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Add Additional Models to the Applicability of the Proposed AD To Cover the Total MU–2B Fleet

What Is the Commenter's Concern?

The manufacturer states that an identical service bulletin exists which addresses the same condition on airplanes listed on Type Certificate Data Sheet (TCDS) No. A10SW. The manufacturer suggests that those airplane models and the applicable service bulletin be included in the proposed AD.

What Is FAA's Response to the Concern?

We agree with the manufacturer's suggestion and are incorporating the changes in this proposed AD. Because of the additional airplanes being added to the applicability of this proposed AD and the additional burden on the public, we will reopen the comment period for this proposed AD.

Comment Issue No. 2: Exclude Heated Windshields From the Applicability of the Proposed AD

What Is the Commenter's Concern?

The manufacturer states that heated windshields should be excluded from the applicability of this proposed AD, as specified in MU–2 Service Bulletin No. 224A, dated October 30, 1995.

What Is FAA's Response to the Concern?

We agree with the manufacturer's comment and are changing this proposed AD to reflect this change.

Comment Issue No. 3: Correct Part Number Referenced in the Proposed AD

What Is the Commenter's Concern?

The manufacturer states that reference to the cockpit side window, part number 010A–81874–1/–2, is incorrect on MU–2B Service Bulletin No. 224A, dated October 30, 1995. Revision C of MU–2B Service Bulletin will correct this number.

What Is FAA's Response to the Concern?

We agree with the manufacturer's comment and are incorporating the correct part number reference in this proposed AD.

Comment Issue No. 4: Change the Cost Information to Reflect that Mitsubishi Will Not Provide Replacement Parts At No Cost

What is the Commenter's Concern?

The manufacturer states that the cost impact statement in the proposed AD indicates that replacement parts will be provided at no cost. The manufacturer stated that parts will not be provided at no cost and has provided a current price list for replacement parts; therefore, changing the cost impact on the public.

What Is FAA's Response to the Concern?

We agree that the cost impact statement should be changed to reflect the cost for replacement parts. Because this shifts the cost burden from the manufacturer to the owner/operator, we will reopen the comment period for this proposed AD.

The FAA's Determination

What Has FAA Decided?

After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

—The unsafe condition also exists or could develop on other Mitsubishi MU–2B series airplanes;

—The NPRM should be expanded to include these actions; and

—AD action should be taken in order to correct this unsafe condition.

The Supplemental NPRM

How Will the Changes to the NPRM Impact the Public?

Adding additional airplanes to the applicability section and changing the cost impact to the owner/operator goes beyond the scope of what was already proposed. Therefore, we are issuing a supplemental NPRM and reopening the comment period to allow the public additional time to comment on this proposed AD.

What Are the Provisions of the Supplemental NPRM?

This proposed AD would require you to:

—Repetitively inspect the cockpit windshield and cabin window surfaces for damage (damage would be defined as crazing, scratches, and cracks);

—Blend out the damage if the damage does not exceed certain limits; and

—Replace the windshield or window if damage exceeds certain limits.

What Document Should I Use To Accomplish These Actions?

Accomplishment of the proposed actions would be in accordance with the following, as applicable:

—Mitsubishi MU–2 Service Bulletin No. 224, which incorporates the following pages:

Affected pages	Revision level	Date
3, 5, and 6	Original Issue	June 30, 1995.
2, 4	B	Nov. 11, 1996.
1	C	April 20, 1998.

—Mitsubishi MU–2 Service Bulletin No. 087/56–001B, which incorporates the following pages:

Affected pages	Revision level	Date
3, 5, and 6	Original Issue	June 29, 1995.
2	A	Sept. 26, 1996.
1, 4	B	May 4, 1998.

Cost Impact

How Many Airplanes Would This Proposed AD Impact?

We estimate that this proposed AD affects 315 airplanes in the U.S. registry.

What Would Be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
8 workhours × $60 = $480	No parts required	$480	$480 × 315 = $151,200.

We estimate the following costs to accomplish any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need such replacement:

Labor cost	Parts cost	Total cost per airplane
16 workhours X $60 = $960	P/N 010A–31450–1/–2 = $5988. P/N 010A–31451–1/–2 = $4368. P/N 010A–31874–1/–2 = $2432. P/N 010A–31870 = $1673. P/N 010A–31870–11 = $1648. P/N 030A–32402 = $1823.	$960 (workhours) + applicable part(s) = total cost per airplane.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed action: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Mitsubishi Heavy Industries, Ltd: Docket No. 97–CE–27–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are equipped with the following part-numbered windshields and cabin windows and that are certificated in any category:

(1) Windshields

Part No.	Type of windshield
010A–31450–1/–2	Windshield (LH/RH).
010A–31451–1/–2	Cockpit side window (LH/RH).
010A–31874–1/–2	Cockpit side window (LH/RH).
010A–31870	Cabin window.
010A–31870–11	Cabin window (at door).
030A–32402	Long body—small cabin window.

Note 1: The heated windshield is excluded from the inspection and replacement requirements of this AD.

(2) Affected airplanes

(i) The following models and serial numbers as listed on Mitsubishi MU–2 Service Bulletin No. 224C:

Models	Serial Nos.
MU–2B/–10/–15/–20/–25/–26	008 through 347 (except 313 and 321).
MU–2B–30/–35/–36	501 through 696 (except 652 and 661).

(ii) The following models and serial numbers as listed on Mitsubishi MU–2 Service Bulletin No. 087/56–001B:

Models	Serial Nos.
MU–2B–25/–26/–26A/–40	313SA, 321SA, and 348SA through 459SA.
MU–2B–35/–36A/–60	652SA, 661SA, and 697SA through 1569SA.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent cockpit windshield or cabin window separation during flight, which could result in engine ingestion of glass, wing skin damage, or propeller damage, and possible loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect the cockpit windshields and cabin windows for scratching, crazing, and cracking (referred to as damage).	Within the next 100 hours time-in-service (TIS) after the effective date of this AD and thereafter at intervals not to exceed 100 hours TIS from the last inspection, repair or replacement.	In accordance with Mitsubishi MU–2 Service Bulletin No. 224 (as specified in paragraph (e) of this AD) and Mitsubishi MU–2 Service Bulletin 087/56–001 (as specified in paragraph (e) of this AD).
(2) Replace any window or windshield if damaged beyond the limits specified in Mitsubishi MU–2 Service Bulletin No. 224 (as specified in paragraph (e) of this AD) and Mitsubishi MU–2 Service Bulletin 087/56–001 (as specified in paragraph (e) of this AD).	Prior to further flight after the inspection in which the damage was found.	In accordance with Mitsubishi MU–2 Service Bulletin No. 224 (as specified in paragraph (e) of this AD) and Mitsubishi MU–2 Service Bulletin 087/56–001 (as specified in paragraph (e) of this AD).
(3) Repair any damaged windshield or window that is within the limits specified in Mitsubishi MU–2 Service Bulletin No. 224 (as specified in paragraph (e) of this AD) and Mitsubishi MU–2 Service Bulletin 087/56–001 (as specified in paragraph (e) of this AD).	Prior to further flight after the inspection in which the damage was found.	In accordance with the applicable Mitsubishi Maintenance Manual.

(e) *Can I utilize different revisions to the affected service bulletins?* The service bulletins required to accomplish these actions incorporate the following pages:

(1) Mitsubishi MU–2 Service Bulletin No. 224:

Affected pages	Revision level	Date
3, 5, and 6	Original Issue	June 30, 1995.
2, 4	B	Nov. 11, 1996.
1	C	April 20, 1998.

(2) Mitsubishi MU–2 Service Bulletin No. 087/56–001B:

Affected pages	Revision level	Date
3, 5, and 6	Original Issue	June 29, 1995.
2	A	Sept. 26, 1996.
1, 4	B	May 4, 1998.

(f) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Standards Office, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standards Office, Small Airplane Directorate.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(g) *Where can I get information about any already-approved alternative methods of compliance?* Direct all questions to:

(1) For the airplanes manufactured in Japan (Type Certificate A2PC): Mr. Carl Fountain, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard., Lakewood, California, 90712; telephone: (562) 627–5222; facsimile: (562) 627–5210; and

(2) For the airplanes manufactured in the United States (Type Certificate A10SW): Mr. Andy McAnaul, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5156; facsimile: (817) 222–5960.

(h) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(i) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Mitsubishi Heavy Industries America, Inc., 15303 Dallas Parkway, suite 685, LB–77, Dallas, Texas 75248; telephone: (972) 980–5001; facsimile: (972) 980–5091; or Mitsubishi Heavy Industries, Ltd., Nagoya Aerospace Systems Works, 10, OYE–CHO, MINATO–KU, Nagoya, Japan, telephone: NAGOYA (611) 2141, telex: 4464561HISI. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in Japanese AD No. TCD–4311–95, dated November 15, 1995.

Issued in Kansas City, Missouri, on March 19, 2003.

Sandra J. Campbell,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–7187 Filed 3–25–03; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 422

[Reg. No. 22]

RIN 0960–AF05

Evidence Requirements for Assignment of Social Security Numbers (SSNs); Assignment of SSNs for Nonwork Purposes

AGENCY: Social Security Administration (SSA).

ACTION: Proposed rules.

SUMMARY: These proposed rules would further enhance the integrity of SSA's enumeration processes for assigning Social Security Numbers (SSNs). By changing evidence requirements for assignment of SSNs and by defining ''valid nonwork reasons,'' we intend to reduce the opportunity for fraud through misuse and/or improper attainment of SSNs.

We propose to change our rules regarding the age at which a mandatory in-person interview is required for original applications for an SSN. In addition, we propose to eliminate the waiver of evidence of identity for children under age 7 who are applying for an original SSN card. Under these proposals, SSA will require an in-person interview with all individuals age 12 or older who are applying for an original SSN, and SSA will no longer waive the requirement to provide evidence of identity in original applications for a child under age 7. SSA will clarify that evidence of identity must contain sufficient biographical or physical information to identify the individual. Additionally, we propose to eliminate reference to a pilot no longer under consideration by SSA pertaining to the processing of replacement SSN cards for U.S. citizens.

We also propose to clarify our rules regarding when we will assign an SSN to an alien not under authority of law permitting him or her to work in the U.S. We are proposing to define a ''valid nonwork purpose'' as those instances when a Federal statute or regulation requires an alien to have an SSN in order to receive a federally-funded benefit to which the alien has established entitlement, or when a State or local law requires an alien who is legally in the U.S. to have an SSN in order to receive general public assistance benefits (*i.e.*, a public benefit that is means-tested) to which the alien has established entitlement.

DATES: To be sure that your comments are considered, we must receive them no later than May 27, 2003.

ADDRESSES: You may give us your comments by: using our Internet facility (*i.e.*, Social Security Online) at *http://www.socialsecurity.gov/regulations;* e-mail to *regulations@ssa.gov;* telefax to (410) 966–2830; or letter to the Commissioner of Social Security, PO Box 17703, Baltimore, MD 21235–7703. You may also deliver them to the Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site, or you may inspect them physically on regular business days by making arrangements with the contact person shown in this preamble.

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.access.gpo.gov/su_docs/aces/aces140.html.* It is also available on the Internet site for SSA (*i.e.*, Social Security Online) at *http://www.socialsecurity.gov.*

FOR FURTHER INFORMATION CONTACT: Arthur La Veck or Karen Cool, Social Insurance Specialists, Office of Income Security Programs, 3–R–1 Operations Building, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, ((410) 966–5665, *arthur.laveck@ssa.gov* or (410) 966–7094, *karen.r.cool@ssa.gov*) or TTY (410) 966–5609. For information on eligibility or filing for benefits, call our national toll-free numbers, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet Web site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Current Rules—Mandatory In-Person Interview

Our regulations at 20 CFR 422.107 on evidence requirements for SSN card applications currently state that:

- An in-person interview is required of an applicant who is age 18 or older applying for an original SSN, except for an alien who requests an SSN as part of the immigration process described in 20 CFR 422.103(b)(3).
- An in-person interview may also be required of other applicants.
- An applicant for an original SSN card is required to submit documentary evidence that the Commissioner of Social Security regards as convincing evidence of age, U.S. citizenship or alien status, and true identity.
- An applicant for a duplicate or corrected SSN card may also be required to submit convincing documentary evidence of age, U.S. citizenship or alien status, but is always required to submit convincing documentary evidence of identity.

Furthermore, regarding evidence of identity, our regulations at 20 CFR 422.107(c) currently state that:

- Documentary evidence of identity may consist of a driver's license, identity card, school record, medical record, marriage record, passport, Immigration and Naturalization Service (INS) document, or other similar document serving to identify the individual. It is preferable that the document contain the applicant's signature for comparison with his or her signature on the application for a Social Security number.
- When the applicant is a child under 7 years of age applying for an original SSN card and there is no documentary evidence of identity available, the requirement for evidence of identity will be waived if there is no reason to doubt the validity of the birth record, the SSN application, and the existence of the individual.
- An applicant for a duplicate social security number card who is a U.S. citizen and who resides in an area where we are conducting a pilot project on the issuance of duplicate cards will not be required to submit a signed application or corroborative documentary evidence of identity if we are able to compare information provided by the applicant with information already in our records and, on the basis of this comparison, decide that corroborative documentary evidence is not needed to establish the applicant's identity. These special procedures do not apply to:
- A foreign-born U.S. citizen who has not already submitted evidence of citizenship to us;
- A person applying on behalf of another if the applicant is not a parent applying on behalf of his or her minor child; and
- A person whose address is an in-care-of address, a post office box, general delivery, or a suite.

Current Rules—SSNs for Nonwork Purposes

In implementing section 205(c)(2)(B)(i) of the Social Security Act (the Act) and regulations at 20 CFR 422.104 and 422.107, we currently assign SSNs to aliens who:

- Are lawfully admitted to the U.S. either for permanent residence or under other authority of law permitting them to engage in employment in the U.S.; or
- Are legally in the U.S. but not under authority of law permitting them to engage in employment, but only for a valid nonwork purpose; or

• Cannot provide evidence of alien status, and regardless of residency, are entitled to federally funded benefits for which a Federal statute or regulation requires an SSN.

Examples of these benefits include Social Security benefits, Supplemental Security Income benefits, Medicaid, and Temporary Assistance for Needy Families.

Prior to March 1, 2002, our operational instructions permitted us to assign an SSN for a nonwork purpose to aliens who:

• Cannot provide evidence of alien status and, whether or not they reside in the U.S., are entitled to federally-funded benefits for which a Federal statute or regulation requires an SSN; or

• Are legally in the U.S., if there is a Federal, State, or local statute or regulation that requires them to provide SSNs to get a particular benefit or service.

In the case of such a State or local statute or regulation, the statute or regulation must be related to the administration of taxes, general public assistance, driver licensing, or motor vehicle registration (section 205(c)(2)(C)(i) of the Act). If entitlement to a State or local benefit or service is the alien's sole reason for requesting an SSN, the alien must submit documentation from the applicable government entity. We take great care to ensure that only eligible applicants are assigned SSNs and that our records accurately reflect the basis for assignment of the SSNs. Therefore, documentation must identify the alien, describe the State or local benefit/service for which an SSN is required, and confirm that the alien meets all requirements for the benefit/service except for providing an SSN.

If we issue an SSN to an alien for a nonwork purpose, the SSN card is marked with a nonwork legend that reads ''NOT VALID FOR EMPLOYMENT.'' If earnings are reported to us on an SSN issued for a nonwork purpose, we provide the INS with information regarding the reported earnings pursuant to section 290(c)(2) of the Immigration and Nationality Act.

In July 1996, the Internal Revenue Service (IRS) began assigning Individual Taxpayer Identification Numbers (ITINs) for tax purposes to individuals who are not eligible for SSNs but who need to report income for tax purposes. This change in IRS policy eliminated one of the primary reasons that aliens not authorized to work had sought SSNs for nonwork purposes. On October 22, 1998, we published final rules at 63 FR 56552 that eliminated the references to IRS tax reporting purposes as a valid nonwork reason for assignment of an SSN.

After the July 1996 IRS change, the remaining valid nonwork reasons for assignment of SSNs were generally limited to eligibility for federally-funded benefits and use of the SSNs by State governments to administer statutes governing the issuing of driver's licenses, registering of motor vehicles, and in administering general public assistance programs.

On October 12, 1999, we published an Advance Notice of Proposed Rulemaking (ANPRM) at 64 FR 55217 seeking comments on a proposal to further restrict the issuance to lawfully admitted aliens of SSNs for nonwork purposes. In the ANPRM, we proposed limiting assignment of nonwork SSNs to when there is a federal statute or regulation that requires the alien to furnish an SSN to receive a federally-funded benefit or service and the alien is legally in the U.S. but not under authority of law permitting him or her to work in the U.S.

Additional restrictions on assignment of SSNs for nonwork purposes are needed because available SSA data suggest that some individuals assigned SSNs for nonwork purposes, especially for driver's licensing, misuse those SSNs to work illegally in the U.S. Wages have been reported to us on SSNs assigned for nonwork purposes. SSN misuse can impact all levels of government in the form of illegal employment in the U.S. and fraudulent entitlement to Federal and State benefits and services. We have posted on our Web site a report from SSA's Inspector General entitled ''Work Activity for Social Security Numbers Assigned for Nonwork Purposes in the State of Utah.'' The report can be found at *www.socialsecurity.gov/oig/ADOBEPDF/A–14–01–11048.pdf.*

We have, with the assistance of the American Association of Motor Vehicle Administrators and the support of the U.S. Department of Transportation, combined efforts to assist States that currently require SSNs for driver licensing and motor vehicle registration purposes to develop alternative identifier systems to accommodate individuals not authorized to work in the U.S. We understand that most States, though not all, have now completed arrangements for alternative identifier systems.

Explanation of Proposed Changes

422.107 Evidence Requirements

In-Person Interview

We propose to amend § 422.107 of our regulations to require an individual age 12 or older be present at an in-person interview before assignment of an original SSN. Furthermore, we will attempt to determine if an SSN had been previously assigned by asking additional questions of the applicant and, if a previously assigned SSN cannot be located, why an SSN was not obtained at an earlier time.

We believe that this measure offers necessary additional protection against fraud while minimizing the burden on the public because:

• At age 12, a child may have picture identification, such as a student identification card, which can be used for comparison purposes, or alternatively, a child age 12 or older should have other convincing documentary evidence of identity available.

• Although the parent or another adult will be in attendance, and may be the primary respondent, we believe that requiring SSN applicants age 12 or older to be interviewed in person will significantly reduce opportunities for fraudulent applications.

• A 12-year old may be able to provide answers to some questions without parental assistance.

• This measure will have limited applicability as generally it should be rare for a person to obtain an SSN for the first time as late as 12 years of age.

We believe that the proposed age 12 threshold for in-person interviews provides a balance between allowing us to screen effectively for a prior SSN without being overly burdensome on the children or their parents. When considering the age at which to set the in-person interview, we felt that it was rare for individuals to obtain an SSN for the first time as late as 12 years of age. However, we rejected setting the threshold at a younger age because we felt that requiring the presence of younger children at in-person interviews would be overly burdensome on the children and unproductive for us, even with the parent in attendance.

Section 11111 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) amended the Internal Revenue Code (IRC) section 32 (concerning the earned income credit). The amendment requires individuals filing tax returns after December 31, 1991 to include the taxpayer identification number—usually the SSN—of each qualifying child age 1 or older. The Uruguay Round Agreements Act (Pub. L. 103–465) amended IRC section 6109 to generally require that individuals include the taxpayer identification number of each dependent for whom an exemption is claimed, regardless of age, for taxable years beginning after December 31,

1994. Additionally, SSNs generally are required for the receipt of government aid or assistance. Children who have not been claimed on tax returns or have not received any government assistance, may have needed SSNs for medical insurance purposes, savings accounts or other financial instruments, often within a short time after birth. Because most children generally will have an SSN before their first birthday, we believe that lowering the age for a mandatory interview is in accord with our goals for fraud prevention because an explanation is needed when a child does not obtain an SSN at a very early age.

Furthermore, available SSA data suggest that some individuals assigned SSNs prior to age 18 have obtained those SSNs fraudulently because we sought no additional development and documentation before assigning an SSN. Lowering the age at which additional documentation is required should limit further occurrences of fraudulently attained SSNs for children. This form of SSN misuse can impact all levels of government in the form of illegal employment and fraudulent entitlement to government benefits and services. In addition, an SSN improperly assigned could be used to defraud creditors and other businesses.

Evidence of Identity

Evidence of identity is required for all SSN applicants, regardless of age. We propose to eliminate the provision to waive the requirement for evidence of identity for children under age 7 when an original application for an SSN is filed. Thus, an SSN will not be assigned to a child under age 7 without all the evidentiary requirements being met. Such evidence requirements also have a direct correlation with the prevention of fraud. Through convincing documentary evidence of identity, the individual's continued existence is established in our records, thus limiting opportunities for fraud, such as identity theft.

We intend to clarify that the identity document should contain sufficient biographical or physical information to identify the applicant (*e.g.*, contain the applicant's name plus age, date of birth, or parents' names and/or a photograph or physical description). Identity documents containing biographical or physical data can be used for comparison with data SSA already has or with other documents the applicant may submit in connection with the application for an SSN card. A birth record is not sufficient evidence to establish identity. In a 2000 audit, SSA's Inspector General indicated that SSA assigned SSNs to individuals whose U.S. birth certificates were counterfeit. Individuals typically posed as the mothers of nonexistent children and presented counterfeit birth certificates as evidence. This audit can be found at *http://www.ssa.gov/oig/ADOBEPDF/A–09–98–41009.pdf.* Requiring an identity document other than a birth certificate will make it harder for fraudulent applicants to obtain SSNs under a fictitious identity because they must obtain additional evidence. This requirement should not unduly burden legitimate applicants because sufficient proof of identity, such as a medical record or school record, will normally exist, even for the very young.

The pilot project on providing replacement SSN cards by telephone, which we were conducting on the issuance of duplicate SSN cards for U.S. citizens, has been completed. Therefore, we propose to remove the rules pertaining to this pilot.

422.104 Who Can Be Assigned a Social Security Number

We also propose to amend § 422.104 of our regulations to define what we consider to be a valid ''nonwork reason'' for assigning an SSN to an alien who does not have evidence of authority permitting him or her to work. This proposal defines the only valid nonwork reasons for assigning an SSN to such an alien as:

- To satisfy a Federal statute or regulation that requires the alien to have an SSN in order to receive a Federally-funded benefit (such as Temporary Assistance to Needy Families) to which the alien has established entitlement; or
- To satisfy a State or local law that requires an alien who is legally in the U.S. to have an SSN in order to receive general public assistance benefits (such as state-funded General Assistance) to which the alien has established entitlement.

Thus, under the clarification that we are proposing, State and local entities would be able to continue to require individuals to disclose their already assigned SSNs for purposes of receiving benefits or services. However, we would no longer assign an SSN to an alien for any nonwork purpose other than to receive Federal, State or local benefits as described in the proposed changes to § 422.104.

Advance Notice of Proposed Rulemaking

We received several comments in response to the ANPRM we published on October 12, 1999 (64 FR 55217) regarding SSNs for nonwork purposes. Most of the commenters expressed general support for the proposed change in regulations contained in the ANPRM. Many of the commenters, however, did recommend revisions in the rule.

The proposed rules in this NPRM incorporate changes made in response to these comments.

Comment: Several commenters expressed concern that the rule change proposed in the ANPRM regarding SSNs for nonwork purposes could have a potential impact on access to public assistance programs.

Response: We agree with these commenters. Hence, the changes that we are now proposing maintain our policy of issuing SSNs when a State or local law requires the alien to have an SSN in order to receive general public assistance benefits to which the alien has established entitlement.

Comment: Some commenters indicated that our proposed change did not go far enough and that SSNs should only be assigned for SSA programmatic purposes.

Response: Limiting assignment of SSNs for only SSA programmatic purposes is not legally permissible. Section 205(c)(2)(B)(i)(II) of the Social Security Act requires us to assign an SSN to any individual who is an applicant for or recipient of a benefit funded in whole or in part with Federal funds.

Furthermore, there are also State laws that require individuals to have SSNs to receive benefits or services. While there is no federal mandate for us to assign SSNs for those purposes, the Social Security Act does permit the States to use the SSN in the administration of their tax, general public assistance, drivers' licenses or motor vehicle laws. In the past, we assigned SSNs for those purposes. Once the IRS began issuing ITINs, the need for SSNs for State tax purposes was eliminated as States accept ITINs in lieu of an SSN. While we could also have decided to stop assigning SSNs for general public assistance benefits, we propose to continue to assign SSNs when required for State public assistance in order to allow States to provide needed assistance to non-citizens and because experience shows that SSNs assigned for such programs have not resulted in significant SSN misuse.

Comment: Several commenters expressed concern that the elimination of drivers' licenses and motor vehicle registration as valid nonwork reasons for assigning an SSN would have a negative impact on the ability of States to track problem drivers.

Response: We recognize that our change in policy may present some challenges to State motor vehicle administrations that identify all drivers

by only the SSN, but this change was not made without consideration of those challenges. As indicated in our 1999 ANPRM related to this matter, we have encouraged States to develop an alternative identifier for several years. As stated above, we have, with the assistance of the American Association of Motor Vehicle Administrators and the support of the U.S. Department of Transportation, combined efforts to assist States that require SSNs for driver licensing and motor vehicle registration purposes in the development of alternative identifier systems to accommodate individuals not authorized to work in the U.S.

Additionally, we must do all we can to protect the integrity of the SSN processes. One aspect of our stewardship responsibilities is to ensure that our enumeration processes prevent those who have lawfully entered this country, but without work authorization, from improperly obtaining an SSN and subsequently committing fraud and misuse. We always try to strike an appropriate balance between minimizing public burden and protecting the public interest, and in this instance we believe that balance is best achieved by eliminating drivers' licensing as a valid nonwork reason for the assignment of SSNs for nonwork purposes.

Clarity of These Regulations

Executive Order 12866 requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make these proposed rules easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that is unclear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists or diagrams?
- What else could we do to make the rules easier to understand?

Regulatory Procedures

Executive Order 12866, as Amended by Executive Order 13258

The Office of Management and Budget (OMB) has reviewed these rules in accordance with Executive Order 12866 as amended. We have also determined that these rules meet the plain language requirement of Executive Order 12866.

Regulatory Flexibility Act

We certify that these proposed rules would not have a significant economic impact on a substantial number of small entities because they would affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Federalism

We have reviewed these proposed regulations under the threshold criteria of Executive Order 13132 and have determined that they would 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 noted above, we propose to continue assigning SSNs for State-related purposes when we believe it does not conflict with our stewardship responsibilities. The impact is limited to those States that have not developed an alternative system for identifying individuals not eligible for SSNs and who are seeking drivers' licenses.

Paperwork Reduction Act

These proposed rules contain reporting requirements in section 422.107. We have been collecting this information under Office of Management and Budget (OMB) Number 0960–0066, using form SS–5, Application for SSN Card and from State Bureaus of Vital Statistics (BVS) through the enumeration at birth process. However, the changed reporting requirements in section 422.107, described above, and the revised form will require clearance from OMB under the Paperwork Reduction Act of 1995. Below is the estimated public reporting burden:

	Form SS–5	State BVSs
Number of Respondents	14,000,000	53.
Frequency of Response: (daily/weekly/monthly)	1	Varies.
Average Burden Per Respondent/Cost Per Response	8.5–9.5 minutes	$1.94 per record for 4,096,000 records.
Estimated Annual Burden	1,987,533 hours	$7,951,080.

An Information Collection Request is being submitted to OMB for clearance. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Comments may be mailed or faxed to OMB and SSA at the following addresses/fax numbers:

Office of Management and Budget, Attn: OMB Desk Officer, Rm. 10235, New Executive Office Building, 725 17th St., NW., Washington, DC 20503, Fax No. 202–395–6974.

Social Security Administration, Attn: SSA Reports Clearance Officer, 1338 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, Fax No. 410–965–6400.

Comments can be received between 30 and 60 days after publication of this notice and will be most useful if received by SSA within 30 days of publication. You can obtain a copy of the collection instrument by calling the SSA Reports Clearance Officer at 410–965–0454.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; and 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 422

Administrative practice and procedure, Organization and functions (Government agencies) Reporting and recordkeeping requirements, Social Security.

Dated: March 17, 2003.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend part 422, subpart B, chapter III of title 20, Code of Federal Regulations as follows:

PART 422—ORGANIZATION AND PROCEDURES

Subpart B—[Amended]

1. The authority citation for subpart B of part 422 continues to read as follows:

Authority: Secs. 205, 232, 702(a)(5), 1131, and 1143 of the Social Security Act (42 U.S.C. 405, 432, 902(a)(5), 1320b–1, and 1320b–13).

2. Revise § 422.104 to read as follows:

§ 422.104 Who can be assigned a social security number.

(a) *Persons eligible for SSN assignment.* We can assign you a social security number if you meet the evidence requirements in § 422.107 and you are:

(1) A United States citizen; or

(2) An alien lawfully admitted to the United States for permanent residence or under other authority of law permitting you to work in the United States (§ 422.105 describes how we determine if a nonimmigrant alien is permitted to work in the United States); or

(3) An alien who cannot provide the evidence of alien status showing the alien has been lawfully admitted to the U.S., or an alien who has evidence of having been lawfully admitted but who does not have evidence of authority to work in the U.S., as required by § 422.107(e), if the evidence described in that paragraph does not exist, but only for a valid nonwork reason. We consider a valid nonwork reason to be:

(i) You need a social security number to satisfy a Federal statute or regulation that requires you to have a social security number in order to receive a Federally-funded benefit to which you have established entitlement and you reside either in or outside the U. S.; or

(ii) You need a social security number to satisfy a state or local law that requires you to have a social security number in order to receive general public assistance benefits to which you have established entitlement, and you are legally in the United States.

(b) *Annotation for a nonwork purpose.* If we assign you a social security number as an alien for a nonwork purpose, we will indicate in our records that you are not authorized to work. We will also mark your social security card with a legend that reads ''NOT VALID FOR EMPLOYMENT.'' If earnings are reported to us on your number, we will inform the Immigration and Naturalization Service of the reported earnings.

3. Amend § 422.107, to revise paragraphs (a) and (c), to read as follows:

§ 422.107 Evidence requirements.

(a) *General.* An applicant for an original social security number card must submit documentary evidence which the Commissioner of Social Security regards as convincing evidence of age, U.S. citizenship or alien status, and true identity. An applicant for a duplicate or corrected social security number card must submit convincing documentary evidence of identity and may also be required to submit convincing documentary evidence of age and U.S. citizenship or alien status. An applicant for an original, duplicate, or corrected social security number card is also required to submit evidence to assist us in determining the existence and identity of any previously assigned number(s). A social security number will not be assigned, or an original, duplicate, or corrected card issued, unless all the evidence requirements are met. An in-person interview is required of an applicant who is age 12 or older applying for an original social security number except for an alien who requests a social security number as part of the immigration process as described in § 422.103(b)(3). An in-person interview may also be required of other applicants. All documents submitted as evidence must be originals or copies of the original documents certified by the custodians of the original records and are subject to verification.

* * * * *

(c) *Evidence of identity.* An applicant for an original social security number or a duplicate or corrected social security number card is required to submit convincing documentary evidence of identity. Documentary evidence of identity may consist of a driver's license, identity card, school record, medical record, marriage record, passport, Immigration and Naturalization Service document, or other similar document serving to identify the individual. The document must contain sufficient information to identify the applicant, including the applicant's name and the applicant's age, date of birth, or parents' names; and/or a photograph or physical description of the individual. A birth record is not sufficient evidence to establish identity for these purposes.

* * * * *

[FR Doc. 03–7188 Filed 3–25–03; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AL55

Disease Associated With Exposure to Certain Herbicide Agents: Chronic Lymphocytic Leukemia

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations concerning presumptive service connection for certain diseases for which there is no record during service. This proposed amendment is necessary to implement a decision of the Secretary of Veterans Affairs that there is a positive association between exposure to herbicides used in the Republic of Vietnam during the Vietnam era and the subsequent development of chronic lymphocytic leukemia. The intended effect of this proposed amendment is to establish presumptive service connection for that condition based on herbicide exposure.

DATES: Comments must be received on or before May 27, 2003.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *''OGCRegulations@mail.va.gov''.* Comments should indicate that they are submitted in response to ''RIN 2900–AL55.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: David Barrans, Staff Attorney (022), Office of General Counsel, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–6332.

SUPPLEMENTARY INFORMATION: Section 3 of the Agent Orange Act of 1991, Pub. L. 102–4, 105 Stat. 11, directed the Secretary to seek to enter into an agreement with the National Academy of Sciences (NAS) to review and summarize the scientific evidence concerning the association between exposure to herbicides used in support of military operations in the Republic of Vietnam during the Vietnam era and each disease suspected to be associated with such exposure. Congress mandated

that NAS determine, to the extent possible: (1) Whether there is a statistical association between the suspect diseases and herbicide exposure, taking into account the strength of the scientific evidence and the appropriateness of the methods used to detect the association; (2) the increased risk of disease among individuals exposed to herbicides during service in the Republic of Vietnam during the Vietnam era; and (3) whether there is a plausible biological mechanism or other evidence of a causal relationship between herbicide exposure and the suspect disease. Section 3 of Pub. L. 102–4 also required that NAS submit reports on its activities every 2 years (as measured from the date of the first report) for a 10-year period.

Section 1116(b) of title 38, United States Code, as enacted by the Agent Orange Act of 1991, Pub. L. 102–4, provides that whenever the Secretary determines, based on sound medical and scientific evidence, that a positive association (*i.e.*, the credible evidence for the association is equal to or outweighs the credible evidence against the association) exists between exposure of humans to an herbicide agent (*i.e.*, a chemical in an herbicide used in support of the United States and allied military operations in the Republic of Vietnam during the Vietnam era) and a disease, the Secretary will publish regulations establishing presumptive service connection for that disease. If the Secretary determines that a presumption of service connection is not warranted, he is to publish a notice of that determination, including an explanation of the scientific basis for that determination. The Secretary's determination must be based on consideration of the NAS reports and all other sound medical and scientific information and analysis available to the Secretary.

Although 38 U.S.C. 1116(b) does not define ''credible,'' it does instruct the Secretary to ''take into consideration whether the results [of any study] are statistically significant, are capable of replication, and withstand peer review.'' Simply comparing the number of studies which report a positive relative risk to the number of studies which report a negative relative risk for a particular condition is not a valid method for determining whether the weight of evidence overall supports a finding that there is or is not a positive association between herbicide exposure and the subsequent development of the particular condition. Because of differences in statistical significance, confidence levels, control for confounding factors, bias, and other pertinent characteristics, some studies are clearly more credible than others, and the Secretary has given the more credible studies more weight in evaluating the overall weight of the evidence concerning specific diseases.

Section 2 of the Agent Orange Act of 1991, Public Law 102–4, provided that the Secretary's authority to establish presumptions of service connection under 38 U.S.C. 1116(b) would expire 10 years after the first day of the fiscal year in which the NAS transmitted its first report to VA. The first NAS report was transmitted to VA in July 1993, during the fiscal year that began on October 1, 1992. Accordingly, under the Agent Orange Act of 1991, Public Law 102–4, VA's authority to issue regulatory presumptions as specified in section 1116(b) expired on September 30, 2002. In December 2001, however, Congress enacted the Veterans Education and Benefits Expansion Act of 2001 (Benefits Expansion Act), Public Law 107–103. Section 201(d) of that Act extended VA's authority under section 1116(b) through September 30, 2015. Pursuant to the Benefits Expansion Act, Public Law 107–103, VA may issue new regulations between October 1, 2002, and September 30, 2015, establishing additional presumptions of service connection for diseases that are found to be associated with exposure to an herbicide agent.

I. History of Agent Orange Presumptions

Pursuant to 38 U.S.C. 1116 and prior NAS reports received between July 1993 and April 2001, VA regulations contain presumptions of service connection for ten categories of disease based on exposure to an herbicide agent. Those diseases are listed in 38 CFR 3.309(e) as follows: Chloracne or other acneform disease consistent with chloracne, Type 2 diabetes (also known as Type II diabetes mellitus or adult-onset diabetes), Hodgkin's disease, Multiple myeloma, Non-Hodgkin's lymphoma, Acute and subacute peripheral neuropathy, Porphyria cutanea tarda, Prostate cancer, Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea), and Soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma).

If a veteran who was exposed to an herbicide agent in service subsequently develops one of the presumptive diseases, VA will presume the disease was caused by the exposure to an herbicide agent in service for purposes of establishing entitlement to service-connected benefits. To qualify for this presumption, chloracne and porphyria cutanea tarda must become manifest to a degree of disability of 10 percent or more within one year after the date of last exposure. The other conditions are presumed service connected if they are manifest to a degree of disability of ten percent or more at any time after exposure. 38 U.S.C. 1116(a)(2). VA presumes that any veteran who served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, was exposed to an herbicide agent during such service. 38 U.S.C. 1116(f).

II. Prior Actions Concerning Leukemia

In each of its four previous biennial reports under the Agent Orange Act of 1991, the NAS concluded that there was ''inadequate/insufficient'' evidence to determine whether an association exists between exposure to an herbicide agent and the subsequent occurrence of leukemia in exposed persons. After reviewing each of those reports, the Secretary determined that the credible evidence against an association between exposure to an herbicide agent and the occurrence of leukemia in exposed persons outweighed the credible evidence for such an association, and that a positive association therefore did not exist. 67 FR 42600, 42604 (June 24, 2002); 64 FR 59232, 59238 (Nov. 2, 1999); 61 FR 41442, 41445 (Aug. 8, 1996); 59 FR 341, 344 (Jan. 4, 1994).

III. Latest NAS Review of Chronic Lymphocytic Leukemia

After receiving and reviewing the last prior NAS report in 2001, the Secretary asked that NAS' next report separately review the scientific evidence concerning the association between herbicide exposure and one particular form of leukemia, known as chronic lymphocytic leukemia (CLL). NAS issued its report, ''Veterans and Agent Orange: Update 2002,'' on January 23, 2003. In that report, NAS concluded that ''there is sufficient evidence of an association between exposure to at least one of the chemicals of interest (2,4-D, 2,4,5-T or its contaminant TCDD, picloram, or cacodylic acid) and CLL.'' The term ''sufficient evidence of an association,'' as explained in the NAS report, means that a positive association has been observed between herbicides and the outcome in studies in which chance, bias, and confounding could be ruled out with reasonable confidence.

NAS discussed several studies that reported findings regarding the incidence of CLL as distinguished from other types of leukemia. One study of site-specific cancer incidence among 7,016 males and females in a rural farming community found a standard incidence ratio of 1.8, with a 95%

confidence interval (CI) of 0.8–3.2 for CLL. (Waterhouse D *et al.* 1996. Cancer incidence in the rural community of Tecumseh, Michigan: a pattern of increased lymphopoietic neoplasms. Cancer 77(4): 763–770). A population-based case-control study in an agricultural area of Italy noted an increased risk of CLL among farmers (Odds Ratio (OR) = 1.6, CI = 0.5–5.2) and animal breeders (OR = 3.1 CI = 1.1–8.3), although no information was provided on herbicide exposure in the study population. (Amadori D *et al.* 1995. Chronic lymphocytic leukaemias and non-Hodgkin's lymphomas by histological type in farming-animal breeding workers: a population case-control study based on job titles. Occupational and Environmental Medicine 52(6): 374–379). A study of cancer risk in Danish male gardeners reportedly exposed to pesticides and herbicides showed a significant increase in CLL (relative risk = 2.8, CI = 1.0–6.0), although no specific data on herbicide exposure were given. (Hansen ES *et al.* 1992. A cohort study on cancer incidence among Danish gardeners. American Journal of Industrial Medicine 21(5): 651–660). One study showed a significant increase in mortality due to CLL among farmers in Nebraska from 1957–1974 (OR = 1.7), although no data regarding herbicide exposure were given. (Blair A, White DW. 1985. Leukemia cell types and agricultural practices in Nebraska. Archives of Environmental Health 40(4): 211–214).

Two epidemiologic studies reported specifically on herbicide exposure and CLL. In a study of 1,675 white Iowa males who died of leukemia, CLL was significantly increased in farmers (OR = 1.9, CI=1.2–3.1). (Burmeister LF *et al.* 1982. Leukemia and farm practices in Iowa. American Journal of Epidemiology 115(5): 720–728). Further analysis showed a strong relationship of CLL deaths in counties with acres treated with herbicides. In a population-based case-control interview study of 578 white men with leukemia and 1,245 controls, CLL mortality was higher in farmers than nonfarmers. (Brown LM *et al.* Pesticide exposures and other agricultural risk factors for leukemia among men in Iowa and Minnesota. Cancer Research 50(20): 6585–6591). When risk was calculated for CLL subtype, odds ratios were significantly increased for use of any herbicide (OR = 1.4). The risk of CLL in farmers who ever handled 2,4-D was 1.3. The risk of CLL in men who first handled 2,4,5-T at least 20 years before interview was significantly increased (OR = 3.3, CI = 1.2–8.9).

NAS also noted that a recent follow-up study of residents of Seveso, Italy found no increased risk of lymphocytic leukemia. (Bertazzi PA *et al.* 2001. Health effects of dioxin exposure: a 20-year mortality study. American Journal of Epidemiology 153(11): 1031–1044).

NAS stated that the epidemiologic studies indicate that farming occupation is associated with significant risk of CLL, especially when there is exposure to the herbicides 2,4-D and 2,4,5-T. NAS further noted that CLL shares more traits with non-Hodgkin's lymphoma (NHL) than with other types of leukemia and could have a common etiology, and that many studies support the hypothesis that herbicide exposure can contribute to the risk of NHL. NAS also concluded, as in its prior reports, that a connection between exposure to TCDD, a contaminant of 2,4,5-T, and human health effects is considered biologically plausible.

IV. The Secretary's Determination on Chronic Lymphocytic Leukemia

After considering all of the evidence, the Secretary has determined that there is a positive association between the exposure of humans to an herbicide agent and the occurrence of CLL in humans. The studies cited by NAS consistently show an increased risk of CLL among agricultural workers and two of the studies show a significantly increased risk among farmers who were exposed to herbicides. Some of the findings noted by NAS are statistically significant, and the consistency of the findings overall supports the view that an association exists. Under these circumstances, the Secretary concludes that the credible evidence for an association between exposure to an herbicide agent and the occurrence of CLL in humans outweighs the credible evidence against such an association. Accordingly, the Secretary has determined that a presumption of service connection for CLL is warranted pursuant to 38 U.S.C. 1116(b).

This proposed rule does not reflect determinations concerning any disease other than CLL. The Secretary's determinations concerning other diseases discussed in the current NAS report will be addressed in future documents published in the **Federal Register**.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule would have no consequential effect on State, local or tribal governments.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: February 27, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is proposed to be amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.309, paragraph (e) the listing of diseases is amended by adding ''Chronic lymphocytic leukemia'' between ''Hodgkin's disease'' and ''Multiple myeloma'' to read as follows:

§ 3.309 Diseases subject to presumptive service connection.

* * * * *

(e) * * *

Chronic lymphocytic leukemia

* * * * *

[FR Doc. 03–7221 Filed 3–25–03; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 177–1177; FRL–7471–7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to the Missouri State Implementation Plan (SIP) which pertains to the control of emissions from surface coating operations in the Kansas City, Missouri, area. This revision clarifies an inconsistency between the SIP approved version of the rule and the state adopted version. Approval of this revision will ensure consistency between the state and federally-approved rules, and ensure Federal enforceability of the revised state rule. 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 April 25, 2003.

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: March 13, 2003.

Nat Scurry,

Acting Regional Administrator, Region 7.

[FR Doc. 03–7054 Filed 3–25–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KS 172–1172; FRL–7471–8]

Approval and Promulgation of Implementation Plans and Approval Under Sections 110 and 112(l); State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a State Implementation Plan (SIP) revision submitted by the state of Kansas. This revision applies to small businesses and creates a permit-by-rule that provides an alternative for certain small emission sources which otherwise would be required to apply for a full Class I or Class II operating permit. Small sources not operating at or above the major source thresholds are provided an option to operate under the conditions of this permit-by-rule in lieu of applying for the operating permit. Small sources which have emissions at 25 percent of the threshold levels are required to notify the state of their desire to operate under this regulation and to maintain the required records. Small sources which have emissions at 50 percent of the threshold levels are required to apply to the state, pay the appropriate fee and maintain the required records.

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 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 April 25, 2003.

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

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: March 13, 2003.

Nat Scurry,

Acting Regional Administrator, Region 7.

[FR Doc. 03–7052 Filed 3–25–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 031803A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject EFP application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast Multispecies Fishery Management Plan (FMP).

However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Regional Administrator proposes to issue an EFP that would allow one vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would allow for exemptions from the days-at-sea (DAS) and Rolling Closure Area IV regulations. The experiment proposes to design and test a baited groundfish pot in a portion of the Gulf of Maine. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before April 10, 2003.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on UNH Baited Groundfish Pot EFP Proposal.'' Comments may also be sent via facsimile (fax) to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Susan W. Chinn, Fishery Management Specialist, 978–281–9218.

SUPPLEMENTARY INFORMATION: An application for an EFP was submitted on October 28, 2002, by University of New Hampshire (UNH) Cooperative Extension for an experiment funded by the Northeast Consortium to design and test a baited groundfish pot, with a final submission on February 3, 2003. The EFP would facilitate the development of a viable alternative to traditional fishing gear for cod and other groundfish based on examples that are already being used in Alaska, New Zealand, and Australia. This experiment is important because the use of baited pots to harvest groundfish could reduce seabed impact compared to trawling; reduce bycatch due to high selectivity of species and size enabled by the ability to control entrance size, mesh size, escape vents, and type of bait; and increase survivability of discards, because fish would be brought aboard alive and relatively unharmed.

The experiment would commence as soon as possible and extend through October 30, 2003. The field sampling portion of the baited groundfish pot study would require up to 20 days at sea on board one commercial fishing vessel using up to 10 pots per day. The pots would be constructed using wire mesh materials with a poly netting roof. The prototype would be 5 ft x 5 ft x 2.5 ft (1.5 m x 1.5 m x 0.8 m) (length x width x height) with an expandable/collapsible roof of 5–ft (1.5–m) high netting to increase pot volume while keeping the physical size of the pot relatively small while on board. A total of 10 pots would be constructed and tested at sea during the experiment. Each pot would be deployed similarly to the method for lobster pot deployment. Weak links would be used and escape panels installed in accordance with lobster gear requirements.

During the sea trial phase, the first eight data collection trips would have a UNH Cooperative Extension scientist/researcher on board, and the catch would be measured according to NMFS sea sampling methodology and recorded on NMFS logbooks. All experimental activities would be conducted in the area bounded by the lines extending from 43°30′ N. lat., 69°00′ W. long., northward along 69°00′ W. long., and westward along 43°30′ N. lat., to their intersection with the Maine coastline. Estimated total daily landings, including discards for the 20 days, are 500 lb (226.8 kg) of mixed groundfish. Each day's catch would be sampled, measured, and returned to the sea as quickly as possible. It is expected that most fish would be released alive. A small portion of the catch might be retained for tagging and further research at the laboratory.

The EFP would be issued to one federally-permitted commercial multispecies vessel to exempt it from certain requirements of the FMP. Specifically, the vessel would be exempt from the DAS requirements at 50 CFR 648.82(a) and from Rolling Closure Area IV, specified at § 648.81(g)(1)(iv).

Based on the results of this EFP, this action may lead to future rulemaking.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 20, 2003.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–7255 Filed 3–25–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 030314060–3060–01; I.D. 021003E]

RIN 0648–AQ57

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid and Butterfish Fisheries; Framework Adjustment 3

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement measures contained in Framework Adjustment 3 (Framework 3) to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP). This action would extend the limited entry program for the Illex squid fishery for an additional year. This action is intended to further the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Public comments must be received no later than 5 p.m., eastern standard time, on April 10, 2003.

ADDRESSES: Copies of Framework 3, including the Environmental Assessment (EA), Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analysis (IRFA) are available upon request from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 300 South New Street, Dover, DE 19904–6790. The EA/RIR/IRFA is accessible via the Internet at *http://www.nero.noaa.gov/ro/doc/com.htm*.

Comments on Framework 3 should be sent to: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Please mark the envelope, ''Comments-SMB Framework Adjustment 3.'' Comments also may be sent via facsimile (fax) to 978–281–9135. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978–281–9273, fax 978–281–9135, e-mail Paul.H.Jones@noaa.gov.

SUPPLEMENTARY INFORMATION: In 1997, Amendment 5 to the FMP established a limited entry program for the Illex squid

fishery in response to a concern that fishing capacity could otherwise expand to overexploit the stock. At the time the program was established, there was a concern that the capacity of the limited entry vessels might prove, over time, to be insufficient to fully exploit the annual quota. In response to this concern, a 5–year sunset provision was placed on the *Illex* squid limited entry program. Framework 2 to the FMP extended the *Illex* squid moratorium for 1 year, and it is currently scheduled to end on July 1, 2003. Since the implementation of the limited entry program, the Illex squid fishery's performance has demonstrated that the current fleet possesses the capacity to harvest the long-term potential yield from this fishery. The Mid-Atlantic Fishery Management Council (Council) must prepare an amendment to the FMP (Amendment 9) to evaluate whether or not the limited entry program should be made permanent. This action would extend the Illex squid moratorium through July 1, 2004, to prevent overcapitalization while Amendment 9 is being prepared and considered by the Council. This extension would comply with the criteria in section 303(b)(6) of the Magnuson-Stevens Act. The extension would allow the Council additional time to consider long-term management for the *Illex* squid fishery, including the limited entry program. Vessels that took small quantities of Illex squid in the past may continue to do so under the incidental catch provision of the FMP.

Classification

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

The Council prepared an IRFA that describes the economic impacts this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the SUPPLEMENTARY INFORMATION section of the preamble. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action. There are 73 vessels that have been issued moratorium permits, all of which would be impacted by this action. Since per vessel costs are not available for vessels participating in the Illex moratorium fishery, individual vessel profitability could not be estimated. Therefore, changes in gross revenue of the aggregate fleet is used as a proxy for changes in individual vessel profitability. Furthermore, assumptions are made that revenue losses and gains are shared equally among these vessels. NMFS' guidelines suggest consideration of disproportionate economic impacts between large and small entities that may result from the proposed regulatory action. Because there are no large entities (vessels) participating in this fishery, small vessels will not be placed at a competitive disadvantage to large vessels, thus rendering the issue of disproportionate impacts between these two classes moot. A copy of the complete analysis can be obtained from the Mid-Atlantic Fishery Management Council (see **ADDRESSES**) or via the Internet at *http://www.nero.noaa.gov/ro/doc/com.htm*. A summary of the analysis follows.

In addition to the preferred alternative 1, the Council considered three non-preferred alternatives. Alternative 2 would extend the moratorium on entry to the *Illex* fishery for an additional 2 years (through July 1, 2005); Alternative 3 would extend the moratorium on entry to the Illex fishery for an additional 3 years (through July 1, 2006); and Alternative 4 would allow the moratorium on entry to the Illex fishery to expire on July 1, 2003 (no action).

The preferred alternative and alternatives 2 and 3 would extend the moratorium on entry of new vessels into the *Illex* fishery; therefore, no impact is expected on vessels in the fishery in 2003 (and the first half of 2004), compared to individual vessel revenues in 2002. The Council assumed that the market and prices would remain stable. Therefore, any changes in individual vessel revenues would be the result of factors outside the scope of the moratorium (e.g., change in fishing practices for individual vessels, or changes in abundance and distribution of *Illex* squid).

Under alternative 4, the no-action alternative, the Illex fishery would revert to open access. This would result in an increase in fishing effort in the Illex fishery. New vessels entering the fishery would limit per vessel share of the Illex squid quota and reduce revenues for the present participants. Computing the total revenue losses for the existing moratorium vessels is impossible due to the unpredictability of redirection of effort into the Illex squid fishery. Therefore, the Council developed a sensitivity analysis to determine the impact of the entry of additional vessels into the fishery on revenues earned by individual vessels already engaged in the fishery. The sensitivity analysis examined three scenarios that presumed revenues derived from landings of Illex squid would be reduced by 75, 50, and 25 percent. The analysis was based on 1998 data because in 1998 the Illex quota was completely harvested. Therefore, those data would allow the greatest impact to be assessed.

Under scenario 1, the review of revenue impacts examined the landings of vessels that landed at least one pound in 1998 and presumed that revenues derived from landing Illex for these vessels would be reduced by 75 percent. The 109 impacted vessels were projected to be impacted by revenue losses that ranged from less than 5 percent for 79 vessels, to a maximum of 40–49 percent for 2 vessels. There were no impacted vessels home-ported in Maryland, New Hampshire, or Virginia; a high of 15 vessels had home ports in New Jersey. Other impacted vessels were home ported in Massachusetts, Maine, Rhode Island, New York, and North Carolina. Presumably, other vessels entering the fishery would experience gains in revenues.

Under scenario 2, the review of revenue impacts presumed that vessel revenues derived from landing Illex would be reduced by 50 percent. The 109 impacted vessels were projected to be impacted by revenue losses that ranged from less than 5 percent for 84 vessels, to a maximum of 30–39 percent for one vessel. There were no impacted vessels home-ported in Maryland, New Hampshire, or Virginia; a high of 11 vessels had home ports in New Jersey. Others were in Massachusetts, Maine, Rhode Island, and North Carolina. Presumably, other vessels entering the fishery would experience gains in revenues.

Under scenario 3, the review of revenue impacts presumed that vessel revenues derived from landing Illex would be reduced by 25 percent. The 109 impacted vessels were projected to be impacted by revenue losses that ranged from less than 5 percent, for 88 vessels, to a maximum of 10–19 percent for 8 vessels. The number of impacted vessels by home state ranged from none in Maryland, New Hampshire, New York, and Virginia, to a high of 11 in New Jersey. Other impacted vessels were home ported in Massachusetts, Maine, Rhode Island, and North Carolina.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 20, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.4, the heading of paragraph (a)(5)(i) is revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(5) * * *

(i) *Loligo squid/butterfish and Illex squid moratorium permits (Illex squid moratorium is applicable from July 1, 1997, until July 1, 2004).* * * *

* * * * *

[FR Doc. 03–7252 Filed 3–25–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 68, No. 58
Wednesday, March 26, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Provincial Advisory Committees

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of intent to renew Federal Advisory Committee.

SUMMARY: The Department of Agriculture, in consultation with the Department of the Interior, intends to renew the Provincial Advisory Committees (PACs) for the 12 provinces in California, Oregon, and Washington. This renewal is in response to the continued need for the PACs to provide advice on coordinating the implementation of the Record of Decision of April 13, 1994, for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl. The PACs also provide advice and recommendations to promote integration and coordination of forest management activities between Federal and non-Federal entities.

ADDRESSES: Copies of the April 13, 1994, Record of Decision can be obtained electronically at *http://www.reo.gov/library/reports/newsandga.pdf*. Paper copies can be obtained from the Office of Strategic Planning, P.O. Box 3623, Portland, OR 97208.

FOR FURTHER INFORMATION CONTACT: Geraldine Bower, Planning Specialist, Ecosystem Management Coordination Staff, Forest Service, USDA (202) 205–1022.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Department of Agriculture, in consultation with the Department of the Interior, intends to renew the Provincial Advisory Committees (PACs), which will advise the Provincial Interagency Executive Committee (PIEC). The purpose of the PIEC is to facilitate the coordinated implementation of the Record of Decision (ROD) of April 13, 1994, for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl. The PIEC consists of representatives of some or all of the following Federal agencies: Forest Service, Natural Resources Conservation Service, Bureau of Indian Affairs, Bureau of Land Management, National Marine Fisheries Service, National Park Service, U.S. Fish and Wildlife Service, U.S. Geological Survey Biological Resources Division, Environmental Protection Agency, and U.S. Army Corps of Engineers.

Ecosystem management at the province level requires improved coordination among governmental entities responsible for land management decisions and the public those agencies serve. Each PAC will provide advice and recommendations regarding implementation to promote integration and coordination of forest management activities between Federal and non-Federal entities. Each PAC will provide advice regarding implementation of a comprehensive ecosystem management strategy for Federal land within a province (provinces are defined in the ROD at E19).

The chair of each PAC will alternate annually between representatives of the Forest Service and the Bureau of Land Management. When the Bureau of Land Management is not represented on the PIEC, the Forest Service representative will serve as chair. The chair, or a designated agency employee, will serve as the Designated Federal Officer under sections 10(e) and (f) of the Federal Advisory Committee Act (5 U.S.C. App.). Any vacancies on the committee will be filled in the manner in which the original appointment was made.

A meeting notice will be published in the **Federal Register** within 15 to 45 days before a scheduled meeting date. All meetings are generally open to the public and may include a ''public forum'' that may offer 5–10 minutes for participants to present comments to the advisory committee. Alternates may choose not to be active during this session on the agenda. The chair of the given committee ultimately makes the decision whether to offer time on the agenda for the public to speak to the general body.

Renewal of the PACs does not require an amendment of Bureau of Land Management or Forest Service planning documents because the renewal does not affect the standards and guidelines or land allocations. The Bureau of Land Management and Forest Service will provide further notice, as needed, for additional actions or adjustments when implementing interagency coordination, public involvement, and other aspects of the ROD.

Equal opportunity practices will be followed in all appointments to the advisory committee. To ensure that the recommendations of the PACs have taken into account the needs of diverse groups served by the Departments, membership will, to the extent practicable, include individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Dated: March 18, 2003.

Clyde Thompson,

Associate Assistant Secretary for Administration.

[FR Doc. 03–7159 Filed 3–25–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 03–010N]

International Meat and Poultry Food Safety Conference

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Department of Agriculture, Food Safety and Inspection Service (FSIS), will hold an international food safety conference on March 27, 2003. The purpose of the conference is to share perspectives on various food safety issues, discuss strategies to improve food safety worldwide and serve as a forum for fostering relationships to promote food safety.

DATES: The conference is scheduled for Thursday, March 27, 2003, from 8:30 a.m. to 5 p.m.

ADDRESSES: The conference will be held at the Pan American Health Organization, 525 23rd Street, NW., Washington, DC 20037. A tentative agenda will be available in the FSIS

Docket Room and on the FSIS Web site at <*http://www.fsis.usda.gov/*>. The official transcript of the meeting, when it becomes available, will be kept in the FSIS Docket Room, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Karen Stuck at (202) 720–3473. Pre-registration for this meeting is suggested but not required. To register for the meeting, please contact Sheila Johnson at (202) 690–6498, fax: (202) 690–6500, or email: *Sheila.johnson@fsis.usda.gov.* You may also register on-site. Persons requiring a sign language interpreter or other special accommodations should notify Ms. Mary Harris, by March 21, 2003, at (202) 690–6497.

SUPPLEMENTARY INFORMATION:

Background

The International Meat and Poultry Food Safety Conference will be an open forum to provide information on challenges faced by the international food safety community and varying approaches to the control of such challenges. Increased international trade in food products presents unique challenges in ensuring food safety. Meeting consumer expectations is a challenge facing food manufacturers and food regulators alike.

Public Meeting

The U.S. Department of Agriculture, Food Safety and Inspection Service will sponsor the International Meat and Poultry Food Safety Conference. This conference will allow experts and stakeholders to engage in an interactive sharing and learning experience, and to gain information and ideas to support the common goal of enhancing global food safety. The conference will be divided into three main sections: regional perspectives, scientific perspectives, and assistance and outreach. Examples of topics include a global perspective on multi-drug resistant pathogens, experiences with assisting small plants in meeting food safety requirements, and biosecurity. Speakers from various countries and international organizations are being invited.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice; FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS Web page located at <*http://www.fsis.usda.gov/*>. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and Web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information, contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the ''Constituent Update'' page on the FSIS Web site at <*http://www.fsis.usda.gov/oa/update/update.htm*>. Click on the Subscribe to the Constituent Update Listserv'' link, then fill out and submit the form.

Done at Washington, DC, on: March 21, 2003.

William C. Smith,

Acting Administrator.

[FR Doc. 03–7336 Filed 3–24–03; 12:26 pm]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

West Fork Blacks Fork Allotment Management Plan; Wasatch-Cache National Forest, Summit County, UT

AGENCY: Forest Service, USDA.

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

SUMMARY: The Wasatch-Cache National Forest will prepare an environmental impact statement (EIS) on a proposal to authorize continued livestock grazing on the West Fork Blacks Fork allotment encompassing approximately 15,028 acres of National Forest System lands in the West Fork Blacks Fork Watershed in Summit County, Utah. The analysis area is located in portions of the following townships: T2NR11E, T1NR11E, T1NR12E, Salt Lake Meridian, and T5NR7W, Uinta Meridian.

DATES: Comments concerning the scope of the analysis must be received on or before April 18, 2003. The draft environmental impact statement is expected in June 2003 and the final environmental impact statement is expected in September 2003.

ADDRESSES: Send written comments to District Ranger, Evanston Ranger District, P.O. Box 1880, Evanston, Wyoming 82930. E-mail address is *lljohnson01@fs.fed.us*.

FOR FURTHER INFORMATION CONTACT: For further information, mail correspondence to or contact Stephen Ryberg, District Ranger, at the Evanston District, 1565 Hwy 150, Suite A, Evanston Wyoming 82930. The telephone number is 307–789–1394.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of this action is to authorize livestock grazing within the West Fork Blacks Fork Allotment to achieve the desired future conditions identified in the Wasatch-Cache Forest Plan. The action is needed because some areas (alpine benches) within the allotment do not meet ground cover standards. There is scientific debate about why these areas do not have adequate ground cover and how they should be managed. The allotment management plan developed from this analysis will emphasize management for healthy riparian, upland, and alpine ecosystems. Most of this allotment was incorporated into the High Uintas Wilderness under the Utah Wilderness Act of 1984. This Act incorporated Section 108 of the Colorado Wilderness Act which included House Committee Report Language stating: ''* * * there shall be no curtailment of grazing permits or privileges in an area simply because it is designated as wilderness''. If approved, the Wasatch-Cache National Forest would authorize grazing through term grazing permits for up to 10 years. The EIS will be designed to satisfy the requirements of the Federal Land Policy and Management Act of 1976 and implementing regulations (43 CFR 2310.1). A number of laws provide direction for grazing on public lands, including the Multiple-Use Sustained Yield Act (1960), the Wilderness Act (1964), the Utah Wilderness Act (1984), the Forest and Rangeland Renewable Resources Planning Act (1974), the Federal Land Policy and Management Act (1976), and the National Forest Management Act (1976). The Wasatch-Cache National Forest LRMP also contains provisions to implement this direction.

Proposed Action

The Forest Service proposes to authorize continued grazing on National Forest Systems lands on the West Fork Blacks Fork sheep allotment within the

West Fork Blacks Fork watershed. Sheep grazing would continue during the period of 7/6 to 9/15 each year under a four pasture deferred grazing system meeting the direction in the Wasatch-Cache Forest Plan. Following an agreement with the grazing permittee in 1999, half of the highest unit has been rested each year with an accompanying reduction in sheep months to compensate for the sheep months of forage not available for grazing in the rested portion. This change allows 1075 sheep to graze 7/6–9/15 under deferred rotation system with planned rest for the alpine area. Half of the alpine unit is rested each year and each half receives rest for two consecutive years. This agreement resulted in a reduction of 175 sheep* from what was allowed under the current West Fork Blacks Fork Allotment Management Plan.

The updated direction will be incorporated into the allotment management plan and the term grazing permit to guide grazing management within the allotment during the coming decade, or until amendments are warranted based on changed conditions or monitoring.

Possible Alternatives

In addition to the proposed action we have tentatively identified two alternatives:

—No Grazing Alternative: Eliminate permitted grazing on the West Fork-Blacks Fork Allotment except for one trail herd that uses the allotment as an access route to the Ashley National Forest.

—Eliminate Grazing on Unit 4 of the Grazing Allotment: Continue to graze sheep under a three pasture deferred grazing system meeting Forest Plan direction. This charge allows 900 sheep to graze 7/6–9/15, a reduction of 300 sheep from the numbers allowed under the current West Fork Blacks Fork Allotment Management Plan

Responsible Official

Thomas L. Tidwell, Forest Supervisor, Wasatch-Cache National Forest, USDA Forest Service, 8236 Federal Building, 125 South State Street, Salt Lake City, UT 84138, is the Responsible Official for any decision to authorize grazing and manage rangelands on the allotment within the West Fork Blacks Fork watershed on National Forest system lands. He will document his decisions and rationale in a Record of Decision.

* The sheep numbers given are the number of mother sheep (ewes). These numbers assume that each ewe will be accompanied with her current year's offspring (lambs).

Nature of Decision To Be Made

Based upon the environmental analysis in the EIS the Forest Supervisor will decide whether or not to authorize sheep grazing on the West Fork Blacks Fork Allotment, and if so under what conditions.

Scoping Process

The public is encouraged to take part in the scoping process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments and assistance from Federal, State and local agencies and other individuals or organizations that may be interested in, or affected by, the proposed action. While public participation in this analysis is welcome at any time, comments received within 30 days of the publication of this notice will be especially useful in the preparation of the Draft EIS. An informational meeting is scheduled for 1 pm on March 26, 2003 at the Unita County Library, 701 Main, Evanston, Wyoming. Information from the informational meeting will be used in the preparation of the draft and final EIS.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement which be prepared for comment. The comment period on the draft environment impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of a availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. City of Angoon v. Hodel, 803 F.2d 1016, 1022 (9th Cir. 1986) and Wisconsin Heritages, Inc. v. Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement 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 draft environmental impact statement 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: March 19, 2003.

Thomas L. Tidwell,

Forest Supervisor.

[FR Doc. 03–7177 Filed 3–25–03; 8:45 am]

BILLING CODE 3410–11–M

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) Chairman Report, (5) Project Proposals/Possible Action, (6) Update on Approved Projects, (7) General Discussion, (8) Compliance Committee Report.

DATES: The meeting will be held on April 10, 2003 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; e-mail *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 April 8, 2003 will have the opportunity to address the committee at those sessions.

Dated: March 20, 2003.

James F. Giachino,

Designated Federal Official.

[FR Doc. 03–7172 Filed 3–25–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra County, CA, Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sierra County Resource Advisory Committee (RAC) will meet on April 2, 2003, near Bassetts, east of Sierra City on Hwy 49, California. The purpose of the meeting is to discuss issues relating to implementing the Secure Rural Schools and Community Self-Determination Act of 2000 (Payments to States) and the expenditure of Title II funds benefiting National Forest System lands on the Humboldt-Toiyabe, Plumas and Tahoe National Forests in Sierra County.

DATES: The meeting will be held Wednesday, April 2, 2003 at 10 a.m.

ADDRESSES: The meeting will be held at the High Country Inn, near Bassetts, east of Sierra City on Hwy 49, CA.

FOR FURTHER INFORMATION CONTACT: Ann Westling, Committee Coordinator, USDA, Tahoe National Forest, 631 Coyote St, Nevada City, CA 95959, (530) 478–6205, e-mail: *awestling@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Welcome and announcements; (2) Status of previously approved projects; and (3) Review of and decisions on new projects proposals for current year. The meeting is open to the public and the public will have an opportunity to comment at the meeting.

Dated: March 20, 2003.

Steven T. Eubanks,

Forest Supervisor.

[FR Doc. 03–7173 Filed 3–25–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Lawrence County Generation Project; Notice of Availability of Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of environmental assessment.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) is issuing an environmental assessment (EA) for a project proposed by Hoosier Energy Electric Cooperative, Inc., (Hoosier) located in Bloomington, Indiana, and Wabash Valley Power Association, Inc., (Wabash) located in Indianapolis, Indiana. The project consists of constructing a 258 megawatt (MW) net, natural gas fired simple-cycle combustion turbine, electrical generating facility. The Lawrence County Generation Project (LCGP) is proposed to be located in Lawrence County, Indiana.

FOR FUTHER INFORMATION CONTACT: Nurul Islam, Environmental Protection Specialist, Rural Utilities Service, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone: (202) 720–1414; e-mail: *nislam@rus.usda.gov.* Information is also available from Ms. Shiela M. Wheeler, Burns & McDonnell Engineering Company, Inc., 9400 Ward Parkway, Kansas City, MO 64114, telephone: (816) 822–3250, Fax: (816) 822–3515, e-mail: *swheele@burnsmcd.com.* All written comments regarding this project should be sent to Mr. Nurul Islam within 30 days of the publication of this notice at the above address.

SUPPLEMENTARY INFORMATION: The joint project proposed by Hoosier and Wabash will consist of six (6) simple-cycle electric combustion turbines. The primary purpose of the LCGP is to meet the increasing power consumption requirements in their respective territories. Hoosier will own four (4) of the proposed turbines and Wabash will own the remaining two (2). The proposed combustion turbines will receive water from a well field that will be drilled near the project site. The project will utilize the existing gas pipeline and electric transmission line located near the proposed site for operating the facility. The LCGP will be fired on natural gas, #2 diesel fuel may be used as backup fuel. Hoosier and Wabash propose to construct the LCGP in Lawrence County, Indiana. The site is located in a rural portion of Lawrence County, approximately 3.5 miles southeast of Bedford, Indiana. The site consists of about 49 acres of pastureland; approximately 25 acres of this site will be dedicated to the turbine generating units and associated facilities.

Alternatives to the proposed project, including the purchase of power, alternative methods of power generation, and alternative site locations, etc., were evaluated by Hoosier and Wabash. RUS, in accordance with its environmental policies and procedures, required that Hoosier and Wabash prepare an environmental report reflecting the potential impacts of the proposed project. The environmental report, which includes input from Federal, State, and local agencies, has been reviewed and accepted as RUS' environmental assessment (EA) for the project in accordance with RUS' Environmental Policies and Procures, § 1794.41. The EA is available for public review at RUS, at the address provided in this notice, or the headquarters of Hoosier and Wabash, and also at the following public libraries:

Hoosier Energy Rural Electric Cooperative, Inc., 7398 N. State Road 37, Bloomington, Indiana 47402. Tel: (812) 876–0374.

Wabash Valley Power Association, Inc., 722 North High School Road, Indianapolis, Indiana 46214. Tel: (317) 581–2842.

Bedford Public Library, 1323 K Street, Bedford, Indiana 47421. Tel: (812) 275–4471.

Mitchell Community Public Library, 804 Man Street, Mitchell, Indiana 47446. Tel: (812) 849–2412.

Questions and comments should be sent to RUS at the address provided in this notice. RUS will accept questions and comments on the EA for 30 days

from the date of publication of this notice.

Any final action by RUS related to the proposed project will be subject to, and contingent upon, compliance with all relevant Federal environmental laws and regulations and completion of environmental review procedures as prescribed by the 7 CFR part 1794, Environmental Policies and Procedures.

Dated: March 21, 2003.

Mark S. Plank,

Acting Director, Engineering and Environmental Staff, Rural Utilities Service.

[FR Doc. 03–7234 Filed 3–25–03; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–504]

Notice of Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 26, 2003.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the antidumping duty administrative review of petroleum wax candles from the People's Republic of China (PRC) until no later than September 2, 2003. This review covers the period August 1, 2001, through July 31, 2002. The extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act'').

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or Mark Hoadley, Office of AD/CVD Enforcement 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at (202) 482–0162 or (202) 482–3148, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) received a timely request on August 30, 2002, from the National Candle Association (petitioners) for an administrative review of the antidumping duty order on petroleum wax candles from the PRC, with respect to 104 companies. The Department also received timely administrative review requests from Dongguan Fay Candle Co. (Dongguan), Walmart Stores (Walmart), and Qingdao Kingking Applied Chemistry Co., Ltd. (Kingking) on August 30, 2002. On September 25, 2002, the Department published a notice of initiation of this administrative review, covering 108 companies, for the period of August 1, 2001, through July 31, 2002 (67 FR 60210).[1] On November 18, 2002, the Department received a timely withdrawal from Walmart of its request for an administrative review. On January 29, 2003, the Department selected the following top five exporters, by value, of petroleum wax candles to the United States during the period of review as mandatory respondents: Dongguan, Smartcord Int'l Co., Ltd/Rich Talent Trading, Kingking, Amstar Business Co., Ltd., and Jiangsu Holly Corporation. *See Memorandum from Jessica Burdick through Sally C. Gannon to Barbara E. Tillman Regarding Respondent Selection in the 2001–02 Administrative Review of Petroleum Wax Candles from the People's Republic of China* (January 29, 2003) (public version on file in the Department's Central Records Unit, in Room B-099).

Extension of Time Limits for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Act, the Department shall issue preliminary results in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend that 245-day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period.

In light of the complexity of the respondent selection process and of analyzing the numerous questionnaire responses which will be submitted by respondents in this administrative review, it is not practicable to complete the preliminary results of this review by the current deadline of May 3, 2003.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the preliminary results by 120 days, until no later than August 31, 2003. However, as this date falls on a weekend, the due date will fall on the next business day. Since September 1 is a national holiday, the next business day is September 2, 2003. The final results continue to be due 120 days after the publication of the preliminary results.

This notice is issued and published in accordance to sections 751(a)(1) and 777(I)(1) of the Act.

Dated: March 20, 2003.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–7258 Filed 3–25–03; 8:45 am]

BILLING CODE 3510–DS–S

[1] Although there were 109 actual requests for review, one company (Qingdao KingKing Applied Chemistry Co., Ltd.) individually requested a review and was also listed on the National Candle Association's request for review; therefore, there were only 108 companies for which an administrative review was requested.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–817]

Antidumping Duty Order: Silicon Metal From Russia

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of antidumping duty order.

EFFECTIVE DATE: March 26, 2003.

FOR FURTHER INFORMATION CONTACT: Cheryl Werner at (202) 482–2667, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Background

On February 11, 2003, the Department of Commerce (''the Department'') published a notice of final determination of sales at less than fair value in the investigation of silicon metal from the Russian Federation (''Russia''). *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Metal From the Russian Federation,* 68 FR 6885 (February 11, 2003) (''*Final Determination*''). On March 7, 2003, the Department issued its amended final determination in the antidumping duty investigation of silicon metal from Russia. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Silicon Metal from the Russian Federation,* 68 FR 12037 (March 13, 2003) (*Amended Final Determination*). In the *Amended Final Determination,* the Department amended the weighted-average margins for Bratsk Aluminum Smelter (''Bratsk'') and ZAO Kremny (''Kremny'')/Sual-Kremny-Ural Ltd. (''SKU'').

On March 19, 2003, the International Trade Commission (''ITC'') notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States

is materially injured by reason of less-than-fair-value imports of silicon metal from Russia. In addition, the ITC notified the Department of its final determination that critical circumstances do not exist with respect to imports of subject merchandise from Russia that are subject to the Department's affirmative critical circumstances finding.

Scope of the Orders

For purposes of this investigation, the product covered is silicon metal, which generally contains at least 96.00 percent but less than 99.99 percent silicon by weight. The merchandise covered by this investigation also includes silicon metal from Russia containing between 89.00 and 96.00 percent silicon by weight, but containing more aluminum than the silicon metal which contains at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal currently is classifiable under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States (''HTSUS''). This investigation covers all silicon metal meeting the above specification, regardless of tariff classification.

Antidumping Duty Order

In accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of silicon metal from Russia. The antidumping duties will be assessed on all unliquidated entries of silicon metal entered, or withdrawn from warehouse, for consumption on or after September 20, 2002, the date on which the Department published its notice of preliminary determination in the **Federal Register**.

Regarding the negative critical circumstances determination, we will instruct the Customs service to lift suspension and to release any bond or other security, and refund any cash deposit made, to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after June 22, 2002, but before September 20, 2002. June 22, 2002, is 90 days prior to September 20, 2002, the date of publication of the preliminary determination in the **Federal Register**.

Customs must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''Russia-wide'' rates apply to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Manufacturer/Producer/Exporter	Weighted-average margin
Bratsk Aluminum Smelter	79.42
ZAO Kremny/Sual-Kremny-Ural Ltd.	56.11
Russia-wide	79.42

This notice constitutes the antidumping duty order with respect to silicon metal from Russia, pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of Act and 19 CFR 351.211.

Dated: March 20, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–7261 Filed 3–25–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Continuation of Antidumping Duty Order: Certain Concrete Reinforcing Bars from Turkey

[A-489–807]

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Continuation of Antidumping Duty Order: Certain Concrete Reinforcing Bars from Turkey.

SUMMARY: On July 9, 2002, the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the antidumping duty order on certain concrete reinforcing bars from Turkey would be likely to lead to continuation or recurrence of dumping.[1] On March 3, 2003, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty order on certain concrete reinforcing bars from Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2] Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing notice of the continuation of the antidumping duty order on certain concrete reinforcing bars from Turkey.

EFFECTIVE DATE: March 26, 2003.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or James P. Maeder, Jr., Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2002, the Department initiated, and the Commission instituted, a sunset review of the antidumping duty order on certain concrete reinforcing bars from Turkey pursuant to section 751(c) of the Act.[3] As a result of its review, the Department found that revocation of the antidumping duty order would be likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margin likely to prevail were the order to be revoked.[4]

On March 3, 2003, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on certain concrete reinforcing bars from Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[5]

Scope

The product covered by this antidumping duty order is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot-rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low-alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable

[1] *Final Results of Expedited Sunset Review: Certain Concrete Reinforcing Bars from Turkey*, 67 FR 45457 (July 9, 2002).

[2] *Steel Concrete Reinforcing Bar From Turkey*, 68 FR 10032 (March 3, 2003).

[3] *Antidumping and Countervailing Duties: Five Year Reviews*, 67 FR 9439 (March 1, 2002).

[4] *Final Results of Expedited Sunset Review: Certain Concrete Reinforcing Bars from Turkey*, 67 FR 45457 (July 9, 2002).

[5] *Steel Concrete Reinforcing Bar From Turkey*, 68 FR 10032 (March 3, 2003), and USITC Publication 3577 (February 2003), Investigation No.731-TA-745 (Review).

in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers 7213.10.000 and 7214.20.000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope remains dispositive.

Determination

As a result of the determinations by the Department and the Commission that revocation of this antidumping duty order would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on certain concrete reinforcing bars from Turkey. The Department will instruct Customs Service to continue to collect antidumping duty deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of this order will be the date of publication in the Federal Register of this Notice of Continuation. Pursuant to section 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of this order not later than thirty (30) days before the fifth anniversary of the effective date of this notice.

Dated: March 20, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–7260 Filed 3–25–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–201–810]

Certain Cut-to-Length Carbon Steel Plate From Mexico: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of countervailing duty administrative review.

EFFECTIVE DATE: March 26, 2003.

FOR FURTHER INFORMATION CONTACT: Lyman G. Armstrong at (202) 482–3601, AD/CVD Enforcement, Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary results of a review within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days and for the final results to 180 days (or 300 days if the Department does not extend the time limit for the preliminary results) from the date of the publication of the preliminary results.

Background

On September 20, 2002, the Department initiated an administrative review of the countervailing duty order on certain cut-to-length carbon steel plate from Mexico. *See* 67 FR 60210. The preliminary results are currently due no later than May 5, 2003.

Extension of Time Limit for Preliminary Results of Review

Petitioners have alleged several new countervailable subsidies and a number of issues and adjustments in this review that require additional consideration and analysis. Therefore, the Department is extending the time limits for completion of the preliminary results until September 2, 2003. *See* the Decision Memorandum from Melissa G. Skinner, Director, Office of AD/CVD Enforcement VI, to Gary S. Taverman, Acting Deputy Assistant Secretary for AD/CVD Enforcement Group II, dated concurrent with this notice, which is on file in the Central Records Unit.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: March 20, 2003.

Gary S. Taverman,

Acting Deputy Assistant Secretary for AD/CVD Enforcement Group II.

[FR Doc. 03–7262 Filed 3–25–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-507–601]

Notice of Rescission of Countervailing Duty Administrative Review: Roasted In-shell Pistachios from the Islamic Republic of Iran

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Rescission of Countervailing Duty Administrative Review.

SUMMARY: On November 18, 2002, the Department of Commerce (the Department) initiated an administrative review of the countervailing duty order on roasted in-shell pistachios (roasted pistachios) from the Islamic Republic of Iran (Iran), covering the period January 1, 2001, through December 31, 2001, and one manufacturer/exporter of the subject merchandise, Tehran Negah Nima Trading Company, Inc. (Nima). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 70402 (November 22, 2002). This review has now been rescinded due to petitioners'[1] withdrawal of their request for an administrative review.

EFFECTIVE DATE: March 26, 2003.

FOR FURTHER INFORMATION CONTACT: Darla Brown or Eric B. Greynolds, AD/CVD Enforcement, Office VI, Group II, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2849 or (202) 482–6071, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 2002, the Department received a letter from the CPC and a letter from Cal Pure requesting an administrative review of the countervailing order on roasted pistachios from Iran. On November 18, 2002, the Department initiated an administrative review of this order for the period January 1, 2001, through December 31, 2001. On March 5, 2003, and March 10, 2003, the CPC and Cal Pure, respectively, submitted letters requesting to withdraw their request for the above-referenced administrative review.

[1] Petitioners include the California Pistachios Commission (CPC) and its members and a domestic interested party, Cal Pure Pistachios, Inc. (Cal Pure).

Scope of the Review

For purposes of this administrative review, the product covered is all roasted in-shell pistachio nuts, whether roasted in Iran or elsewhere, from which the hull has been removed, leaving the inner hard shells and the edible meat, as currently classifiable in the Harmonized Tariff Schedules of the United States (HTSUS) under item number 0802.50.20.00. The HTSUS subheading is provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Rescission of Review

Pursuant to 19 CFR § 351.213(d)(1)(2002), the Department may extend the 90-day time limit for submitting requests to withdraw a request for an administrative review. On March 5, 2003, and March 10, 2003, the CPC and Cal Pure, respectively, submitted letters requesting to withdraw their request for the above-referenced administrative review. *See* letter from the CPC to the Department dated March 5, 2003, and letter from Cal Pure to the Department dated March 10, 2003, on file in the Central Records Unit, Room B-099, Main Building of the Department of Commerce.

In accordance with the Department's regulations, and consistent with its practice, the Department has extended the time within which it will accept requests for withdrawal of the review. Having accepted the CPC and Cal Pure's requests, the Department hereby rescinds the administrative review of roasted pistachios from Iran for the period January 1, 2001, to December 31, 2001. *See* 19 CFR section 351.213(d)(1). The Department will issue appropriate assessment instructions to the U.S. Customs Service within 15 days of publication of this notice.

This notice is in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended, and section 351.213(d) of the Department's regulations.

Dated: March 20, 2003.

Gary S. Taverman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 03–7259 Filed 3–25–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Tagshinney Tree Farm Conservation Plan, Lewis County, WA

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, NOAA, Commerce.

[I.D. 012103G]

ACTION: Notice of availability.

SUMMARY: Tom and Sherry Fox, and the co-owners of the Tagshinney Tree Farm (Applicants), have applied to the U.S. Fish and Wildlife Service and National Marine Fisheries Service (together, the Services) for Enhancement of Survival Permits and an Incidental Take Permit (Permits) pursuant to the Endangered Species Act of 1973, as amended (Act). The permit applications include a proposed Safe Harbor Agreement (SHA) and Candidate Conservation Agreement with Assurances (CCAA) between the Applicants and the U.S. Fish and Wildlife Service (FWS), and a proposed low effect Habitat Conservation Plan (HCP) between the Applicants and the National Marine Fisheries Service (NMFS). These three documents are combined into one document entitled the ''Tagshinney Tree Farm Conservation Plan'' (Plan). The Permits and Plan would have a duration of 80 years, and would address forest management, timber harvest, and fish and wildlife habitat needs on five separate land parcels that together form the 144–acre Tagshinney Tree Farm in Lewis County, WA. The Services have made a preliminary determination that this proposed action is eligible for categorical exclusion under the National Environmental Policy Act of 1969. The Services explain the basis for this determination in an Environmental Action Statement, which is also available for public review.

The Services are furnishing this notice to allow other agencies and the public an opportunity to review and comment on these documents, including the proposed permit applications, the Plan, and National Environmental Policy Act categorical exclusion documentation. All comments received will become part of the public record and will be available for review pursuant to the Act.

DATES: Written comments from all interested parties must be received on or before April 25, 2003.

ADDRESSES: Requests for documents and comments should be addressed to: Craig Hansen, U.S. Fish and Wildlife Service, 510 Desmond Drive SE, Suite 102, Lacey, WA 98503, telephone (360) 534–9330, fax (360) 753–9518; and/or Mike Parton, National Marine Fisheries Service, 510 Desmond Drive SE, Suite 103, Lacey, WA 98503, telephone (360) 753–4650, fax (360) 753–9517.

FOR FURTHER INFORMATION CONTACT: Craig Hansen or Mike Parton at the above address or telephone number.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Act and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term take is defined under the Act to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm is defined by the FWS to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). The NMFS's definition of harm includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, feeding, and sheltering (50 CFR 222.102).

The Services may issue two types of permits under section 10(a) of the Act to non-Federal landowners to take listed species, under certain terms and conditions. FWS's regulations governing permits for threatened and endangered species are promulgated in 50 CFR 17.32 and 50 CFR 17.22; NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

The first of these two types of permits is the Enhancement of Survival Permit, which is authorized under section 10 (a)(1)(A) of the Act. Enhancement of Survival Permits may be issued for activities that enhance the propagation or survival of the affected species that would otherwise be prohibited by section 9 of the Act. To implement this provision of the Act, the Services issued a joint policy for developing SHAs for listed species and CCAAs for unlisted species on June 17, 1999 (64 FR 32726). The FWS simultaneously issued regulations for implementing SHAs and CCAAs on June 17, 1999 (64 FR 32706). A correction to the FWS final rule was

announced on September 30, 1999 (64 FR 52676). On September 13, 2002, NMFS issued regulations to allow transfers of certain incidental take permits and enhancement of survival permits associated with SHAs, and CCAAs.

SHAs provide private landowners that undertake voluntary conservation actions on their land assurances that their future land-use activities will not be restricted further as a result of these proactive conservation efforts. If a landowner voluntarily enters into a SHA to manage his or her lands in a manner that attracts endangered or threatened species or otherwise increases their presence, the Safe Harbor assurances guarantee that no additional regulatory requirements for those lands will be imposed on the landowners as a result of the proactive conservation measures. The purpose of the Safe Harbor approach is to reduce the disincentives (e.g., fear of regulatory restrictions) that often cause landowners to avoid or prevent land use practices that would otherwise benefit endangered species.

CCAAs are intended to help conserve proposed, candidate species, and species likely to become candidates by giving non-Federal landowners incentives to implement conservation measures for declining species. The primary incentive for CCAAs is an assurance that no further land, water, or resource use restrictions would be imposed should the species later become listed under the Act.

The second of these two types of permits is the Incidental Take Permit, which is authorized under section 10(a)(1)(B) of the Act. A proposed Incidental Take Permit must be accompanied by a Habitat Conservation Plan (HCP) that shows: (1) The taking will be incidental; (2) the applicants will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (3) the applicants will ensure that adequate funding for the conservation plan will be provided; (4) the taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild; and (5) such other measures the Services may require as necessary or appropriate for the purposes of the HCP. HCPs can address both listed and currently unlisted species.

Though the names of these three permitting tools are different, the goals are similar, and the strategies for achieving those goals can overlap. Conservation strategies can, therefore, be developed to fulfill SHA, CCAA, and HCP requirements in a single conservation plan.

The Current Proposal

Tom and Sherry Fox, Gary Davis, and Jim and Tricia Murphy, have applied to the Services for Enhancement of Survival Permits and an Incidental Take Permit under sections 10(a)(1)(A) and 10(a)(1)(B), respectively, of the Act. Currently listed species under FWS jurisdiction are addressed in the SHA portion of the Plan for an Enhancement of Survival Permit and include the threatened northern spotted owl (*Strix occidentalis caurina*), marbled murrelet (*Brachyramphus marmaratus*), and bald eagle (*Haliaeetus leucocephalus*).

Currently unlisted species under FWS jurisdiction are addressed in the CCAA portion of the Plan for an Enhancement of Survival Permit and include one species that is a candidate for Federal listing, the Oregon spotted frog (*Rana pretiosa*). Other CCAA species include the coastal cutthroat trout (*Oncorhynchus clarki clarki*), northern goshawk (*Accipiter gentilis*), olive-sided flycatcher (*Contoupus borealis*), long-eared myotis (*Myotis evotis*), long-legged myotis (*Myotis volans*) the Pacific Townsend's big-eared bat (*Corynorthinus townsendii*), Van Dyke's salamander (*Plethodon vandykei*), the northwestern pond turtle (*Clemmys marmorata*), great blue heron (*Ardea herodias*), pileated woodpecker (*Dryocopus pileatus*), and osprey (*Pandion haliaetus*).

Both currently listed and unlisted species under NMFS jurisdiction are addressed in the HCP portion of the plan for an incidental take permit and include the threatened Lower Columbia River steelhead (*Oncorhynchus mykiss*), and a Federal candidate species, the Lower Columbia coho salmon (*Oncorhynchus kisutch*).

The Applicants are proposing to manage their timberlands in Lewis County, WA for a period of 80 years under the Plan. The forest management actions proposed by the applicants will maintain long-term economic viability of the forest management operations. This proposal will also provide better habitat conditions for the covered species than managing under current State Forest Practices Regulations. The conservation provided in this 80–year Plan is intended to improve habitat conditions by maintaining and enhancing habitat, minimize the impacts of forest management activities to species addressed in the plan, contribute to the recovery of the species in the wild and, if undertaken by other property owners similarly situated on the landscape, preclude the need to list the unlisted species in the future. Forest management activities are planned to enhance the health and vigor of the forest, reduce incidence of insect and disease in the forest, and enhance the structural characteristics of the forests to provide functional fish and wildlife habitat for the species addressed in the Plan, and other wildlife species found on the applicants' parcels.

This action would occur in an environment where the lands surrounding the Tagshinney Tree Farm are increasingly being utilized for non-forest management activities. For example, chicken farms, dairy farms and associated pastureland, and housing developments are located within one-half mile of the applicants' parcels. Landowners in Lewis County near the major highways are often solicited to sell their lands for use in developing housing projects. If issued, the Permits would remove the regulatory disincentives associated with providing habitat for listed and declining species. Thus, the Applicants are more likely to keep their property in a forested condition that functions as fish and wildlife habitat, and would be less likely to convert their forest lands to another use such as a housing development.

Permit Evaluation Process

This notice is provided pursuant to section 10(c) of the Act, and National Environmental Policy Act regulations. The Services will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the Endangered Species Act and National Environmental Policy Act. The criteria by which our decisions will be made are listed and discussed in the draft Plan at sections II(B) Regulatory Planning Environment, and II(E) Proposed Action and Decisions Needed. We ask that commenters focus their comments on the merits of the Plan, the permit issuance requirements, and the Environmental Action Statement which will assist us in our decision of whether to issue the permits or not. Comments on issues other than the these will be considered to be beyond the scope of the decision associated with the Plan.

If the Services ultimately determine that the requirements are met, the requested Enhancement of Survival Permits and Incidental Take Permit will be issued. The final permit decisions will be made no sooner than 30 days from the date of this notice.

Dated: March 20, 2003.

Rowan Gould,

Acting Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon

Dated: March 20, 2003.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–7256 Filed 3–25–03; 8:45 am]

BILLING CODES 3510–22–S, 4310–55–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 000522149–3063–04]

RIN 0648–ZA

Dean John A. Knauss Marine Policy Fellowship, National Sea Grant College Program

AGENCY: Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice and amendment of FRN 000522149–1259–03.

SUMMARY: This notice announces that applications may be submitted for a Fellowship program which was initiated by the National Sea Grant Office (NSGO), National Oceanic and Atmospheric Administration (NOAA), in fulfilling its broad educational responsibilities and legislative mandate of the Sea Grant Act, to provide educational experience in the policies and processes of the Legislative and Executive Branches of the Federal Government to graduate students in marine and aquatic-related fields. This notice also announces that in the **Federal Register** notice published on November 14, 2001 (66 FR 57039), the section on ''Stipend and Expenses'' (p. 57039) is amended to say ''In addition, any remaining funds shall be used during the Fellowship year, first to satisfy academic degree-related activities, and second for Fellowship-related activities.'' That same provision is included in this notice for the Class of 2004.

DATES: Deadlines vary from program to program, but applications from prospective fellows to Sea Grant Colleges are generally due early to mid-April. Contact your state's Sea Grant program for specific deadlines (see list below). Selected applications from the sponsoring Sea Grant program (one original and two copies) are to be received in the NSGO no later than 5 p.m. e.d.t. on May 14, 2003.

ADDRESSES: Applications should be addressed to your local Sea Grant program. Contact the appropriate state's Sea Grant program from the list below to obtain the mailing address, or the address may be obtained on the Web site *http://www.nsgo.seagrant.org/SGDirectors.html.*

FOR FURTHER INFORMATION CONTACT: Ms. Nikola Garber, Knauss Fellows Program Manager, National Sea Grant College Program, R/SG, NOAA, 1315 East-West Highway, Silver Spring, MD 20910, Tel. (301) 713–2431 ext. 124; e-mail: *nikola.garber@noaa.gov.* Also call your nearest Sea Grant program or visit the Web site *http://www.nsgo.seagrant.org/Knauss.html.*

Sea Grant Programs

Alabama, Mississippi—Alabama Sea Grant Consortium, (228) 818–8843.

Alaska, University of Alaska, (907) 474–6840.

California, University of California, San Diego, (858) 534–4440.

California, University of Southern California, (213) 821–1335.

Connecticut, University of Connecticut, (860) 405–9128.

Delaware, University of Delaware (302) 831–2841.

Florida, University of Florida, (352) 392–5870.

Georgia, University of Georgia, (706) 542–5954.

Hawaii, University of Hawaii, (808) 956–7031.

Illinois, University of Illinois, (217) 333–6444.

Indiana, University of Illinois (217) 333–6444.

Louisiana, Louisiana Sea Grant, (225) 578–6710.

Maine, University of Maine, (207) 581–1422.

Maryland, University of Maryland, (301) 403–4220 Ext. 10.

Massachusetts, Massachusetts Institute of Technology, (617) 253–7131.

Massachusetts, Woods Hole Oceanographic Institution, (508) 289–2557.

Michigan, University of Michigan, (734) 615–4084.

Minnesota, University of Minnesota, (218) 726–8710.

Mississippi, Mississippi—Alabama Sea Grant Consortium, (228) 818–8843.

New Hampshire, University of New Hampshire, (603) 862–0122.

New Jersey, New Jersey Marine Science Consortium, (732) 872–1300 Ext. 21.

New York, New York Sea Grant Institute, SUNY, (631) 632–6905.

North Carolina, North Carolina State University, (919) 515–2454.

Ohio, Ohio State University, (614) 292–8949.

Oregon, Oregon State University, (541) 737–2714.

Pennsylvania, Pennsylvania State University, (814) 898–6160.

Puerto Rico, University of Puerto Rico, (787) 832–3585.

Rhode Island, University of Rhode Island, (401) 874–6802.

South Carolina, South Carolina Sea Grant Consortium, (843) 727–2078.

Texas, Texas A&M University, (979) 845–3854.

Vermont, University of Vermont, (802) 656–0682.

Virginia, Virginia Graduate Marine Science Consortium, (434) 924–5965.

Washington, University of Washington, (206) 543–6600.

Wisconsin, University of Wisconsin-Madison, (608) 262–0905.

SUPPLEMENTARY INFORMATION:

Dean John A. Knauss Marine Policy Fellowship, National Sea Grant College Program

Purpose of the Fellowship Program

In 1979, the National Sea Grant Office, NOAA, in fulfilling its broad educational responsibilities, initiated a program to provide a unique educational experience in the policies and processes of the Legislative and Executive Branches of the Federal Government to graduate students who have an interest in ocean, coastal and Great Lakes resources and in the national policy decisions affecting these resources. The U.S. Congress recognized the value of this program and, in 1987, Public Law 100–220 stipulated the Sea Grant Federal Fellows Program was to be a formal part of the National Sea Grant College Program Act. The recipients are designated Dean John A. Knauss Marine Policy Fellows pursuant to 33 U.S.C. 1127(b). The National Sea Grant program is listed in the *Catalog of Federal Domestic Assistance* under number 11.417: Sea Grant Support.

Announcement

Following receipt of notice from the NSGO, the local Sea Grant program will send an announcement to all participating Sea Grant institutions and campuses.

Eligibility

Any student who, on April 1, 2003, is in a graduate or professional program in a marine or aquatic-related field at a United States accredited institution of higher education in the United States may apply.

How To Apply

Interested students should discuss this fellowship with their local Sea Grant Program Director. Applicants from states not served by a Sea Grant program should contact the Knauss Fellows Program Manager at the NSGO; subsequently, the applicant will be referred to the appropriate Sea Grant program. Applications must be submitted with signature to the local Sea Grant program by the deadline set in the local Sea Grant announcement (usually early to mid-April). Each Sea Grant program may select and forward to the NSGO no more than five (5) applicants based on the evaluation criteria used by the NSGO in the national competition.

Selected applications (one original and two copies) are to be received in the NSGO from the sponsoring Sea Grant program, no later than 5 p.m. EDT on May 14, 2003. Note that applications arriving after the closing dates given above will be accepted for review only if the applicant can document that the application was provided to a delivery service that guaranteed delivery to the appropriate address (*see* **ADDRESSES**) prior to the specified closing date and time; in any event, applications received by the NSGO later than two business days following the closing date will not be accepted. The competitive selection process and subsequent notification to the Sea Grant programs will be completed by June 25, 2003.

Stipend and Expenses

The local Sea Grant program receives and administers the overall grant of $38,000 per student on behalf of each Fellow selected from their program. Of this amount, the local Sea Grant program provides $32,000 to each Follow for stipend and living expenses (per diem). The additional $6,000 will be used to cover mandatory health insurance for the Fellow and moving expenses. In addition, any remaining funds shall be used during the Fellowship year, first to satisfy academic degree-related activities, and second for Fellowship-related activities. Indirect costs are not allowable for either the Fellowships or for any costs associated with the Fellowships, including placement week. No matching funds are required. During the Fellowship, the host may provide supplemental funds for work-related travel by the Fellow.

Application

An application must include:

(1) Personal and academic curriculum vitae (not to exceed two pages using 12 pt. font, 1 inch margins).

(2) A personal education and career goal statement emphasizing the applicant's abilities and the applicant's expectations from the experience in the way of career development (1000 words or less, 12 pt. font). Placement preference in the Legislative or Executive Branches of the Government may be stated; this preference will be honored to the extent possible.

(3) Two letters of recommendation, including one from the student's major professor; if no major professor exists, the faculty person academically knowing the applicant best may be substituted.

(4) A letter of endorsement from the sponsoring Sea Grant Program Director.

(5) Official copy of all undergraduate and graduate student transcripts.

Applications that are bound or contain staples will not be accepted. However, paperclips are acceptable. All applicants will be evaluated solely on their application package according to the criteria listed below. Therefore, letters of endorsement from members of Congress, friends, relatives and others will not be accepted. Prior contacts/arrangements made with possible host offices will be cause for immediate disqualification from the process.

Evaluation Criteria

The evaluation criteria will include:

(1) Quality of the applicant's personal education and career goal statement.

(2) Endorsement/content of the letter from the applicant's Sea Grant Program Director, the applicant's major professor and second letter of recommendation.

(3) Strength of academic performance and diversity of educational background including extracurricular activities, awards and honors (from the curriculum vitae and transcripts).

(4) Experience in marine or aquatic-related fields, oral and written communication skills, and interpersonal abilities. The four evaluation criteria will be given equal weight.

Selection

Each step in the selection process is based on the evaluation criteria listed. A panel is appointed by the Director of the NSGO with input from the Sea Grant Association and the National Sea Grant Review Panel. The panel will include representation from the Sea Grant Association and the current, and possibly past, class of Fellows. Each panel member is assigned applications to review before the panel meeting. During the panel meeting each application will be individually discussed. Following this discussion, an individual score will be provided by each panel member. Once all applications have been discussed and scored, a numerical ranking will be created by the Knauss program manager or designee. The successful applicants will be in general selected based on the numerical ranking, however, the Knauss program manager may select lower ranking applicants based on the following factors: academic discipline and geographic representation. The successful applicants will then be placed into either the legislative or executive group by the Knauss Program Manger based upon the applicant's stated preference, the application materials submitted, and the individual comments of the panel members. The number of fellows assigned to the Congress will be limited to 10.

Federal Policies and Procedures

Fellows receive funds directly from their sponsoring Sea Grant program and are considered to be subrecipients of Federal assistance. Hence, the Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2000 (66 FR 49917), as amended by the **Federal Register** notice published on October 30, 2002 (67 FR 66109), are applicable to this solicitation.

Minority Serving Institutions Statement

Pursuant to Executive Orders 12876, 12900, and 13021, DOC/NOAA is strongly committed to broadening the participation of Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HSI), and Tribal Colleges and Universities (TCU) in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the Nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages applicants from MSIs to participate. Institutions eligible to be considered HBCU/MSIs are listed at the following Internet Web site: *http://www.ed.gov/offices.OCR/minorityinst.html.*

Classification

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts according to 5 U.S.C. 553(a)(2). Therefore, a regulatory flexibility analysis is not

required for purposes of the Regulatory Flexibility Act.

This action has been determined to be not significant for purposes of E.O. 12866. This document contains collection-of-information requirements subject to the Paperwork Reduction Act. Application requirements have been approved by OMB under Control Number 0648–0362. Public reporting burden for an application is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Ms. Nikola Garber (*see* **FOR FURTHER INFORMATION CONTACT** above). The use of SF–LLL has been separately approved by OMB under Control Number 0348–0046.

Nothwithstanding any other provision of the 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 OMB Control Number.

Louisa Koch,

Acting Assistant Administrator, Office of Oceanic and Atmospheric Research

[FR Doc. 03–7251 Filed 3–25–03; 8:45 am]

BILLING CODE 3510–KA–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031903D]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Essential Fish Habitat Tech Team and Representatives from its Groundfish, Monkfish, Habitat, Sea Scallops, Skate, Whiting and Herring Advisory Panels in April, 2003. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Thursday, April 10, 2003, at 9 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn Taunton,700 Myles Standish Boulevard, Taunton, MA 02780; telephone: (508) 823–0430.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The panels will develop one habitat closed area alternative that will be analyzed and incorporated into both Amendment 10 to the Scallop Fishery Management Plan (FMP) and Amendment 13 to the Multispecies FMP.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: March 20, 2003.

Matteo J. Milazzo,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–7254 Filed 3–25–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021203B]

Marine Mammals; File No. 763–1534

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

ACTION: Receipt of application for permit amendment

SUMMARY: Notice is hereby given that the Smithsonian Institution, National Zoological Park, Washington, D.C. 20008–2598 (Dr. Daryl Boness, Principal Investigator) has requested an amendment to scientific research permit no. 763–1534.

DATES: Written or telefaxed comments must be received on or before April 25, 2003.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Assistant Regional Administrator for Protected Resources, Northeast Region, NOAA Fisheries, One Blackburn Drive, Gloucester, MA 01930–2298; phone (508)281–9250; fax (508)281–9371.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Jennifer Skidmore, (301)713–2289 or e-mail: *Ruth.Johnson@noaa.gov* or *Jennifer.Skidmore@noaa.gov*.

SUPPLEMENTARY INFORMATION: The subject amendment, to Permit No. 763–1534 issued on March 10, 2000 (65 FR 14947), is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 763–1534 authorizes the National Zoological Park to import and export up to 252 Atlantic grey seal (*Halichoerus grypus*) samples from Nova Scotia, Canada. The Permit also authorizes opportunistic collection, import/export of specimen materials from non-endangered pinnipeds and cetaceans. The samples are used for DNA analysis to determine if grey seal alternative mating strategies exist across all ages and provide comaprable rates of reproductive success to the primary strategy.

The permit holder now requests authorization to: (1) Import up to 70 muscle tissue samples and 390 blood samples taken from grey seals on Sable Island, Canada during 2003; (2) import 400 blood plasma samples per year taken from captive hooded seals in Norway; (3) add Dr. Shawn N. Kramer as a co-investigator; and (4) extend the period of the permit through March 2005. The objectives of the studies are: to investigate the relationship between body mass at weaning, rate of mass loss and development of oxygen storage capacity during the post-weaning fast; the time of departure from the breeding grounds; and to conduct a validation study using captive hooded seals to determine details of foraging activity that will allow scientists to estimate body composition and to determine dose-response and kinetics of excretion of biomarkers.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 19, 2003.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–7253 Filed 3–25–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: Madrid Protocol.

Form Number(s): PTO–2131, PTO, 2132 and PTO–2133.

Agency Approval Number: 0651–XXXX.

Type of Request: New collection.

Burden: 4,552 hours annually.

Number of Respondents: 22,630 responses per year.

Avg. Hours Per Response: The USPTO estimates that it will take the public approximately 15 minutes (0.25 hours) to complete the international trademark application; 3 minutes (0.05 hours) for the subsequent designations; 10 minutes (0.17 hours) for the response to notice of irregularities by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) in connection with international applications; 2 minutes (0.03 hours) for the request that the USPTO replace a U.S. registration with a subsequently registered extension of protection to the United States; 5 minutes (0.08 hours) for the request to record an assignment of restriction of a holder's right to dispose of an international registration, and a request that the USPTO transform a cancelled extension of protection into an application for registration under section 1 or 44 of the Act, depending upon the nature of the particular information being provided. This includes time to gather the necessary information, create the documents, and submit the completed request. Regarding the affidavit of continued use or excusable nonuse under section 71 of the Act, the public won't be able/required to submit this until five years from the date the statute takes effect, at the earliest; hence, no projections are being calculated at this time.

Needs and Uses: The information in this collection is a matter of public record, and is used by the public for a variety business purposes related to establishing and enforcing international trademark rights.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; farms; the federal Government; and state, local or tribal Government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by contacting Susan K. Brown, Records Officer, Office of Data Architecture and Services, Data Administration Division, USPTO, Washington, DC 20231, by phone at 703–308–7400, or by e-mail to *susan.brown@uspto.gov.*

Written comments and recommendations for the proposed information collection should be sent on or before April 25, 2003 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: March 18, 2003.

Susan K. Brown,

Records Officer, USPTO, Office of Data Architecture and Services, Data Administration Division.

[FR Doc. 03–7248 Filed 3–25–03; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Consolidation and Amendment of Export Visa Requirements to Include the Electronic Visa Information System for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Pakistan

March 20, 2003.

AGENCY: Committee for the Implementation of Textile Agreements (CITA)

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection consolidating and amending visa requirements.

EFFECTIVE DATE: April 11, 2003.

FOR FURTHER INFORMATION CONTACT: Shikha Bhatnagar, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

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.

On March 13, 2003, the Governments of the United States and Pakistan signed an agreement amending the existing Visa Arrangement for cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200-239, 300-361, 363-369 (excluding 369-O), 600-670, and 800-899, including part categories and merged categories, but not category 369-O, produced or manufactured in Pakistan. The amended Arrangement consolidates existing provisions and establishes new provisions for the Electronic Visa Information System (ELVIS). The Governments of the United States and Pakistan will implement a 6-month test phase in which, in addition to the ELVIS requirements, shipments must continue to be accompanied by a paper visa. This notice amends, but does not cancel, the notice and letter to the Commissioner of Customs, as amended, published in the Federal Register on June 6, 1983 (see 48 FR 25257).

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 68 FR 1599, published on January 13, 2003).

Goods integrated into GATT 1994 in Stages II and III by the United States will not require a visa or ELVIS transmission (see Federal Register notices 63 FR 53881, published on October 7, 1998 and 66 FR 63225, published on December 5, 2001.

Interested persons are advised to take all necessary steps to ensure that textile products entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner, Bureau of Customs and Border Protection.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 20, 2003.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on May 27, 1983, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and pursuant to the Uruguay Round Agreement on Textiles and Clothing and the Visa, ELVIS and Exempt Certification Arrangement, signed on March 13, 2003, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit entry into the customs territory of the United States (i.e. the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200-239, 300-361, 363-369 (excluding 369-O), 600-670, and 800-899, including part categories and merged categories, but not category 369-O, produced or manufactured in Pakistan and exported on or after April 11, 2003 for which the Government of Pakistan has not issued an appropriate export visa and Electronic Visa Information System (ELVIS) transmission fully described below. Should additional categories, part-categories or merged categories become subject to import quotas, the entire category(s), part-category(s) or merged category(s) shall be included in the coverage of this Arrangement. The original visa in blue ink shall be stamped on the front of the original commercial invoice.

A visa must accompany each shipment of the aforementioned textile products.

Visa Requirements

Each visa stamp will include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha code specified by the International Organization for Standardization (ISO) (The code for Pakistan is PK), and a six digit numerical serial number identifying the shipment; e.g., 3PK123456.

2. The date of issuance. The date of issuance shall be the day, month, and year on which the visa was issued.

3. The original signature of the issuing official authorized by the Government of Pakistan.

4. The correct category(s), merged category(s), part category(s), quantity(s), and units of quantity in the shipment in the units(s) of quantity provided for in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States (HTSUS), e.g., ''Cat. 340-510 DZ''.

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment. (For example, quota Category 347/348 may be visaed as ''Cat. 347/348'' or if the shipment consists solely of Category 347 merchandise, the shipment may be visaed as ''Cat. 347,'' but not as ''Cat. 348'').

The Bureau of Customs and Border Protection shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity are missing, incorrect, illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

Quantities shall be those determined by the Bureau of Customs and Border Protection.

If the visa is not acceptable then a new visa must be obtained from the Pakistan Government or a visa waiver issued by the U.S. Department of Commerce at the request of the Pakistan Government and presented to the Bureau of Customs and Border Protection before any portion of the shipment will be released. The waiver, if used, only waives the requirement to present a visa with the shipment. It does not waive the quota requirement. Visa waivers will only be issued for classification purposes or for one-time special purpose shipments that are not part of an ongoing commercial enterprise.

If the visaed invoice is deficient, the Bureau of Customs and Border Protection will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or a visa waiver.

Only the actual quantity in the shipment and the correct category will be charged to the restraint level.

ELVIS Requirements:

A. Each ELVIS transmission shall include the following information:

i. The visa number: The visa number shall be in the standard nine digit letter format beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha code specified by the International Organization for Standardization (ISO) (The code for Pakistan is PK), and a six digit numerical serial number identifying the shipment; e.g., 3PK123456.

ii. The date of issuance: The date of issuance shall be the day, month and year on which the visa was issued.

iii. The correct category(s), merged category(s), part category(s), quantity(s), and unit(s) of quantity of the shipment in the unit(s) of quantity provided for in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States. Quantities must be stated in whole numbers. Decimals or fractions will not be accepted.

iv. The quantity of the shipment in the correct units of quantity

v. The manufacturer ID number (MID)

B. Entry of a shipment shall not be permitted:

I. if an ELVIS transmission has not been received for the shipment from the Government of Pakistan;

II.if the ELVIS transmission for that shipment is missing any of the following information:

i) visa number

ii) category, part category, or merged category

iii) quantity

iv) unit of measure

v) date of issuance

vi) manufacturer ID number

III. if the ELVIS transmission for the shipment does not match the information supplied by the importer, or the Customs broker acting as an agent on behalf of the importer, with regard to any of the following:

i) visa number

ii) category, part category, or merged category

iii) unit of measure

IV. If the quantity being entered is greater than the quantity transmitted.

V. If the visa number has previously been used, except in the case of a split shipment, or cancelled, except when entry has already been made using the visa number.

C. A new, correct ELVIS transmission from the Government of Pakistan is required before a shipment that has been denied entry for one the circumstances mentioned above will be released.

D. Visa waivers will only be accepted if the shipment qualifies for a one-time special purpose shipment that is not part of an ongoing commercial enterprise. A visa waiver may be issued by the Department of Commerce at the request of the Pakistan Embassy in Washington, DC. A visa waiver only waives the requirements to present an ELVIS transmission at the time of entry, and doesn't waive any quota requirements.

E. In the event of a systems failure, shipments will not be released for twenty-four hours or 1 calendar day. If system failure exceeds twenty-four hours or 1 calendar day, for the remaining period of the system failure the Bureau of Customs and Border Protection will release shipments on the basis of the visa data provided by the Government of Pakistan. Pakistan will retransmit all data that was affected by the systems failure when the system is functioning normally.

Shipments not requiring visas, ELVIS transmission or exempt certifications:

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S. $800 or less do not require a visa, an ELVIS transmission or exempt certification for entry and shall not be charged to Agreement levels.

Other Provisions:

An invoice may cover visaed merchandise or exempt certification merchandise but not both.

Goods integrated into GATT 1994 in Stages II and III by the United States will not require a visa or ELVIS transmission (see Federal Register notices 63 FR 53881, published on October 7, 1998 and 66 FR 63225, published on December 5, 2001, respectively). A visa and ELVIS transmission will continue to be required for non-integrated products.

The visa stamp remains unchanged. The Exempt Certification requirements remain unchanged.

The Committee for the Implementation of Textile Agreements has determined that this action fall with the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 03–7189 Filed 3–25–03; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense (Health Affairs), DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense (Health Affairs) announces a proposed information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received on or before May 27, 2003.

ADDRESSES: Written comments and recommendations on the continuing information collection should be sent to the Senior Investigator, The Millennium Cohort Study, Naval Health Research Center, Emerging Illness Division, PO Box 85122, San Diego CA 92186–5122.

FOR FURTHER INFORMATION CONTACT: To request more information on this information collection, please write to the above address or contact Margaret A. K. Ryan, MD, MPH, by calling (619) 553–8087 or email at Ryan@NHRC.NAVY.MIL.

Title, Associated Form and OMB Number: Prospective Studies of U.S. Military Forces: The Millennium Cohort Study.

Needs and Uses: The Millennium Cohort Study, a prospective study of U.S. military forces, responds to this need and to recent recommendations, from Congress and the Institute of Medicine to perform a study that systematically collects population-based demographic and health data to evaluate the health of service personnel throughout their military careers and after leaving military service.

Affected Public: Individuals.

Annual Burden Hours: 14,445.

Number of Respondents: 19,200.

Responses Per Respondent: 1.

Average Burden Per Response: 45 minutes.

Frequency: Every Three Years.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The purpose of the study is designed to systematically collect population-based demographic and health data to evaluate the health of service personnel throughout their military careers and after leaving military service. The principal objective of the study is to evaluate the impact of military deployments on various measures of health over time, including medically unexplained symptoms and chronic diseases, such as cancer, heart disease, and diabetes. The Millennium Cohort Study will serve as a foundation upon which other routinely captured medical and deployment data may be added to answer future questions regarding the health risks of military deployment, military occupations, and general military service.

Eligible respondents of this survey are individuals who were members of the Armed Forces during the initial study enrollment period conducted in 2000, completed the baseline survey and volunteered to participate in the prospective study and follow-up surveys.

Dated: March 19, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 03–7090 Filed 3–25–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by April 25, 2003.

Title, Form Number, and OMB Number: DoD Education Loan Repayment Program; DD Form 2475; OMB Number 0704–0152.

Type of Request: Revision of a currently approved collection.

Number of Respondents: 31,000.

Responses per Respondent: 1.

Annual Responses: 31,000.

Average Burden per Response: 10 minutes (average).

Annual Burden Hours: 5,167 hours.

Needs and Uses: Military services are authorized to repay Federal student loans for individuals who meet certain criteria who enlist for active military service or enter the Selected Reserves for a specified obligation period. The DD Form 2475 collects the necessary verification data from the lending institutions.

Affected Public: Business or other for-profit.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jacqueline Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: March 19, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 03–7091 Filed 3–25–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 03–08]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 03–08 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: March 19, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 50001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

18 MAR 2003

In reply refer to:
I-03/001109

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 03-08, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Switzerland for defense articles and services estimated to cost $110 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Richard J. Millies
Deputy Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations
Senate Committee on Appropriations

Transmittal No. 03-08

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** Switzerland

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 27 million
Other	$ 83 million
TOTAL	$110 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** F/A-18 "Upgrade 21 Program" Fleet Retrofit Kits to include the following: 6 AN/APX-111 Combined Interrogator Transponders, 6 Tactical Aircraft Moving Map Capability Systems, 5 Multi-functional Information Distribution Systems/Low Volume Terminals (Airborne Link-16), 68 Joint Helmet Mounted Cueing Systems, 36 Enhanced Interference Blanking Units and 31 Digital Communications to Wingtips. Also included will be related support and test equipment, engineering technical services, supply support, operation and maintenance training, documentation, and program management support.

(iv) **Military Department:** Navy (LAC, Amendment 3)

(v) **Prior Related Cases, if any:**
FMS case LAC, Amendment 2 - $115 million – 24Jan02

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached

(viii) **Date Report Delivered to Congress:** 18 MAR 2003

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Switzerland - F/A-18 Upgrade 21 Program

The Government of Switzerland intends to purchase "Upgrade 21 Program" equipment to enhance survivability and communications connectivity and to extend the useful life of Swiss Air Force (SAF) F/A-18 aircraft. This phase of the F/A-18 "Upgrade 21 Program" will include continued procurement of 34 Fleet Retrofit Kits as follows: 6 AN/APX-111 Combined Interrogator Transponders, 6 Tactical Aircraft Moving Map Capability Systems, 5 Multi-functional Information Distribution Systems/Low Volume Terminals (Airborne Link-16), 68 Joint Helmet Mounted Cueing Systems, 36 Enhanced Interference Blanking Units and 31 Digital Communications to Wingtips. Also included will be related support and test equipment, engineering technical services, supply support, operation and maintenance training, documentation, and program management support. The estimated cost is $110 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Europe.

The SAF has extensive experience operating the F/A-18 aircraft and should have no difficulties incorporating the upgraded capabilities into its forces. The SAF needs this upgrade to keep pace with high tech advances in sensors, weaponry, and communications.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Boeing Military Aircraft and Missile Systems of St. Louis, Missouri. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any contractor representatives in-country; however, it is estimated that U.S. Government representatives will be required in Switzerland for approximately four months during the preparation, equipment installation, and equipment test and checkout of the equipment.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 03-08

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The Combined Interrogator Transponder (CIT) AN/APX-111(V) IFF system was specifically designed for the F/A-18. The Interrogator function provides the pilot with capability to identify cooperative or friendly aircraft. The transponder function self-identifies the aircraft to other off-board interrogators in the same way as the APX-100 transponder. CIT combines most of the interrogator, transponder, and crypto computer functions into one unit outline. The electronically scanned interrogator antenna function is performed by a five-blade array and Beam Forming Network (BFN).

2. The configuration requested is compatible for use in F-18 aircraft. The configuration consists of the following equipment: RT-1763A/APX-111(V) interrogator-transponder, KIV-6/TSEC cryptographic computer, C-12481/APX-111(V) beam forming network, (5X) AS-4440/APX-111(V) antenna blade elements, IT-to-BFN cable group, BFN-to-FMA cable group, receiver-transmitter radio, antenna position control, antenna set (upper), battery charge panel, external power monitor, ID light transformer/mount, mounting tray assembly BFN, 3L landing gear control unit bay, LGCU mounting tray assembly and relay panel no. 3. AN/APX-111 CIT is classified as Confidential.

3. The Tactical Aircraft Moving Map Capability (TAMMAC) System will alleviate problems, including parts obsolescence issues, associated with the Digital Video Map Set (DVMS) and the Data Storage Set (DSS) currently installed on the F/A-18. The DVMS does not possess sufficient throughput or database storage capability to support future F/A-18 operational requirements. Additionally, the DVMS cannot use Compressed AC Digitized Raster Graphic, the new digital map database provided by the National Imagery and Mapping Agency (NIMA), without costly preprocessing. The DSS does not provide enough memory capacity to store the desired amount of data recorded by the aircraft during flight.

4. The configuration requested is compatible for use in F-18 aircraft. The configuration consists of the following equipment: advanced memory unit, MU-1129A/A memory unit, digital map set, and CP-2414A/A digital map computer. TAMMAC system is classified as Confidential.

5. The Multifunctional Information Distribution System (MIDS) Low Volume Terminal (LVT) is a secure data and voice communication network using the Link-16 architecture. The system provides enhanced situational awareness, positive identification of participants within the network, secure fighter-to-fighter connectivity, secure voice capability, and ARN-118 TACAN functionality. It provides three major functions: Air Control, Wide Area Surveillance, and Fighter-to-Fighter. The MIDS LVT can be used to transfer data in Air-to-Air, Air-to-Surface, and Air-to-Ground scenarios.

6. The configuration requested is compatible for use in F-18 aircraft. The configuration consists of the following equipment: RT-1765 C/USQ-140(V)C MIDS/LVT and MIDS notch filter set. MIDS/LVT is classified as Confidential.

7. The Joint Helmet Mounted Cueing System (JHMCS) provides an off-boresight visual targeting of sensors and weapons with a head-out display where the pilot is looking. The system improves situational awareness in visual combat while providing off-boresight visual cueing and threat identification. Also, when combined with a high off-boresight missile, aircraft weapon system lethality is improved for short-range air-to-air engagements.

8. The configuration requested is compatible for use in F-18 aircraft. The configuration consists of the following equipment: electronics unit, cockpit unit, magnetic transition unit, seat position sensor, mounting bracket, lower helmet vehicle interface, helmet display unit, visor day, visor night, visor high contrast, oxygen mask, helmet upper interface, JHMCS/ANVIS-9 Night Vision Goggles adapters, and JHMCS helmet bag. The JHMCS is classified as Confidential.

9. The MIDS Enhanced Interference Blanking Units (EIBU) enhances input/output signal capacity of the MIDS LVT and addresses parts obsolescence.

10. The configuration requested is compatible for use in F-18 aircraft. The configuration consists of the following equipment: MX-11741/A interference blanker.

11. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

12. A determination has been made that Switzerland can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 03–7099 Filed 3–25–03; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 03–09]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 03–09 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: March 19, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

18 MAR 2003

In reply refer to:
I-03/001564

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 03-09, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Thailand for defense articles and services estimated to cost $35 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Richard J. Millies
Deputy Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations
Senate Committee on Appropriations

Transmittal No. 03-09

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** Thailand

(ii) **Total Estimated Value:**

Major Defense Equipment*	$27 million
Other	$ 8 million
TOTAL	$35 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** two UH-60L BLACKHAWK helicopters with T-700-GE-701C engines, two spare T-700-GE-701C engines, M130 chaff dispenser, receivers, spare and repair parts, gun pods, tools and support equipment, publications and technical data, personnel training and training equipment, U.S. Government Quality Assurance Team (QAT), contractor engineering and technical support services and other related elements of logistics support.

(iv) **Military Department:** Army (WEZ)

(v) **Prior Related Cases, if any:**
FMS case WES - $30 million – 30Aug02
FMS case WEC - $20 million – 27Sep00

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached

(viii) **Date Report Delivered to Congress:** 18 MAR 2003

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Thailand – UH-60L BLACKHAWK Helicopters

The Government of Thailand has requested a possible sale of two UH-60L BLACKHAWK helicopters with T-700 engines, two spare T-700 engines, M130 chaff dispenser, receivers, spare and repair parts, gun pods, tools and support equipment, publications and technical data, personnel training and training equipment, U.S. Government Quality Assurance Team (QAT), contractor engineering and technical support services and other related elements of logistics support. The estimated cost is $35 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in South East Asia.

This procurement will upgrade its air mobility capability and provide for the defense of vital installations and close air support for ground forces. Thailand will have no difficulty absorbing these helicopters into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principle contractor will be United Technology, Sikorsky Aircraft of Stratford, Connecticut. There are no offset agreements proposed in connection with this potential sale.

Implementation of this sale will require the assignment of several U.S. Government Quality Assurance Teams for one-week intervals, twice annually, to participate in program management and technical reviews. There will be several U.S. Army National Guard Personnel, for a month, and a contractor field service representative, for two years, in Thailand.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 03-09

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The UH-60L BLACKHAWK helicopter is Unclassified. The highest level of classified information required to be released for training, operation and maintenance of the BLACKHAWK is Confidential. The highest level which could be revealed through reverse engineering or testing of the end item is Confidential.

2. A determination has been made that Thailand can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 03–7100 Filed 3–25–03; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Defense Acquisition University.

ACTION: Board of Visitors meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at Defense Acquisition University, Capital and Northeast Region, 9820 Belvoir Road, Fort Belvoir, Virginia, from 0900–1500. The purpose of this meeting is to report back to the BoV on continuing items of interest.

DATES: April 16, 2003 from 0900–1500.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Reid at 703–805–5133.

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Ms. Diane Reid at 703–805–5133.

Dated: March 11, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer.

[FR Doc. 03–7096 Filed 3–25–03; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Medicare-Eligible Retiree Health Care Board of Actuaries; Notice of Meeting

SUMMARY: A meeting of the Board has been scheduled to execute the provisions of Chapter 56, Title 10, United States Code (10 U.S.C. 1114 *et seq.*). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of benefits under DoD retiree health care programs for Medicare-eligible beneficiaries. Persons desiring to: (1) Attend the DoD Medicare-Eligible Retiree Health Care Board of Actuaries meeting or, (2) make an oral presentation or submit a written statement for consideration at the meeting, must notify Bill Klunk at 703–696–7404 by April 25, 2003.

Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: May 2, 2003, 10–1:30.

ADDRESSES: 1400 Key Boulevard, California Room, RAA–125, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Bill Klunk, DoD Office of the Actuary, 1555 Wilson Boulevard, Suite 701, Arlington, VA 22209–2405, (703) 696–7404.

Dated: March 19, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 03–7095 Filed 3–25–03; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Defense Science Board Task Force on Enduring Freedom Lessons Learned will meet in closed session on April 2, 2003, in Washington, DC; April 8, 2003, location TBD; April 21, 2003, location TBD; May 14–27, 2003, location TBD; and June 4–6, 2003, in Washington, DC. This Task Force will review current activities of Operation Enduring Freedom to determine both near and longer-term technical and operational considerations that could be used to improve this operation and future campaigns initiated in the War Against Terrorism.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will review and evaluate operational policy and procedures, command and control, intelligence, combat support activities, weapon system performance, and science and technology requirements.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5

U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. § 552b(c)(1) and that, accordingly, the meetings will be closed to the public.

Due to scheduling conflicts, there was insufficient time to provide timely notice required by Section 10(a)(2) of the Federal Advisory Committee Act and Subsection 101–6.1015(b) of the GSA Final Rule on Federal Advisory Committee Management, 41 CFR Part 101–6, which further requires publication at least 15 calendar days prior to a meeting.

Dated: March 19, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–7092 Filed 3–25–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee meeting cancellation.

SUMMARY: On Friday, January 24, 2003 (67 FR 3516), the Department of Defense announced a closed meeting of the Defense Science Board Task Force on Red Teaming. The meeting scheduled for March 24, 2003, was canceled.

Dated: March 19, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–7093 Filed 3–25–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Meeting

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Defense Science Board Task Force on the Smallpox Vaccine Down Select Process will in closed session on April 17, 2003, at SAIC, 4001 N. Fairfax Drive, Arlington, VA. The Task Force will perform an independent evaluation of the Department of Defense and Department of Health and Human Services smallpox vaccine candidates.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will evaluate each of the three smallpox vaccine candidates to include the following type of issues: Choice of cell line and viral strain used; preclinical data in appropriate animal models; review of vaccine production methodology to include rates of production and surge capacity; review of protocols for clinical trials to include adverse reaction rates; review of cost issues as they relate to production of the vaccine; review of critical regulatory, legal, and ethical issues associated with the use of the vaccine; and any other issues that the Task Force feels, based on its experience, are relevant.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(4) and that, accordingly, the meeting will be closed to the public.

Dated: March 19, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–7094 Filed 3–25–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee meeting date change.

SUMMARY: The Department of Defense announced a closed meeting of the Defense Science Board Task Force on Missile Defense, Phase III (Modeling and Simulation) for March 18, 2003. That meeting was rescheduled to March 27, 2003, at Strategic Analysis Inc., 3601 Wilson Boulevard, Suite 600, Arlington, VA.

Dated: March 19, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–7097 Filed 3–25–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Deputy Secretary of Defense Policy Memorandum, Subject: Ensuring the Quality of Information Disseminated to the Public by the Department of Defense, Dated February 10, 2003

AGENCY: Assistant Secretary of Defense for Command, Control, and Communications, DoD.

ACTION: Notice of availability.

SUMMARY: The Office of Management and Budget (OMB) has directed all government agencies to publish a notice in the **Federal Register** that their final guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated to the public are available on their public Web sites. The Department of Defense memorandum provides policy and procedural guidance for DoD components in accordance with OMB directions. It also establishes administrative mechanisms that allow affected persons to seek and obtain correction of information maintained and disseminated by DoD components that may not meet the quality standards, assigns responsibilities, and delineates reporting requirements. The Policy Memorandum is available on the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence public Web site, *http://www.dod.mil.c3i/cio/index.html.*

DATES: February 10, 2003.

ADDRESSES: Mr. Harold Heilsnis, OASD(PA), Office of the Assistant Secretary of Defense for Public Affairs, 1400 Defense Pentagon, Washington, DC 20301–1400.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Heilsnis, OASD(PA), 703–325–4470, *hheilsnis@hq.afis.osd.mil.*

Dated: March 11, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–7098 Filed 3–25–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Per diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 229. This bulletin lists revisions in the *per diem* rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 229 8s being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: April 1, 2003.

FOR FURTHER INFORMATION CONTACT: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 228. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in *per diem* rates to agencies and establishments outside the Department of Defense. For more information or questions about *per diem* rates, please contact your local travel office. The text of the Bulletin follows:

Dated: March 19, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
THE ONLY CHANGES IN CIVILIAN BULLETIN 229 ARE UPDATES TO RATES FOR ALASKA.				
ALASKA				
ANCHORAGE [INCL NAV RES]				
05/01 - 09/15	170	66	236	04/01/2003
09/16 - 04/30	85	66	151	04/01/2003
BARROW	159	95	254	05/01/2002
BETHEL	129	66	195	05/01/2002
CLEAR AB	80	55	135	09/01/2001
COLD BAY	90	73	163	05/01/2002
COLDFOOT	135	71	206	10/01/1999
COPPER CENTER	99	63	162	05/01/2002
CORDOVA	90	48	138	04/01/2003
CRAIG	100	53	153	04/01/2003
DEADHORSE	95	67	162	05/01/2002
DELTA JUNCTION	79	60	139	04/01/2003
DENALI NATIONAL PARK				
06/01 - 08/31	115	41	156	04/01/2003
09/01 - 05/31	80	38	118	04/01/2003
DILLINGHAM	95	69	164	05/01/2002
DUTCH HARBOR-UNALASKA	120	86	206	04/01/2003
EARECKSON AIR STATION	80	55	135	09/01/2001
EIELSON AFB				
05/01 - 09/15	149	83	232	04/01/2003
09/16 - 04/30	75	76	151	04/01/2003
ELMENDORF AFB				
05/01 - 09/15	170	66	236	04/01/2003
09/16 - 04/30	85	66	151	04/01/2003
FAIRBANKS				
05/01 - 09/15	149	83	232	04/01/2003
09/16 - 04/30	75	76	151	04/01/2003
FOOTLOOSE	175	18	193	06/01/2002
FT. GREELY	79	60	139	04/01/2003
FT. RICHARDSON				
05/01 - 09/15	170	66	236	04/01/2003
09/16 - 04/30	85	66	151	04/01/2003
FT. WAINWRIGHT				
05/01 - 09/15	149	83	232	04/01/2003
09/16 - 04/30	75	76	151	04/01/2003
GLENNALLEN				
05/01 - 09/30	137	61	198	09/01/2001
10/01 - 04/30	89	56	145	09/01/2001
HEALY				
06/01 - 08/31	115	41	156	04/01/2003
09/01 - 05/31	80	38	118	04/01/2003
HOMER				
05/15 - 09/15	109	72	181	04/01/2003
09/16 - 05/14	76	68	144	04/01/2003
JUNEAU	99	75	174	04/01/2003
KAKTOVIK	165	86	251	05/01/2002

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
KAVIK CAMP	150	69	219	05/01/2002
KENAI-SOLDOTNA				
04/01 - 10/31	110	83	193	04/01/2003
11/01 - 03/31	69	75	144	04/01/2003
KENNICOTT	179	81	260	04/01/2003
KETCHIKAN				
05/01 - 09/30	110	82	192	04/01/2003
10/01 - 04/30	89	80	169	04/01/2003
KING SALMON				
05/01 - 10/01	225	91	316	05/01/2002
10/02 - 04/30	125	81	206	05/01/2002
KLAWOCK	100	53	153	04/01/2003
KODIAK	90	83	173	04/01/2003
KOTZEBUE				
05/01 - 08/31	141	91	232	04/01/2003
09/01 - 04/30	125	89	214	04/01/2003
KULIS AGS				
05/01 - 09/15	170	66	236	04/01/2003
09/16 - 04/30	85	66	151	04/01/2003
MCCARTHY	179	81	260	04/01/2003
METLAKATLA				
05/30 - 10/01	98	48	146	05/01/2002
10/02 - 05/29	78	47	125	05/01/2002
MURPHY DOME				
05/01 - 09/15	149	83	232	04/01/2003
09/16 - 04/30	75	76	151	04/01/2003
NOME	115	91	206	04/01/2003
NUIQSUT	180	53	233	05/01/2002
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PORT ALSWORTH	135	88	223	05/01/2002
PRUDHOE BAY	95	67	162	05/01/2002
SEWARD				
05/31 - 09/30	189	67	256	04/01/2003
10/01 - 05/30	79	56	135	04/01/2003
SITKA-MT. EDGECUMBE				
05/16 - 09/16	110	81	191	04/01/2003
09/17 - 05/15	99	80	179	04/01/2003
SKAGWAY				
05/01 - 09/30	110	82	192	04/01/2003
10/01 - 04/30	89	80	169	04/01/2003
SPRUCE CAPE	90	83	173	04/01/2003
ST. GEORGE	105	39	144	07/01/2002
TALKEETNA	100	89	189	07/01/2002
TANANA	115	91	206	04/01/2003
TOGIAK	100	39	139	07/01/2002
TOK				
05/01 - 09/30	81	76	157	04/01/2003
10/01 - 04/30	60	74	134	04/01/2003
UMIAT	150	98	248	04/01/2003

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
UNALAKLEET	79	80	159	04/01/2003
VALDEZ				
05/01 - 10/01	139	91	230	04/01/2003
10/02 - 04/30	79	86	165	04/01/2003
WAINWRIGHT	120	83	203	05/01/2002
WASILLA	99	68	167	04/01/2003
WRANGELL				
05/01 - 09/30	110	82	192	04/01/2003
10/01 - 04/30	89	80	169	04/01/2003
YAKUTAT	110	68	178	03/01/1999
[OTHER]	80	55	135	09/01/2001
AMERICAN SAMOA				
AMERICAN SAMOA	85	67	152	03/01/2000
GUAM				
GUAM (INCL ALL MIL INSTAL)	135	76	211	09/01/2002
HAWAII				
CAMP H M SMITH	112	72	184	06/01/2002
EASTPAC NAVAL COMP TELE AREA	112	72	184	06/01/2002
FT. DERUSSEY	112	72	184	06/01/2002
FT. SHAFTER	112	72	184	06/01/2002
HICKAM AFB	112	72	184	06/01/2002
HONOLULU (INCL NAV & MC RES CTR)	112	72	184	06/01/2002
ISLE OF HAWAII: HILO	108	69	177	06/01/2002
ISLE OF HAWAII: OTHER	89	54	143	05/01/2000
ISLE OF KAUAI				
05/01 - 11/30	158	88	246	06/01/2002
12/01 - 04/30	203	93	296	06/01/2002
ISLE OF KURE	65	41	106	05/01/1999
ISLE OF MAUI	159	89	248	06/01/2002
ISLE OF OAHU	112	72	184	06/01/2002
KEKAHA PACIFIC MISSILE RANGE FAC				
05/01 - 11/30	158	88	246	06/01/2002
12/01 - 04/30	203	93	296	06/01/2002
KILAUEA MILITARY CAMP	108	69	177	06/01/2002
LANAI	299	138	437	09/01/2002
LUALUALEI NAVAL MAGAZINE	112	72	184	06/01/2002
MCB HAWAII	112	72	184	06/01/2002
MOLOKAI	195	111	306	09/01/2002
NAS BARBERS POINT	112	72	184	06/01/2002
PEARL HARBOR [INCL ALL MILITARY]	112	72	184	06/01/2002
SCHOFIELD BARRACKS	112	72	184	06/01/2002
WHEELER ARMY AIRFIELD	112	72	184	06/01/2002
[OTHER]	72	61	133	01/01/2000
JOHNSTON ATOLL				
JOHNSTON ATOLL	0	14	14	05/01/2002
MIDWAY ISLANDS				
MIDWAY ISLANDS [INCL ALL MILITAR	150	47	197	02/01/2000
NORTHERN MARIANA ISLANDS				
ROTA	149	72	221	10/01/2002
SAIPAN	150	88	238	10/01/2002

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
TINIAN	85	71	156	10/01/2002
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				
BAYAMON				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
CAROLINA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
FAJARDO [INCL CEIBA & LUQUILLO]	82	54	136	01/01/2000
FT. BUCHANAN [INCL GSA SVC CTR,				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
HUMACAO	82	54	136	01/01/2000
LUIS MUNOZ MARIN IAP AGS				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
MAYAGUEZ	85	59	144	01/01/2000
PONCE	96	69	165	01/01/2000
ROOSEVELT RDS & NAV STA	82	54	136	01/01/2000
SABANA SECA [INCL ALL MILITARY]				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
SAN JUAN & NAV RES STA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
[OTHER]	62	57	119	01/01/2000
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	93	72	165	01/01/2000
12/15 - 04/14	129	76	205	01/01/2000
ST. JOHN				
04/15 - 12/14	219	84	303	01/01/2000
12/15 - 04/14	382	100	482	01/01/2000
ST. THOMAS				
04/15 - 12/14	163	73	236	01/01/2000
12/15 - 04/14	288	86	374	01/01/2000
WAKE ISLAND				
WAKE ISLAND	60	32	92	09/01/1998

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[FR Doc. 03–7101 Filed 3–25–03; 8:45 am]

BILLING CODE 5001–08–C

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 27, 2003.

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. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 20, 2003.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Title: Talent Search and EOC Programs Annual Performance Report Form.

Frequency: Annually.

Affected Public: Not-for-profit institutions (primary), State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 1. *Burden Hours:* 3690.

Abstract: Talent Search and EOC grantees must submit the report annually. The report provides the Department of Education with information needed to evaluate a grantee's performance and compliance with program requirements and to award prior experience points in accordance with the program regulations. The data collected is also aggregated to provide national information on project participants and program outcomes.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2244. 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 *Vivian.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 Joe Schubart at his e-mail address *joe.schubart@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. 03–7124 Filed 3–25–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–277]

Application To Export Electric Energy; AIG Energy Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: AIG Energy Inc. (AIG Energy) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before April 25, 2003.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Import/Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16U.S.C. § 824a(e)).

On March 17, 2003, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from AIG Energy to transmit electric energy from the United States to Canada. AIG Energy does not own or control any electric power generation or transmission facilities and does not have a franchised electric power service area.

AIG Energy will purchase the power to be exported from electric utilities and power marketing agencies within the United States. The exported electricity will be delivered to Canada over the existing international transmission facilities currently owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities Co., International Transmission Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power and Light Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company. The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by AIG Energy, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the NorthPoint application to export electric energy to Canada should be clearly marked with Docket EA–277. Additional copies are to be filed directly with Carl Peterson, Vice President, AIG Energy Inc., One Greenwich Plaza, Greenwich, CT 06830 *AND* Andrew Kaplan, Executive Vice President & General Counsel, AIG Energy Inc., One Greenwich Plaza, Greenwich, CT 06830.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at *http://www.fe.doe.gov.* Upon reaching the Fossil Energy Home page, select ''Regulatory Programs,'' then ''Electricity Regulation,'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, DC, on March 20, 2003.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 03–7230 Filed 3–25–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–276]

Application to Export Electric Energy; USGen New England, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: USGen New England, Inc. (USGenNE) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before April 25, 2003.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Import/Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. § 824a(e)).

On March 17, 2003, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from USGenNE to transmit electric energy from the United States to Canada. USGenNE proposes to export electric energy from its own generation resources to Canada over the existing international transmission facilities currently owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities Co., International Transmission Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power and Light Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company. The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by USGenNE, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the USGenNE application to export electric energy to Canada should be clearly marked with Docket EA–276. Additional copies are to be filed directly with Sanford L. Hartman, Chief Counsel, USGen New England, Inc., 7600 Wisconsin Avenue, Bethesda, MD 20814–6161 *AND* James Utt, USGen New England, Inc., 7600 Wisconsin Avenue, Bethesda, MD 20814–6161.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at *http://www.fe.doe.gov.* Upon reaching the Fossil Energy Home page, select ''Regulatory Programs,'' then ''Electricity Regulation,'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, DC, on March 20, 2003.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 03–7231 Filed 3–25–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Education Workforce Development Program

AGENCY: Golden Field Office, U.S. Department of Energy.

ACTION: Notice of issuance of program solicitation.

SUMMARY: The National Renewable Energy Laboratory (NREL), a DOE-funded laboratory in Golden, Colorado, conducts an annual education program for the workforce development of college students and teachers under the sponsorship of the DOE Office of Science. Each summer, a group of selected students and teachers are brought to the NREL site and assigned to work with an experienced NREL researcher in one of many renewable energy research projects underway. Under this Solicitation, DOE is seeking Applications for a college or university in the Denver, Colorado, metropolitan area to act as a fiscal agent on behalf of the workforce development activities conducted by NREL.

It is anticipated that one financial assistance award will be made under this Solicitation. The award will be a Cooperative Agreement, with a five-year Project Period. Each of the five years will be separately funded by DOE, with the funding during any period dependent on the availability of congressional appropriations. For the first year, it is anticipated that the DOE funding provided to the fiscal agent will be $180,000.

DATES: The program solicitation is anticipated to be posted on the Industry Interactive Procurement System (IIPS) Web site in mid-March, 2003. Applications will be due in early April 2003.

ADDRESSES: To obtain a copy of the solicitation, interested parties should access the DOE Golden Field Office home page at *http://www.golden.doe.gov/businessopportunities.html,* and click on the ''Solicitations'' button. The Golden Home Page will provide a link to the Solicitation in the IIPS Web site and provide instructions on using IIPS. The Solicitation can also be obtained directly through IIPS at *http://e-center.doe.gov* by browsing opportunities by Contract Activity, for those solicitations issued by the Golden Field Office. DOE will not issue paper copies of the solicitation.

IIPS provides the medium for disseminating solicitations, receiving financial assistance applications, and evaluating the applications in a paperless environment. For questions regarding the operation of IIPS, contact the IIPS Help Desk at *IIPS_HelpDesk@e-center.doe.gov* or at (800) 683–0751.

FOR FURTHER INFORMATION CONTACT: Steve Scott, Contracting Officer, DOE Golden Field Office, via facsimile at (303) 275–4788 or electronically to *Steve.Scott@go.doe.gov.*

SUPPLEMENTARY INFORMATION:

Eligibility is restricted to colleges and universities with a primary campus located in the Denver, Colorado, metropolitan area. The metropolitan area includes only the following Colorado counties: Denver, Jefferson, Arapahoe, Douglas, Adams, and Boulder. Institutions located outside of these Colorado counties are not eligible to apply under this Solicitation.

A limit is imposed for the maximum percentage of DOE funding that can be devoted to Applicant expenses. The proposed Applicant expenses to conduct the complete project must be 15% or less of the total DOE funds obligated in order to be considered for an award under this Solicitation (*i.e.*, 85% or greater of the DOE funding is to be provided by the Applicant to students/teachers participating in the program). The Applicant expenses include all direct and indirect charges incurred to conduct the Statement of Objectives. This 15% Applicant expense limit also applies to any future increments of DOE funding that may be obligated to the award during the five-year project period. An Application will not be evaluated if the proposed total Applicant expenses exceed 15% of the DOE funding.

DOE anticipates obligating $180,000 for the first year of the project. The proposed Applicant expenses must be $27,000 or less for this initial period, with $153,000 or more available for direct support of the participants. The total estimated funds anticipated to be available for the five-year project is approximately $950,000, depending on the availability of congressional appropriations.

Issued in Golden, Colorado, on March 12, 2003.

Jerry L. Zimmer,

Director, Office of Acquisition and Financial Assistance.

[FR Doc. 03–7233 Filed 3–25–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting correction.

On March 17, 2003, the Department of Energy published a notice of open meeting announcing a meeting of the Secretary of Energy Advisory Board on April 1, 2003 at the Hyatt Sainte Claire Hotel, 302 S. Market Street, San Jose, California 95113 (68 FR 12690). In that notice the time of the meeting was announced as 8:30 A.M to 12:30 P.M. Today's notice announces that the time of the meeting has been revised to 9 A.M. to 12:30 P.M. The date and location of the meeting are unchanged.

Issued at Washington, DC, on March 21, 2003.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 03–7232 Filed 3–25–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–303–000]

Boundary Gas, Inc.; Notice of Proposed Changes in FERC Gas Tariff

March 19, 2003.

Take notice that on March 13, 2003, Boundary Gas, Inc. (Boundary) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Revised Sheet No. 1 to become effective January 15, 2003.

Boundary states that the purpose of this filing is to cancel Boundary's tariff to reflect the fact that the Phase 2 Gas Sales Agreement (Sales Agreement), which is incorporated into Boundary's tariff, terminated in accordance with its terms on January 15, 2003, and none of Boundary's current customers have chosen to receive service from Boundary after January 15, 2003. Concurrently with this filing, Boundary is also filing an application to abandon service as of January 15, 2003.

Pursuant to 18 CFR 154.207 and 154.602, Boundary requests a waiver of the notice requirements for such tariff filings in order to make this tariff sheet effective retroactively on January 15, 2003, the date that the Sales Agreement terminated.

Boundary states that copies of this filing were served upon each of Boundary's customers and the state commissions in Connecticut, Massachusetts, New Hampshire, New Jersey, New York and Rhode Island.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: March 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–7218 Filed 3–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–350–011]

Colorado Interstate Gas Company; Notice of Filing of Refund Report

March 19, 2003.

Take notice that on March 14, 2003, Colorado Interstate Gas Company (CIG), filed an amendment to its refund report in Docket No. RP01–350–011.

CIG states that the filing and refunds were made to comply with the Commission's Order of August 5, 2002. These corrections will be made by CIG on the March 2003 invoices.

CIG states that the refund report summarizes corrected jurisdictional transportation refund amounts for certain shippers for the period October 1, 2001 through September 30, 2002 pursuant to Article 2.2 of CIG's Stipulation and Agreement as approved in the Commission's August 5, 2002 Order.

CIG states that the copies of CIG's filing are being mailed to all parties of record in this proceeding and interested state regulatory Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before March 26, 2003. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 03–7215 Filed 3–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–304–000]

Iroquois Gas Transmission System, L.P.; Notice of Tariff Filing

March 19, 2003.

Take notice that on March 13, 2003, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, Volume No. 1, the following tariff sheets proposed to become effective May 1, 2003:

Eleventh Revised Sheet No. 4A
First Revised Sheet No. 47A
Seventh Revised Sheet No. 48
Original Sheet No. 48A

Iroquois asserts that the purpose of this filing is to establish an incremental fuel charge for Iroquois' Eastchester Extension Project (Eastchester Project), as the Commission required in approving that project.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies and all parties to the proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: March 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–7219 Filed 3–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–505–003;]

Kinder Morgan Interstate Gas Transmission LLC Notice of Compliance Filing

March 19, 2003.

Take notice that on March 14, 2003 Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing to become part of its FERC Gas Tariff, Fourth Revised Volume No. 1–B, Second Revised Sheet No. 41, to be effective April 13, 2003.

KMIGT states that the purpose of this filing is to comply with the Commission's ''Order On Rehearing'' issued on February 27, 2003, in Docket No. RP02–505–002.

KMIGT further states that copies of the filing are being served on all parties set out on the Commission's official service list in Docket No. RP02–505, *et al.*

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: March 26, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–7216 Filed 3–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR03–9–00]

Louisiana Intrastate Gas Company, L.L.C.; Notice for Petition for Rate Approval

March 19, 2003.

Take notice that on March 3, 2003, Louisiana Intrastate Gas Company, L.L.C. (LIG) filed pursuant to section 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve the proposed rates as fair and equitable for transportation services performed under section 311 of the Natural Gas Policy Act of 1978 (NGPA).

LIG requests that the Commission determine that its current maximum rates of $.1880 per MMBtu for interruptible transportation, a $.0000 per MMBtu commodity charge, a $5.7188 per MMBtu monthly demand charge, and a maximum overrun charge of $.1880 per MMBtu remain fair and equitable at this time. LIG also requests continuation of the maximum fuel retention percentage of 2%.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed with the Secretary of the Commission on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This petition for rate approval 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 I the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Comment Date: April 3, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–7214 Filed 3–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–31–000]

Paiute Pipeline Company; Notice of Site Visit

March 19, 2003.

On March 26, 2003, the staff of the Office of Energy Projects will participate in a site visit to the area proposed for construction of natural gas pipeline facilities by Paiute Pipeline Company for its Carson Lateral Replacement Project, in Lyon, Douglas, Carson City, and Washoe Counties, Nevada.

The site visit will begin at 8 am from the Carson City Field Office of the U.S. Bureau of Land Management, 5665 Morgan Hill Road, Carson City, Nevada. All interested parties may attend the site visit. Those planning to attend 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.

Magalie R. Salas,

Secretary.

[FR Doc. 03–7211 Filed 3–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP03–271–002 and RP03–273–002]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

March 19, 2003.

Take notice that on March 13, 2003 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Fifth Revised Sheet No. 61 and First Revised Sheet No. 61A , effective April 1, 2003.

Transco states that the purpose of Transco's filing is to supplement Transco's Electric Power Tracker filing of February 28, 2003, Transco's Supplemental Electric Power Tracker filing of March 7, 2003, Transco's Fuel Tracker filing of February 28, 2003, and Transco's Supplemental Fuel Tracker filing of March 7, 2003. Transco states that it inadvertently failed to include in these filings the updated tariff sheets that reflect the trading fees and trading fuel retention percentages that are assessed when shippers and OBA parties trade imbalances across zones pursuant to Section 25 of the General Terms and Conditions of Transco's FERC Gas Tariff.

Transco states that it is serving copies of the instant filing to its affected customers, interested State Commissions and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: March 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–7217 Filed 3–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–37–003]

Williston Basin Interstate Pipeline Company; Notice of Amendment

March 19, 2003.

Take notice that on March 17, 2003, Williston Basin Interstate Pipeline Company (Williston Basin), P.O. Box 5601, Bismarck, North Dakota 58506–5601, filed an amendment to its pending applications filed on November 30, 2001 as amended on September 27, 2002, in Docket Nos. CP02–37–000 and CP02–37–002, respectively, pursuant to Section 7(c) of the Natural Gas Act (NGA), to reflect certain modifications to the Grasslands Project, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection. 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 field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Specifically, Williston Basin states that a change in market conditions has resulted in shippers contracting for all 80,000 dekatherms per day of capacity on the Grasslands Project starting in Year 1. As a result, Williston Basin proposes to construct Phases I, II and III of the project, concurrently and have the total project in service on November 1, 2003. Williston Basin states that since shippers will be able to use the full capacity of 80,000 dekatherms per day upon the in-service date of November 1, 2003, it is no longer necessary to defer depreciation expense and withdraws its request to create a regulatory asset.

Any questions regarding the amendment should be directed to Keith A. Tiggelaar, Director of Regulatory Affairs, Williston Basin Interstate Pipeline Company, P.O. Box 5601, Bismarck, North Dakota 58506–5601, at (701) 530–1560, or E-mail: *keith.tiggelaar@wbip.com*.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding. with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

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.

If the Commission decides to set the amendment for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

All persons who have heretofore filed need not file again.

Comment Date: March 31, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–7210 Filed 3–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC03–29–000, et al.]

Gulf South Pipeline Co. L.P., et al.; Electric Rate and Corporate Filings

March 19, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Gulf South Pipeline Co., L.P.

[Docket No. AC03–29–000]

Take notice that on March 11, 2003, Gulf South Pipeline Company, L.P. (Gulf South) filed with the Federal Energy Regulatory Commission

(Commission) a letter requesting approval of Pro forma Journal Entries that would be recorded in connection with a sale of gas from volumes included in Account 117.2, System Balancing Gas.

Comment Date: April 1, 2003.

2. TRANSLink Transmission Company, L.L.C.

[Docket Nos. EC01–156–004 and ER01–3154–004]

Take notice that on March 13, 2003, TRANSLink Development Company, L.L.C. (TRANSLink) tendered for filing with the Federal Energy Regulatory Commission (Commission) a compliance filing pursuant to the Commission's April 25, 2002 order issued in the above-referenced proceedings (99 FERC ¶ 61,106) and its November 1, 2002 order (101 FERC ¶ 61,140).

Comment Date: April 3, 2003.

3. Allegheny Energy Supply Conemaugh, LLC UGI Development Company

[Docket No. EC03–66–000]

Take notice that on March 13, 2003, Allegheny Energy Supply Conemaugh, LLC (Conemaugh) and UGI Development Company (UGI) (together, the Applicants) filed a joint application for disposition of jurisdictional facilities under Section 203 of the Federal Power Act. The Applicants request Commission approval for Conemaugh to sell and UGI to acquire Conemaugh's 4.86% tenant-in-common share of the Conemaugh generating facility, located in Indiana County, Pennsylvania.

Comment Date: April 3, 2003.

4. TransCanada PipeLines Limited

[Docket No. EC03–67–000]

Take notice that on March 14, 2003, TransCanada PipeLines Limited (TransCanada) filed with the Federal Energy Regulatory Commission (the Commission) an Application pursuant to Section 203 of the Federal Power Act for authorization of the disposition of jurisdictional facilities that may occur from a corporate reorganization implementing a holding company structure for TransCanada.

Comment Date: April 3, 2003.

5. PSEG Power Connecticut LLC

[Docket No. EG03–25–000]

Take notice that on March 14, 2003, PSEG Power Connecticut LLC (Applicant), having its principal place of business at 80 Park Plaza, T–16, Newark, NJ 07102, filed with the Federal Energy Regulatory Commission (FERC or the Commission) a third amendment to its December 4, 2002 application for determination of exempt wholesale generator (EWG) status pursuant to part 365 of the Commission's regulations. The amendment proposes an alternative to certain activities incidental to the generation of electricity for sale at wholesale.

The Applicant states that it is engaged, directly or indirectly through an affiliate as defined in section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (PUHCA), exclusively in owning or owning and operating eligible electric facilities and participating in certain other activities incidental to such eligible electric facilities as authorized under PUHCA. The Applicant further states that it owns and operates eligible facilities located in Connecticut.

Comment Date: April 9, 2003.

6. Reliant Energy Choctaw County, LLC

[Docket No. EG03–45–000]

Take notice that on March 14, 2003, Reliant Energy Choctaw County, LLC (Reliant Choctaw) filed its application for a determination that it will be an exempt wholesale generator within the meaning of Section 32(a)(1) of Public Utility Holding Company Act (Application).

Comment Date: April 9, 2003.

7. Hunterstown Trust

[Docket No. EG03–46–000]

Take notice that on March 14, 2003, Hunterstown Trust filed its application for a determination that it will be an exempt wholesale generator within the meaning of Section 32(a)(1) of Public Utility Holding Company Act (Application).

Comment Date: April 9, 2003.

8. Meyersdale Windpower, LLC

[Docket No. EG03–48–000]

Take notice that on March 13, 2003, Meyersdale Windpower, LLC (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an Application for Determination of Exempt Wholesale Generator Status pursuant to part 365 of the Commission's regulations.

Applicant states that it is developing a wind-powered eligible facility with a capacity of up to 48 megawatts, powered by up to 32 wind turbine generators, which will be located in Somerset County, Pennsylvania.

Comment Date: April 9, 2003.

9. Northern Indiana Public Service Company

[Docket No. ER96–399–003]

Take notice that on March 17, 2003, Northern Indiana Public Service Company (Northern Indiana) filed revised tariff sheets as part of its FERC Electric Tariff, First Revised Volume No. 5. Northern Indiana states that the revised tariff sheets are submitted in compliance with the order issued by the Commission on December 30, 2002 (101 FERC ¶ 61, 397).

Northern Indiana states that copies of this filing have been sent to all parties on the Commission's official service list.

Comment Date: April 7, 2003.

10. Tiverton Power Associates Limited Partnership

[Docket No. ER00–1171–001]

Take notice that on March 17, 2003, Tiverton Power Associates Limited Partnership submitted for filing its triennial market analysis update in compliance with the Commission Order issued in Docket No. ER00–1171–000 on March 16, 2000.

Comment Date: April 7, 2003.

11. Westar Generating, Inc.

[Docket No. ER01–1305–007]

Take notice that on March 17, 2003, Westar Generating, Inc. (WG) submitted for filing a revised Original Substitute Sheet No. 22 of Rate Schedule FERC No. 1, Purchase Power Agreement between WG and Westar Energy, Inc. (WE). WG states that the purpose of this revision is to change certain language with respect to WE's purchase option for WG's ownership interest in the State Line combined-cycle generating project. WG is requesting an effective date of March 17, 2003.

WG states that copies of the filing was served upon WE and the Kansas Corporation Commission.

Comment Date: April 7, 2003.

12. Westar Energy, Inc.

[Docket No. ER03–172–001]

Take notice that on March 17, 2003, Westar Energy, Inc. (Westar) submitted for filing the FERC Electric Tariff, Volume No. 7 in response to the Commission's Order in Docket No. ER03–172–000. This filing submits the previously accepted WRC pricing schedule as an appropriate FERC tariff. The tariff is proposed to be effective on October 31, 2002. Westar also filed a blank conforming service agreement as part of the proposed tariff. Westar states that each of the three customers' contracts, under the proposed tariff, conforms to the service agreement being submitted.

Westar states that a copy of this filing was served upon the Kansas Corporation Commission, Kaw Valley Electric Cooperative, Nemaha-Marshall Electric Cooperative Association, Inc. and Doniphan Electric Cooperative.

Comment Date: April 7, 2003.

13. Arizona Public Service Company

[Docket No. ER03–616–000]

Take notice that on March 14, 2003, Arizona Public Service Company (APS) tendered for filing a revised Contract Demand Exhibit for Southern California Edison (SCE) applicable under the APS–FERC Rate Schedule No. 120.

APS states that copies of this filing have been served on SCE, the California Public Utilities Commission and the Arizona Corporation Commission.

Comment Date: April 4, 2003.

14. California Independent System Operator Corporation

[Docket No. ER03–617–000]

Take notice that on March 14, 2003, the California Independent System Operator Corporation (ISO) filed First Revised Service Agreement No. 445, which is a Participating Generator Agreement (PGA) between the ISO and Energia de Baja California, S. de R.L. de C.V. (EdBC). The PGA has been revised to update Schedule 1 of the PGA. The ISO requests that the PGA be made effective as of February 3, 2003.

The ISO states it has served copies of this filing upon EdBC and all entities that are on the official service list for Docket No. ER02–2009–000.

Comment Date: April 4, 2003.

15. Reliant Energy Choctaw County, LLC

[Docket No. ER03–618–000]

Take notice that on March 14, 2003 Reliant Energy Choctaw County, LLC (Reliant Choctaw) petitioned the Federal Energy Regulatory Commission (Commission) to grant certain blanket authorizations, to waive certain of the Commission's Regulations and to issue an order accepting Reliant Choctaw's FERC Electric Rate Schedule No. 1. Reliant Choctaw requested that the Commission approve its applicant on an expedited basis.

Comment Date: April 1, 2003.

16. PECO Energy Company

[Docket No. ER03–619–000]

Take notice that on March 14, 2003 PECO Energy Company (PECO) submitted for filing: (1) First Revised Sheet Nos. 59 and 60 to the Interconnection Agreement between PECO and Exelon Generation for the Chester Generating Station designated as First Revised Rate Schedules FERC No. 124; (2) First Revised Sheet Nos. 62 and 63 superseding Original Sheet Nos. 62 and 63 to the Interconnection Agreement between PECO and Exelon Generation Company (Exelon Generation) for the Cromby Generating Station designated as First Revised Rate Schedule FERC No. 126; (3) First Revised Sheet Nos. 58, 59, and 60 to the Interconnection Agreement between PECO and Exelon Generation for the Croydon Generating Station designated as First Revised Rate Schedule FERC No. 127; (4) First Revised Sheet Nos. 61 and 62 superseding Original Sheet Nos. 61 and 62 to the Interconnection Agreement between PECO and Exelon Generation for the Delaware Generating Station designated as First Revised Rate Schedule FERC No. 128; and (5) First Revised Sheet Nos. 64 and 65 superseding Original Sheet Nos. 64 and 65 to the Interconnection Agreement between PECO and Exelon Generation for the Schuylkill Generating Station designated as First Revised Rate Schedule FERC No. 137. These pages were revised to address the installation of new metering equipment at the generation stations.

PECO states that copies of this filing were served on Exelon Generation and PJM Interconnection, L.L.C.

Comment Date: April 4, 2003.

17. Florida Power Corporation

[Docket No. ER03–620–000]

Take notice that on March 14, 2003, Florida Power Corporation (FPC) refiled the executed Shady Hills Facility Parallel Operation Agreement between FPC and Florida Power & Light Company. FPC is requesting an effective date of December 18, 2002 for this Rate Schedule.

FPC states that a copy of the filing was served upon the Florida Public Service Commission and the North Carolina Utilities Commission.

Comment Date: April 4, 2003.

18. Inland Power & Light Company

[Docket No. ER03–621–000]

Take notice that on March 14, 2003, Inland Power & Light Company filed a Notice of Cancellation of its Rate Schedule FERC No. 3.

Comment Date: April 4, 2003.

19. Capital Power, Inc.

[Docket No. ER03–622–000]

Take notice that on March 14, 2003, Capital Power, Inc. (Capital), petitioned the Federal Energy Regulatory Commission (Commission) for acceptance of Capital Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Comment Date: April 4, 2003.

20. Jamaica Bay Peaking Facility, LLC

[Docket No. ER03–623–000]

Take notice that on March 14, 2003, Jamaica Bay Peaking Facility, LLC (Jamaica Bay) tendered for filing an application for authorization to sell wholesale power at market-based rates, and certain ancillary services at market-based rates into the New York market.

Jamaica Bay states that copies of this filing have been served on the New York State Public Service Commission, the Long Island Power Authority, and the Florida Public Service Commission.

Comment Date: April 4, 2003.

21. Calpine Construction Finance Company, L.P.

[Docket No. ER03–624–000]

Take notice that on March 17, 2003, Calpine Construction Finance Company, L.P., tendered for filing, under section 205 of the Federal Power Act, a rate schedule for Reactive Power from the Ontelaunee Energy Center.

Comment Date: April 7, 2003.

22. Allegheny Power

[Docket No. ER03–625–000]

Take notice that on March 17, 2003, Allegheny Power (Allegheny) submitted for filing an executed Interconnection and Operating Agreement (Agreement) with Industrial Power Generating Corporation (Ingenco). Allegheny requests an effective date of March 15, 2003 for the Agreement and accordingly seeks waiver of the Commission's notice requirements.

Allegheny states that copies of the filing were served on Ingenco and on interested state commissions.

Comment Date: April 7, 2003.

23. Empire District Electric Company

[Docket No. ER03–626–000]

Take notice that on March 17, 2003, The Empire District Electric Company (Empire) filed certain changes to an existing agreement for wholesale requirements service to four municipal utilities customers currently on file with the FERC as Empire Wholesale Electric Service Schedule W–1 (Schedule W–1).

Empire states that copies of this filing were served on all customers under Schedule W–1 and on all affected state commissions.

Comment Date: April 7, 2003.

Standard Paragraph

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 field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. 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.

Magalie R. Salas,

Secretary.

[FR Doc. 03–7175 Filed 3–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–5–003]

Algonquin Gas Transmission Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Everett Extension Project, Request for Comments on Environmental Issues, and Notice of a Public Scoping Meeting and Site Visit

March 19, 2003.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the proposed Everett Extension Project. On February 5, 2003, Algonquin Gas Transmission Company (AGT) filed an application to amend its Certificate of Public Convenience and Necessity for authorization to construct and operate facilities in Suffolk County, Massachusetts. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity. A decision whether an environmental impact statement is needed has not been made yet, and will be based on the comments and information received during the scoping process. Agencies listed in Appendix 3 are hereby asked to indicate whether they want to be cooperating agencies for preparing the EA.

The application, and other supplemental filings in this docket are available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). Click on the ''FERRIS'' link, select ''General Search'' from the FERRIS menu, and follow the instructions, being sure to input the correct docket number (CP01–5–003).

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain and under certain circumstances the pipeline company could initiate condemnation proceedings in accordance with Florida law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice that AGT provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

AGT would construct 6.64 miles of 24-inch-diameter pipeline, 0.31 miles of 8-inch-diameter pipeline, three meter stations, and appurtenant facilities. The proposal would extend the 24-inch-diameter Deer Island Lateral pipeline (approved on June 4, 2002, in Docket No. CP01–5–002, but unbuilt yet). The proposal would provide 110,000 dekatherms per day of firm transportation service. AGT requests final authorization for the proposed facilities by December 15, 2003, and would construct its facilities in 2004 during the summer and fall, so that it could place the facilities in service by June 1, 2005. The general locations of the project facilities are shown in Appendix 1.[1] If you are interested in obtaining detailed maps of a specific portion of the project, send in your request using the form in Appendix 4.

Land Requirements for Construction

Construction of the Everett Extension Project would temporarily disturb a total of about 72.70 acres of land. This includes about 22.9 acres offshore and 36.2 acres onshore for the pipeline construction right-of-way (ROW), and 13.6 acres for extra workspace and contractor staging areas. The total land requirements for the permanent ROW would be about 14.14 acres, including 1.35 acres of land for operation of the new permanent aboveground facilities. The remaining 58.56 acres of land affected by construction would be restored and allowed to revert to its former use.

Approximately 3.86 miles of the pipeline would be built onshore, and 3.09 miles would be offshore. The offshore construction would include about 2.25 miles of horizontal directional drilling, and about 0.84 miles of shallow water dredging. The offshore disturbance would include about 8.67 acres for trench excavation and 14.22 acres for temporarily storing the side-cast trench spoil. AGT states that most (69%) of the proposed onshore route would not require AGT to obtain a ROW easement, since 60% of the route would be located within existing roads or utility ROW, and 9% would be on property owned by proposed customers. AGT would typically use a 50- to 75-foot-wide construction ROW. Temporary extra workspaces are often needed for waterbody, highway, and railroad crossings; additional topsoil storage; and pipe storage and equipment yards.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the

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[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site at the ''FERRIS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to FERRIS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[2] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

public may have about proposals. This is called ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Water resources.
- Wetlands.
- Fisheries and essential fish habitat.
- Vegetation and wildlife.
- Endangered and threatened species.
- Land use, recreation, and visual resources.
- Cultural resources.
- Socioeconomics.
- Geologic and soil resources.
- Air and noise quality.
- Reliability and safety.
- System or route alternatives.

Our independent analysis of the issues will be in the EA. The EA will be mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A 45-day comment period will be allotted for review of the EA. We will consider all comments on the EA and revise the document, as necessary, before issuing a Final EA. The Final EA will include our responses to comments received and will be used by the Commission in its decision-making process to determine whether to approve the project.

To ensure your comments are considered, please carefully follow the instructions in the Public Participation and Scoping Meeting section of this Notice of Intent.

Currently Identified Environmental Issues

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project. We have already identified a number of issues that deserve attention based on a preliminary review of the proposed facilities, the environmental information provided by AGT, and early input from intervenors. Some of these issues are listed below. This list is preliminary and may be changed based on your comments and our analysis.

- Effect of construction on groundwater or surface water supplies;
- Potential failure of the HDD segments, or inadvertent releases of drilling lubricant or hazardous materials during the drilling activities;
- Extent and effects of turbidity and sedimentation that may result from pipeline trenching or directional drilling in shallow waters;
- Potential fuel spills from the pipelay barges and associated vessel traffic;
- Construction and operational effects on marine and estuarine habitats that support commercial or recreational fisheries;
- Potential effects to wildlife and fisheries, including essential fish habitat and other fishery resource of concern, and other biological resources of concern;
- Potential effects on federally endangered and threatened species including the piping plover, northern right whale, humpback whale, fin whale, loggerhead sea turtle, green sea turtle, hawksbill sea turtle, Kemp's ridley sea turtle, and leatherback sea turtle;
- Potential effects to onshore and offshore submerged cultural resources;
- Noise generated as a result of pipeline construction;
- Temporary disruption of local roadways and recreational trails during construction;
- Potential effect of the project on Logan Airport operations;
- Cumulative impacts and temporal loss of habitat function from additive effects of the proposed project with other projects, including natural gas pipelines and other utilities, which have been recently constructed or are proposed to be built in the same region;
- Public Safety in the vicinity of the proposed facilities.

Public Participation and Scoping Meeting

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of the Gas 2 Branch.
- Reference Docket No. CP01–5–003.
- Mail your comments so that they will be received in Washington, DC on or before April 18, 2003.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Login to File'' and then ''New User Account.''

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (Appendix 4). If you do not return the Information Request, you will be taken off the mailing list.

In addition to or in lieu of sending written comments, we invite you to attend a public scoping meeting. The FERC will conduct this public meeting together with the Massachusetts Energy Facilities Siting Board, at the time and location listed below:

Time: Wednesday April 9, 2003, at 7 PM, *Location:* Curtis Guild Elementary School, 195 Leyden Street, East Boston, MA 02128.

The public meeting is designed to provide you with more detailed information and another opportunity to offer your comments on the proposed project. Prior to the start of the meeting, company representatives will be available to informally discuss the project. Interested groups and individuals are encouraged to attend the meeting and to present comments on the environmental issues they believe should be addressed in the EA. A transcript of the meeting will be made so that your comments will be accurately recorded.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the

proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (*see* Appendix 2).[3] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. The deadline for requesting to be an intervenor is April 7, 2003, but you may still request consideration to be an intervenor after that, if you can demonstrate why you should be granted intervenor status. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all identified potential ROW grantors. By this notice we are also asking governmental agencies, especially those in Appendix 3, to express their interest in becoming cooperating agencies for the preparation of the EA.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC, or on the FERC Internet Web site (*http://www.ferc.gov*) using the FERRIS link. Click on the FERRIS link, enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with FERRIS, the FERRIS helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The FERRIS link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–7209 Filed 3–25–03; 8:45 am]

BILLING CODE 6717–01–P

[3] Interventions may also be filed electronically via the Internet in lieu of paper. *See* the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11810–004]

Notice of Intent To Prepare a Multi-Project Environmental Assessment and Notice of Paper Scoping and Soliciting Scoping Comments

March 19, 2003.

Take notice that the following hydroelectric application has been filed with Commission and is available for public inspection:

a. *Type of Application:* Original Major License, constructed project.

b. *Project No.:* P–11810–004.

c. *Date filed:* January 30, 2003.

d. *Applicant:* City of Augusta.

e. *Name of Project:* Augusta Canal Project.

f. *Location:* Adjacent to the Savannah River, in Richmond County, Georgia, near the town of Augusta, Georgia. The project does not occupy Federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Max Hicks, Director, Utilities Department, 360 Bay Street, Suite 180, Augusta, GA 30901, (706) 312–4121

i. *FERC Contact:* Monte TerHaar, (202) 502–6035 or *monte.terhaar@ferc.gov*.

j. *Deadline for filing scoping comments:* 60 days from 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.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener 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.

Scoping comments 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 (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. This application is not ready for environmental analysis at this time.

l. *Project Description:* The City of Augusta does not propose to construct hydroelectric generation facilities and the project would produce no power. Augusta is proposing to license parts of the Augusta Canal system which pass flows for use by three existing hydroelectric projects located in the Augusta Canal. These projects are the 1.2 megawatt (MW) Enterprise Project (No. 2935), the 2.475 MW Sibley Mill Project (No. 5044), and the 2.05 MW King Mill Project (No. 9988). The proposed project would consist of the following: (1) The 1,666-foot-long stone-masonry Augusta Diversion Dam; (2) the 2,250-foot-long and 190 acre Savannah River impoundment between Steven's Creek Dam and the Augusta Diversion Dam; and (3) the first level of the Augusta Canal, which extends about 7 miles between the Augusta Diversion Dam and the Thirteenth Street gates.

m. A copy of the application 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, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

n. *Scoping Process:* Scoping is intended to advise all parties regarding the proposed scope of the EA and to seek additional information pertinent to this analysis. The Commission intends to prepare one multi-project Environmental Assessment (EA) for the Augusta Canal Project in combination with the Enterprise Mill Project and the Sibley Mill Project according to the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action. Should substantive comments requiring reanalysis be received on the NEPA document, we would consider preparing a subsequent NEPA document.

At this time, the Commission staff does not anticipate holding formal public or agency scoping meetings near the project site. Instead, staff will conduct paper scoping.

A Scoping Document (SD) outlining the subject areas to be addressed in the EA were distributed to the parties on the

Commission's mailing list. Copies of the SD may be viewed on the web as described in item m, above.

As part of scoping the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from comments all available information, especially quantifiable data, on the resources at issue; (3) encourage comments from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Consequently, interested entities are requested to file with the Commission any data and information concerning environmental resources and land uses in the project area and the subject project's impacts to the aforementioned.

o. The preliminary schedule for preparing the subject EA is as follows:

Milestone Target Date

Scoping Document 1—March 2003
Comments on Scoping Document 1—May 2003
Issue Acceptance Letter/Request Additional Information—May 2003
Additional Information Due—July 2003
Notice of Ready for Environmental Analysis/Notice Soliciting Final Terms and Conditions—July 2003
Deadline for Agency Recommendations—September 2003
Notice of the Availability of the EA—November 2003
Public Comments on EA Due—January 2004
Read for Commission's Decision on the Application—March 2004

Magalie R. Salas,

Secretary.

[FR Doc. 03–7212 Filed 3–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing; and Soliciting Comments, Motions To Intervene, and Protests

March 19, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permi.

b. *Project No.:* 12450–000.

c. *Date filed:* February 28, 2003.

d. *Applicant:* Logansport Municipal Utilities.

e. *Name and Location of Project*: The Tenth Street Dam Hydroelectric Project would be located at an existing dam owned by the Applicant on the Eel River in Cass County, Indiana. No Federal or Tribal lands would be involved.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

g. *Applicant Contact:* Mr. Sky K. Medors, Lawson-Fisher Associates P.C., 525 West Washington Street, South Bend, IN 46601, (574) 234–3167.

h. *FERC Contact:* James Hunter, (202) 502–6086.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener 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.

j. *Description of Project*: The proposed project would consist of: (1) The existing 410-foot-long, 11-foot-high concrete overflow dam, with a sluice gate at the left abutment, creating a 50-acre impoundment at normal water surface elevation 601.3 feet, (2) a powerhouse, proposed to be built at the site of the sluice gate, containing two generating units with a total installed capacity of 950 kilowatts, (4) a 1,200-foot-long, 13.8-kilovolt transmission line connecting to the Applicant's existing distribution system, and (5) appurtenant facilities. The project would have an average annual generation of 3.4 gigawatthours.

k. 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 toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item g. above.

l. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the

Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing an original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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. r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03–7213 Filed 3–25–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7472–7]

Full Delegation of Authority for Prevention of Significant Deterioration of Air Quality; Allegheny County, PA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: Allegheny County, Pennsylvania submitted to EPA a request for delegation of authority to implement and enforce the Federal prevention of significant deterioration of air quality (PSD) permit program regulations. The Clean Air Act authorizes the EPA to delegate its authority to implement and enforce the PSD regulations to any state that has submitted a demonstration that it possesses adequate implementation and enforcement resources and procedures. After thorough review of the request and available information, EPA has determined that such delegation of authority is appropriate consistent with the conditions set forth in the letter reproduced below.

EFFECTIVE DATE: March 26, 2003.

ADDRESSES: Copies of the request for delegation and related documents are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Allegheny County Health Department, Air Quality Program, 301 Thirty-Ninth Street, Pittsburgh, Pennsylvania 15201–1891.

FOR FURTHER INFORMATION CONTACT: David Campbell, U.S. Environmental Protection Agency Region III (3AP11), 1650 Arch Street, Philadelphia, PA 19103 at (215) 814–2196, or by e-mail at *campbell.dave@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On February 13, 2003, the Allegheny County, Pennsylvania Health Department submitted a letter requesting full delegation of authority for the implementation and enforcement of the Federal prevention of significant deterioration of air quality (PSD) permit program regulations as codified at 40 CFR 52.21. The PSD program covers any new construction or any major modification of a major stationary air emission source in an area which has air quality better than the national ambient air quality standards. The program requires the issuance of permits prior to construction or modification of certain sources. Allegheny County's letter requests delegation of the Federal PSD program at 40 CFR 52.21. Allegheny County's delegation request does not reference a specific edition of 40 CFR part 52, and expressly requests delegation of the current version of the PSD regulations and any and all future changes to part 52 with regard to the Federal PSD program.

Since 1983, the Allegheny County Health Department has been delegated the authority to implement and enforce the provisions of 40 CFR 52.21 on behalf of EPA. (*See* 48 FR 55625, December 14, 1983). When EPA granted delegation to Allegheny County in 1983, it specifically delegated to the County the authority to implement and enforce the PSD provisions at 40 CFR part 52, as amended August 7, 1980. The purpose of Allegheny County's February 13, 2003, letter is to request renewal of its existing delegation of authority to include more recent revisions to the PSD regulations at 40 CFR part 52, and to include any and all future revisions of those regulations.

II. Terms of Delegation of Authority

After a thorough review of the request for full PSD program delegation, EPA has determined that such delegation is appropriate subject to the conditions set forth in the following letter to Allegheny County. Therefore, pursuant to 40 CFR 52.21(u), EPA formally notified Allegheny County on March 18, 2003, that the Agency delegates full PSD regulatory authority to Allegheny County, Pennsylvania as of the publication of date of this information notice.

Dr. Roger C. Westman, Manager, Air Quality Program, Allegheny Health Department, 301 Thirty-Ninth Street, Pittsburgh, PA 15201–1891.

Dear Dr. Westman:

Thank you for your February 13, 2003, request to update your existing delegation of authority to implement and enforce the Federal prevention of significant deterioration (PSD) of air quality program. The intent of the request and the following delegation is to update and affirm the existing delegation of authority agreement between Allegheny County and the U.S. Environmental Protection Agency (EPA). As you are aware, EPA granted full delegation of authority for the PSD program to Allegheny County on December 14, 1983. (*See*, 48 FR 55625).

In 1983, EPA reviewed the pertinent laws of the Allegheny County and the rules and regulations thereof and determined that they provided an adequate and effective procedure for the full implementation of all portions of the Federal PSD program. Based on the representations included in your February 13, 2003, letter, as well as the existing County legal authority, EPA has determined that Allegheny County's laws and regulations continue to provide the legal authority for the full implementation and enforcement of all portions of the Federal PSD program. Therefore, pursuant to 40 CFR 52.21(u), we hereby delegate our authority to Allegheny County for all portions of the Federal PSD program, as described in 40 CFR 52.21, as amended December 31, 2002. Additions, revisions, or deletions to 40 CFR 52.21 adopted by EPA after the date of this letter are incorporated into this delegation of authority agreement on the effective date

established by the Federal regulations. The EPA delegates our authority as follows:

1. Authority is delegated for all sources located in Allegheny County subject to review pursuant to the Federal PSD program. This includes all source categories listed in 40 CFR 52.21 for each pollutant regulated by the Clean Air Act.

2. Acceptance of this delegation of authority of the Federal PSD program commits Allegheny County to implement and enforce the Federal PSD program currently promulgated at 40 CFR 52.21 and any additions, revisions, or deletions to 40 CFR 52.21 adopted by EPA after the date of this letter.

3. If at any time there is a conflict between a County regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of the County. If the County does not have the authority to implement a Federal regulation that is more stringent than the applicable County regulation, the pertinent portion of the authority may be revoked.

4. In processing applications for PSD permits pursuant to 40 CFR 52.21, the County shall follow all procedural requirements which the Administrator would be required to follow in processing such applications, whether these procedural requirements are set forth in full in 40 CFR 52.21 or only referenced therein.

5. If EPA determines that the County's procedures for implementing and enforcing any or all of the portions of the PSD program is inadequate, or is not being effectively carried out, the authority granted pursuant to this delegation agreement may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a notice of revocation to Allegheny County.

6. Allegheny County shall ensure through its interstate intergovernmental cooperation procedures that all potential source interactions along County boundaries are properly determined and considered during the PSD permitting process.

7. Enforcement of the PSD program shall be the primary responsibility of Allegheny County. If the County determines that such enforcement is not feasible and so notifies EPA, or where the County acts in a manner inconsistent with the terms of this granted authority, EPA will exercise its concurrent enforcement authority pursuant to sections 113, 167, and 505(b) of the Clean Air Act, 42 U.S.C. 7413, 7477 and 7661b, with respect to sources within Allegheny County subject to PSD requirements. In accordance with 40 CFR 52.21(r) and sections 113, 167, and 505(b) of the Clean Air Act, EPA reserves the right to commence an enforcement action against any entity in violation of the Federal PSD program should Allegheny County fail to take such an enforcement action or, in the opinion of EPA, fail to pursue a timely or appropriate enforcement action. Section 167 provides that EPA shall issue administrative orders, initiate civil actions, or take whatever other enforcement action may be necessary to prevent construction of a major stationary source that does not ''conform to the requirements of'' the PSD program. Similarly, section 113(a)(5) provides for administrative orders and civil actions whenever EPA finds that the County ''is not acting in compliance with'' any requirement or prohibition of the Act regarding construction of new or modified sources. Likewise, section 113(a)(1) provides for a range of enforcement remedies whenever EPA finds that a person is in violation of an applicable implementation plan.

8. The County and EPA shall continue to implement a system of communication sufficient to guarantee a program that includes the items described below:

a. Each agency is informed of the current compliance status of sources in Allegheny County subject to the PSD program.

b. Allegheny County shall send a copy of preliminary determinations and public comment notices required pursuant to 40 CFR 52.21(g) to EPA Region III at the same time the notice is being forwarded for publication in the newspaper.

c. Allegheny County shall provide to EPA Region III copies of the final PSD permit at the time of issuance.

d. The status of incomplete permit applications shall be provided to EPA Region III on an as needed basis.

9. Prior EPA concurrence is to be obtained on any matter involving the interpretation of sections 160–169 of the Clean Air Act, 42 U.S.C. 7470–7492, or 40 CFR 52.21 to the extent that implementation, review, administration, or enforcement of these sections have not been covered by determinations or guidance available to Allegheny County.

A notice announcing this delegation of authority of the Federal PSD to Allegheny County will be published in the **Federal Register** in the near future. This delegation of authority shall be effective as of the publication date of that notice. This delegation of authority should not be construed as a transfer of PSD responsibility under section 110(a)(2)(J) of the Clean Air Act. Such a transfer involves different procedures and considerations.

There is no requirement that the County notify EPA of its acceptance. Unless EPA receives from the County written notice of objections within 10 days of the date receipt of this letter, the County shall be deemed to have accepted all of the terms as stated herein. Finally, EPA commits to continue to provide training and support assistance as requested by the County. If you have any questions regarding this letter, please contact me or Ms. Judith Katz, Director, Air Protection Division.

Sincerely,
Donald S. Welsh,
Regional Administrator.

III. Conclusion

Effective immediately, Allegheny County is the delegated permitting authority to implement and enforce the Federal PSD program and all applications and other information required pursuant to the PSD permit program at 40 CFR 52.21 from sources located or locating in Allegheny County shall continue to be submitted to the Allegheny County, Pennsylvania Health Department at the following address: Allegheny County Health Department, Air Quality Program, 301 Thirty-Ninth Street, Pittsburgh, Pennsylvania 15201–1891.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this information notice is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this information notice 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 information notice imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this information notice 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 information notice delegates pre-existing requirements under Federal law and does not impose any additional enforceable duty beyond that required by Federal 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 (Public Law 104–4). This information notice 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 information notice 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 information notice merely delegates the implementation of a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This information notice 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 delegation requests, EPA's role is to approve state capabilities, 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 delegation request for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a delegation request, to use VCS in place of a delegation request 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.*). This information notice granting delegation of the Federal PSD program to Allegheny County issued under the authority of sections 101, 110, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7410, 7601).

Dated: March 18, 2003.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 03–7241 Filed 3–25–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0070; FRL–7295–8]

Buprofezin; Notice of Filing Pesticide Petitions to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2003–0070, must be received on or before April 25, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–3194; e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

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

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0070. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at http://www.epa.gov/fedrgstr/.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be

scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0070. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID number OPP–2003–0070. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID number OPP–2003–0070.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID number OPP–2003–0070. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 13, 2003.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petitions

The petitioner summary of the pesticide petitions is printed below as required by FFDCA section 408(d)(3). The summary of the petitions was prepared by the petitioner and represent the views of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interregional Research Project Number (IR–4)

PP 2E6369, 2E6455, and 2E6493

EPA has received pesticide petitions (2E6369, 2E6455, and 2E6493) from the Interregional Research Project Number (IR–4), 681 U.S. Highway #1 South, North Brunswick, NJ 08902, proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.511 by establishing tolerances for residues of buprofezin in or on the following raw agricultural commodities: Lychee, logan, spanish lime, rambutan, and pulasan at 0.3 parts per million (ppm) (2E6369); bean, snap, succulent at 0.02 ppm (2E6455); and pistachio at 0.05 ppm (2E6493). EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petitions. This summary has been prepared by Nichino American, Inc., Wilmington, DE 19808, the registrant.

A. Residue Chemistry

1. *Plant metabolism*. The metabolic profile of buprofezin has been elucidated in a wide range of crops, including tomatoes, lettuce, cotton, and citrus. In tomatoes, lettuce, and cotton unchanged buprofezin was the only significant residue. In citrus, besides buprofezin, the principal polar residue is a hexose conjugate of BF4 (buprofezin hydroxylated in the t-butyl group), which was resistant to enzyme hydrolysis. With acid hydrolysis of the polar fraction, BF26 was released, with minor amounts of BF9 and BF12. The same compounds were observed following acid hydrolysis of a standard of BF4, which clearly indicates that BF4 is the conjugated metabolite existing in citrus. Although only limited metabolism was observed in lettuce and cotton, trace levels of BF4/BF26, BF9, and BF12 were observed indicating that the metabolic pathway does not differ with plant species.

2. *Analytical method*. Metabolism studies on lettuce and tomatoes have shown that the only significant residue in these crops is buprofezin. Development of the analytical method took place in parallel with the metabolism studies and the method was designed to quantify two metabolites (BF9 and BF12) in addition to the parent compound. This method was used for analysis of samples from the field trials on all crops except citrus, but for tolerance enforcement only the parent compound is considered.

3. *Magnitude of residues*. The magnitude of residues is adequately understood and supports the proposed tolerances.

B. Toxicological Profile

1. *Acute toxicity*. An assessment of toxic effects caused by buprofezin is discussed in Unit III.A. and Unit III.B. of the **Federal Register** dated September 5, 2001 (66 FR 46382) (FRL–6796–6).

2. *Animal metabolism*. The metabolism of buprofezin has been extensively studied in various species of animals and fish. Buprofezin has several groups that can metabolize in a variety of ways thus potentially producing a very large number of metabolites. Indeed extensive metabolism to many minor metabolites was observed in all the animal species. Metabolism in fish was, however, much more limited and clearly defined. Although not all metabolic intermediates have been detected in all the species, the major routes of metabolism have been identified in animals and fish and a consistent pattern is observed throughout these species. The proposed metabolic pathway was provided in the tolerance petition, PP 0F6087. For convenience, degradates are referred to by an internal code: BF 1 through 13. Corresponding chemical structures were provided in the tolerance petition, PP 0F6087.

3. *Endocrine disruption*. No special studies have been conducted to investigate the potential of buprofezin to induce estrogenic or other endocrine effects. The standard battery of required toxicity studies has been completed. These studies include an evaluation of the potential effects on reproduction and development and an evaluation of the pathology of the endocrine organs following repeated or long-term exposure. These studies are generally considered to be sufficient to detect any endocrine effects. The only effect noted on endocrine organs was an increased incidence of follicular cell hypertrophy and C-cell hyperplasia of the thyroid gland in rats administered buprofezin at dietary concentrations of 2,000 ppm for 24 months. Buprofezin also caused mild to moderate hepatotoxic effects at this dietary concentration. Nichino America, Inc. believes that the effect on the thyroid most likely resulted from increased turnover of T3/T4 in the liver with a resultant rise in TSH secretion (due to the hepatotoxicity). The rat is known to be much more susceptible than humans to these effects due to the very rapid turnover of thyroxine in the blood in rats (12 hours versus about 5 to 9 days in humans). Therefore, the thyroid pathological changes which have been noted following administration of high doses of buprofezin are considered to be of minimal relevance to human risk assessment, particularly considering the low levels of buprofezin to which humans are likely to be exposed.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Chronic dietary exposure was estimated using Dietary Exposure Evaluation Model (DEEM™) tolerance levels, and 100% crop treated, except for tomatoes with 40% of the crop treated. The chronic dietary exposure to the U.S. population (total) was estimated as 0.001229 milligrams/kilogram/body weight/day (mg/kg bwt/day), and was 37% of the estimated reference dose (RfD). Exposure to children ages 1 to 6, the highest exposed population subgroup, was 0.002393 mg/kg bwt/day (73% of the estimated RfD).

ii. *Drinking water*. The residue of concern in drinking water was determined to be buprofezin. The potential exposure of buprofezin in drinking water abstracted from surface water was assessed using a Tier 2, modeling approach. EPA's Pesticide Root Zone Model (PRZM) was used to generate potential runoff loads from a standardized agricultural field (10–hectare (ha)) to a standardized aquatic system (1–ha 2–meters (m) deep pond) following application of buprofezin to citrus (the maximum proposed use rate for all crops). Exposure Analysis Modeling Systems (EXAMS) was used to estimate the exposure concentration in surface water. The ''once-in-10–year'' exceedance probability corresponded to a concentration at 0.52 part per billion (ppb). This value refers to the 56–day average estimated concentration in a farm pond draining agricultural land and must be considered a gross over-estimate of concentrations of buprofezin

at the point of drinking water abstraction.

2. *Non-dietary exposure*. Food uses described in these petitions are strictly agricultural and will not add to any residential non-dietary exposure that may exist.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that the Agency must consider ''available information'' concerning the cumulative effects of a particular pesticide's residue and ''other substances that have a common mechanism of toxicity.'' Available information in this context include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. At the present time, there are insufficient data available to allow Nichino America, Inc. to properly evaluate the potential for cumulative effects with other pesticides to which an individual may be exposed. For the purposes of this assessment, therefore, Nichino America, Inc. has assumed that buprofezin does not have a common mechanism of toxicity with any other registered pesticides. Therefore, only exposure from buprofezin is being addressed at this time.

E. Safety Determination

1. *U.S. population*—i. *Acute risk*. To estimate acute aggregate exposure risk, the Agency combined the high-end value from food and water and compared it to the acute population adjusted dose (aPAD). Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to buprofezin will occupy 4% of the aPAD for females 13 years and older (no endpoint was identified for the general population including infants and children). In addition, there is potential for acute dietary exposure to buprofezin in drinking water. After calculating drinking water levels of concern (DWLOCs) and comparing them to the estimated environmental concentrations (EECs) for surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD.

ii. *Chronic risk*. Based on the toxicology data base and available information on anticipated residues, chronic dietary exposure to the U.S. population (total) was 37% of the RfD. Exposure to potential residues in drinking water is expected to be negligible, as DWLOCs are substantially higher than modeled acute and long-term EECs. The margin of exposure (MOE) from the limited potential for short-term exposure from residential uses was >1,000. Based on these assessments, it can be concluded that there is reasonable certainty of no harm to the U.S. population or any population subgroup from exposure to buprofezin.

iii. *Aggregate cancer risk for the U.S. population*. In accordance with EPA Guidelines for Carcinogen Risk Assessment (proposed July 1999), the Agency's Cancer Assessment Review Committee has classified buprofezin as having suggestive evidence of carcinogenicity, but not sufficient to assess human carcinogenic potential, and further recommended that no quantification of cancer risk is required.

2. *Infants and children*. The chronic dietary exposure was 29% of the RfD for infants and 72% of the RfD for children ages 1 to 6. Exposure to potential residues in drinking water is expected to be negligible, as DWLOCs are substantially higher than modeled acute and long-term EECs. The MOE from the limited potential for short-term exposure from residential uses was >1,000. Based on these assessments, it can be concluded that there is reasonable certainty of no harm to infants and children from exposure to buprofezin. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population and to infants and children from aggregate exposure to buprofezin residues.

F. International Tolerances

Permanent CODEX maximum residue levels have been established for residues of buprofezin in cucumbers at 1.0 ppm, tomatoes at 1.0 ppm, and citrus at 0.5 ppm.

[FR Doc. 03–6948 Filed 3–25–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0106; FRL–7299–3]

Azoxystrobin; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2003–0106, must be received on or before April 25, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308-3194; e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

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

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0106. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

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i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0106. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID Number OPP–2003–0106. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0106.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2003–0106. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI To the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 18, 2003.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner's summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interregional Research Project Number (IR-4)

PP 2E6375, 2E6488, 2E6489, and 2E6495

EPA has received pesticide petitions (2E6375, 2E6488, 2E6489, and 2E6495) from the Interregional Research Project Number (IR-4), 681 U.S. Highway #1 South, North Brunswick, NJ 08902 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.507 by establishing tolerances for residues of azoxystrobin, methyl(*E*)-2-(2-(6-(2-cyanophenoxy) pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate and the Z-isomer of azoxystrobin, methyl(*Z*)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3 methoxyacrylate in or on the following raw agricultural commodities: asparagus at 0.02 parts per million (ppm) (2E6375); brassica, head and stem, subgroup 5a at 3.0 ppm (2E6488); artichoke, globe at 4.0 ppm (2E6489); herb subgroup 19A, fresh, except chive at 50 ppm (2E6495); and herb subgroup 19A, dried, except chive at 260 ppm (2E6495). EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on these petitions. This summary has been prepared by Syngenta, the registrant.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of azoxystrobin as well as the nature of the residues is adequately understood for purposes of the tolerances.

2. *Analytical method*. An adequate analytical method, gas chromatography with nitrogen-phosphorus detection (GC-NPD) or in mobile phase by high performance liquid chromatography with ultra-violet detection (HPLC-UV), is available for enforcement purposes with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. The Analytical Chemistry section of the EPA concluded that the method(s) are adequate for enforcement. Analytical methods are also available for analyzing meat, milk, poultry and eggs which also underwent successful independent laboratory validations.

3. *Magnitude of residues*. Complete residue data for azoxystrobin on artichoke, globe; asparagus, head and stem brassica and herb subgroup 19A have been submitted. The requested tolerances are adequately supported.

B. Toxicological Profile

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary (general population including infants and children)	NOAEL=<200 mg/kg/day UF=300 Acute RfD=0.67 mg/kg/day	FQPA SF = 1X aPAD = Acute RfD + FQPA SF = 0.67 mg/kg/day	Acute neurotoxicity study in rates LOAEL = 200 mg/kg/day based on diarrhea and 2 hours post dose at all dose levels up to and including 20 mg/kg/day (the LOAEL)
Chronic dietary (all populations)	NOAEL = 18 mg/kg/day UF=100 Chronic RfD = 0.18 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD + FQPA SF = 0.18 mg/kg/day	Combined chronic toxicity carcinogenicity feeding study in rates LOAEL = 34/117 mg/kg/day in males/females based on reduced body weights in both sexes and bile duct lesions in males.
Short-term (1–7 days) incidental oral (residential)	NOAEL = 25 mg/kg/day UF = 100	FQPA SF = 1X	Prenatal developmental oral toxicity study in rates LOAEL = 100 mg/kg/day based on increased maternal diarrhea, urinary incontinence, and salivation.
Intermediate-term (1 week to several months) incidental oral (residential)	NOAEL = 20 mg/kg/day UF = 100	FQPA SF = 1X	90–Day feeding study in rats LOAEL = 211/223 mg/kg/day in males/females based on decreased body weight gain in both sexes and clinical signs indicative of reduced nutrition.
Short- intermediate-, and long-term dermal (residential)	None	None	21–Day repeated dose dermal study in rats. No dermal or systemic toxicity was seen at the limit does (1,000 mg/kg/day). This risk assessment is not required.
Short-term inhalation (1-7 days) (residential)	Oral Study NOAEL = 25 mg/kg/day (inhalation absorption rate - 100%)	LOC for MOE = 100 (residential)	Prenatal developmental oral toxicity study in rats. LOAEL = 100 mg/kg/day based on increased maternal diarrhea, urinary incontinence and salivation.
Intermediate-term inhalation (1 week to several months) (residential)	Oral Study NOAEL = 20 mg/kg/day (inhalation absorption rate - 100%)	LOC for MOE = 100 (residential)	90–Day feeding study in rats LOAEL = 211/223 mg/kg/day in males/females based on decreased body weight gain in both sexes and clinical signs indicative of reduced nutrition.
Long-term inhalation (>180 days) (residential)	None	None	This risk assessment is not applicable to the use of azoxystrobin
Cancer (oral, dermal, inhalation)	None	None	Azoxystrobin is classified as not likely to be carcinogenic in humans

2. *Metabolite toxicology*. There are no metabolites of concern based on a differential metabolism between plants and animals.

3. *Endocrine disruption*. There is no evidence that azoxystrobin is an endocrine disrupter.

C. Aggregate Exposure

1. *Dietary exposure*. Tolerance values have been established (40 CFR 180.507(a)) for the combined residues of both azoxystrobin and its Z isomer, in or on a variety of raw agricultural commodities including meat, milk and eggs. These established tolerances range from 0.02 ppm on tree nuts to 55 ppm on soybean hay.

i. *Food*. Tier I acute and chronic dietary exposure evaluations were made using the Dietary Exposure Evaluation Model (DEEM®), version 7.76 from Exponent. All processing factors used DEEM® defaults values. All consumption data for these assessments were taken from the USDA's Continuing Survey of Food Intake by individuals (CSFII) with the 1994–1996 consumption data base and the Supplemental CSFII children's survey (1998) consumption data base. These dietary exposure assessments included all registered uses and proposed uses on asparagus (0.02 ppm), brassica, head and stem subgroup 5A (3 ppm), herb subgroup 19A (250 ppm) and artichoke globe (4 ppm).

ii. *Drinking water*. There is no established maximum concentration level (MCL) for residues of azoxystrobin in drinking water. No health advisory levels for azoxystrobin in drinking water have been established. The concentration of azoxystrobin in surface water is based on generic estimated environmental concentration (GENEEC) modeling and in ground water based on screening concentration in ground water (SCI-GROW) modeling.

2. *Non-dietary exposure*. Azoxystrobin is registered for residential use on ornamentals and turf. The Agency evaluated the existing toxicological data base for azoxystrobin and assessed both the appropriate toxicological endpoints and the dose levels of concern. Dermal absorption data indicate that absorption is less than or equal to 4%.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish,

modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' Azoxystrobin is related to the naturally occurring strobilurins. Syngenta concluded that further consideration of a common mechanism of toxicity is not appropriate at this time since there are no data to establish whether a common mechanism exists with any other substances.

E. Safety Determination

1. *Infants and Children*. The chronic dietary exposure (food only) resulting from all established and proposed azoxystrobin uses was 27.6% of the reference dose (RfD) for the most sensitive subpopulation, children 1 and 2 years old. Additionally, for this same subpopulation, the acute dietary exposure (food only) resulting from all established and proposed azoxystrobin uses was 22.3% of the acute reference dose (aRfD). The EPA has determined that there is reliable data support using the standard MOE and uncertainty factor (100X for chronic and 300X for acute) for azoxystrobin and that an additional safety factor of 10 is not necessary to be protective of infants and children.

Syngenta has considered the potential aggregate exposure from food, water and non-occupational exposure routes and concludes that aggregate exposure is not expected to exceed 100% of the chronic reference dose and that there is a reasonable certainty that no harm will result to infants and children from the aggregate exposure to azoxystrobin.

[FR Doc. 03–7056 Filed 3–25–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0053; FRL–7294–6]

Quinoxyfen; Receipt of Application for Emergency Exemption; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Idaho Department of Agriculture, the Oregon Department of Agriculture, and the Washington State Department of Agriculture to use the pesticide quinoxyfen (CAS No. 124495–18–7) to treat up to a total of 19,500 acres of hops to control powdery mildew; 3,000 acres in Idaho, 3,500 acres in Oregon, and 13,000 acres in Washington. The Applicants propose the use of a new chemical which has not been registered by EPA. EPA is soliciting public comment before making the decision whether or not to grant the exemptions.

DATES: Comments, identified by docket ID number OPP–2003–0053, must be received on or before April 10, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6463; fax number: (703) 308–5433; e-mail address: Sec-18-Mailbox@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a Federal or State government agency involved in administration of environmental quality programs. Potentially affected entities may include, but are not limited to:

Federal or State Government entity, (NAICS 9241), e.g., Department of Agriculture, Environment, etc.

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

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0053. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or

other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0053. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID Number OPP–2003–0053. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0053.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2003–0053. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

What Action is the Agency Taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the Administrator determines that emergency conditions exist which require the exemption. The Idaho

Department of Agriculture, the Oregon Department of Agriculture, and the Washington State Department of Agriculture have requested the Administrator issue specific exemptions for the use of quinoxyfen on hops to control powdery mildew. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the Applicants assert that currently registered products and non-chemical control measures do not provide adequate season long control of powdery mildew on susceptible hops varieties. Powdery mildew (*S. macularis*) is a serious hop disease in many hop growing areas throughout the world. During the early part of this century, a commercial hop production industry in the State of New York was devastated due to what is believed to have been an uncontrolled outbreak of powdery mildew. Before June of 1997, this disease had not been observed in the Pacific Northwest. Quinoxyfen has been shown to be an effective fungicide against hop powdery mildew over the past 4 years of testing. Quinoxyfen has not shown any plant growth regulatory effects or adverse impact to cone size. Additionally, quinoxyfen is a quinoline fungicide, which will provide growers with a new mode of action to control powdery mildew.

The U.S. is the second largest producer of hops in the world. The States estimate that there will be an 8% to 30% loss of gross revenues without the use of quinoxyfen.

The Applicants propose to apply no more than 6 to 8 fluid ounces of formulated product, containing 22.58% quinoxyfen (0.098 to 0.13 pound/active ingredient) per acre per application. No more than four applications per acre per year will be made. A total of 19,500 acres of hops may be treated; up to 3,000 acres of hops in Idaho, 3,500 acres of hops in Oregon, and 13,000 acres of hops in Washington State. Applications will be made from July 1, 2003, through September 15, 2003. Based on the maximum application rate and a total of four applications per acre, up to 10,140 pounds of quinoxyfen could be applied.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 of FIFRA require publication of a notice of receipt of an application for a specific exemption proposing ''use of a new chemical (i.e., an active ingredient) which has not been registered by EPA.''

The Agency, will review and consider all comments received during the comment period in determining whether to issue the specific exemptions requested by the Idaho Department of Agriculture, the Oregon Department of Agriculture, and the Washington State Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 13, 2003.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 03–6947 Filed 3–25–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0008; FRL–7289–2]

Vinclozolin; Notice of Filing a Pesticide Petition To Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations to make permanent the tolerances for residues, and to extend existing tolerances for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP– 2003–0008, must be received on or before April 25, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Mary L. Waller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9354; e-mail address: *waller.mary@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)
- Antimicrobial pesticides (NAICS 32561)

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

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0008. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

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For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0008. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2003–0008. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0008.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2003–0008. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 18, 2003.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

BASF Corporation

PP 1F6278

EPA has received a pesticide petition (1F6278) from BASF Corporation, Agricultural Products, P.O. Box 13528, Research Triangle Park, NC 27709–3528 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180.380 by making permanent the tolerances for residues of vinclozolin, 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its metabolites containing the 3,5-dichloroaniline moiety in or on the raw agricultural commodities canola at 1.0 parts per million (ppm); eggs, milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 ppm; and in the meat, fat, and meat byproducts of poultry at 0.1 ppm. In addition, BASF had proposed extending the existing tolerance on succulent beans at 2.0 ppm for an additional 2 years. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. BASF Corporation notes that metabolism in plants is understood, the residues of concern are vinclozolin, 3-(3,5-dichlorophenyl)-5-methyl-5-vinyl-1,3-oxazolidine-2,4-dione) and metabolites containing the 3,5-dichloroanaline moiety.

2. *Analytical method*. The proposed analytical method involves extraction, hydrolysis, distillation, partition, and deriviatization followed by detection of residues by gas chromatograph/electron capture detector (gc/ecd). An enforcement method has been published in FDA's Pesticide Analytical Methods, Volume II pg. 876–887.

3. *Magnitude of residues*. Data previously submitted in support of the tolerances in canola, succulent beans and meat, milk, poultry, and eggs have been reviewed by the Agency and been found adequate to support the tolerances requested.

B. Toxicological Profile

1. *Acute toxicity*. On July 18, 2000, EPA published in the **Federal Register** (65 FR 44453) (FRL–6594–8), time limited tolerances for vinclozolin in canola, succulent beans and meat, milk, poultry and eggs. The toxicological profile as reported in that **Federal Register** is repeated in this Notice. A battery of acute toxicity studies placed technical vinclozolin in toxicity category IV for acute oral toxicity lethal dose $(LD)_{50}$ of > 10,000 milligrams/kilograms (mg/kg)), and acute inhalation toxicity (LC_{50} of 29.1 mg/liter (L)); and toxicity category III for acute dermal toxicity (LD_{50} of > 5,000 mg/kg). Technical vinclozolin caused minimal eye and dermal irritation and the technical material is positive for skin sensitization.

2. *Genotoxicity*. Genotoxicity testing showed no evidence of mutagenic activity. (For details see the July 18, 2000 **Federal Register** (65 FR 44453)).

3. *Reproductive and developmental toxicity*—i. In four developmental toxicity studies, vinclozolin was given orally from gestational day (gd) 6 through 19 as follows: Study 4—dose levels of 0, 15, 50, or 150 mg/kg/day; study 5—dose levels of 0, 50, 100, 200 mg/kg/day; study 6—dose levels of 0, 200, 400 mg/kg/day; and study 8—dose levels of 0, 600, and 1,000 mg/kg/day. At the gd 20, the fetuses were evaluated.

The developmental toxicity no observed adverse effect level (NOAEL) was set at 15 mg/kg/day and the developmental lowest observed adverse effect level (LOAEL) was 50 mg/kg/day. The maternal toxicity LOAEL was < 600 mg/kg/day.

ii. A developmental study in rats via dermal exposure for 6 hours/day on intact skin with dosages of 0, 60, 180, and 360 mg/kg/day highest dose tested (HDT) had a developmental NOAEL of 60 mg/kg/day and a maternal NOAEL of 60 mg/kg/day.

iii. A developmental study in rabbits via oral gavage resulted in dosages of 0, 20, 80, and 300 mg/kg/day HDT with a developmental NOAEL of 300 mg/kg/day and a maternal NOAEL of 300 mg/kg/day.

iv. A second developmental study in rabbits via oral gavage resulted in dosages of 0, 50, 200, and 800 mg/kg/day HDT with a development toxicity NOAEL of 200 mg/kg/day and a maternal toxicity NOAEL of 50 mg/kg/day.

A two-generation rat reproduction study (consisting of two studies: Study A—dose levels of 0, 2.0 and 4.1 mg/kg/day; study B—dose levels of 0, 4.9, 29, 100, and 307 mg/kg/day) with a reproductive NOAEL of 4.9 mg/kg/day and pup effects at 29 mg/kg/day; and with a parental NOAEL of 4.9 mg/kg/day. (For a detailed discussion of the

results of these studies see the **Federal Register** of July 18, 2000 (65 FR 44453)).

4. *Chronic toxicity*—i. A 1–year chronic feeding study in dogs fed dosages of 0, 1.1, 2.4, 4.9, and 48.7 mg/kg/day with a NOAEL of 2.4 mg/kg/day.

ii. A combination of 2 chronic feeding studies and 1 carcinogenicity study resulted in rats being fed combined dosages of 0, 1.2, 2.4, 7.0, 23, 71, 143, and 221 mg/kg/day (males) and 0, 1.6, 3.1, 7.0, 23, 71, 180, and 221 mg/kg/day (females) with a NOAEL of 1.2 mg/kg/day (males) and 1.6 mg/kg/day (females). An increased incidence of neoplasms occurred at dose levels greater than the maximum tolerated dose (MTD) of greater than or equal to 23 mg/kg/day in the liver, adrenal, pituitary, prostate (males), uterus (females), and ovaries (females) at dose levels greater than or equal to 143 mg/kg/day. In the testes (males), Leydig cell adenomas were seen at the MTD for dose levels greater than or equal to 23.0 mg/kg/day due to the anti-androgenic nature of vinclozolin.

5. *Carcinogenicity*. A carcinogenicity study in mice fed dosages of 0, 2.1, 20.6, 432, and 1,225 HDT mg/kg/day (males) and 0, 2.8, 28.5, 557, and 1,411 (HDT) mg/kg/day (females) with a NOAEL of 20.6 mg/kg/day (males) and 28.5 mg/kg/day.

An increased incidence of neoplasms occurred at dose levels greater than the maximum tolerated dose (> 28.5 mg/kg/day) in the liver of female mice. (For a detailed discussion of the results of these studies see the **Federal Register** of July 18, 2000 (65 FR 44453)).

C. Toxicological Endpoints

EPA determined the following toxicological endpoints as reported in the **Federal Register** Notice of July 18, 2000. That reference provides a complete description of the Agency's rationale for the values assigned.

1. *Acute toxicity*. EPA selected the NOAEL of 6 mg/kg/day. The population subgroup of concern is females (13+) because the endpoint is an *in utero* effect applicable only to females of childbearing age. An uncertainty factor (UF) of 100 was used to account for interspecies extrapolation and intraspecies variation. On this basis, the acute reference dose (aRfD) is 0.06 mg/kg/day. EPA determined that a 10X FQPA safety factor is applicable. The acute population adjusted dose (aPAD) is 0.006 mg/kg/day. An acute dose and endpoint were not identified for other population subgroups.

2. *Chronic toxicity*. EPA has established the Reference Dose (RfD) for vinclozolin at 0.012 mg/kg/day. This RfD is based on a NOAEL of 1.2 mg/kg/day from the combined chronic toxicity/carcinogenicity study in rats. An UF of 100 was used to account for interspecies extrapolation and intraspecies variation. A 10X FQPA safety factor was added resulting in a chronic population adjusted dose (cPAD) of 0.0012 mg/kg/day.

3. *Short- and intermediate-term toxicity*. For short- and intermediate-term dermal and inhalation toxicity, the NOAEL of 3 mg/kg/day from a rat developmental toxicity study was selected for the population subgroup of concern, females (13+). A dermal absorption factor of 25% was used to correct for route-to-route extrapolation (oral to dermal exposure) and a default inhalation absorption factor of 100% was assumed for oral to inhalation exposure. The margin of exposure (MOE) for females (13+), infants and children is 1,000X.

4. *Long-term dermal and inhalation toxicity (cancer and non-cancer)*. For chronic non-cancer and cancer dermal and inhalation toxicity, EPA selected the chronic NOAEL of 1.2 mg/kg/day from the combined rat chronic toxicity/carcinogenicity study. The Q^{1*} calculated in a low-dose linear extrapolation is 2.9×10^{-1} (mg/kg/day). A dermal absorption factor of 25% was used to correct for route-to-route extrapolation (oral to dermal exposure) and a default inhalation absorption factor of 100% was assumed for oral to inhalation exposure. The cancer assessment includes not only the adult U.S. population but also infants and children as well.

5. *Carcinogenicity*. Vinclozolin is classified as a Group C carcinogen based on Leydig (interstitial testicular) cell tumors in a perinatal rat developmental toxicity study. A non-linear (MOE) approach was determined to be appropriate based on a weight-of-the-evidence conclusion that tumor induction is via an anti-androgenic mechanism. Use of the PAD for overall anti-androgenic effects (0.0012 mg/kg/day) is also protective of cancer effects because it is protective of the anti-androgenic effects that are, in effect, precursors to tumor formation.

6. *Overall anti-androgenic effects*. The Agency has determined that use of the most sensitive regulatory toxicity endpoint and the highest UF would be protective of the anti-androgenic effects on all population subgroups caused by vinclozolin including developmental/reproductive effects as well as carcinogenic effects. In the case of vinclozolin, the most sensitive toxicity endpoint/dose and UF are derived from the rat oral chronic/carcinogenicity study, i.e., the NOAEL of 1.2 mg/kg/day and an UF of 1,000. The PAD of 0.0012 mg/kg/day was used in assessment of risks resulting from the anti-androgenic activity of vinclozolin.

7. *Endocrine disruption*. A series of mechanistic studies (*in vivo* and *in vitro*) were conducted to define the anti-androgenic properties of vinclozolin. The results of these studies showed that vinclozolin elicits the anti-androgenic effects by binding to androgen sensitive organs.

D. Aggregate Exposure

For a detailed discussion of the results of these exposure calculations see the **Federal Register** of July 18, 2000 (65 FR 44453).

1. *Dietary exposure*. The Agency has previously calculated exposures and risks for the canola green beans, meat, milk, poultry and eggs. The same calculations should be applied to re-establishing these tolerances.

i. *Food—a. acute exposure and risk*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. The Agency concluded that acute dietary exposure estimates for the only population subgroup of concern, females (13+), that ''The very conservatively estimated acute dietary risk (food only) does not exceed the Agency's level of concern (LOC).''

b. Chronic exposure and risk. The chronic dietary exposure estimates expressed as a percentage of the cPAD (0.0012 mg/kg/day) were 4% for the U.S. population and 7% for the most highly exposed population subgroup, children (1–6 years old). EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risk to human health. Therefore, the chronic dietary risk (food only) does not exceed the Agency's LOC.

ii. *For cancer and anti-androgenic risk assessment*. EPA believes that vinclozolin should be classified as a Group C carcinogen. However, due to the relationship between vinclozolin's anti-androgenic properties and its carcinogenic effects, the Agency believes protecting against the anti-androgenic effects would also be protective against potential carcinogenic effects to all population subgroups (including infants and children).

Accordingly, the cPAD will be protective against potential carcinogenic effects as well as the developmental/reproductive effects. The cPAD already incorporates the full, additional 10x

safety factor for the protection of infants and children (i.e., it is derived from the NOAEL of 1.2 mg/kg/day with an MOE of 1,000 – 10x for intraspecies extrapolation; 10x for interspecies variation; and 10x for FQPA). Since this approach (using the cPAD) would be more protective than the proposed POD for cancer risk assessment of 3 mg/kg/day, and includes an additional 10x factor for the protection of infants and children, a separate non-linear risk assessment for cancer is not necessary.

Exposure estimates expressed as a percentage of the anti-androgenic PAD (0.0012 mg/kg/day) were 4% for the general U.S. population and 7% for the most highly exposed population subgroup, children (1–6 years old). In addition, as a point of comparison, the MOE was calculated to be 75,000 for the general U.S. population and 38,000 for children (1–6 years old).

2. *Drinking water*. In general, available monitoring data are of limited use because metabolite concentration measurements were not performed. For both surface water and ground water, the sum of vinclozolin and its principal metabolites, assumed to degrade completely to 3,5-dichloroaniline (here-in-after referred to as 3,5-DCA), have been used to assess the cancer risk associated with 3,5-DCA whereas vinclozolin per se has been used for the vinclozolin risk assessments.

In the absence of reliable, available monitoring data, EPA uses models to calculate the estimated environmental concentrations (EECs) of pesticides in ground water and surface water. However, EPA does not use these model estimates to quantify risk. Currently, EPA uses drinking water level of concerns (DWLOCs) as a surrogate to capture risk associated with exposure to pesticides in drinking water. A DWLOC represents the concentration of a pesticide in drinking water that would be acceptable as an upper limit in light of total aggregate exposure to that pesticide from food, water, and residential uses (if any). A DWLOC will vary depending on the residue level in foods, the toxicity endpoint and the drinking water consumption patterns and body weights for specific population subgroups. The calculated DWLOC is compared to the model estimate (EEC), and if the model estimates are below the DWLOC, the risks are not considered to be of concern.

For estimating ground water concentrations of vinclozolin and 3,5-DCA, EPA used the Screening Concentration in Ground Water (SCI-GROW) model. Using SCI-GROW, the acute and chronic ground water EEC of vinclozolin per se is 0.53 parts per billion (ppb), and the acute and chronic ground water EEC of 3,5-DCA is 2.65 ppb.

For estimating surface water concentrations of vinclozolin and 3,5-DCA, EPA used tier II models, Pesticide Root Zone Model (PRZM) 3.12 and Exposure Analysis Modeling System (EXAMS) 2.975. The acute (peak) surface water EEC for vinclozolin is 5.68 ppb and for 3,5-DCA is 26 ppb. The chronic (annual mean) surface water EEC for vinclozolin is 0.165 ppb and for 3,5-DCA is 3.12 ppb.

i. *Acute exposure and risk*. For the population subgroup of concern, females (13+), the DWLOCs for vinclozolin per se at the various percentiles of exposure are as follows: 0 ppb at the 99.9th percentile; 4 ppb at the 99.85th percentile; 30 ppb at the 99.8th percentile; 47 ppb at the 99.75th percentile; 80 ppb at the 99.6th percentile; and 92 at the 99.5th percentile. At all but the very highest percentiles of exposure (99.85th and above), the DWLOC for vinclozolin per se is higher than the EEC of 5.68 ppb in surface water and 0.53 ppb in ground water. Given the level of refinement in the vinclozolin exposure estimate, using the highest percentiles of exposure in estimating risk would unreasonably overstate risk. Therefore, there is reasonable certainty that exposure to vinclozolin per se in drinking water will result in no harm.

ii. *Chronic exposure and risk*. The following chronic DWLOCs were calculated for vinclozolin per se: General U.S. population, 41 ppb; females (13+) 35 ppb; and children (1–6 years old), 11 ppb. The lowest DWLOC of 11 ppb for children 1–6 years old is higher than the EEC of 0.165 ppb in surface water and 0.53 ppb in ground water. Therefore, there is reasonable certainty that exposure to vinclozolin in drinking water will result in no harm.

3. *Non-dietary exposure*. From non-dietary exposure. There are no vinclozolin pesticide products registered for use by homeowners. Therefore, there is no potential for homeowner handler exposure to vinclozolin pesticide products. Vinclozolin can, however, be occupationally used in a manner that may lead to post-application exposures to the general population, in particular, golfers playing on treated golf courses and homeowners and their families coming into contact with or playing on sod which was previously treated on a sod farm. A chemical-specific turf exposure study was used to measure human exposure as well as residue dissipation over time.

All residential exposures are considered to be short-/intermediate-term duration (i.e., 1 day to 1 week and 1 week to several months, respectively), and the same endpoint applies to both durations of exposure. As the endpoints selected are from oral toxicity studies (NOAEL of 3 mg/kg/day for females (13+)) and NOAEL of 5 mg/kg/day for infants and children, route-to-route exposure was corrected by applying a 25% dermal absorption factor and a 100% default inhalation absorption factor was assumed. A 100% safety factor was used and a 10X FQPA safety factor was added raising the Agency's LOC to 1,000.

Post-application risks to the general population were considered for golfers following treatment of greens, tees, and fairways. Adult golfer exposures, women (13+), were less than the Agency's LOC even on the day of application (MOE = 1,700). Given the magnitude of the MOE for adult women golfers, the Agency does not believe that the risks to child golfers would exceed the Agency LOC either because the skin surface area/body weight ratio of the typical child golfer is similar to that of adults (within 15%). Therefore, the MOE for a child golfer is only slightly less than the MOE for adult golfers.

Since the risk assessment published in the **Federal Register**, of July 18, 2000 (65 FR 44453) establishing the tolerances in canola, BASF has established a 24 day preharvest interval for the harvest of turf for transplant into residential settings. The MOE calculated under this scenario is 1,100 which is below the Agency's LOC.

E. Cumulative Effects

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

Vinclozolin, procymidone, and iprodione are members of the imide group of the dicarboximide class of fungicides. Each of these three pesticides can metabolize to 3,5-DCA. FQPA requires EPA to estimate cumulative risk from consumption of food and water containing 3,5-DCA derived from vinclozolin, iprodione, and procymidone.

1. *Acute exposure and risk*. EPA has certain evidence that these compounds induce similar toxic effects but has not

yet determined whether or not these compounds modulate androgens by a common mechanism of toxicity. In fact, there is evidence that iprodione does not share a common mechanism of toxicity as it disrupts the endocrine system by inhibiting androgen synthesis rather than competing for the androgen receptor as vinclozolin does. In addition, these three chemicals do not have any known metabolites/degradates in common with the possible exception of 3,5-DCA which is structurally and toxicologically different from the parent compounds and unlikely to be an androgen receptor antagonist.

EPA has, at this time, some data which suggests that vinclozolin and procymidone have a common mechanism of toxicity. An article published in *Toxicology & Industrial Health* (Vol. 15, ISS 1–2, 1999, pg. 80–93) which reports the findings by Dr. Earl Gray, National Health and Environmental Effects Research Laboratory, U.S. EPA, Research Triangle Park, NC, suggests that procymidone alters sexual differentiation in the male rat by acting as an androgen-receptor antagonist *in vivo* and *in vitro*. The Agency has yet to make a conclusion as to whether these data are sufficient to evaluate whether vinclozolin and procymidone have a common mechanism of toxicity.

Even if it is assumed that vinclozolin and procymidone share a common mechanism of toxicity, a finding of reasonable certainty of no harm for vinclozolin can be made because any cumulative risk resulting from adding procymidone residues in wine to vinclozolin exposure is unlikely to differ significantly from the risk of vinclozolin alone. This conclusion is based on a number of factors. The exposure assessment for vinclozolin estimates that vinclozolin exposure through wine grapes contributes < 2% of the total vinclozolin exposure. The percent of imported wine grapes that are treated with procymidone is similar to that of vinclozolin (estimated 10% of wine grapes treated with vinclozolin and 9.4% of wine grapes treated with procymidone), and therefore, the exposure pattern for these chemicals is similar. In addition, the exposure estimates conservatively assume that all wine bearing vinclozolin residues also contain procymidone residues. In all likelihood, wine grapes would be treated with either vinclozolin or procymidone but not both chemicals. Vinclozolin exposure and procymidone exposure through wine grapes would each add < 2% to the ''cumulative exposure.'' As noted above, the acute food-only risk of vinclozolin is 83% of the aPAD at the 99.8th percentile of exposure, and the acute ground water EEC of 0.53 ppb and the acute surface water EEC of 5.68 ppb are lower than the drinking water DWLOC which is 30 ppb at the 99.8th percentile of exposure. There is ultimately enough room in the risk cup to accommodate vinclozolin and procymidone risk, even, if in the future, EPA does determine that procymidone and vinclozolin share a common mechanism of toxicity.

2. *Carcinogenic exposure and risk.* Since 3,5-DCA is not a registered pesticide, there is no FIFRA toxicology data base for this compound. In previous risk assessments, EPA has used the Q^{1*} for p-chloroaniline (PCA) to assess the carcinogenicity (only toxicological endpoint identified for 3,5-DCA) for other structurally related chloroanilines. EPA's approach on chloroanilines is to consider chloroaniline metabolites to be toxicologically equivalent to PCA unless there is sufficient evidence that the metabolite is not carcinogenic. A Q^{1*} of 6.38×10^{-2} (mg/kg/day) has been calculated for p-chloroaniline based on the spleen sarcoma rate in male rats from a National Toxicology Program bioassay.

Exposure to 3,5-DCA was evaluated from the following sources: Residues of vinclozolin- and iprodione-derived 3,5-DCA in food and wine, residues of procymidone-derived 3,5-DCA in imported wine, and 3,5-DCA residues in water from domestic agricultural uses of iprodione and vinclozolin. There are no U.S. registrations for procymidone. Therefore, an evaluation of exposure to procymidone-derived 3,5-DCA in water is not appropriate.

3. *Food risk*—i. *From vinclozolin-derived 3,5-DCA residues.* Cancer risks were 2.6×10^{-7} for all crops, excluding strawberries and stone fruits. BASF notes that the last day for legal use of vinclozolin in either strawberries or stonefruit was January 2000. In effect neither commodity has been treated with vinclozolin since the 1999 use season. In addition, the last day for legal use of vinclozolin on onions and raspberries was December 15, 2001. As a result the theoretical cancer risk calculated is an overestimation and these risks do not exceed the Agency's LOC.

ii. *From iprodione-derived 3,5-DCA residues.* As stated in the July 1998 Iprodione RED fact sheet, the cancer risk associated with 3,5-DCA derived from iprodione was 6×10^{-9}. This risk does not exceed the Agency's LOC.

iii. *From procymidone-derived 3,5-DCA residues.* The cancer risk associated with 3,5-DCA in imported wine produced from grapes treated with procymidone was estimated to be 3.7×10^{-7}. This risk does not exceed the Agency's LOC.

4. *Drinking water risk*—i. *From vinclozolin derived 3,5-DCA.* Since the use on onions has been eliminated, the carcinogenic DWLOC for 3,5-DCA (based on the commodities currently available for consumption) has been calculated to range from 0.46 ppb to 1.6 ppb. Using Tier II PRZM/EXAMS, the modeled EECs are 0.64 ppb for lettuce and 0.34 ppb for canola. The use site which represents the highest modeled exposure in drinking water is golf courses. Application to golf course turf is currently permitted on grass mowed at 1 inch or less. Using the Tier I generic expected environmental concentration (GENEEC) model, the Agency has calculated a chronic EEC of 0.29 ppb based on application to tees and greens and a chronic EEC of 2.33 ppb assuming application to tees, greens, and fairways. These EECs were the result of refinements to the GENEEC model. These refinements included the incorporation of an 87 percent crop area factor as well as the percentage of the golf course that actually receives pesticide treatment, bringing the resulting PCA factor down to 17%. It was assumed that tees and greens comprise 2.8% of the acreage of a golf course. When fairways are included, an additional 16.7% of the golf course is treated. The EEC of 2.33 ppb exceeds the DWLOC. In evaluating whether this EEC indicated a risk of concern EPA considered the following factors:

ii. *The drinking water assessment on turf is based on GENEEC, a screening-level Tier I model.* At present, PRZM-EXAMS, the Tier II model, does not have the appropriate parameters to accurately model turf runoff. Although GENEEC is not an ideal tool for use in drinking water risk assessments, it can provide high-end estimates of the concentrations that might be found in a confined pond of one hectare. Drinking water from surface water sources does not typically come from this type of scenario, but rather from bodies of water that are substantially larger than such ponds and from diverse watersheds. Unlike a confined pond, there is always some flow (in a river) or turn over (in a lake or reservoir) resulting in an over-estimation of the persistence of the chemicals near the drinking water utility intakes. Although a PCA of 17% was used to refine the model, the Agency recognizes that there are still uncertainties in the accuracy of the model to represent drinking water concentrations.

iii. *The GENEEC model uses the 56–day average of pesticide concentrations immediately after an event (application of pesticide).* This short time-period may not adequately characterize a person's average daily exposure over a year, even more so, over a life time of 70 years.

iv. *The GENEEC model assumes that once in every 10 years the EEC will be exceeded.* For the other 9 out of 10 years the level of residue in drinking water is likely to be below the EEC with at least one half of the years falling significantly below by a factor of 5 to 10. Therefore, a person may be exposed to the EEC once in every 10 years or a total of 7 times during a lifetime of 70 years. The Agency believes the potential for such a lifetime exposure is minimal.

v. *Iprodione 3,5-DCA.* As stated in the RED, the DWLOC for 3,5-DCA derived from domestic uses of iprodione was estimated to be 0.55 ppb. The 3,5-DCA EEC in surface water associated with the use of iprodione alone was estimated to be 0.45 ppb. Thus, the iprodione derived 3,5-DCA carcinogenic DWLOC is not exceeded.

vi. *From procymidone 3,5-DCA.* There is no drinking water exposure because procymidone is not registered for use in the United States.

The cumulative, food-only cancer risk associated with 3,5-DCA derived from all three of these imide fungicides is 6.3 x 10^{-7} when stone fruit and strawberries are excluded from consideration. There is uncertainty in the above risk estimates in that a surrogate Q^{1*} is being used for 3,5-DCA. However, due to the structural similarities of 3,5-DCA and p-chloroaniline (PCA), EPA believes that for 3,5-DCA, the use of the PCA Q^{1*} represents an upper-bound estimate.

The 3,5-DCA DWLOC from all three imide fungicides and those currently registered vinclozolin uses which are not being supported after this use season ranges from 0.26 ppb to 1.4 ppb. The estimated concentration of 3,5-DCA in water from applications of iprodione (1998 iprodione RED) is 0.45 ppb and falls within the range of the aggregated DWLOC cited above. The estimated concentration of 3,5-DCA in water from applications of vinclozolin is estimated to range from 0.29 ppb to 2.33 ppb.

As already stated, this range could potentially present a risk of concern based on the model, however, based on how the model estimates residue concentrations for cancer assessment, it is unlikely that a cancer risk of concern is present.

F. Safety Determination

1. *U.S. population*—i. *Acute risk.* The acute dietary (food only) risk does not exceed the Agency's LOC at the percentiles of exposure up to the 99.8th percentile. Using anticipated residues, PCT data, and PICT data, the population subgroup of concern, females (13+) utilized 83% of the dietary (food only) aPAD at the 99.8th percentile of exposure. For drinking water, the EEC of 5.68 ppb in surface water and the EEC of 0.53 in ground water did not exceed the DWLOC of 30 ppb at the 99.8th percentile of exposure.

ii. *Chronic risk.* Using the exposure assumptions described above, aggregate dietary exposure to the U.S. population will use 4% of the cPAD and exposure to the most highly exposed population subgroup, children (1–6 year old) will use 7% of the cPAD. The chronic DWLOCs for vinclozolin were 41 ppb for the general U.S. population and 35 ppb for the most highly exposed population subgroup, women (13+). The chronic DWLOCs were higher than the chronic EEC of 0.53 ppb in ground water and 0.165 ppb in surface water. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

2. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. All residential exposures are considered to be short- and intermediate-term duration and since the same endpoint applies to both durations of exposures, the dermal and inhalation exposures must be aggregated together with the food and water exposures for each population subgroup of concern, females (13+) and infants and children. Since the risk assessment published in the **Federal Register** of July 18, 2000 (65 FR 44453), establishing the tolerances in canola, BASF has established a 24–day preharvest interval for the harvest of turf for transplant into residential settings. The MOE calculated under this scenario is 1,100 which is below the Agency's LOC.

3. *Aggregate cancer risk for U.S. population.* Because the overall anti-androgenic effects are a prerequisite for hyperplasia and tumor formation, and are considered to be protective of the potential carcinogenic outcome of exposure to the anti-androgenic vinclozolin and its metabolites, the overall anti-androgenic aggregate risk which are identical to the chronic aggregate risk. The chronic aggregate risks are presented. The chronic (non-cancer) aggregate risk was below the Agency's LOC for food and drinking water sources of exposure. Chronic food-source risks were less than or equal to 7% of the cPAD when stone fruit and strawberries are excluded (uses have been canceled). EECs were compared to the chronic DWLOCs. The chronic EEC for residues of vinclozolin per se in ground water (0.53 ppb) was below the chronic DWLOCs for water consumption by adults (41 ppb for the general U.S. population and 35 ppb for females (13+)) and by children (11 ppb).

Cancer risks from vinclozolin derived 3,5-DCA were 2.6 x 10^{-7} for all crops, excluding strawberries and stone fruits. This risk does not exceed the Agency's LOC. The 3,5-DCA DWLOC from all three imide fungicides (including canola, succulent beans, onions, and raspberries) ranges from 0.26 ppb to 1.4 ppb. It should be noted that vinclozolin is no longer used in onions and raspberries. The 3,5-DCA EEC resulting from iprodione use is 0.45 ppb and falls with the range of the aggregated DWLOC cited above. The 3,5-DCA EEC resulting from vinclozolin use is estimated to range from 0.29 ppb to 2.33 ppb. As already stated, this range could potentially present a risk of concern based on the model, however, based on how the model estimates residue concentrations for cancer assessment, it is unlikely that a cancer risk of concern is present.

4. *Determination of safety.* Based on these risk assessments, there is a reasonable certainty that no harm will result from aggregate exposure to vinclozolin residues.

5. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of vinclozolin, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation.

Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children.

6. *Prenatal and postnatal sensitivity*. The rationale for retaining the 10X FQPA safety factor is explained below:

i. There is evidence of increased susceptibility of offspring following *in utero* exposure to vinclozolin in the prenatal developmental toxicity study in rats.

ii. A developmental neurotoxicity study in rats with an expanded protocol is required for vinclozolin as a result of concern for the anti-androgenic properties of vinclozolin and its metabolites.

G. Conclusion

Based on the developmental and reproductive data for vinclozolin, EPA determined that an additional 10X safety factor for the protection of infants and children (as required by FQPA) should be retained.

1. *Acute risk*. No study with vinclozolin indicated that acute exposure to vinclozolin is likely to cause an adverse effect of concern on infants or children or the general public with the exception of the *in utero* effects on the developing fetus. Risks to the fetus are estimated by examining exposure to women of child-bearing age.

2. *Chronic risk*. Using the exposure assumptions described in this unit, it is concluded that aggregate exposure to vinclozolin from food will utilize 7% of the cPAD for infants and children. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Since the EEC's for residues of vinclozolin per se are lower than the chronic DWLOC's, aggregate exposure will not exceed 100% of the cPAD.

3. *Short- or intermediate-term risk*. The MOE is greater than or equal to 1,010 for aggregate risks to infants and children resulting from use of vinclozolin. Therefore, the risks do not exceed the Agency's LOC.

4. *Determination of safety*. Based on these risk assessments, there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to vinclozolin residues.

H. International Tolerances

CODEX maximum residue limits (MRLs) for residues of vinclozolin and its metabolites containing the 3,5-DCA moiety have been established in common bean at 2 ppm, rape seed at 1 ppm (no limit for canola), cattle meat and milk at 0.5 ppm, and chicken meat and eggs at 0.05 ppm. No Canadian or Mexican tolerances have been established for vinclozolin residues in succulent beans, rape, canola, meat, milk, poultry, or eggs.

The CODEX MRLs for canola (rapeseed), cattle meat, cattle milk, and poultry eggs are in harmony with the proposed tolerances associated with this petition. The chicken meat MRL (0.05 ppm) is not in harmony with the proposed tolerance in poultry meat (0.1 ppm) due to recovery discrepancies with the analytical method.

[FR Doc. 03–7246 Filed 3–25–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0324; FRL–7282–2]

Revised Final Health Effects Test Guideline; Skin Sensitization; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: With this notice, EPA is announcing the availability of the revised final test guideline for Series 870–Health Effects Test Guidelines, OPPTS 870.2600 Skin Sensitization. EPA has established a unified library for test guidelines issued by the Office of Prevention, Pesticides and Toxic Substances (OPPTS) for use in testing chemical substances to develop data for submission to EPA under the Toxic Substances Control Act (TSCA), the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). These test guidelines represent an Agency effort that began in 1991 to harmonize the test guidelines within OPPTS, as well as to harmonize the OPPTS test guidelines with those of the Organization for Economic Cooperation and Development (OECD). The process for developing and amending these test guidelines includes public participation and the extensive involvement of the scientific community, as warranted, including peer review by the Scientific Advisory Panel (SAP), the Scientific Advisory Board (SAB) and other expert scientific organizations, as well as determination of validation status by the Interagency Coordinating Committee for Validation of Alternative Methods (ICCVAM).

FOR FURTHER INFORMATION CONTACT: *For general information contact*: TSCA information contact: TSCA Hotline at TAIS/7408, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

FIFRA information contact: Communications Services Branch (7506C), Field and External Affairs Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5017; fax number: (703) 305–5558.

For FIFRA technical information contact: Deborah McCall, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7109 e-mail address: mccall.deborah@epa.gov.

For TSCA technical information contact: Ronald Ward, Ph.D., Risk Assessment Division (7403M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8926; e-mail address: ward.ron@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who are or may be required to conduct testing of chemical substances under TSCA, FFDCA, or FIFRA, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Copies of This Document and Other Related Information?

A. Docket

EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0324. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is

open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

B. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/.You may also obtain copies of test guidelines from the EPA Internet Home Page at http://www.epa.gov/opptsfrs/home/guidelin.htm.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit II.A. Once in the system, select ''search,'' then key in the appropriate docket ID number.

III. What Action is EPA Taking?

EPA is announcing the availability of the revised final test guideline for Series 870–Health Effects Test Guideline, OPPTS 870.2600 Skin Sensitization. In 1996, the SAP reviewed the use of the Local Lymph Node Assay (LLNA) as a screening method in the Agency's harmonized test guideline OPPTS 870.2600 Skin sensitization. The LLNA is a test method for assessing the potential allergic contact dermatitis (skin sensitization) of chemicals and compounds. In January 2001, the assay was found to be scientifically valid by ICCVAM peer review (Ref. 1) as an alternative method, where applicable, to the traditional guinea pig tests (Guinea Pig Maximization Test (GPMT) (Ref. 2) and Buehler tests (Ref. 3)) which are currently accepted by regulatory authorities. This alternative test also provides animal welfare advantages. The Agency has now revised its harmonized test guideline OPPTS 870.2600 Skin Sensitization to incorporate the LLNA for use as an alternative method for assessing skin sensitization under the appropriate circumstances. The availability of the draft revised final test guideline OPPTS 870.2600 was announced in the **Federal Register** on September 12, 2001 (66 FR 47478) (FRL–6801–6). The draft revised guideline was reviewed by EPA's SAP in a public meeting on December 11, 2001, and recommendations of the SAP were incorporated into the revised test protocol. The guideline has been harmonized with OECD test guideline 429 Skin Sensitization: Local Lymph Node Assay which was adopted by OECD on April 24, 2002. It should be recognized that there are certain testing situations that may necessitate the use of traditional guinea pig tests. The LLNA may not be appropriate for all types of test materials, such as certain metallic compounds, high molecular weight proteins, strong dermal irritants and materials that do not sufficiently adhere to the ear for an acceptable period of time during treatment. When using the LLNA, particular care should be taken to ensure that hydrophilic materials are incorporated into a vehicle system that wets the skin and does not immediately run off. Thus, wholly aqueous vehicles or test materials and runny liquids are to be avoided. In all instances, the tester must document that appropriate techniques were used to facilitate adherence to the mouse ear for an adequate exposure duration. It may be possible to use the LLNA to test some of these materials if appropriate techniques are used to facilitate adherence. In situations for test materials where the LLNA is not applicable or may provide unreliable or problematic results, the GPMT tests are recommended. Although the LLNA, GPMT, or Buehler tests are considered to be acceptable tests, it is recognized that other tests may give useful results. If other tests are used, the investigator must provide justification/reasoning for use of other procedures and methods and protocols must be provided. A positive and negative control group must be included in each test.

IV. Are There Any Applicable Voluntary Consensus Standards That EPA Should Consider?

This notice of availability does not involve a proposed regulatory action that would require the Agency to consider voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Section 12(d) of NTTAA directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide an explanation to Congress, through Office of Management and Budget (OMB), when the Agency decides not to use available and applicable voluntary consensus standards when the NTTAA directs the Agency to do so.

V. References

The following references are cited in this document.

(1) *The Murine Local Lymph Node Assay: A Test Method for Assessing the Allergic Contact Dermatitis Potential of Chemicals/Compounds.* Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), National Institutes of Environmental Health Sciences, NIH Publication No. 99–4494 (1999). (Document available at http://iccvam.niehs.nih.gov/methods/llnadocs/llnarep.pdf.)

(2) Magnusson, B. Identification of contact sensitizers by animal assay. *Contact Dermatology* 6:46 (1980).

(3) Buehler, L.V. Occ1usive patch method for skin sensitization in guinea pigs: the Buehler method. *Food and Chemical Toxicology* 32:97101 (1994).

List of Subjects

Environmental protection, Chemical testing, Test guideline.

Dated: March 11, 2003.

Susan B. Hazen,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 03–7057 Filed 3–25–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7473–5]

National Electric Coil Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into an administrative settlement with responsible parties for response costs pursuant to section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9622(h)(1) concerning the National Electric Coil Superfund Site located in Dayhoit, Harlan County, Kentucky. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the

proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. EPA, Region 4, (WMD–CPSB), 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

Dated: March 10, 2003.

Archie Lee,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 03–7245 Filed 3–25–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2003–0014; FRL–7300–7]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from February 4, 2003 to February 10, 2003, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the docket ID number OPPT–2003–0014 and the specific PMN number or TME number, must be received on or before April 25, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT–2003–0014. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at 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.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a

brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number and specific PMN number or TME number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select'' search,'' and then key in docket ID number OPPT–2003–0014. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to oppt.ncic@epa.gov, Attention: Docket ID Number OPPT–2003–0014 and PMN Number or TME Number. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *By hand delivery or courier*. Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number OPPT–2003–0014 and PMN Number or TME Number. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

D. How Should I Submit CBI To the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the specific PMN number you are commenting on in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from February 4, 2003 to February 10, 2003, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time

period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 22 PREMANUFACTURE NOTICES RECEIVED FROM: 02/04/03 TO 02/10/03

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–03–0318	02/04/03	05/05/03	CBI	(G) Industrial coating binder component	(G) Urethane acrylate polymer, compounds with amine
P–03–0319	02/04/03	05/05/03	CBI	(G) Process intermediate	(G) Disiloxane, 1,1,3,3-tetramethyl-1-(7-octenyl)-3-[(substitutedcyclohepta-3-yl)ethyl]-
P–03–0320	02/04/03	05/05/03	CBI	(G) Component of foam	(G) Polyester polyol
P–03–0321	02/04/03	05/05/03	Cognis Corporation	(S) Coupling agent / hydrotrope for comestics and pharmaceuticals	(S) Glycols, 1,2-, C**12**–**16**, ethoxylated propoxylated
P–03–0322	02/04/03	05/05/03	CBI	(G) Optical resin coating	(G) Tektrakis [dimethyl[8-[1,1,3,3,tetramethyl-3-[[epoxycyclohexanol] ethyl]disiloxanyl]octyl]silyloxy] silane
P–03–0323	02/04/03	05/05/03	CBI	(S) Hardener of polyurethane paint	(G) Alkyldiisocyanate polymer, alkyl esters blocked
P–03–0324	02/04/03	05/05/03	CBI	(S) Hardner of polyurethane paint	(G) 2-oxepanone, polymer with alkyldiisocyanate and substituted alkyl diol, alkyl esters blocked
P–03–0325	02/05/03	05/06/03	Schulke and Mayr, Inc.	(S) Metalworking additive	(S) Oxazolidine, 3,3′-methylenebis[5-methyl-
P–03–0326	02/05/03	05/06/03	CBI	(S) Industrial coatings	(S) 2-propenoic acid, 2-methyl-, butyl ester, polymer with butyl 2-propenoate, ethenylbenzene and 2,5-furandione
P–03–0327	02/06/03	05/07/03	Basf corporation	(S) Plasticizer	(S) 1,2-cyclohexanedicarboxylic acid, dinonyl ester, branched and linear
P–03–0328	02/07/03	05/08/03	CBI	(G) An open non-dispersive use	(G) Bisphenol a type epoxy resin
P–03–0329	02/07/03	05/08/03	CBI	(G) Binder resin for ink	(G) Trialkylamine salt of substituted alkyarylpolyurethane
P–03–0330	02/07/03	05/08/03	CBI	(G) Multi-purpose adhesive; open, non-dispersive use.; laminating adhesive, open, non-dispersive use	(G) Polyurethane prepolymer, polyurethane adhesive
P–03–0331	02/07/03	05/08/03	Mitsui Chemicals America, Inc.	(S) Reagents for nucleic acid testing (on farm animal, crops, plants, foods, living entities other than humans)	(S) Thymidine, 5′-o-[bis(4-methoxyphenyl)phenylmethyl]-
P–03–0332	02/07/03	05/08/03	CBI	(G) Co-stabilizer for plastics	(G) Heterocyclic sulfide ester
P–03–0333	02/10/03	05/11/03	CBI	(G) Radiation cured inks.	(G) Amine salt
P–03–0334	02/10/03	05/11/03	CBI	(S) Aqueous dispersion of polymer for leather finishing	(G) Fatty acid polymer with alkyl diols, carbonic acid, isocyanic acid ester, alkoxylated polyether diolsulfonate, 2-oxepanone and alkyl diamine
P–03–0335	02/11/03	05/12/03	Solutia Inc.	(S) Resin for industrial uv coatings	(G) Acrylate and urethane modified polyether
P–03–0336	02/10/03	05/11/03	CBI	(S) Thermoplastic polyester resin for use in the production of fibers, bottles, and/or films	(S) 1,4-benzenedicarboxylic acid, dimethyl ester, polymer with 2-methyl-1,3-propanediol
P–03–0337	02/10/03	05/11/03	CBI	(S) Thermoplastic polyester resin for use in the production of fibers, bottles, and/or films	(S) 1,4-benzenedicarboxylic acid, dimethyl ester, polymer with 1,2-ethanediol and 2-methyl-1,3-propanediol
P–03–0338	02/10/03	05/11/03	CBI	(S) Thermoplastic polyester resin for use in the production of fibers, bottles, and/or films	(S) 1,4-benzenedicarboxylic acid, polymer with 2-methyl-1,3-propanediol
P–03–0339	02/10/03	05/11/03	CBI	(S) Thermoplastic polyester resin for use in the production of fibers, bottles, and/or films	(S) 1,4-benzenedicarboxylic acid, polymer with 1,2-ethanediol and 2-methyl-1,3-propanediol

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 14 NOTICES OF COMMENCEMENT FROM: 02/04/03 TO 02/10/03

Case No.	Received Date	Commencement/ Import Date	Chemical
P–01–0732	02/11/03	01/16/03	(G) Phosphate methacrylate
P–02–0167	02/05/03	12/19/02	(G) Lithium metal phosphate
P–02–0741	02/11/03	01/21/03	(S) Piperazine, polymer with 1,6-dichlorohexane
P–02–0789	02/04/03	01/26/03	(G) Ultraviolet-curable resin
P–02–0822	02/05/03	01/17/03	(G) Modified polyester of terephthalic acid, ethylene glycol and neopentyl glycol
P–02–0824	02/05/03	01/17/03	(G) Modified polyester of terephthalic acid, ethylene glycol and neopentyl glycol
P–02–0863	02/05/03	01/28/03	(G) Fluoropolymer
P–02–0997	02/11/03	01/24/03	(G) Alkaline epoxide amine adduct
P–02–1026	02/11/03	01/09/03	(G) Modified alkyd resin
P–02–1091	02/10/03	01/16/03	(G) Polymer of methacrylate and acrylate esters, peroxide-initiated
P–03–0036	02/05/03	01/16/03	(G) Acrylic acid co-polymer
P–96–1626	02/11/03	01/10/03	(S) Mix of: 3-hexene, 1-(1-methoxypropoxy)-(e), 3-hexene, 1-(1-methoxypropoxy)-,(z)
P–99–0646	02/11/03	01/28/03	(G) Pentaerythritol, mixed esters with fatty acids, C**8**–**9**, branched
P–99–0686	02/07/03	10/04/02	(S) 1,3-dioxolan-2-one, 4-(hydroxymethyl)-

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: March 20, 2003.

Sandra R. Wilkins,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 03–7247 Filed 3–25–03; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–03–49–C (Auction No. 49); DA 03–567]

Auction of Licenses in the Lower 700 MHz Band Scheduled for May 28, 2003; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payment and Other Auction Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the procedures and minimum opening bids for the upcoming auction of licenses in the lower 700 MHz band scheduled for May 28, 2003. This document is intended to familiarize prospective bidders with the procedures and minimum opening bids for this auction.

DATES: Auction No. 49 is scheduled to begin on May 28, 2003.

FOR FURTHER INFORMATION CONTACT: *Auctions and Industry Analysis Division:* Howard Davenport, Legal Branch, or Lyle Ishida, Auctions Operations Branch, at (202) 418–0660; Linda Sanderson, Auctions Operations Branch, at (717) 338–2888, *Media Contact:* Lauren Kravetz at (202) 418–7944, *Commercial Wireless Division:* Policy and Rules Branch, Amal Abdallah at (202) 418–7307 or Evan Baranoff at (202) 418–7142; Licensing and Technical Analysis Branch, Joanne Epps or Keith Harper, at (202) 418–0620, *Media Bureau:* Engineering Division, Gordon Godfrey at (202) 418–2193.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction No. 49 Procedures Public Notice* released on March 4, 2003. The complete text of the *Auction No. 49 Procedures Public Notice,* including attachments, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. The *Auction No. 49 Procedures Public Notice* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

I. General Information

A. Introduction

1. By the *Auction No. 49 Procedures Public Notice,* the Wireless Telecommunications Bureau (''Bureau'') announces the procedures and minimum opening bids for the upcoming auction of licenses in the Lower 700 MHz C and D blocks, (the 710–716/740–746 MHz and 716–722 MHz bands) scheduled for May 28, 2003 (Auction No. 49). On December 2, 2002, in accordance with the Balanced Budget Act of 1997, the Bureau released a public notice seeking comment on reserve prices or minimum opening bids and the procedures to be used for the auction of 251 licenses in the Lower 700 MHz band C block. The Bureau received five comments and five reply comments in response to the *Auction No. 49 Comment Public Notice,* 67 FR 72946 (December 9, 2002). On January 29, 2003, the Bureau released a public notice announcing a revised auction inventory to include five licenses in the Lower 700 MHz band D block. In the *Auction No. 49 Revised Comment Public Notice,* 68 FR 6452 (February 7, 2003), the Bureau sought comment on the procedural issues related to the auction of the D block licenses. In the *Auction No. 49 Revised Comment Public Notice,* the Bureau also revised the starting date for Auction No. 49. The Bureau received two comments and two reply comments in response to the *Auction No. 49 Revised Comment Public Notice.*

i. Background of Proceeding

2. On January 18, 2002, the Commission released the *Lower 700 MHz Report & Order,* 67 FR 5491 (February 6, 2002), which adopted allocation and service rules for the Lower 700 MHz Band. Specifically, the Commission reallocated the entire 48 megahertz of spectrum in the Lower 700 MHz band to fixed and mobile services and retained the existing broadcast allocation for both new broadcast services and incumbent broadcast services during their transition to digital television (''DTV''). The Commission established technical criteria designed

to protect incumbent television operations in the band during the DTV transition period, allowed low power television (''LPTV'') and TV translator stations to retain secondary status and operate in the band after the transition, and set forth a mechanism by which pending broadcast applications may be amended to provide analog or digital service in the core television spectrum or to provide digital service on TV Channels 52–58.

3. In its service rules, the Commission divided the Lower 700 MHz band into three 12-megahertz blocks, with each block consisting of a pair of 6-megahertz segments, and two 6-megahertz blocks of contiguous, unpaired spectrum. The Commission decided to divide the five blocks in the Lower 700 MHz band plan as follows: the two 6-megahertz blocks of contiguous unpaired spectrum, as well as two of the three 12-megahertz blocks of paired spectrum, were assigned over six Economic Area Groupings (''EAGs''); the remaining 12 megahertz block of paired spectrum was assigned over 734 Metropolitan Statistical Areas (''MSAs'') and Rural Service Areas (''RSAs''). All operations in the Lower 700 MHz band are generally regulated under the framework of Part 27's technical, licensing, and operating rules. To permit both wireless services and certain new broadcast operations in the Lower 700 MHz band, however, the Commission has amended the maximum power limits in Part 27 to permit 50 kW effective radiated power (''ERP'') transmissions in the Lower 700 MHz band, subject to certain conditions. Finally, the Commission established competitive bidding procedures and voluntary band-clearing mechanisms for the Lower 700 MHz band. On June 14, 2002, the Commission affirmed its decisions in the *Lower 700 MHz Report and Order.*

4. With respect to the MSA and RSA licenses, the Bureau notes that MSAs and RSAs are collectively known as Cellular Market Areas (CMAs). CMAs were created from the Metropolitan Statistical Areas (''MSAs'') defined by the Office of Management and Budget (CMA001–CMA305), the Gulf of Mexico (CMA306), and Rural Service Areas (''RSAs'') established by the FCC (CMA307–CMA734). These RSAs include parts of Puerto Rico not already in an MSA (CMA723–CMA729), U.S. Virgin Islands (CMA730–CMA731), Guam (CMA732), American Samoa (CMA733), and Northern Mariana Islands (CMA734). The CMA designation, rather than MSA/RSA, is used in the FCC Automated Auction System and in the Universal Licensing System.

ii. Licenses To Be Auctioned

5. Auction No. 49 will offer 256 licenses in the Lower 700 MHz band C block (710–716/740–746 MHz) and D block (716–722 MHz). This auction will include 251 C block and five D block licenses that remained unsold in Auction No. 44, which closed on September 18, 2002. The C block is a 12-megahertz block consisting of a pair of 6-megahertz segments, which is licensed over various MSAs/RSAs. The D block is a 6-megahertz unpaired spectrum block, which is licensed over five 700 MHz Economic Area Groupings (''700 MHz EAGs''). A complete list of licenses available in Auction No. 49 and their descriptions is included in Attachment A of the *Auction No. 49 Procedures Public Notice.*

6. The following table contains the block/frequency cross-reference for the 710–716/740–746 MHz and 716–722 MHz bands:

Block	Frequencies	Bandwidth	Pairing	Geographic area type	Number of licenses
C	710–716, 740–746	12 MHz	2 × 6 MHz	MSA/RSA	251
D	716–722	6 MHz	unpaired	700 MHz EAG	5

Note: For Auction No. 49, licenses are not available in every market for the frequency blocks listed in the table. See Attachment A of the *Auction No. 49 Procedures Public Notice* to determine which licenses will be offered.)

A. Rules and Disclaimers

i. Relevant Authority

7. Prospective bidders must familiarize themselves thoroughly with the Commission's rules relating to the Lower 700 MHz band contained in title 47, part 27 of the Code of Federal Regulations, and those relating to application and auction procedures, contained in title 47, part 1 of the Code of Federal Regulations. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions (collectively, ''terms'') contained in the *Auction No. 49 Procedures Public Notice;* the *Auction No. 49 Comment Public Notices;* and the *Part 1 Fifth Report and Order,* 65 FR 52323 (August 29, 2000), (as well as prior and subsequent Commission proceedings regarding competitive bidding procedures).

8. Auction participants bidding on licenses in the 698–746 MHz spectrum band should also be familiar with the *Lower 700 MHz Notice of Proposed Rulemaking,* 66 FR 19106 (April 13, 2001), the *Lower 700 MHz Report and Order* and the *Lower 700 MHz MO&O*, 67 FR 45380 (July 9, 2002).

9. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most Commission documents, including public notices, can be retrieved from the FCC Auctions Internet site at *http://wireless.fcc.gov/auctions.* Additionally, documents are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC, 20554, or may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com. When ordering documents from Qualex, please provide the appropriate FCC document number (for example, FCC 01–364 for the *Lower 700 MHz Report and Order).*

ii. Prohibition of Collusion

10. To ensure the competitiveness of the auction process, the Commission's rules prohibit applicants for the same geographic license area from communicating with each other during the auction about bids, bidding strategies, or settlements. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. Bidders competing for licenses in the same geographic license areas are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could

occur if an individual acts as the authorized bidder for two or more competing applicants and conveys information concerning the substance of bids or bidding strategies between the bidders he or she is authorized to represent in the auction. A violation could similarly occur if the authorized bidders are different individuals employed by the same organization (*e.g.*, law firm or consulting firm). In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule.

11. However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted. The Commission's anti-collusion rules allow applicants to form certain agreements during the auction, provided the applicants have not applied for licenses covering the same geographic areas. In Auction No. 49, for example, the rule would apply to any applicants bidding for the same MSA/RSA or EAG. Furthermore, the rule would apply to an applicant bidding for an EAG and another applicant bidding for an MSA/RSA within that EAG. In addition, applicants that apply to bid for all markets would be precluded from communicating with all other applicants until after the down payment deadline. However, all applicants may enter into bidding *agreements* before filing their FCC Form 175, as long as they disclose the existence of the agreement(s) in their Form 175. If parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application pursuant to § 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations with other applicants for licenses covering the same geographic areas. By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with § 1.2105(c).

12. In addition, § 1.65 of the Commission's rules requires an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, §§ 1.65 and 1.2105 require an auction applicant to notify the Commission of any violation of the anti-collusion rules upon learning of such violation. Bidders therefore are required to make such notification to the Commission immediately upon discovery.

13. A summary listing of documents from the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Attachment G of the *Auction No. 49 Procedures Public Notice.*

iii. Interference Protection of Television Services

14. Among other licensing and technical rules, new Lower 700 MHz band licensees must comply with the interference protection requirements set forth in § 27.60 of the Commission's rules. Generally, § 27.60 establishes standards for protection of co- and adjacent-channel analog TV and DTV facilities. Thus, for example, a new licensee seeking to operate on the D block (716–722 MHz) portion of the Lower 700 MHz band must provide co-channel protection to nearby TV and DTV operations on Channel 55 and adjacent-channel protection to stations on Channels 54 and 56. New Lower 700 MHz band licensees should also be aware that incumbent broadcasters may be permitted to make certain changes to their authorized facilities. Such modified facilities may be entitled to interference protection from new Lower 700 MHz band licensees. In addition, Appendix D of the *Lower 700 MHz Report and Order* describes additional adjacent-channel interference considerations that are designed to mitigate the possibility of base-to-base interference that may arise at base receive stations that are in close proximity to high power transmitters operating on adjacent channels. Moreover, licensees intending to operate a facility at a power level of greater than 1 kilowatt must provide advance notice to the Commission and to licensees authorized in their area of operation. New Lower 700 MHz licensees also will have to comply with any additional technical requirements or interference protection requirements that may be adopted in the future as a result of pending and future rulemaking proceedings.

15. Potential bidders should recognize that the interference protection requirements for the Lower 700 MHz band are more stringent in certain respects relative to the interference standards that apply to the Upper 700 MHz band. These interference obligations will remain in force until the end of the DTV transition period at which time analog TV and DTV broadcasters will be required to vacate both the Upper and Lower 700 MHz bands.

16. Potential bidders should be aware that a greater number of broadcast incumbents exist in the Lower 700 MHz band relative to the Upper 700 MHz band. The Commission has also observed that, although there is approximately the same number of analog incumbents in both the Upper and Lower 700 MHz bands, the Lower 700 MHz consists of less spectrum and, therefore, incumbent licensees are more densely situated across the band. Further, there is a significantly greater number of DTV assignments on the eight television channels in the Lower 700 MHz band, including licenses, construction permits, pending applications, and pending allotment petitions, than exist in the Upper 700 MHz band. The Commission may also permit certain Channel 60–69 broadcasters to relocate temporarily into Channels 52–58 pursuant to a voluntary clearing arrangement.

a. Negotiations With Incumbent Broadcast Licenses

17. The Commission has established a policy of facilitating voluntary clearing of the 700 MHz bands to allow for the introduction of new wireless services and to promote the transition of incumbent analog television licensees to DTV service. Generally speaking, this policy provides that the Commission will consider specific regulatory requests needed to implement voluntary agreements between incumbent broadcasters and new licensees to clear the Lower 700 MHz band early, if consistent with the public interest. The fundamentals of the Commission's voluntary clearing policy for the 700 MHz bands were established in a series of decisions beginning with the adoption of the *Upper 700 MHz First Report and Order* in January 2000. However, in light of certain differences between the Upper and Lower 700 MHz bands, the Commission decided not to extend certain aspects of its voluntary clearing policy to the Lower 700 MHz band, including the presumptions that were established in the Upper 700 MHz band for analyzing voluntary band-clearing proposals and the extended DTV construction period that was provided to certain single-channel broadcasters in connection with the arrangements for early clearing of the Upper 700 MHz band. In considering such regulatory requests, the Commission will consider whether

grant of the request would result in public interest benefits, such as making new or expanded public safety or other wireless services available to consumers or deploying wireless service to rural or other underserved communities. The Commission intends to weigh these benefits against any likely public interest costs, such as the loss of any of the four stations in the designated market area with the largest audience share, the loss of the sole service licensed to the local community, the loss of a community's sole service on a channel reserved for noncommercial educational broadcast service, or a negative effect on the pace of the DTV transition in the market.

18. Subsequent to the adoption by the Commission of its voluntary clearing policy, the Auction Reform Act of 2002 was enacted. One provision of this legislation restricts the Commission's authority to waive certain broadcast interference standards and the minimum spacing requirements for certain proposals to relocate Channel 52–69 analog operations to a Channel 2–51 DTV allotment, if such waiver ''will result in any degradation in or loss of service, or an increased level of interference to any television household except as the Commission's rules would otherwise expressly permit, exclusive of any waivers previously granted.''

b. Canadian and Mexican Border Regions

19. The United States has bilateral agreements with both Canada and Mexico setting forth allotment and assignment plans for TV broadcast stations covering the 698–746 MHz band (Channels 52–59). While the U.S. has identified this band for reallocation to new services, neither Canada nor Mexico has done so to date. Pursuant to these agreements, the U.S. must protect the signals of Canadian and Mexican TV broadcast stations located in the border areas, and such operations will therefore affect U.S. non-broadcast use and services in this band. Accordingly, licenses issued for this band will be subject to whatever future agreements the U. S. develops with these two countries. Furthermore, until such time as existing agreements are replaced or modified to reflect the new uses, licensees in the band will be subject to existing agreements and the condition that harmful interference not be caused to, and must be accepted from, television broadcast operations in those countries.

iv. Due Diligence

20. Potential bidders are reminded that there are a number of incumbent broadcast television licensees already licensed and operating in the 710–716/740–746 MHz and 716–722 MHz bands that will be subject to the upcoming auction. As discussed in greater detail, the Commission made clear that geographic area licensees operating on the spectrum associated with Channels 52, 53, 54, 55, 56, 57, 58 and 59 must comply with the co-channel and the adjacent channel provision of § 27.60 of the Commission's rules. These limitations may restrict the ability of such geographic licensees to use certain portions of the electromagnetic spectrum or provide service to certain regions in their geographic license areas.

21. Potential bidders are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 49.

22. To aid potential bidders, the Bureau will issue shortly a Due Diligence Announcement listing incumbent licensees operating in these bands. The Commission makes no representations or guarantees that the matters listed in this Due Diligence Announcement are the only pending matters that could affect spectrum availability in these services.

23. Potential bidders also should be aware that certain applications (including those for modification), petitions for rulemaking, requests for special temporary authority (''STA''), waiver requests, petitions to deny, petitions for reconsideration, and applications for review may be pending before the Commission and relate to particular applicants or incumbent licensees. In addition, certain judicial proceedings that may relate to particular applicants or incumbent licensees, or the licenses available in Auction No. 49, may be commenced, or may be pending, or may be subject to further review. We note that resolution of these matters could have an impact on the availability of spectrum in Auction No. 49. In addition, although the Commission will continue to act on pending applications, requests and petitions, some of these matters may not be resolved by the time of the auction. To aid potential bidders, the Bureau will issue shortly a Due Diligence Announcement listing matters pending before the Commission that relate to licenses or applications in these services. The Commission makes no representations or guarantees that the matters listed in the Due Diligence Announcement are the only pending matters that could affect spectrum availability in these services.

24. In addition, potential bidders may research the licensing database for the Media Bureau on the Internet in order to determine which frequencies are already licensed to incumbent licensees. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database. *Potential bidders are strongly encouraged to physically inspect any sites located in, or near, the EAG, MSA or RSA for which they plan to bid.*

25. Licensing records for the Media Bureau are contained in the Media Bureau's Consolidated Data Base System (CDBS) and may be researched on the Internet at http://www.fcc.gov/mb/. Potential bidders may query the database online and download a copy of their search results if desired. Detailed instructions on using Search for Station Information, Search for Ownership Report Information and Search for Application Information and downloading query results are available online by selecting the CDBS Public Access (main) button at the bottom of the Electronic Filing and Public Access list section. The database searches return either station or application data. The application search provides an application link that displays the complete electronically filed application in application format. An AL/TC search under the application search link permits searching for Assignment of License/Transfer of Control groups using the AL/TC group lead application. For further details, click on the Help file.

26. Potential bidders should direct questions regarding the search capabilities of CDBS to the Media Bureau help line at (202) 418–2662, or via e-mail at *mbinfo@fcc.gov.*

v. Bidder Alerts

27. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license, and not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency. Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary

forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

28. *The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants and interested parties should perform their own due diligence before proceeding, as they would with any new business venture.*

29. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 49 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a ''cold call'' from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example, by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of investment is less than $25,000.
- The sales representative makes verbal representations that: (a) The Internal Revenue Service (''IRS''), Federal Trade Commission (''FTC''), Securities and Exchange Commission (''SEC''), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

30. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326–2222 and from the SEC at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876–7060. Consumers who have concerns about specific proposals regarding Auction No. 49 may also call the FCC Consumer Center at (888) CALL–FCC ((888) 225–5322).

vi. National Environmental Policy Act (''NEPA'') Requirments

31. Licensees must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of a wireless antenna facility is a federal action and the licensee must comply with the Commission's NEPA rules for each such facility. The Commission's NEPA rules require, among other things, that the licensee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corps of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). The licensee must prepare environmental assessments for facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The licensee must also prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

C. Auction Specifics

i. Auction Date

32. The auction will begin on Wednesday, May 28, 2003. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

ii. Auction Title

33. Auction No. 49—Lower 700 MHz Band

iii. Bidding Methodology

34. The bidding methodology for Auction No. 49 will be simultaneous multiple round bidding. The Commission will conduct this auction over the Internet. Telephonic bidding will also be available, and the FCC Wide Area Network will be available as well. Qualified bidders are permitted to bid telephonically or electronically.

iv. Pre-Auction Dates and Deadlines

35. Listed are important dates associated with Auction No. 49:

Auction Seminar—April 2, 2003
Short-Form (FCC Form 175) Filing Window Opens—April 2, 2003; 12 p.m. ET
Short-Form (FCC Form 175) Application Deadline—April 11, 2003; 6 p.m. ET
Upfront Payments (via wire transfer)—May 2, 2003; 6 p.m. ET
Mock Auction—May 22, 2003
Auction Begins—May 28, 2003

v. Requirements for Participation

36. One commenter, Banks, requests that the Bureau limit eligibility in Auction No. 49 to parties that qualified to participate in Auction No. 44. Banks argues that such an eligibility limitation is mandated by the Auction Reform Act. Banks bases its argument on language from the Auction Reform Act, which limited the entities eligible to participate in Auction No. 44 to ''those entities that were qualified entities, and that submitted applications to participate in auction 44, by May 8, 2002, as part of the original auction 44 short form filing deadline.'' Banks contends that this restriction on eligibility applies to the *spectrum blocks* identified rather than a specific auction of those spectrum blocks. Thus, Banks concludes that the eligibility limitation extends to any subsequent auction of those same blocks of spectrum. Banks argues that the only other possible interpretation of the Auction Reform Act is that it does not permit further auctions of the C and D block spectrum until the Commission goes forward with the auction of the remainder of the 700 MHz spectrum. Only two commenters, Qualcomm and C&S, address Banks's assertion that the Auction Reform Act limits who is eligible to participate in Auction No. 49. Both Qualcomm and C&S oppose Banks's interpretation of the Auction Reform Act. As we explain, an analysis of the Auction Reform Act establishes that Banks's reading of the statute is incorrect.

37. In the Auction Reform Act, among other things, Congress provided that the Commission not commence or conduct Auction No. 44 on June 19, 2002. In the following subsection, Congress indicated that this prohibition on conducting Auction No. 44 did not apply to the Lower 700 MHz C and D block licenses, established a restriction on the entities eligible to bid in the auction of these licenses, and established a deadline for the auction of such licenses and the deposit of the auction proceeds in the U.S. Treasury. A plain reading of these provisions shows that the limitations on who qualified to bid on the C block and the D block licenses only applied to the conduct of Auction No. 44 and not to any subsequent auction. The restriction on eligible bidders is contained in the

same subparagraph as other provisions regarding the timing of Auction No. 44, the conduct of Auction No. 44, and the deposit of the proceeds from Auction No. 44 in the U.S. Treasury. The timing provisions regarding the conduct of the auction and the deposit of the auction proceeds are significant because they indicate that Congress was only referring to one event, the conduct of Auction No. 44. Congress was not providing any instructions regarding the conduct of future auctions including the C and D block spectrum. Further, contrary to Banks's suggestion, nothing in the statute indicates that Congress was precluding in any manner a re-auction of the spectrum. Finally, Banks's interpretation of the Auction Reform Act is contrary to the statutory objectives of section 309(j) of the Communications Act. As Qualcomm notes in its comments, under Banks's interpretation of the Auction Reform Act, bidding on the licenses in Auction No. 49 would be limited to the same bidders that chose not to bid on the licenses when they were offered in Auction No. 44. This is unlikely to result in the licenses being awarded to the parties that value them most highly. Thus, absent explicit statutory language supporting Banks' interpretation, we decline to adopt the eligibility restrictions Banks suggests. Accordingly, any entity wishing to participate in the auction must:

- Submit a short-form application (FCC Form 175) electronically by 6 p.m. ET, April 11, 2003.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6 p.m. ET, May 2, 2003.
- Comply with all provisions outlined in this public notice.

vi. General Contact Information

38. The following is a list of general contact information relating to Auction No. 49.

General Auction Information: General Auction Questions, Seminar Registration
FCC Auctions Hotline, (888) 225–5322, Press Option #2 or direct (717) 338–2888, Hours of service: 8 a.m.–5:30 p.m. ET
Auction Legal Information: Auction Rules, Policies, Regulations
Auctions and Industry Analysis Division, Legal Branch (202) 418–0660
Licensing Information: Rules, Policies, Regulations, Licensing Issues, Due Diligence, Incumbency Issues
Commercial Wireless Division, (202) 418–0620.
Technical Support: Electronic Filing, FCC Automated Auction System
FCC Auctions Technical Support Hotline, (202) 414–1250(Voice), (202) 414–1255 (TTY, Hours of service: Monday through Friday 8 a.m. to 6 p.m. ET.
Payment Information: Wire Transfers, Refunds
FCC Auctions Accounting Branch, (202) 418–0578 or (202) 418–0496, (202) 418–2843 (Fax)
Telephonic Bidding: Will be furnished only to qualified bidders
FCC Copy Contractor: Additional Copies of Commission Documents
Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, (202) 863–2893, (202) 863–2898 (Fax), qualexint@aol.com (E-mail)
Press Information: Lauren Kravetz (202) 418–7944
FCC Forms: (800) 418–3676 (outside Washington, DC), (202) 418–3676 (in the Washington Area), *http://www.fcc.gov/formpage.html*
FCC Internet Sites:
http://www.fcc.gov
http://wireless.fcc.gov/auctions
http://wireless.fcc.gov/uls

II. Short-Form (FCC Form 175) Application Requirements

39. Guidelines for completion of the short-form (FCC Form 175) are set forth in Attachment D of the *Auction No. 49 Procedures Public Notice.* The short-form application seeks the applicant's name and address; legal classification; status; bidding credit eligibility; identification of the license(s) sought; and the authorized bidders and contact persons. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license and, as discussed in section II.E (Provisions Regarding Defaulters and Former Defaulters), that they are not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency.

A. License Selection

40. In Auction No. 49, Form 175 will include a mechanism that allows an applicant to create customized lists of licenses. The applicant will make selections for one or more of the filter criteria and the system will produce a list of licenses satisfying the specified criteria. The applicant may apply for all the licenses in the customized list (by using the ''Save all filtered licenses'' option); select and save individual licenses separately from the list; or create a second customized list without selecting any of the licenses from the first list. Applicants also will be able to select licenses from one customized list and then create other customized lists to select additional licenses.

B. Ownership Disclosure Requirements (FCC Form 175 Exhibit A)

41. All applicants must comply with the uniform part 1 ownership disclosure standards and provide information required by §§ 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing FCC Form 175, applicants will be required to file an ''Exhibit A'' providing a full and complete statement of the ownership of the bidding entity. The ownership disclosure standards for the short-form are set forth in § 1.2112 of the Commission's rules.

C. Consortia and Joint Bidding Arrangements (FCC Form 175 Exhibit B)

42. Applicants will be required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure. Applicants will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular licenses on which they will or will not bid. As discussed, if an applicant has had discussions, but has not reached a joint bidding agreement by the short-form deadline, it would not include the names of parties to the discussions on its applications and may not continue discussions with applicants for the same geographic license area(s) after the deadline. Where applicants have entered into consortia or joint bidding arrangements, applicants must submit an ''Exhibit B'' to the FCC Form 175.

43. A party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with other applicants for licenses in the same geographic license area provided that (i) the attributable interest holder certifies that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with

which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants. While the anti-collusion rules do not prohibit non-auction related business negotiations among auction applicants, bidders are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.

D. Eligibility

i. Bidding Credit Eligibility (FCC Form 175 Exhibit C)

44. A bidding credit represents the amount by which a bidder's winning bids are discounted. The size of the bidding credit depends on the average of the aggregated annual gross revenues for each of the preceding three years of the bidder, its affiliates, its controlling interests, and the affiliates of its controlling interests.

45. In the *Lower 700 MHz Report & Order,* the Commission determined that three levels of bidding credits were appropriate for the MSA/RSA licenses in the C block and that the licenses in the D block would be limited to two levels of bidding credits. Aloha and Cavalier urge that the Commission apply three levels of bidding credits to the EAG licenses in the D block. Because the bidding credit levels were adopted by the Commission in its Lower 700 MHz band proceeding, they were not a matter upon which the Bureau sought comment. Accordingly, for Auction No. 49, bidding credits will be available to small and very small businesses and entrepreneurs, or consortia thereof, as defined in 47 CFR 27.702 for the Lower 700 MHz band licenses:

- A bidder with attributed average annual gross revenues of not more than $40 million for the preceding three years (''small business'') receives a 15 percent discount on its winning bids for Lower 700 MHz band licenses;
- A bidder with attributed average annual gross revenues of not more than $15 million for the preceding three years (''very small business'') receives a 25 percent discount on its winning bids for Lower 700 MHz band licenses;
- A bidder with attributed average annual gross revenues of not more than $3 million for the preceding three years (''entrepreneur'') receives a 35 percent discount on its winning bids for the MSA/RSA licenses in the Lower 700 MHz band. This definition applies only with respect to licenses in Block C (710–716 MHz and 740–746 MHz) as specified in 47 CFR 27.5(c)(1).

46. A bidder that qualifies as an entrepreneur may bid on EAG licenses in Block D, but will only receive a 25 percent bidding credit on any EAG license that it wins. Bidding credits are not cumulative; a qualifying applicant receives either the 15 percent, 25 percent, or 35 percent bidding credit on its winning bid, but only one credit per license.

ii. Tribal Land Bidding Credit

47. To encourage the growth of wireless services in federally recognized tribal lands the Commission has implemented a tribal land bidding credit. *See* section V.E. of the *Auction No. 49 Procedures Public Notice.*

iii. Applicability of Part 1 Attribution Rules

48. *Controlling interest standard.* On August 14, 2000, the Commission released the *Part 1 Fifth Report and Order,* in which the Commission, *inter alia,* adopted a ''controlling interest'' standard for attributing to auction applicants the gross revenues of their investors and affiliates in determining small business eligibility for future auctions. The Commission observed that the rule modifications adopted in the various Part 1 orders would result in discrepancies and/or redundancies between certain of the new Part 1 rules and existing service-specific rules, and the Commission delegated to the Bureau the authority to make conforming edits to the Code of Federal Regulations (CFR) consistent with the rules adopted in the Part 1 proceeding. Part 1 rules that superseded inconsistent service-specific rules will control in Auction No. 49. *Accordingly, the ''controlling interest'' standard as set forth in the part 1 rules will be in effect for Auction No. 49.*

49. *Control.* The term ''control'' includes both *de facto* and *de jure* control of the applicant. Typically, *ownership of at least 50.1 percent of an entity's voting stock evidences de jure control. De facto* control is determined on a case-by-case basis. The following are some common indicia of *de facto* control:

- The entity constitutes or appoints more than 50 percent of the board of directors or management committee;
- The entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; or
- The entity plays an integral role in management decisions.

50. *Attribution for small, very small business and entrepreneur eligibility.* In determining which entities qualify as small, very small businesses or entrepreneurs, the Commission will consider the gross revenues of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests. The Commission does not impose specific equity requirements on controlling interest holders. Once the principals or entities with a controlling interest are determined, only the revenues of those principals or entities, the affiliates of those principals or entities, the applicant and its affiliates, will be counted in determining small business eligibility.

51. A consortium of small businesses, very small businesses or entrepreneurs is a ''conglomerate organization formed as a joint venture between or among mutually independent business firms,'' each of which *individually* must satisfy the definition of small business, very small business or entrepreneur in §§ 1.2110(f), 27.702. Thus, each consortium member must disclose its gross revenues along with those of its affiliates, its controlling interests, and the affiliates of its controlling interests. We note that although the gross revenues of the consortium members will not be aggregated for purposes of determining eligibility for small business, very small business or entrepreneur credits, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

iv. Supporting Documentation

52. Applicants should note that they will be required to file supporting documentation to their FCC Form 175 short-form applications to establish that they satisfy the eligibility requirements to qualify as small, very small businesses or entrepreneurs (or consortia of small, very small businesses or entrepreneurs) for this auction.

53. Applicants should further note that submission of an FCC Form 175 application constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, has read the form's instructions and certifications, and that the contents of the application and its attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

54. *Small business, very small business, or entrepreneur eligibility (Exhibit C).* Entities applying to bid as small or very small businesses or

entrepreneurs (or consortia of small or very small businesses or entrepreneurs) will be required to disclose on Exhibit C to their FCC Form 175 short-form applications, *separately and in the aggregate,* the gross revenues for the preceding three years of each of the following: (i) The applicant, (ii) Its affiliates, (iii) its controlling interests, and (iv) the affiliates of its controlling interests. Certification that the average annual gross revenues for the preceding three years do not exceed the applicable limit is not sufficient. A statement of the total gross revenues for the preceding three years is also insufficient. The applicant must provide separately for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, a schedule of gross revenues for *each* of the preceding three years, as well as a statement of total average gross revenues for the three-year period. If the applicant is applying as a consortium of small, very small businesses or entrepreneurs, this information must be provided for each consortium member.

E. Provisions Regarding Defaulters and Former Defaulters (FCC Form 175 Exhibit D)

55. Each applicant must certify on its FCC Form 175 application that it is not in default on any Commission licenses and that it is not delinquent on any non-tax debt owed to any Federal agency. In addition, each applicant must attach to its FCC Form 175 application a statement made under penalty of perjury indicating whether or not the applicant, its affiliates, its controlling interests, or the affiliates of its controlling interest have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency. The applicant must provide such information for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by § 1.2110 of the Commission's rules (as amended in the *Part 1 Fifth Report and Order*). Applicants must include this statement as Exhibit D of the FCC Form 175. Prospective bidders are reminded that the statement must be made under penalty of perjury and, further, submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

56. ''Former defaulters''—*i.e.*, applicants, including their attributable interest holders, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies—are eligible to bid in Auction No. 49, provided that they are otherwise qualified. However, as discussed *infra* in section III.D.iii, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.

F. Installment Payments

57. Installment payment plans will not be available in Auction No. 49.

G. Other Information (FCC Form 175 Exhibits E and F)

58. Applicants owned by minorities or women, as defined in 47 CFR 1.2110(c)(2), may attach an exhibit (Exhibit E) regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of ''designated entities'' in its auctions. Applicants wishing to submit additional information may do so on Exhibit F (Miscellaneous Information) to the FCC Form 175.

H. Minor Modifications to Short-Form Applications (FCC Form 175)

59. After the short-form filing deadline (April 11, 2003), applicants may make only minor changes to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections or proposed service areas, change the certifying official or change control of the applicant or change bidding credits). *See* 47 CFR 1.2105. Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Applicants should make these modifications to their FCC Form 175 electronically and submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Industry Analysis Division, at the following address: *auction49@fcc.gov.* The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 49. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents.

60. A separate copy of the letter should be faxed to the attention of Kathryn Garland at (717) 338–2850. Questions about other changes should be directed to Howard Davenport of the Auctions and Industry Analysis Division at (202) 418–0660.

I. Maintaining Current Information in Short-Form Applications (FCC Form 175)

61. Applicants have an obligation under 47 CFR 1.65, to maintain the completeness and accuracy of information in their short-form applications. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications, as defined by 47 CFR 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

III. Pre-Auction Procedures

A. Auction Seminar

62. On Wednesday, April 2, 2003, the FCC will sponsor a free seminar for Auction No. 49 at the Federal Communications Commission, located at 445 12th Street, SW., Washington, DC. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, the FCC Automated Auction System, and the lower 700 MHz and auction rules. The seminar will also provide an opportunity for prospective bidders to ask questions of FCC staff.

63. To register, complete the registration form in Attachment B, of the *Auction No. 49 Procedures Public Notice,* and submit it by Friday, March 28, 2003. Registrations are accepted on a first-come, first-served basis.

B. Short-Form Applications (FCC Form 175)—Due April 11, 2003

64. In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application. This application must be submitted electronically and received at the Commission no later than 6:00 p.m. ET on April 11, 2003. Late applications will not be accepted.

65. There is no application fee required when filing an FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment. *See* section III.D.

i. Electronic Filing

66. Applicants must file their FCC Form 175 applications electronically. Applications may generally be filed at any time beginning at noon ET on April 2, 2003, until 6:00 p.m. ET on April 11, 2003. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic

applications multiple times until the filing deadline on April 11, 2003.

67. Applicants must press the ''SUBMIT Application'' button on the ''Submission'' page of the electronic form to successfully submit their FCC Form 175s. Any form that is not submitted will not be reviewed by the FCC. Information about accessing the FCC Form 175 is included in Attachment C of the *Auction No. 49 Procedures Public Notice.* Technical support is available at (202) 414–1250 (voice) or (202) 414–1255 (text telephone (TTY)); hours of service Monday through Friday, from 8:00 AM to 6:00 PM ET. In order to provide better service to the public, *all calls to the hotline are recorded.*

68. Applicants can also contact Technical Support via e-mail. To obtain the address, click the Support tab on the Form 175 Homepage.

ii. Completion of the FCC Form 175

69. Applicants should carefully review 47 CFR 1.2105, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment D of the *Auction No. 49 Procedures Public Notice.* Applicants are encouraged to begin preparing the required attachments for FCC Form 175 prior to submitting the form. Attachments C and D to the *Auction No. 49 Procedures Public Notice* provide information on the required attachments and appropriate formats.

iii. Electronic Review of FCC Form 175

70. The FCC Form 175 electronic review system may be used to locate and print applicants' FCC Form 175 information. There is no fee for accessing this system. *See* Attachment C of the *Auction No. 49 Procedures Public Notice* for details on accessing the review system.

71. Applicants may also view other applicants' completed FCC Form 175s after the filing deadline has passed and the FCC has issued a public notice explaining the status of the applications. **Note:** Applicants should not include sensitive information (*i.e.*, TIN/EIN) on any exhibits to their FCC Form 175 applications.

C. Application Processing and Minor Corrections

72. After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (i) Those applications accepted for filing; (ii) those applications rejected; and (iii) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

73. As described more fully in the Commission's rules, after the April 11, 2003, short-form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections, change the certifying official, change control of the applicant, or change bidding credit eligibility).

D. Upfront Payments—Due May 2, 2003

74. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank by 6:00 p.m. ET on May 2, 2003.

75. Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction No. 49 go to a lockbox number different from the lockboxes used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment by the May 2, 2003, deadline will result in dismissal of the application and disqualification from participation in the auction.

i. Making Auction Payments by Wire Transfer

76. *Wire transfer payments must be received by 6 p.m. ET on May 2, 2003.* To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

ABA Routing Number: 043000261.
Receiving Bank: Mellon Pittsburgh.
Beneficiary: FCC/Account # 910–1203.
OBI Field: (Skip one space between each information item) ''Auctionpay''
FCC Registration Number (FRN): (same as FCC Form 159, block 11 and/or 21)
Payment Type Code: (same as FCC Form 159, block 24A: A49U)
FCC Code 1: (same as FCC Form 159, block 28A: ''49'')
Payer Name: (same as FCC Form 159, block 2)
Lockbox No.: # 358425

Note: The BNF and Lockbox number are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

77. Applicants must fax a completed FCC Form 159 (Revised 2/00) to Mellon Bank at (412) 209–6045 *at least one hour before* placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write ''Wire Transfer—Auction Payment for Auction Event No. 49.'' *Bidders should confirm receipt of their upfront payment at Mellon Bank by contacting their sending financial institution.*

ii. FCC Form 175

78. A completed FCC Remittance Advice Form (FCC Form 159, Revised 2/00) must be faxed to Mellon Bank in order to accompany each upfront payment. Proper completion of FCC Form 159 (Revised 2/00) is critical to ensuring correct credit of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment E of the *Auction No. 49 Procedures Public Notice.* An electronic version of the FCC Form 159 is available after filing the FCC Form 175. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

iii. Amount of Upfront Payment

79. In the *Part 1 Order,* 62 FR 13540 (March 21, 1997), the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction. In addition, in the *Part 1 Fifth Report and Order,* the Commission ordered that ''former defaulters,'' *i.e.*, applicants that have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, be required to pay upfront payments fifty percent greater than non-''former defaulters.'' For purposes of this calculation, the ''applicant'' includes the applicant itself, its affiliates, its controlling interests, and affiliates of its controlling interests, as defined by § 1.2110 of the Commission's rules (as amended in the *Part 1 Fifth Report and Order*).

80. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice* we proposed that the amount of the upfront payment would determine the number of bidding units on which a bidder may place bids. In order to bid on a license, otherwise qualified bidders that applied for that license on Form 175 must have

an eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on Form 175, or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all licenses for which the applicant has applied on Form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place bids and hold high bids at any given time.

81. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice,* the Bureau proposed upfront payments on a license-by-license basis using the following formula:

$0.005 * MHz * License Area Population with a minimum of $1,000 per license.

82. The Bureau received two comments on this issue. Aloha and Cavalier support the Bureau's proposal. Accordingly, the Bureau adopts its proposed formula for determining upfront payments.

83. The specific upfront payments and bidding units for each license are set forth in Attachment A of the *Auction No. 49 Procedures Public Notice.*

84. In calculating its upfront payment amount, an applicant should determine the *maximum* number of bidding units on which it may wish to be active (bidding units associated with licenses on which the bidder has the standing high bid from the previous round and licenses on which the bidder places a bid in the current round) in any single round, and submit an upfront payment covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all licenses on which it seeks to bid in any given round. *Bidders should check their calculations carefully, as there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline.*

EXAMPLE: UPFRONT PAYMENTS AND BIDDING FLEXIBILITY

Market No.	Block	Market name	Population	Bidding units	Upfront payment
CMA152	C	Portland, ME	300,826	18,000	$18,000
CMA314	C	Alabama 8—Lee	196,259	12,000	12,000

If a bidder wishes to bid on both licenses in a round, it must have selected both on its FCC Form 175 and purchased at least 30,000 bidding units (18,000 + 12,000). If a bidder only wishes to bid on one, but not both, purchasing 18,000 bidding units would meet the requirement for either license. The bidder would be able to bid on either license, *but not both at the same time.* If the bidder purchased only 12,000 bidding units, it would have enough eligibility for the Alabama 8—Lee license but not for the Portland, ME license.

85. Former defaulters should calculate their upfront payment for all licenses by multiplying the number of bidding units they wish to purchase by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit.

86. **Note:** An applicant may, on its FCC Form 175, apply for every applicable license being offered, but its actual bidding in any round will be limited by the bidding units reflected in its upfront payment.

iv. Applicant's Wire Transfer Information for Purposes of Refunds of Upfront Payments

87. The Commission will use wire transfers for all Auction No. 49 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed be supplied to the FCC. Applicants can provide the information electronically during the initial short-form filing window after the form has been submitted. Wire Transfer Instructions can also be manually faxed to the FCC, Financial Operations Center, Auctions Accounting Group, Attn: Gail Glasser or Tim Dates, at (202) 418–2843 by May 2, 2003. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call Gail Glasser at (202) 418–0578 or Tim Dates at (202) 418–0496.

Name of Bank
ABA Number
Contact and Phone Number
Account Number to Credit
Name of Account Holder
FCC Registration Number (FRN)
Taxpayer Identification Number
Correspondent Bank (if applicable)
ABA Number
Account Number

(Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain a Taxpayer Identification Number (TIN) before it can disburse refunds.)

Eligibility for refunds is discussed in section V.G.

E. Auction Registration

88. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

89. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, one containing the confidential bidder identification number (BIN) and the other containing the SecurID cards, both of which are required to place bids. *These mailings will be sent only to the contact person at the contact address listed in the FCC Form 175.*

90. Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Tuesday, May 20, 2003, should contact the Auctions Hotline at (717) 338–2888. Receipt of both registration mailings is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

91. Qualified bidders should note that lost bidder identification numbers or SecurID cards can be replaced only by appearing *in person* at the FCC headquarters, located at 445 12th St., SW, Washington, DC 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacements. Qualified bidders requiring replacements must call technical support prior to arriving at the FCC.

F. Remote Electronic Bidding

92. The Commission will conduct this auction over the Internet. Telephonic bidding will also be available, and the FCC Wide Area Network will be available as well. Qualified bidders are permitted to bid telephonically or electronically, *i.e.*, over the Internet or the FCC's Wide Area Network. In either case, *each authorized bidder* must have its own SecurID card, which the FCC will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID cards, while applicants with two or three authorized bidders will be issued three cards. For security purposes, the SecurID cards and the FCC Automated Auction System user manual are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that each SecurID card is tailored to a specific auction; therefore, SecurID cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 49. The telephonic bidding phone number will be supplied in the first overnight mailing, which also includes the confidential bidder identification number. Each applicant should indicate its bidding preference—electronic or telephonic—on the FCC Form 175.

93. Please note that the SecurID cards can be recycled, and we encourage bidders to return the cards to the FCC. We will provide pre-addressed envelopes that bidders may use to return the cards once the auction is over.

G. Mock Auction

94. All qualified bidders will be eligible to participate in a mock auction on Thursday, May 22, 2003. The mock auction will enable applicants to become familiar with the FCC Automated Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. Auction Event

95. The first round of bidding for Auction No. 49 will begin on Wednesday, May 28, 2003. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

A. Auction Structure

i. Simultaneous Multiple Round Auction

96. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice,* we proposed to award all licenses in Auction No. 49 in a simultaneous multiple round auction. Aloha and Cavalier agree with the Bureau's proposal. We conclude that it is operationally feasible and appropriate to auction the licenses in the Lower 700 MHz band through a simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach, we believe, allows bidders to take advantage of synergies that exist among licenses and is administratively efficient.

ii. Maximum Eligibility and Activity Rules

97. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice,* the Bureau proposed that the amount of the upfront payment submitted by a bidder would determine the initial maximum eligibility (as measured in bidding units) for each bidder. One commenter, Banks, requests that the Bureau modify, or create an exception, to this procedure in conjunction with adopting new procedures that would apply when a high bidder withdraws its bid during the course of the auction. Specifically, Banks suggests that in Auction No. 49, when a bidder withdraws its standing high bid, the next-highest bidder should be offered the licenses at its last bid amount, regardless of whether the next-highest bidder has any bidding eligibility available or is even still in the auction. In support of its proposal, Banks claims that adoption of this procedure will ensure that the party that values the license most highly wins the license. As the Bureau explains, it declines to adopt Banks' proposal because it would undermine the efficacy of the Bureau's activity and eligibility rules, thereby potentially decreasing the likelihood that the license is awarded to the bidder who values it most highly.

98. The Commission's rules do not provide for the procedure suggested by Banks. Pursuant to § 1.2109(b) of the Commission's rules, however, the Bureau retains the discretion to offer licenses to the next-highest bidder if a winning bidder withdraws or defaults ''*after* the Commission has declared competitive bidding closed.'' Although the Bureau has the discretion to award licenses to the next-highest bidder in such cases, the Commission has consistently indicated, ''the best course is to re-auction the license.'' The Commission has also recognized that the circumstances for which a next-highest offer would be appropriate are narrow. Further, the Commission has observed that re-offering a defaulted license to the next highest bidder ''may not ensure that the license will be offered to the bidder who values it most highly. In particular, as the license is offered to bidders at that next highest bids, other parties can argue that they would pay more for the license if given the opportunity.'' Thus, even where the rules provide for a procedure similar to the one suggested by Banks, it is generally disfavored.

99. Perhaps more significantly, Banks's proposal also implicates the activity and eligibility rules that apply to the conduct of the Commission's simultaneous multiple round auctions. A bidder's eligibility at the start of an auction is based upon the upfront payment amount that is converted into bidding units, using an auction-specific dollar to bidding unit ratio. Through the upfront payment, the applicant may purchase as many bidding units as it desires, but it must have sufficient bidding units to be eligible to bid on at least one of the licenses that it selects on the FCC Form 175 (''short-form application''). The activity rules, in turn, require bidder participation throughout the auction. Each bidder must have bidding activity in each round that accounts for a specified fraction of the bidder's current eligibility, as measured in bidding units. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

100. The activity and eligibility rules serve several important functions that are necessary to an efficient auction process. The auction activity and eligibility rules encourage bidders to make early bids in the auction, as opposed to waiting until later rounds to participate. Prompt and early participation by a bidder in the auction reveals useful information to other bidders about its demand and valuations for licenses. This transparent process allows bidders to modify their strategies based on current prices. The activity and eligibility rules also help maintain the pace of the auction, which reduces costs to bidders and the Commission. By promoting an efficient auction process, these rules increase the likelihood that the winning bidder will be the party that most highly values the license. By circumventing the activity and eligibility rules, Banks' proposal to restore eligibility would undermine this efficiency.

101. Furthermore, in contrast with one of the basic principles of our auction design, Banks' proposal would permit the withdrawal of one bidder to directly affect the auction outcome for another bidder by means other than

straightforwardly outbidding it. In essence, this change would allow the withdrawing bidder to turn a license over to the holder of the second-highest bid, without the second highest bidder having to outbid the other bidders who might have an interest in the license. This would create the potential for anti-competitive strategic interaction among auction participants and abuse of the auction rules. Finally, Banks' proposal does not address whether the eligibility of other bidders, that may also have an interest, should also be restored and at what level to allow them to bid for the license. Instead, Banks' proposal makes a questionable assumption that the next highest bidder is the only bidder who would at that stage be interested in submitting a bid. Thus, Banks' proposal does not appear to increase the likelihood that the winning bidder will be the party that most highly values the license.

102. Accordingly, the Bureau rejects Banks' request and adopts its proposal that the amount of the upfront payment submitted by a bidder determines the maximum initial eligibility (in bidding units) for each bidder. Note again that each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the *Auction No. 49 Procedures Public Notice* on a bidding unit per dollar basis. The total upfront payment defines the maximum number of bidding units on which the applicant will be permitted to bid and hold high bids in a round. As there is no provision for increasing a bidder's eligibility after the upfront payment deadline, prospective bidders are cautioned to calculate their upfront payments carefully. *The total upfront payment does not affect the total dollar amount a bidder may bid on any given license.*

103. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. Bidders are required to be active on a specific percentage of their current eligibility during each round of the auction.

104. A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. A bidder is considered active on a license in the current round if it is either the high bidder at the end of the previous bidding round and does not withdraw the high bid in the current round, or if it submits a bid in the current round (*see* ''Bid Increments and Minimum Accepted Bids'' in section IV.B.iii). The minimum required activity is expressed as a percentage of the bidder's current bidding eligibility, and increases by stage as the auction progresses. Because these procedures have proven successful in maintaining the pace of previous auctions (as set forth under ''Auction Stages'' in section IV.A.iii and ''Stage Transitions'' in section IV.A.iv), we adopt them for Auction No. 49.

iii. Auction Stages

105. In the *Auction No. 49 Comment Public Notice* and *Auction No.49 Revised Comment Public Notice,* the Bureau proposed to conduct the auction in three stages and employ an activity rule. The Bureau further proposed that, in each round of Stage One, a bidder desiring to maintain its current eligibility would be required to be active on licenses encompassing at least 80 percent of its current bidding eligibility. In each round of Stage Two, a bidder desiring to maintain its current eligibility would be required to be active on at least 90 percent of its current bidding eligibility. Finally, the Bureau proposed that a bidder in Stage Three, in order to maintain its current eligibility, would be required to be active on 98 percent of its current bidding eligibility. The Bureau received no comments on this proposal.

106. The Bureau adopts its proposals for the activity rule and stages. Listed are the activity levels for each stage of the auction. The FCC reserves the discretion to further alter the activity percentages before and/or during the auction.

Stage One: During the first stage of the auction, a bidder desiring to maintain its current eligibility will be required to be active on licenses encompassing at least 80 percent of its current bidding eligibility in each bidding round. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and bids during the current round) by five-fourths (5/4).

Stage Two: During the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 90 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage Two, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and bids during the current round) by ten-ninths (10/9).

Stage Three: During the third stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). In this final stage, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and bids during the current round) by fifty-fortyninths (50/49).

Caution: Since activity requirements increase in each auction stage, bidders must carefully check their current activity during the bidding period of the first round following a stage transition. This is especially critical for bidders that have standing high bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required activity level by using the bidding system's bidding module.

107. Because the foregoing procedures have proven successful in maintaining proper pace in previous auctions, the Bureau adopts them for Auction No. 49.

iv. Stage Transitions

108. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice,* the Bureau proposed that the auction would generally advance to the next stage (*i.e.*, from Stage One to Stage Two, and from Stage Two to Stage Three) when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is below 20 percent for three consecutive rounds of bidding in each Stage. The Bureau further proposed that it would retain the discretion to change stages unilaterally by announcement during the auction. This determination, the Bureau proposed, would be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. The Bureau received no comments on this subject.

109. The Bureau adopts its proposal. Thus, the auction will start in Stage One

and will generally advance to the next stage (*i.e.*, from Stage One to Stage Two, and from Stage Two to Stage Three) when, in each of three consecutive rounds of bidding, the high bid has increased on 20 percent or less of the licenses being auctioned (as measured in bidding units). In addition, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. The Bureau believes that these stage transition rules, having proven successful in prior auctions, are appropriate for use in Auction No. 49.

v. Activity Rule Waivers and Reducing Eligibility

110. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice,* the Bureau proposed that each bidder in the auction would be provided five activity rule waivers. Bidders may use an activity rule waiver in any round during the course of the auction. Aloha and Cavalier support the Bureau's proposal on this issue.

111. Based upon its experience in previous auctions, *the Bureau adopts its proposal that each bidder be provided five activity rule waivers that may be used in any round during the course of the auction.* Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required level. An activity rule waiver applies to an entire round of bidding and not to a particular license. The Bureau is satisfied that our practice of providing five waivers over the course of the auction provides a sufficient number of waivers and flexibility to the bidders while safeguarding the integrity of the auction.

112. The FCC Automated Auction System assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an ''automatic waiver'') at the end of any round where a bidder's activity level is below the minimum required unless: (i) there are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements. If a bidder has no waivers remaining and does not satisfy the required activity level, the current eligibility will be permanently reduced, possibly eliminating the bidder from the auction.

113. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round by using the reduce eligibility function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in ''Auction Stages'' (*see* section IV.A.iii discussion). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

114. Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the FCC Automated Auction System) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. However, an automatic waiver triggered during a round in which there are no new bids or withdrawals will not keep the auction open.

Note: Once a proactive waiver is submitted during a round, that waiver cannot be unsubmitted.

vi. Auction Stopping Rules

115. For Auction No. 49, the Bureau proposed to employ a simultaneous stopping rule. The Bureau also sought comment on a modified version of the stopping rule. The modified version of the stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping rule.

116. The Bureau further proposed retaining the discretion to keep the auction open even if no new bids or proactive waivers are submitted and no previous high bids are withdrawn in a round. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either use an activity rule waiver (if it has any left) or lose bidding eligibility.

117. In addition, the Bureau proposed that it reserve the right to declare that the auction will end after a designated number of additional rounds (''special stopping rule''). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The Bureau proposed to exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureau is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage (where bidders will be required to maintain a higher level of bidding activity), increasing the number of rounds per day, and/or adjusting the minimum acceptable bids and bid increments for the licenses.

118. Aloha and Cavalier support the Bureau's proposal concerning the auction stopping rules. In light of the foregoing, the Bureau adopts the proposals. Auction No. 49 will begin under the simultaneous stopping rule, and the Bureau will retain the discretion to invoke the other versions of the stopping rule. The Bureau believes that these stopping rules are most appropriate for Auction No. 49, because its experience in prior auctions demonstrates that the auction stopping rules balance the interests of administrative efficiency and maximum bidder participation.

vii. Auction Delay, Suspension, or Cancellation

119. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice,* the Bureau proposed that, by public notice or by announcement during the auction, it may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair conduct of competitive bidding. Aloha and Cavalier support the Bureau's proposal on this issue.

120. Because this approach has proven effective in resolving exigent circumstances in previous auctions, the Bureau adopts its proposed auction cancellation rules. By public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach,

unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. The Bureau emphasizes that exercise of this authority is solely within its discretion, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

B. Bidding Procedures

i. Round Structure

121. The initial bidding schedule will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction. Each bidding round is followed by the release of round results. Multiple bidding rounds may be conducted in a given day. Details regarding round results formats and locations will also be included in the qualified bidders public notice.

122. The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

ii. Reserve Price or Minimum Opening Bid

123. *Background.* The Balanced Budget Act calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction. Among other factors, the Bureau must consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on the spectrum being auctioned. The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.

124. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice,* the Bureau proposed to establish minimum opening bids for Auction No. 49 and to retain discretion to lower the minimum opening bids. Specifically, for Auction No. 49, the Bureau proposed the following license-by-license formula for calculating minimum opening bids:

$0.01 * MHz * License Area Population with a minimum of $1,000 per license.

125. In the alternative, the Bureau sought comment on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

126. Two commenters allege that the minimum opening bids are too high and ask that the Bureau revise the proposed formula to reduce the minimum opening bids. Neither commenter proposes a specific reduction to the minimum opening bids nor a specific change to the formula used to compute the minimum opening bid. Further, the commenters provide no evidence that the proposed minimum opening bids are too high.

127. Following consideration of comments received, the Bureau adopts its proposed minimum opening bids for Auction No. 49. The Bureau notes that the minimum opening bids adopted here are approximately 60% less than those used in Auction No. 44. Based on this reduction and other considerations, the Bureau believes the minimum opening bids are well below the levels of the likely winning bids, and are not so high as to discourage competition. Thus, the Bureau is not persuaded that the proposed minimum opening bids are unreasonable.

128. The minimum opening bids adopted for Auction No. 49 are reducible at the discretion of the Bureau. The Bureau emphasizes, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain any requests to reduce the minimum opening bid on specific licenses.

129. The specific minimum opening bids for each license available in Auction No. 49 are set forth in Attachment A of the *Auction No. 49 Procedures Public Notice.*

iii. Minimum Acceptable Bids and Bid Increments

130. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice,* the Bureau proposed to use a smoothing methodology to calculate minimum acceptable bids. The smoothing methodology is designed to vary the increment for a given license between a maximum and minimum percentage based on the bidding activity on that license. This methodology allows the increments to be tailored to the activity on a license, decreasing the time it takes for licenses receiving many bids to reach their final prices. The formula used to calculate this increment is included as Attachment F of the *Auction No. 49 Procedures Public Notice.* The Bureau further proposed to retain the discretion to change the minimum acceptable bids and bid increments if circumstances so dictate. Aloha and Cavalier support the Bureau's position concerning minimum acceptable bids and bid increments.

131. In each round, each eligible bidder will be able to place a bid on a particular license for which it applied in any of nine different amounts. The FCC Automated Auction System will list the nine bid amounts for each license.

132. Once there is a standing high bid on a license, the FCC Automated Auction System will calculate a minimum acceptable bid for that license for the following round, as described in Attachment F of the *Auction No. 49 Procedures Public Notice.* The difference between the minimum acceptable bid and the standing high bid for each license will define the *bid increment—i.e.*, bid increment = (minimum acceptable bid) − (standing high bid). The nine acceptable bid amounts for each license consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (*i.e.*, the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, *etc.*).

133. At the start of the auction and until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. Corresponding additional bid amounts will be calculated using bid increments defined as the difference between the minimum opening bid times one plus the percentage increment, rounded as described in

Attachment F of the *Auction No. 49 Procedures Public Notice,* and the minimum opening bid—*i.e.*, bid increment = (minimum opening bid)(1 + percentage increment) {rounded} − (minimum opening bid). At the start of the auction and until a bid has been placed on a license, the nine acceptable bid amounts for each license consist of the minimum opening bid and additional amounts calculated using multiple bid increments (*i.e.*, the second bid amount equals the minimum opening bid plus the bid increment, the third bid amount equals the minimum opening bid plus two times the bid increment, *etc.*)

134. In the case of a license for which the standing high bid has been withdrawn, the minimum acceptable bid will equal the second highest bid received for the license. The additional bid amounts are calculated using the difference between the second highest bid times one plus the minimum percentage increment, rounded, and the second highest bid.

135. The Bureau retains the discretion to change the minimum acceptable bids and bid increments and the methodology for determining the minimum acceptable bids and bid increments if they determine circumstances so dictate. The Bureau will do so by announcement in the FCC Automated Auction System. The Bureau may also use its discretion to adjust the minimum bid increment without prior notice if circumstances warrant.

iv. High Bids

136. At the end of each bidding round, the high bids will be determined based on the highest gross bid amount received for each license. A high bid from a previous round is sometimes referred to as a ''standing high bid.'' A ''standing high bid'' will remain the high bid until there is a higher bid on the same license at the close of a subsequent round. Bidders are reminded that standing high bids count towards bidding activity.

137. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice*, the Bureau proposed to use a random number generator to select a high bid in the event of identical high bids on a license in a given round (*i.e.*, tied bids). Aloha and Cavalier support the Bureau's proposal concerning tie bids. No commenter opposed the Bureau's proposal. Therefore, the Bureau adopts its proposal. A Sybase® SQL pseudo-random number generator based on the Lecuyer algorithm will be used to assign a random number to each bid. The tied bid having the highest random number will become the standing high bid. The remaining bidders, as well as the high bidder, will be able to submit a higher bid in a subsequent round. If no bidder submits a higher bid in a subsequent round, the high bid from the previous round will win the license. If any bids are received on the license in a subsequent round, the high bid will once again be determined on the highest gross bid amount received for the license.

v. Bidding

138. During a round, a bidder may submit bids for as many licenses as it wishes (subject to its eligibility), withdraw high bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round. Bidders should note that the bidding units associated with licenses for which the bidder has removed or withdrawn its bid do not count towards the bidder's activity at the close of the round.

139. Please note that all bidding will take place remotely either through the FCC Automated Auction System or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, four to five minutes are necessary to complete a bid submission.) There will be no on-site bidding during Auction No. 49.

140. A bidder's ability to bid on specific licenses in the first round of the auction is determined by two factors: (i) The licenses applied for on FCC Form 175 and (ii) the upfront payment amount deposited. The bid submission screens will allow bidders to submit bids on only those licenses for which the bidder applied on its FCC Form 175.

141. In order to access the bidding functions of the FCC Automated Auction System, bidders must be logged in during the bidding round using the bidder identification number provided in the registration materials, and the passcode generated by the SecurID card. Bidders are strongly encouraged to print bid confirmations for each round *after* they have completed all of their activity for that round.

142. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. For each license, the FCC Automated Auction System interface will list the nine acceptable bid amounts in a drop-down box. Bidders may use the drop-down box to select from among the nine bid amounts. The FCC Automated Auction System also includes an import function that allows bidders to upload text files containing bid information.

143. Until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. Once there is a standing high bid on a license, the FCC Automated Auction System will calculate a minimum acceptable bid for that license for the following round, as described in section IV.B.iii.

144. Finally, bidders are cautioned in selecting their bid amounts because, as explained in the following section, bidders who withdraw a standing high bid from a previous round, even if mistakenly or erroneously made, are subject to bid withdrawal payments.

vi. Bid Removal and Bid Withdrawal

145. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice*, the Bureau proposed bid removal and bid withdrawal procedures. Aloha and Cavalier agree with the Bureau's proposal concerning bid removal and bid withdrawal. With respect to bid withdrawals, the Bureau proposed limiting each bidder to withdrawals in no more than two rounds during the course of the auction. The two rounds in which withdrawals are used, the Bureau proposed, would be at the bidder's discretion.

146. *Procedures.* Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the ''remove bid'' function in the bidding system, a bidder may effectively ''unsubmit'' any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed, *i.e.*, a bid that is removed does not count towards bidding activity. This procedure will enhance bidder flexibility during the auction, and therefore, the Bureau adopts these procedures for Auction No. 49.

147. Once a round closes, a bidder may no longer remove a bid. However, in later rounds, a bidder may withdraw standing high bids from previous rounds using the withdraw bid function in the FCC Automated Auction System (assuming that the bidder has not reached its withdrawal limit). A high bidder that withdraws its standing high bid from a previous round during the

auction is subject to the bid withdrawal payments specified in 47 CFR 1.2104(g).

Note: Once a withdrawal is placed during a round, that withdrawal cannot be unsubmitted.

148. In previous auctions, the Bureau has detected bidder conduct that, arguably, may have constituted strategic bidding through the use of bid withdrawals. While the Bureau continues to recognize the important role that bid withdrawals play in an auction, *i.e.*, reducing risk associated with efforts to secure various licenses in combination, the Bureau concludes that, for Auction No. 49, adoption of a limit on the use of withdrawals to two rounds per bidder is appropriate. By doing so the Bureau believes it strikes a reasonable compromise that will allow bidders to use withdrawals. Its decision on this issue is based upon its experience in prior auctions, particularly the PCS D, E and F block and 800 MHz SMR auctions, and is in no way a reflection of our view regarding the likelihood of any speculation or ''gaming'' in this auction.

149. The Bureau will therefore limit the number of rounds in which bidders may place withdrawals to two rounds. These rounds will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in either of these rounds. Withdrawals during the auction will be subject to the bid withdrawal payments specified in 47 CFR 1.2104(g). Bidders should note that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a market.

150. If a high bid is withdrawn, the minimum acceptable bid will equal the second highest bid received for the license, which may be less than, or equal to, in the case of tied bids, the amount of the withdrawn bid. To set the additional bid amounts, the second highest bid also will be used in place of the standing high bid in the formula used to calculate bid increments. The Commission will serve as a ''place holder'' high bidder on the license until a new bid is submitted on that license.

151. *Calculation.* Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction. If a bidder withdraws its bid and there is no higher bid in the same or subsequent auction(s), the bidder that withdrew its bid is responsible for the difference between its withdrawn bid and the high bid in the same or subsequent auction(s). See 47 CFR 1.2104(g)(1). In the case of multiple bid withdrawals on a single license, within the same or subsequent auction(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids, in either the same or subsequent auction(s), equals or exceeds that withdrawn bid. Thus, a bidder that withdraws a bid will not be responsible for any withdrawal payments if there is a subsequent higher bid in the same or subsequent auction(s). This policy allows bidders most efficiently to allocate their resources as well as to evaluate their bidding strategies and business plans during an auction while, at the same time, maintaining the integrity of the auction process. The Bureau retains the discretion to scrutinize multiple bid withdrawals on a single license for evidence of anti-competitive strategic behavior and take appropriate action when deemed necessary.

152. In the *Part 1 Fifth Report and Order*, the Commission modified § 1.2104(g)(1) of the rules regarding assessments of interim bid withdrawal payments. As amended, § 1.2104(g)(1) provides that in instances in which bids have been withdrawn on a license that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the withdrawn bids. The 3 percent interim payment will be applied toward any final bid withdrawal payment that will be assessed after subsequent auction of the license. Assessing an interim bid withdrawal payment ensures that the Commission receives a minimal withdrawal payment pending assessment of any final withdrawal payment. The *Part 1 Fifth Report and Order* provides specific examples showing application of the bid withdrawal payment rule.

vii. Round Results

153. Bids placed during a round will not be made public until the conclusion of that bidding period. After a round closes, the Bureau will compile reports of all bids placed, bids withdrawn, current high bids, new minimum acceptable bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities for Auction No. 49 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

viii. Auction Announcements

154. The FCC will use auction announcements to announce items such as schedule changes and stage transitions. All FCC auction announcements will be available by clicking a link on the FCC Automated Auction System.

ix. Maintaining the Accuracy of FCC Form 175 Information

155. As noted in section II.H., after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and certain revision of exhibits. Applicants must make these modifications to their FCC Form 175 electronically and submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Industry Analysis Division at the following address: *auction49@fcc.gov.* The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 49. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents.

156. *A separate copy of the letter should be faxed to the attention of Kathryn Garland at (717) 338–2850.* Questions about other changes should be directed to Howard Davenport of the Auctions and Industry Analysis Division at (202) 418–0660.

V. Post-Auction Procedures

A. Down Payments and Withdrawn Bid Payments

157. After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying winning bidders, down payments and any withdrawn bid payments due.

158. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction No. 49 to 20 percent of its net winning bids (actual bids less any applicable small, very small business or entrepreneur bidding credits). In addition, by the same deadline all bidders must pay any bid withdrawal payments due under 47 CFR 1.2104(g), as discussed in ''Bid Removal and Bid Withdrawal,'' section IV.B.vi. (Upfront payments are applied first to satisfy any withdrawn bid liability,

before being applied toward down payments.)

B. Auction Discount Voucher

159. On June 8, 2000, the Commission awarded Qualcomm, Inc. a transferable Auction Discount Voucher (''ADV'') in the amount of $125,273,878.00. This ADV may be used by Qualcomm or its transferee, in whole or in part, to adjust a winning bid in any spectrum auction prior to June 8, 2003, subject to terms and conditions set forth in the Commission's Order. Qualcomm transferred $10,848,000.00 of the ADV to a winning bidder in FCC Auction No. 35 and the transferee used its portion of the ADV to pay a portion of one of its winning bids in Auction No. 35. The remaining portion of Qualcomm's ADV could be used to adjust winning bids in another FCC auction, including Auction No. 49.

C. Long-Form Application (FCC Form 601)

160. Within ten business days after release of the auction closing notice, winning bidders must electronically submit a properly completed long-form application (FCC Form 601) and required exhibits for each license won through Auction No. 49. Winning bidders that are small, very small businesses or entrepreneurs must include an exhibit demonstrating their eligibility for small, very small business or entrepreneur bidding credits. *See* 47 CFR 1.2112(b). Further filing instructions will be provided to auction winners at the close of the auction.

D. Ownership Disclosure Information Report (FCC Form 602)

161. At the time it submits its long-form application (FCC Form 601), each winning bidder also must comply with the ownership reporting requirements as set forth in 47 CFR 1.913, 1.919, and 1.2112(a). We remind applicants that effective December 10, 2002, electronic filing of the Ownership Disclosure Information Report (FCC Form 602) became mandatory. Accordingly, forms filed manually will not be accepted. Winning bidders without a current Form 602 already on file with the Commission must submit a properly completed Form 602 at the time they submit their long-form applications. Further filing instructions will be provided to auction winners at the close of the auction.

E. Tribal Land Bidding Credit

162. A winning bidder that intends to use its license(s) to deploy facilities and provide services to federally-recognized tribal lands that are unserved by any telecommunications carrier or that have a telephone service penetration rate equal to or below 70 percent is eligible to receive a tribal land bidding credit as set forth in 47 CFR 1.2107 and 1.2110(f). A tribal land bidding credit is in addition to, and separate from, any other bidding credit for which a winning bidder may qualify.

163. Unlike other bidding credits that are requested prior to the auction, a winning bidder applies for the tribal land bidding credit *after* winning the auction when it files its long-form application (FCC Form 601). When filing the long-form application, the winning bidder will be required to advise the Commission whether it intends to seek a tribal land bidding credit, for each market won in the auction, by checking the designated box(es). After stating its intent to seek a tribal land bidding credit, the applicant will have 90 days from the close of the long-form filing window to amend its application to select the specific tribal lands to be served and provide the required tribal government certifications. Licensees receiving a tribal land bidding credit are subject to performance criteria as set forth in 47 CFR 1.2110(f).

164. For additional information on the tribal land bidding credit, including how the amount of the credit is calculated, applicants should review the Commission's rule making proceeding regarding tribal land bidding credits and related public notices. Relevant documents can be viewed on the Commission's Web site by going to *http://wireless.fcc.gov/auctions* and clicking on the *Tribal Land Credits* link.

F. Default and Disqualification

165. Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at their final bid. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant.

G. Refund of Remaining Upfront Payment Balance

166. All applicants that submitted upfront payments but were not winning bidders for a license in Auction No. 49 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from that applicant after any applicable bid withdrawal payments have been paid. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

167. Bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request. If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions, Taxpayer Identification Number (TIN) and FCC Registration Number (FRN). Send refund request to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Gail Glasser or Tim Dates, 445 12th Street, SW., Room 1–C863, Washington, DC 20554.

168. Bidders are encouraged to file their refund information electronically using the refund information portion of the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418–2843. Once the information has been approved, a refund will be sent to the party identified in the refund information.

Note: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Gail Glasser at (202) 418–0578 or Tim Dates at (202) 418–0496.

Federal Communications Commission.

Louis J. Sigalos,

Deputy Chief, Auctions and Industry Analysis Division, WTB.

[FR Doc. 03–7190 Filed 3–25–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: Background. On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–I's and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. ways to enhance the quality, utility, and clarity of the information to be collected; and

d. ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before May 27, 2003.

ADDRESSES: Comments may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. However, because paper mail in the Washington area and at the Board of Governors is subject to delay, please consider submitting your comments by e-mail to regs.comments@federalreserve.gov, or faxing them to the Office of the Secretary at 202–452–3819 or 202–452–3102. Comments addressed to Ms. Johnson may also be delivered to the Board's mail facility in the West Courtyard between 8:45 a.m. and 5:15 p.m., located on 21st Street between Constitution Avenue and C Street, N.W. Members of the public may inspect comments in Room MP–500 between 9:00 a.m. and 5:00 p.m. on weekdays pursuant to 261.12, except as provided in 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

A copy of the comments may also be submitted to the OMB desk officer for the Board: Joseph Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Cindy Ayouch, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following report:

Report title: Recordkeeping and Disclosure Requirements of Regulation Z

Agency form number: Reg Z

OMB control number: 7100–0199

Frequency: Event–generated

Reporters: State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act.

Annual reporting hours: Open–end credit–initial disclosure 28,463 hours; open–end credit—change in terms notice, 41,250 hours; periodic statement, 125,952 hours; error resolution—credit cards, 22,260 hours; error resolution—other open–end credit, 1,312 hours; credit & charge card accounts–advance disclosure, 29,952 hours; home equity plans—advance disclosure, 13,983 hours; home equity plans—change in terms notice, 354 hours; closed–end credit disclosures, 351,354 hours; advertising, 2,733 hours; and HOEPA pre–closing disclosures, 425 hours.

Estimated average hours per response: Open–end credit—initial disclosure, 1.5 minutes; open–end credit—change in terms notice, 1 minute; periodic statement, 8 hours; error resolution—credit cards, 30 minutes; error resolution—other open–end credit, 30 minutes; credit & charge card accounts—advance disclosure, 8 hours; home equity plans—advance disclosure, 1.5 minutes; home equity plans—change in terms notice, 3 minutes; closed–end credit disclosures, 6.5 minutes; advertising, 25 minutes; and HOEPA pre–closing disclosures, 3 minutes.

Number of respondents: State member banks, 947; branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), 287; commercial lending companies owned or controlled by foreign banks, 3; and organizations operating under section 25 or 25A of the Federal Reserve Act, 75.

Small businesses are affected.

General description of report: This information collection is mandatory (15 U.S.C. 1601, 1604(a)). Since the Federal Reserve does not collect any information, no issue of confidentiality arises. Transaction– or account–specific disclosures and billing error allegations are not publicly available and are confidential between the creditor and the consumer. General disclosures of credit terms that appear in advertisements or take–one applications are available to the public.

Abstract: TILA and Regulation Z require disclosure of the costs and terms of credit to consumers. For open–end credit (revolving credit accounts) creditors are required to disclose information about the initial costs and terms and to provide periodic statements of account activity, notices of changes in terms, and statements of rights concerning billing error

procedures. There are special disclosure requirements for credit and charge card applications and solicitations, as well as for home equity plans. For closed–end loans, such as mortgage and installment loans, cost disclosures are required to be provided prior to consummation. Special disclosures are required of certain products, such as reverse mortgages, certain variable rate loans, and certain mortgages with rates and fees above specified thresholds. TILA and Regulation Z also contain rules concerning credit advertising.

Recently, the Federal Reserve reevaluated the methodology used to estimate the paperwork burden associated with consumer regulations. As a result of this change, the estimated burden declined.

Board of Governors of the Federal Reserve System, March 20, 2003.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 03–7191 Filed 3–25–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 9, 2003.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. The Maurice Family (John M. Maurice, Cedar Rapids, Iowa; Steven P. Maurice, Mt. Vernon, Iowa; Dorothy D. Maurice, Cedar Rapids, Iowa; Jane Bohlin, Park Forest, Illinois; and James R. Maurice, Chicago, Illinois); to retain ownership of M.S.B. Corporation, Central City, Iowa, and thereby indirectly retain voting shares of City State Bank, Central City, Iowa.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Murray H. Edwards, Clyde, Texas; to acquire voting shares of Clyde Financial Corporation, Clyde, Texas, and thereby indirectly acquire voting shares of Peoples State Bank, Clyde, Texas.

Board of Governors of the Federal Reserve System, March 20, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–7193 Filed 3–25–03; 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 April 18, 2003.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Woori Bank and Woori Finance Holdings Company, Ltd., both of Seoul, Korea; to become a bank holding company by acquiring 100 percent of the voting shares of Panasia Bank, National Association, Fort Lee, New Jersey.

B. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Alabama National BanCorporation, Birmingham, Alabama; to acquire 100 percent of the voting shares of Millennium Bank, Gainesville, Florida.

2. Community Bancshares of Mississippi, Inc., Brandon, Mississippi; to acquire at least 80 percent of the voting shares of First Lucedale Bancorp, Inc., Lucedale, Mississippi, and thereby indirectly acquire voting shares of First National Bank of Lucedale, Lucedale, Mississippi.

3. Sterling BancGroup, Inc., Lantana, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Sterling Bank, Lantana, Florida.

C. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. National Bancshares, Inc., Bettendorf, Iowa; to acquire at least 33.56 percent of the voting shares of Benchmark Bancorp, Inc., Aurora, Illinois, and thereby indirectly acquire voting shares of Benchmark Bank, Aurora, Illinois.

2. PSB Group, Inc., Madison Heights, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples State Bank, Hamtramck, Michigan.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Liberty Bancshares, Inc., Jonesboro, Arkansas; to acquire 100 percent of the voting shares of MSB Shares, Inc., Jonesboro, Arkansas, and thereby indirectly acquire voting shares of MidSouth Bank, Jonesboro, Arkansas.

E. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Central Financial Corporation, Hutchinson, Kansas; to acquire up to 45 percent of the voting shares of Mid–America Bancorp, Inc., and thereby indirectly acquire voting shares of Heartland Bank, both of Jewell, Kansas.

2. Guaranty Corporation, Denver, Colorado; to acquire up to 19.19 percent of the voting shares of Bank Capital Corporation, Phoenix, Arizona, and

thereby indirectly acquire The Biltmore Bank of Arizona, Phoenix, Arizona.

3. Steele Street State Bank Corporation, Denver, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Steele Street State Bank, Denver, Colorado.

F. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. American Premier Bancorp, Arcadia, California; to become a bank holding company by acquiring 100 percent of the voting shares of American Premier Bank, Arcadia, California.

Board of Governors of the Federal Reserve System, March 20, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–7194 Filed 3–25–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 9, 2003.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. DNB Holdings ASA, Oslo, Norway; to acquire DnB Asset Management (US), Inc., New York, New York, and thereby engage in certain financial and investment advisory activities, pursuant to section 225.28(b)(6) of Regulation Y.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Standard Bancshares, Inc., Hickory Hills, Illinois; to acquire Security Financial Bancorp, Inc., Saint John, Indiana, and thereby indirectly acquire Security Federal Bank and Trust, St. John, Indiana, and thereby engage in operating a savings association, pursuant to section 228.25(b)(4)(ii) of Regulation Y. Comments regarding this application must be received not later than April 18, 2003.

Board of Governors of the Federal Reserve System, March 20, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.03–7192 Filed 3–25–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Notice Concerning Telemarketing Sales Rule

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In this document, the Federal Trade Commission (''FTC'' or ''Commission'') announces that in response to petitions from the Direct Marketing Association (''DMA'') and the American Teleservices Association (''ATA''), the Commission has decided to extend the date by which it will require full compliance with § 310.4(b)(4)(iii) of the Amended Telemarketing Sales Rule (''TSR'') until October 1, 2003.

DATES: The Commission will require full compliance with § 310.4(b)(4)(iii) on October 1, 2003.

ADDRESSES: Requests for copies of the Amended Rule and this notice should be sent to Public Reference Branch, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Catherine Harrington-McBride, (202) 326–2452, Karen Leonard, (202) 326–3597, Michael Goodman, (202) 326–3071, or Carole Danielson, (202) 326–3115, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On January 29, 2003, the Federal Trade Commission published the Amended Telemarketing Sales Rule (''TSR''), 16 CFR part 310, and its Statement of Basis and Purpose in the **Federal Register**.[1] The notice stated that the Amended Rule would become effective March 31, 2003; that full compliance with § 310.4(a)(7), the caller identification transmission provision, would be required by January 29, 2004; and that the Commission would announce at a future time the date by which full compliance with § 310.4(b)(1)(iii)(B), the ''do-not-call'' registry provision, would be required.

By letter dated February 27, 2003, the Direct Marketing Association (''DMA'') petitioned the Commission either to ''forebear from enforcing the requirements of § 310.4(b)(1)(iv) * * * and § 310.4(a)(6)(i) of the Telemarketing Sales Rule (TSR) or in the alternative, stay the effectiveness of these sections of the rule * * *.'' These are the provisions that, respectively, prohibit telemarketers from abandoning calls, and require taping of the entire telemarketing call in any transaction combining the use of preacquired account information and a free-to-pay conversion offer.

Also on February 27, 2003, the American Teleservices Association (''ATA'') petitioned the Commission to stay the effective date of the Amended TSR pending resolution of lawsuits initiated by ATA and DMA that challenge the validity of certain provisions of the Amended Rule.[2] ATA seeks, in the alternative, postponement of the March 31, 2003, effective date of the Amended TSR until the FCC has finished its review of its regulations under the Telephone Consumer Protection Act (''TCPA''), 47 U.S.C. 227.

Based on information submitted by the petitions together with information obtained from other sources, the Commission has determined that full compliance with the recording requirement of the call abandonment safe harbor provision (§ 310.4(b)(4)(iii)) by March 31, 2003, many constitute an undue burden on some telemarketers and sellers, who may need to reprogram or purchase software for their equipment, or replace their current equipment. In some instances, it will be very difficult or impossible to accomplish this by the March 31, 2003,

[1] 68 FR 4580 (Jan. 29, 2003).

[2] *ATA* v. *FTC,* No. 03–N–0184(MJW)(D. Col. filed Jan. 29, 2003); *DMA* v. *FTC,* No. CIV 03–122–W (W.D. Okla. filed Jan. 29, 2003).

effective date. Therefore, the Commission has determined to extend the date by which it will require full compliance with § 310.4(b)(4)(iii) until October 1, 2003. The Commission also stays until October 1, 2003, the date by which it will require full compliance with the safe harbor record retention requirement, § 310.4(b)(4)(iv), to the extent it would require record keeping to document the use of a recorded message in instances of call abandonment. The additional six months should give industry ample time to make the changes in their operations necessary to comply with the recording requirement of the call abandonment safe harbor.

The requirement of full compliance with the prohibition on call abandonment (§ 310.4(b)(1)(iv)) is not stayed, and the requirement of full compliance with the other requirements of the call abandonment safe harbor provision (§§ 310.4(b)(4)(i), (ii) & (iv)) similarly is not stayed.[3] The Commission determined that these provisions are necessary to remedy the abusive practice of call abandonment and the related abusive practice of disconnecting the call after only one or two rings, before the consumer can reach the telephone to answer it.[4] Nothing the petitioners have submitted demonstrates that telemarketers would be unable to comply with these call abandonment provisions.

As the Statement of Basis and Purpose indicates, in the future the Commission will announce the date by which full compliance with the national ''do-not-call'' registry provisions of the amended Rule will be required. Full compliance with all other provisions of the amended Rule—with the exception of the Caller ID provision (§ 310.4(a)(7))—will be required by the date on which the amended Rule is effective, March 31, 2003. Full compliance with the Caller ID provisions will be required by January 29, 2004.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–7249 Filed 3–25–03; 8:45 am]

BILLING CODE 6750–01–M

[3] The requirement of full compliance with Section 310.4(b)(4)(iv) is not stayed to the extent that it requires record keeping to document compliance with §§ 310.4(b)(4)(i) or (ii).

[4] See the Commission's discussion of these practices and the TSR provisions adopted to remedy them at 68 FR at 4641 (Jan. 29, 2003).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–0001]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary, Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection.

Title of Information Collection: Waiver of the Two-Year Home-Country Physical Presence Requirement for Physician Exchange Visitors to Deliver Health Care Services in Underserved Areas and Supporting regulations 45 CFR part 50.1 through 50.8; Form No.: OMB# 0938–0001; Use: Section 50.4 of the interim final rule published in the **Federal Register** Vol. 67, No. 244, page 77692, on December 19, 2002 contains information collection requirements currently approved under OMB Control Number 0990–0001. Sections 50.5(e)(4) and (5) of the rule contain disclosure requirements. Section 50.5(e)(4) requires facilities or practices sponsoring an Exchange Visitor waiver request for the delivery of health care to post a notice of the charges for services. On an annual basis it is estimated that it will take 300 practices one hour each to prepare and post such notices. The total annual burden associated with this requirement is 300 hours. Section 50.5(e)(5) of the rules contains the requirements for the submission of evidence that the applicant made unsuccessful efforts to recruit a U.S. physician. The burden associated with these requirements is the time and effort necessary for an applicant to submit the documentation. On an annual basis it is estimated that it will take 300 applicants two hours each to prepare and submit this documentation. The total annual burden associated with this requirement is 600 hours. As a note we are requesting approval of the revised forms that are currently approved under OMB number 0990–0001, which are used by the public to comply with the information collection requirements contained in the interim final rule denoted above.

Frequency: On Occasion.

Affected Public: Individuals, Organizations.

Number of Respondents: 600 (300 facilities/300 applicants).

Total Annual Responses: 600.

Total Annual Hours: 900 (300 facilities/600 applicants).

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, or E-mail your request, including your address, phone number, OS document identifier, to *John.Burke@hhs.gov,* or call the Reports Clearance Office on (202) 690–8356. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt (OMB #0990–0001), New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: March 10, 2003.

John P. Burke, III,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary, Department of Health and Human Services.

[FR Doc. 03–7110 Filed 3–25–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Standards and Security.

Time and Date: 9 a.m. to 5 p.m., March 25, 2003; 9 a.m. to 1 p.m., March 26, 2003.

Place: Hubert H. Humphrey Building, Room 505A on March 25, Room 705A on March 26, 200 Independence Avenue SW., Washington, DC.

Status: Open.

Purpose: The Subcommittee will continue the process of evaluating PMRI terminologies

in order to select and recommend these terminologies as HIPAA PMRI Terminology Standards. The information that will be reviewed was gathered from the NCVHS PMRI Terminology Questionnaire in January and February 2003. Dr. Walter Sujansky, consultant to the Subcommittee, will present an analysis of the results from the questionnaire. The Subcommittee will then consider the issues raised by this analysis and determine whether additional information is needed from PMRI terminology developers. It will also formulate the questions that will be addressed by the users of PMRI terminologies when they testify to the Subcommittee on May 21st.

For Further Information Contact: Substantive program information as well as summaries of meetings and a roster of Committee members may be obtained from Karen Trudel, Senior Technical Advisor, Security and Standards Group, Centers for Medicare and Medicaid Services, MS: C5–24–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, telephone: 410–786–9937; or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone: (301) 458–4245. Information also is available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/* where an agenda for the meeting will be posted when available.

Notice: In the interest of security, HHS has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Persons without a government identification card may need to have the guard call for an escort to the meeting.

Dated: March 14, 2003.

James Scanlon,

Acting Director, Office of Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 03–7108 Filed 3–25–03; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Oak Ridge Reservation Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Oak Ridge Reservation Health Effects Subcommittee (ORRHES).

Time and Date: 12 p.m.—8 p.m., April 22, 2003.

Place: YWCA of Oak Ridge, 1660 Oak Ridge Turnpike, Oak Ridge, Tennessee 37830. Telephone: (865) 482–9922.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Background: A Memorandum of Understanding (MOU) was signed in October 1990, and renewed in September 2000, between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List, and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles. In addition, under an MOU signed in December 1990 with DOE, and replaced by an MOU signed in 2000, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, pertaining to CDC's and ATSDR's public health activities and research at this DOE site. Activities shall focus on providing the public with a vehicle to express concerns and provide advice and recommendations to CDC and ATSDR. The purpose of this meeting is to receive updates from ATSDR and CDC, and to address other issues and topics, as necessary.

Matters to Be Discussed: The agenda includes a discussion of the ATSDR Public Health Assessment on Y–12 Uranium Releases—U.S. Department of Energy (DOE) Oak Ridge Reservation; updates from the Public Health Assessment, Health Needs Assessment, Guidelines and Procedures, Agenda, and the Outreach and Communications Workgroups. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: La Freta Dalton, Designated Federal Official, or Marilyn Palmer, Committee Management Specialist, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE., M/S E–32, Atlanta, Georgia 30333, telephone 1–888–42–ATSDR(28737), fax 404/498–1744.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–7179 Filed 3–25–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the charter for the Advisory Council for the Elimination of Tuberculosis (ACET) of the Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period, through March 15, 2005.

For further information, contact Ronald O. Valdiserri, M.D., Executive Secretary, Advisory Council for the Elimination of Tuberculosis, CDC, 1600 Clifton Road, NE, M/S E–07, Atlanta, Georgia 30333, telephone 404/639–8002 or fax 404–639–8600.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–7178 Filed 3–25–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03020]

Expansion of HIV/AIDS/STD Prevention, Care and Treatment, and Surveillance Activities in the People's Republic of China; Notice of Intent to Fund Single Eligibility Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to fund fiscal year (FY) 2003 funds for a cooperative agreement program to expand and improve the effectiveness of HIV/AIDS prevention, care, and surveillance activities in China. No funding will be provided for research or programming in the area of family planning or reproductive health if the applicant includes coercive measures, abortion, or sterilization in its definition of those terms, or performs those activities directly or indirectly. The Catalog of Federal Domestic Assistance Number for this program is 93.941.

B. Eligible Applicant

Assistance will be provided only to the China Center for Disease Control and Prevention (CCDC) under the guidance of the Ministry of Health of the People's Republic of China. No funding will be provided to the State Family Planning Commission of the People's Republic of China under the terms of this cooperative agreement, whether directly or indirectly. The National Intelligence Council's September 2002 report, ''The Next Wave of HIV/AIDS: Nigeria, Ethiopia, Russia, India, and China,'' highlights the rising HIV/AIDS problem will be driven by the spread of the disease in these five populous countries, where the number of infected people will grow from around 14 to 23 million currently to an estimated number of 50 to 75 million by the year 2010. The Chinese Government has requested the assistance of the United States, and the U.S. Government has agreed to help them respond effectively to the growing HIV/AIDS epidemic. On June 28, 2002, Tommy Thompson, Secretary of the Department of Health and Human Services, pledged CDC to deliver financial and technical assistance to China under a memorandum of understanding with the Chinese Minister of Health. The CCDC is the only governmental entity authorized by China to enter into an agreement with CDC.

C. Funding

Approximately $2,000,000 is available in FY 2003 to fund this award. It is expected that the award will begin on or before April 1, 2003, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

D. Where to Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For technical questions about this program, contact: R.J. Simonds, M.D., Chief, HIV Prevention Branch, Global AIDS Program, National Center for HIV, STD and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Rd., Mail Stop E–04, Atlanta, GA 30333, e-mail address: *rxs5@cdc.gov*.

Dated: March 19, 2003.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–7181 Filed 3–25–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Advisory Committee on Children and Terrorism, Conference Call Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Federal advisory committee conference call meeting.

Name: National Advisory Committee on Children and Terrorism (NACCP).

Time and Date: 10:30 a.m.–12 p.m., April 7, 2003.

Place: The conference call will originate at the Office of Terrorism Preparedness and Emergency Response (OTPER), in Atlanta, Georgia. Please see **SUPPLEMENTARY INFORMATION** for details on accessing the conference call.

Status: Open to the public, limited only by the availability of telephone ports.

Purpose: The Committee is charged with advising the Secretary, Health and Human Serices, on (a) the preparedness of the health care system to respond to bioterrorism as it relates to children; (b) needed changes to the health care and emergency medical service systems and emergency medical services protocols to meet the special needs of children; and (c) changes, if necessary, to the National Strategic Stockpile under section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 to meet the emergency health security of children.

Matters to Be Discussed: The National Advisory Committee on Children and Terrorism will convene by conference call to discuss the draft report to the Secretary.

Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the meeting.

SUPPLEMENTARY INFORMATION: This conference call is scheduled to begin at 10:30 a.m., Eastern Standard Time. To participate in the conference call, please dial 404–639–4100 or 800–713–1971 and enter conference code 122482. You will then be automatically connected to the call.

Contact Person for More Information: Victor Balaban, Office of Terrorism Preparedness and Emergency Response, CDC, 1600 Clifton Road, NE, (D–44), Atlanta, Georgia 30333, telephone 404/639–7428, fax 404/639–7977.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–7180 Filed 3–25–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease

Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Board on Radiation and Worker Health (ABRWH).

Time and Date: 2 p.m.–5 p.m., March 28, 2003.

Place: Teleconference call will originate at the Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health (NIOSH), Atlanta, Georgia. Please see ''Supplementary Information'' for details on accessing the teleconference.

Status: Open to the public, teleconference access limited only by the ports available.

Background: The Advisory Board on Radiation and Worker Health (''the Board'') was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President, through the Secretary of Health and Human Services (HHS), on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Board include providing advice on the development of probability of causation guidelines which have been promulgated by HHS as a Final Rule, advice on methods of dose reconstruction which have also been promulgated as a Final Rule, evaluation of the scientific validity and quality of dose reconstructions conducted by NIOSH for qualified cancer claimants, and advice on the addition of classes of workers to the Special Exposure Cohort.

In December 2000, the President delegated responsibility for funding, staffing, and operating the Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was signed on August 3, 2001, and in November 2001, the President completed the appointment of members to the Board. The initial tasks of the Board have been to review and provide advice on the proposed, interim, and final rules of HHS.

Purpose: This board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this Program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters to be Discussed: The agenda for this meeting will focus on the continuation of discussion and finalization of recommendations regarding the Special Exposure Cohort Notice of Proposed Rule Making.

Agenda items are subject to change as priorities dictate.

Supplementary Information: This conference call is scheduled for 2 p.m. Eastern Time. To access the teleconference you must dial 1–800–311–3437. To be automatically connected to the call, you will need to provide the operator with the participant code ''943833,'' and you will be connected to the call.

This meeting is being published late as the meeting date and time was not confirmed until March 14th, which did not allow the notice to be published in the **Federal Register** at least 15 days before the date of the meeting.

Contact Person for More Information: Larry Elliott, Executive Secretary, ABRWH, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/841–4498, fax 513/458–7125.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 20, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–7182 Filed 3–25–03; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03N–0084]

Agency Information Collection Activities; Proposed Collection; Comment Request; Electronic Records; Electronic Signatures

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection provisions relating to FDA's electronic records and electronic signatures.

DATES: Submit written or electronic comments on the collection of information by May 27, 2003.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Electronic Records; Electronic Signatures—21 CFR Part 11 (OMB Control No. 0910–0303)—Extension

FDA regulations in part 11 (21 CFR part 11) provide criteria for acceptance of electronic records; electronic signatures, and handwritten signatures executed to electronic records as

equivalent to paper records. Under these regulations, records and reports may be submitted to FDA electronically provided the agency has stated its ability to accept the records electronically in an agency-established public docket and that the other requirements of part 11 are met.

The recordkeeping provisions in part 11 (§§ 11.10, 11.30, 11.50, and 11.300) require standard operating procedures to assure appropriate use of, and precautions for, systems using electronic records and signatures: (1) § 11.10 specifies procedures and controls for persons who use closed systems to create, modify, maintain, or transmit electronic records; (2) § 11.30 specifies procedures and controls for persons who use open systems to create, modify, maintain, or transmit electronic records; (3) § 11.50 specifies procedures and controls for persons who use electronic signatures; and (4) § 11.300 specifies controls to ensure the security and integrity of electronic signatures based upon use of identification codes in combination with passwords. The reporting provision (§ 11.100) requires persons to certify in writing to FDA that they will regard electronic signatures used in their systems as the legally binding equivalent of traditional handwritten signatures.

The burden created by the information collection provision of this regulation is a one-time burden associated with the creation of standard operating procedures, validation, and certification. The agency anticipates the use of electronic media will substantially reduce the paperwork burden associated with maintaining FDA required records.

The respondents will be businesses and other for-profit organizations, State or local governments, Federal agencies, and nonprofit institutions.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
11.100	4,500	1	4,500	1	4,500

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
11.10	2,500	1	2,500	20	45,000
11.30	2,500	1	2,500	20	45,000
11.50	4,500	1	4,500	20	90,000
11.300	4,500	1	4,500	20	90,000
Total					270,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 19, 2003.

William K. Hubbard,

Associate Commissioner for Policy and Planning.

[FR Doc. 03–7087 Filed 3–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03N–0065]

Agency Emergency Processing Under OMB Review; Fiscal Year 2003 MDUFMA Small Business Qualification Certification (Form FDA 3602)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995 (the PRA). The proposed collection of information will permit an applicant to certify that it qualifies as a ''small business'' within the meaning of the Medical Device User Fee and Modernization Act (MDUFMA), will help the applicant organize the information FDA needs to verify each certification, and will collect contact information to facilitate rapid resolution of any questions FDA may have concerning information the applicant has provided.

DATES: Fax written comments on the information collection provisions by April 25, 2003.

ADDRESSES: Fax written comments on the information collection provisions to the Office of Information and Regulatory Affairs, Attn: Stuart Shapiro, Desk Officer for FDA, FAX 202–395–6974, or electronically mail comments to sshapiro@omb.eop.gov. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: FDA has requested emergency processing of this proposed collection of information under section 3507(j) of the PRA (44 U.S.C. 3507(j) and 5 CFR 1320.13). This information is needed immediately so that the agency can decide whether an applicant is a ''small business'' within the meaning of MDUFMA. A small business is eligible for a reduced or waived fee for a medical device application or submission that is subject to a user fee under MDUFMA. If an applicant is not a small business, it must pay the standard (full) fee for any medical device application or submission it submits to FDA. FDA is requesting this emergency processing to implement 21 CFR 738(d)(2)(B) and (e)(2)(B) (§ 738(d)(2)(B) and (e)(2)(B)) of the Federal Food, Drug, and Cosmetic Act (the act); these provisions were added to the act by section 102 of MDUFMA. The use of normal clearance procedures would likely result in the prevention or disruption of this collection of information, thereby subjecting applicants who would

otherwise qualify as a small business to the statutory requirement to pay a standard (full) fee rather than a reduced fee.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

FY 2003 MDUFMA Small Business Qualification Certification (Form FDA 3602)

MDUFMA (Public Law 107–250) amends the Federal Food, Drug, and Cosmetic Act to provide for user fees for certain medical device applications. The initial fees (for fiscal year (FY) 2003) are set by statute. To avoid harming small businesses, MDUFMA provides for reduced or waived fees for applicants who qualify as a ''small business.'' This means there are two levels of fees, a standard fee, and a reduced or waived small business fee.

Under MDUFMA, a ''small business'' is an applicant who reported no more than $30 million ''gross receipts or sales'' on its Federal income tax return for the most recent tax year; the applicant must count the ''gross receipts or sales'' of all of its affiliates, partners, or parent firms when calculating whether it meets the $30 million threshold.

An applicant must pay the full standard fee unless it provides evidence demonstrating to FDA that it meets the ''small business'' criteria. The evidence required by MDUFMA is a copy of the most recent Federal income tax return of the applicant, and any affiliate, partner, or parent firm. FDA will review these materials and decide whether an applicant is a ''small business'' within the meaning of MDUFMA.

Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice announcing the availability of the guidance entitled ''FY 2003 MDUFMA Small Business Qualification Worksheet and Certification.'' The guidance describes the criteria FDA will use to decide whether an entity qualifies as a MDUFMA small business and helps prospective applicants understand what they need to do to meet the criteria for FY 2003.

Respondents will be businesses or other for-profit organizations.

FDA estimates the burden of this information collection as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

FDA Form Number	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
3602	100	1	100	1	100

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA based these estimates on conversations with industry, trade association representatives, and from internal FDA estimates. This represents FDA's estimate on the number of small businesses that will submit a premarket application, a premarket report, a panel track supplement, efficacy supplement, 180-day supplement, or a real time supplement to FDA during FY 2003.

Dated: March 10, 2003.

William K. Hubbard,

Associate Commissioner for Policy and Planning.

[FR Doc. 03–7088 Filed 3–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01E–0030]

Determination of Regulatory Review Period for Purposes of Patent Extension; TEQUIN

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for TEQUIN and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions 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.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–013), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3460.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and

approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product TEQUIN (gatifloxacin). TEQUIN is indicated for the following:

1. Acute bacterial sinusitis,
2. Community acquired pneumonia,
3. Acute bacterial exacerbation chronic bronchitis,
4. Uncomplicated urinary tract infections,
5. Complicated urinary tract infections,
6. Pyelonephritis, and
7. Uncomplicated gonorrhea.

Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for TEQUIN (U.S. Patent No. 4,980,470) from Kyorin Pharmaceutical Co. through Bristol Myers Squibb, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 2, 2001, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of TEQUIN represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for TEQUIN is 1,087 days. Of this time, 732 days occurred during the testing phase of the regulatory review period, while 355 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: December 27, 1996. The applicant claims December 26, 1996, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was December 27, 1996, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: December 28, 1998. FDA has verified the applicant's claim that the new drug application (NDA) for TEQUIN (NDA 21–061) was initially submitted on December 28, 1998.

3. *The date the application was approved*: December 17, 1999. FDA has verified the applicant's claim that NDA 21–061 was approved on December 17, 1999.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 720 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (*see* **ADDRESSES**) written or electronic comments and ask for a redetermination by May 27, 2003. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 22, 2003. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (*See* H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (*see* **ADDRESSES**). Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 7, 2003.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 03–7280 Filed 3–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 02M–0471, 02M–0487, and 02M–0527]

Medical Devices; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of premarket approval applications (PMAs) that have been approved. This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMAs through the Internet and the agency's Dockets Management Branch.

ADDRESSES: Submit written requests for copies of summaries of safety and effectiveness to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Please cite the appropriate docket number as listed in table 1 of this document when submitting a written request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries of safety and effectiveness.

FOR FURTHER INFORMATION CONTACT: Thinh Nguyen, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2186.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 30, 1998 (63 FR 4571), FDA published a final rule that revised 21 CFR 814.44(d) and 814.45(d) to discontinue individual publication of PMA approvals and denials in the **Federal Register**, providing instead to post this information on the Internet on FDA's home page at *http://www.fda.gov*. FDA believes that this procedure expedites public notification of these actions because announcements can be placed on the Internet more quickly than they can be published in the **Federal Register**, and FDA believes that the Internet is accessible to more people than the **Federal Register**.

In accordance with section 515(d)(4) and (e)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(4) and (e)(2)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the act. The 30-day period for requesting reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

The regulations provide that FDA publish a quarterly list of available safety and effectiveness summaries of PMA approvals and denials that were announced during that quarter. The following is a list of approved PMAs for

which summaries of safety and effectiveness were placed on the Internet from October 1, 2002, through December 31, 2002. There were no denial actions during this period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1.—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS MADE AVAILABLE OCTOBER 1, 2002, THROUGH DECEMBER 31, 2002.

PMA Number/Docket No.	Applicant	Trade Name	Approval Date
P010043/02M—0471	Yama, Inc.	LEA'S SHIELD Barrier Contraceptive	March 14, 2002.
P970043(S10)/02M—0487	Alcon Laboratories, Inc.	LADARVISION 4000 Excimer Laser System	October 18, 2002.
P020004/02M—0527	W.L. Gore & Associates, Inc.	EXCLUDER Bifurcated Endoprosthesis	November 6, 2002.

II. Electronic Access

Persons with access to the Internet may obtain the documents at *http://www.fda.gov/cdrh/pmapage.html*.

Dated: March 13, 2003.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 03–7279 Filed 3–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Circulatory System Devices Panel of the Medical Devices 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: Circulatory System Devices Panel of the Medical Devices 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 April 10, 2003, from 9 a.m. to 5 p.m.

Location: Hilton DC North/Gaithersburg, Salons A, B, and C, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Geretta Wood, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8320, ext. 143, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12625. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for an endovascular graft and delivery system intended for the treatment of patients with abdominal aortic, aortoiliac, or iliac aneurysm. Background information for the topic, including the agenda and questions for the committee, will be available to the public 1 business day before the meeting on the Internet at *http://www.fda.gov/cdrh/panelmtg.html*. Material will be posted on April 9, 2003.

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 April 3, 2003. Oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of committee deliberations and for approximately 30 minutes near the end of the deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 3, 2003, 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 Shirley Meeks, Conference Management Staff, at 301–594–1283, ext. 105, at least 7 days in advance of the meeting.

FDA regrets that it was unable to publish this notice 15 days prior to the April 10, 2003, Circulatory System Devices Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Circulatory System Devices Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 20, 2003.

Linda Arey Skladany,

Associate Commissioner for External Relations.

[FR Doc. 03–7278 Filed 3–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Maternal and Child Health Services Title V Block Grant Program—Guidance and Forms for the Title V Application/Annual Report (OMB No. 0915–0172)—Revision

The Health Resources and Services Administration (HRSA) proposes to revise the *Maternal and Child Health Services Title V Block Grant Program—Guidance and Forms for the Application/Annual Report.* The guidance is used annually by the 50 States and 9 jurisdictions in making application for Block Grants under Title V of the Social Security Act, and in preparing the required annual report. The proposed revisions follow and build on extensive consultation received from a Workgroup convened in 2002 to provide suggestions for improving the guidance and forms. The proposed revisions are editorial and technical revisions in nature, and are based on the experience of the States and jurisdictions using previous versions of the guidance. Changes include consolidating the narrative to reduce redundancy, and reducing the number of Health Status Indicators (HSI) required in the application/annual report.

In addition, HRSA proposes changing the format for electronic submission to direct web entry. Web based data and text entry will provide for automatic calculation of ratios, rates, and percentages, carry data over year-to-year, and assure that data used in multiple tables are entered only once. It will also facilitate the orderly printing of tables, text, and required appendices.

The guidance used annually by the 50 States and 9 jurisdictions had a previous estimated burden of 358 hours. Based on the new revisions and more efficient electronic submission, the estimated burden has been reduced by 5% to 322 hours. The estimated response burden is as follows:

Type of form	Number of respondents	Responses per respondent	Burden hours per response	Total burden hours
Application and Annual Report, with needs assessment*:				
States	50	1	428	21,400
Jurisdictions	9	1	228	2,052
Application and Annual Report, without needs assessment*:				
States	50	1	313	15,658
Jurisdictions	9	1	126	1,134

* The Application and Annual Report, with needs assessment, will be submitted in FY 2005. The Application and Annual Report, without needs assessment, will be submitted in FY 2003 and FY 2004. The average annual total burden hours for the next three years is 19,007. The average annual burden per respondent 322 hours.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: March 19, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–7089 Filed 3–25–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Agency Information Collection Activities: Proposed Collection and Comment Request (OIG–319–N)

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of Inspector General (OIG) is publishing for public comment the following summary of proposed collection activities. Interested parties are invited to send comments to the address indicated below regarding this burden estimate or any other aspect of this collection of information, including (1) the necessity and utility of proposed information collection for the proper performance of the OIG's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

SUPPLEMENTARY INFORMATION:

Type of Information Collection Request: Reinstatement of an expired collection.

Title of Information Collection: State Medicaid Fraud Control Units' Recertification Application and Annual Report as required by 42 CFR 1007.15 and 1007.17. (Previously approved by the Office of Management and Budget under control number 0990–0162.)

Use: The information contained in the annual reports and recertification application is required for certification and yearly recertification by the OIG to ensure that federal matching funds are only expended for allowable costs, and to determine if a state unit needs financial assistance.

Frequency: Annually.

Affected Public: State government.

Annual Number of Respondents: 48.

Total Annual Responses: 48.

Average Burden Per Response: 32 hours.

Total Annual Hours: 2,744 hours.

FOR FURTHER INFORMATION CONTACT: To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address and phone number, to John Bettac, Office of Investigations (*Jbettac@oig.hhs.gov*), or call (202) 619–3557.

DATE: To assure consideration, public comments must be delivered to address provided below by no later than 5 p.m. on May 27, 2003.

ADDRESSES: Written comments and recommendations for proposed information collections should be mailed or delivered to the following address: Office of Inspector General, Department of Health and Human Services, Attention: John Bettac, Room 5453, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

We do not accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OIG–319–N. Comments received timely will be available for public inspection as they are received beginning approximately 3 weeks after publication of a document in Room 5541 of the Office of Inspector General at 330 Independence Avenue, SW.,

Washington, DC on Monday through Friday of each week from 8:30 a.m. to 4:30 p.m.

Dated: March 20, 2003.

Brian P. Carman,

Chief Information Officer.

[FR Doc. 03–7220 Filed 3–25–03; 8:45 am]

BILLING CODE 4152–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Submission for OMB Review; Comment Request, Women's Health Initiative Observational Study

SUMMARY: Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Director, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on September 20, 2002, page 59294 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 39 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised or implemented on or after October 1, 1995, unless it displays a current valid OMB control number.

Proposed Collection: Title: Women's Health Initiative (WHI) Observational Study. *Type of Information Collection Request:* Revision: OMB No. 0925–0414, expiration date: 05/31/2003. *Need and Use of Information Collection:* This study will be used by the NIH to evaluate risk factors for chronic disease among older women by developing and following a large cohort of postmenopausal women and relating subsequent disease development to baseline assessments of historical, physical, psychosocial, and physiologic characteristics. In addition, the observational study will complement the clinical trial (which has received clinical exemption) and provide additional information on the common causes of frailty, disability and death for postmenopausal women, namely, coronary heart disease, breast and colorectal cancer, and osteoporotic fractures. *Frequency of Response:* On occasion. *Affected Public:* Individuals and physicians. *Type of Respondents:* Women, next-of-kin, and physician's office staff. The annual reporting burden is as follows:

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
OS Participants	86,886	1.4084	0.17042	20,855
Next-of-kin	2,916	1	0.0835	243
Physician's Office Staff	43	1	0.0835	4
Total	89,845			21,102

The annualized cost burden to respondents is estimated at $211,180. There are no Capital Costs, Operating Costs and/or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to: The Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plan and instruments, contact: Dr. Linda Pottern, Project Officer, Women's Health Initiative Program Office, 6705 Rockledge Drive, 1 Rockledge Centre, Suite 300, MSC 7966, Bethesda, MD 20892–7966, or call (301) 402–2900 or E-mail your request, including your address to: *Linda_Pottern@nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: March 13, 2003.

Jacques E. Rossouw,

Lead Project Officer, Women's Health Initiative.

[FR Doc. 03–7154 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission of OMB Review; Comment Request; Policies of Academic Institutions Regarding Tobacco Industry Research Funding

SUMMARY: Under the provision of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 13, 2002, pages 11347 and 11348 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or

after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Policies of Academic Institutions Regarding Tobacco Industry Research Funding. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* This study will assess current administrative policies of U.S. medical schools and schools of public health regarding faculty acceptance of research funding from tobacco manufacturers and trade organizations. The primary objectives of the study are to assess how many institutions have a tobacco-specific research funding policy, their reasons for adopting or not adopting such a policy, and what the requirements of those policies are. The findings will provide valuable information concerning: (1) How academic institutions have responded to concerns about researchers' funding relationships in tobacco research, (2) administrators' attitudes towards research funding policies targeted at tobacco specifically; and (3) what types of requirements have been imposed on academic researchers regarding tobacco funding. *Frequency of Response:* Once. *Affected Public:* Individuals; academic institutions. *Type of Respondents:* Academic administrators. The annual reporting burden is as follows: *Estimated Number of Respondents:* 505; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* 75; and *Estimated Total Annual Burden Hours Requested:* 379. The annualized cost to respondents is estimated at: $32,215. There are no capital costs to report. There are no operating or maintenance costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office or Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20530, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Mark Parascandola, Cancer Prevention Fellow, OPO, DCP, NCI, NIH, 6130 Executive Boulevard, Suite 3109, Bethesda, MD 20892, or call non-toll-free number (301) 594–1576 or E-mail your request, including your address to: *paramark@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: March 18, 2003

Reesa L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 03–7155 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; The Impact of a Decade of the Fogarty International Research Collaborative Award (FIRCA)

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Fogarty International Center, the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: The impact of a decade of the Fogarty International Research Cooperative Award (FIRCA). Type of Information Collection Request: New. Need and Use of Information Collection: This study will access the outputs, outcomes and impacts of the Fogarty International Research Collaboration Awards (FIRCA). The primary objectives of the study are to determine if FIRCA awards (1) extend and enhance the research interests of the U.S. principle investigator (USPI) and the international research collaborator (IRC), (2) increase the research capacity of the international scientists and institution, and (3) foster discovery and reduce global health disparities through the support of international cooperation across the continuum of basic, clinical and applied biomedical, behavioral and health sciences. The findings will provide valuable information concerning: (1) Specific research advances attributable to FIRCA support; (2) specific capacity and career enhancing advances that are attributable to FIRCA funding; (3) policy implications for the FIRCA program based on USPI and IRC responses. Frequency of Response: Once. Affected Public: none. Type of Respondents: U.S. researchers and their foreign research collaborators. There are no capital costs to report. There are no operating or maintenance costs to report.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
US PI	453	1	.55	249.15
IRC	453	1	.55	249.15
Total				598.15

Type respondents	Number of respondents	Frequency of response	Hourly wage rate	Respondent cost
USPI	453	1	$55	$24,915

Type respondents	Number of respondents	Frequency of response	Hourly wage rate	Respondent cost
IRC	453	1	10	4,530
Total Cost				29,445

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Linda Kupfer, Fogarty International Center, National Institutes of Health, 16 Center Drive, Building 16, Bethesda, MD 20892–6705 or call non-toll-free number (301) 496–3288 or E-mail your request, including your address to: *Kupferl@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: March 13, 2003.

H. Richard Miller,

Executive Officer, Fogarty International Center, National Institutes of Health.

[FR Doc. 03–7156 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–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 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 disclose of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee D—Clinical Studies.

Date: April 22–23, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: William D. Merritt, PhD, Scientific Review Administrator, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Bethesda, MD 20892–8328, 301–496–9767.

(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: March 19, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7128 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood 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 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 Heart, Lung, and Blood Institute Special Emphasis Panel, The Career Enhancement Award (K18).

Date: April 2, 2003.

Time: 1:15 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Robert B. Moore, PhD, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7178, MSC 7924, Bethesda, MD 20892. 301/435–0725.

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. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 19, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7127 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood 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 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: Clinical Trials Review Committee.

Date: June 23–24, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Valerie L Prenger, PhD, MS, Review Branch, Room 7194, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, MSC 7924, Bethesda, MD 20892–7924, (301) 435–0288.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 18, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7149 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood 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 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: Heart, Lung, and Blood Program Project Review Committee.

Date: June 19, 2003.

Time: 8 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Jeffrey H. Hurst, PhD, Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0303.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 18, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7150 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood 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 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 Heart, Lung, and Blood Institute Special Emphasis Panel, SEP—Ancillary Pharmacogenetics Studies in Heart, Lung, Blood and Sleep Disorders.

Date: May 12, 2003.

Time: 8:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Judy S. Hannah, Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892. 301/435–0287.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 18, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7151 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix), 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 Human Genome Research Institute Special Emphasis Panel, DNA Sequencer Review.

Date: April 4, 2003.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Bldg. 31, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ken D. Nakamura, PhD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, (301) 402–0838.

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. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: March 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7132 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEATH 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, Roles of NFI Genes in Metazoan Development

Date: April 15, 2003.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville Pike, Rockville, MD 20852.

Contact Person: Rita Anand, Ph.D., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike, MSC 7510, 6100 Building, Room 5B01, Bethesda, MD 20892, (301) 496–1487, *anandr@mail.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: March 19, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7129 Filed 3–25–03; 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 Female Health and Egg Quality.

Date: April 14–15, 2003.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

(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: March 19, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7130 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Drug Discovery Panel B.

Date: March 27, 2003.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@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.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Drug Discovery Panel D.

Date: March 27, 2003.

Time: 2:45 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@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.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Drug Discovery Panel E.

Date: March 27, 2003.

Time: 5:15 p.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@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.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Drug Discovery Panel C.

Date: March 27, 2003.

Time: 12:15 p.m. to 2:45 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center,

6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@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. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 18, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7131 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 General Medical Sciences Special Emphasis Panel MBRS

Date: April 4, 2003.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Room AN–18, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca H. Johnson, PhD, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18, Bethesda, MD 20892, 301–594–2771, *johnsonrh@nigms.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. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: March 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7133 Filed 3–25–03; 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, Collaborative Programs of Excellence in Autism.

Date: April 11, 2003.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Rita Anand, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike, MSC 7510, 6100 Building, room 5B01, Bethesda, MD 20892, (301) 496–1487, *anandr@mail.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: March 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7134 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of General Medical Sciences Special Emphasis Panel, March 24, 2003, 8 a.m. to March 24, 2003, 5 p.m., which was published in the **Federal Register** on March 6, 2003, 68 FR 10739–10740.

This meeting will be held on March 31, 2003, at the National Institutes of Health, Natcher Building, 3AN12B, from 1 p.m. to 5 p.m. as a teleconference. The meeting is closed to the public.

Dated: March 11, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7135 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Deafness and Other Communication Disorders; 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 Deafness and Other Communication Disorders 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 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 Deafness and Other Communication Disorders Advisory Council.

Date: May 16, 2003.

Time: 8:30 a.m. to 11:30 a.m.

Agenda: Staff reports on divisional, programmatic and special activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: 11:30 a.m. to adjournment

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Craig A. Jordan, PhD., Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South Room 400C, Bethesda, MD 20892–7180. (301) 496–8683.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by nongovernment employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center home page: *http://www.nidcd.nih.gov/about/councils/ndcdac/ndcdac.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: March 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7138 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Urology Program Projects.

Date: April 11, 2003.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Maria E. Davila-Bloom, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 758, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892. 301–594–7637. *davila-bloomm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Molecular Endocrinology.

Date: April 18, 2003.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 754, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600. (301) 594–7799. *Is38z@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 14, 2003.

LaVerne Y. Strinfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7139 Filed 3–25–03; 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 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 Allergy and Infectious Diseases Special Emphasis Panel, T Cell/NK Cell Immunity.

Date: April 8, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Blvd., Gaithersburg, MD 20878.

Contact Person: Cheryl K. Lapham, PhD, Scientific Review Administrator, Scientific Review Program, National Institute of Allergy and Infectious Diseases, DEA/NIH/DHHS, 6700–B Rockledge Drive, MSC 7616, Room 2156, Bethesda, MD 20892–7616. (301) 402–4598. *clapham@niaid.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. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 18, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7140 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Emphasis Panel, Review of Exploratory Development Applications (R21s).

Date: April 13–15, 2003.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Radisson Governor's Inn, I–40 at Davis Drive, Exit 280, Research Triangle Park, NC 27709.

Contact Person: Janice B Allen, PhD, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P. O. Box 12233, MD EC–30/Room 3170 B, Research Triangle park, NC 27709. 919/541–7556.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Research Core Center Applications (P30s).

Date: April 21–23, 2003.

Time: 7 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Millennium Hotel Durham, 2800 Campus Walk Ave., Durham, NC 27705.

Contact Person: Leroy Worth, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709. 919/541–0670. *worth@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: March 18, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7141 Filed 3–25–03; 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 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 discussion 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 Allergy and Infectious Diseases Special Emphasis Panel, Effective Pulmonary Vaccination Using an Influenza Model.

Date: April 10, 2003.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH/NIAD/DHHS, 6700B Rockledge Dr. MSC 7616, 2200, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eleazar Cohen, PhD, Scientific Review Administrator, Scientific Review Program, NIAID/NIH, 6700B Rockledge Drive, Rm 2220, Bethesda, MD 20892, 301–496–2550, *ec17w@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Biodefense and Emerging Infectious Diseases Research Opportunities.

Date: April 22, 2003.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications. proposals.

Place: National Institutes of Health, 6700–B Rockledge Drive, Room 3114, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alec Ritchie, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–435–1614, *artchie@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Loan Repayment Program.

Date: May 13, 2003.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gary S. Madonna, PhD, Scientific Review Administrator Scientific Review Program, Division of Extramural Activities, NIAID, HIH, Room 2217, 6700B Rockledge Drive, MSC 7616, Betheada, MD 20892–7616, 301–496–3528, *gm12w@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: March 18, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7143 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Biodefense and Emerging Infectious Disease Research Opportunities.

Date: April 15, 2003.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700–B Rockledge Drive, Rockledge Building, 2223, 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.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Cooperative Centers for Translational Research on Human Immunology and Biodefense.

Date: April 22–23, 2003.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Priti Mehrotra, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 6700–B Rockledge Drive, Room 2100, Bethesda, MD 20892–7616, 301–435–9369, *pm158b@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: March 18, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7144 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Multi-Site Trial of Azathioprine Dosing in Crohn Disease.

Date: April 2, 2003.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Neal A. Musto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 751, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7798, *muston@extra.niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Treatment Affect Cognition in Type 1 Diabetes.

Date: April 28, 2003.

Time: 9:30 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 758, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, 301–594–7637, *davila-bloomm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 18, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7145 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed 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 Mental Health Special Emphasis Panel, AIDS Related Research and Training.

Date: April 4, 2003.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Richard E. Weise, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6140, MSC 9606, Bethesda, MD 20892–9606, 301–443–1225, *rweise@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. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 18, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7146 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 on the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Udall Centers of Excellence.

Date: April 10, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hay-Adams, Sixteenth & H Streets, NW., Concorde Room, Washington, DC 20006.

Contact Person: JoAnn Mcconnell, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, N.I.H./NINDS/Neurosciences Building, 6001 Executive Boulevard, Room 3208, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnellj@ninds.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Translational Research SEP.

Date: April 22, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: The Westin Grand, 1350 M Street, NW., Washington, DC 20037.

Contact Person: W. Ernest Lyons, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–4056.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Neuroscience Scholars Program RFA.

Date: April 22, 2003.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuoscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: JoAnn McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, N.I.H./NINDS/Neurosciences Building, 6001 Executive Boulevard, Room 3208, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnellj@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: March 18, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7147 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; 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 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 dental and Craniofacial Research Special Emphasis Panel, 03–41, Review of RFA–03–006.

Date: April 10–11, 2003

Time: 12 p.m. to p.m.

Agenda: To review and evaluate grant applications.

Place: Palace Hotel 2 New Montgomery Street, San Francisco, CA 94105.

Contact Person: H, George Hausch, PhD., Acting director, 4500 Center Drive, Natcher Building, Rm 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Pane, 03–44, Review of R44 application.

Date: May 7, 2003.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PhD. DMD, Scientific review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and disorders Research, National Institutes of Health, HHS)

Dated: March 18, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7148 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Review of Specialized Research Grants.

Date: April 14, 2003.

Time: 8:30 a.m to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Aftab A. Ansari, 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: March 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7152 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 Neurological Disorders and Stroke Special Emphasis Panel.

Date: March 19, 2003.

Time: 3:15 p.m. to 5:15 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone conference call.)

Contact Person: Richard C. Crosland, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529. 301–594–0635.

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. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: March 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7153 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 discussion could disclose confidential trade secrets of commercial property such as patentable materials, 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 Library of Medicine Special Emphasis Panel, Loan Repayment L–30's.

Date: April 14, 2003.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20817. (Telephone conference call.)

Contact Person: Merlyn M. Rodrigues, MD, PhD, Medical Officer/SRA, National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20994.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: March 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7136 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 Library of Medicine Special Emphasis Panel, Application of Use of Advanced Network Infrastructure Technology in a Health Related Environment—Level 2.

Date: May 5–6, 2003.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Library of Medicine, Building 38, Board Room, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Charles Sneiderman, MD, PhD, Research Medical Officer, Off. of High Performance Computing & Communication, National Library of Medicine, National Institutes of Health, 8600 Rockville Pike, Bethesda, MD 20894. (301) 435–3253.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: March 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7137 Filed 3–25–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Molecular Pathobiology.

Date: March 20, 2003.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: Sharon K. Gubanich, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892. (301) 435–1767.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Immunology of NeuroAIDS and Inflammation.

Date: March 21, 2003.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Abraham P. Bautista, PhD, Scientist Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7852, Bethesda, MD 20892. (301) 435–1506. *bautista@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neuroscience–SBIR/STTR.

Date: April 1, 2003.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn Hotel, 924 25th Street, NW., Washington, DC 20037.

Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health 6701 Rockledge Drive, Room 5158, MSC 7844, Bethesda, MD 20892. (301) 435–1242.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Electron Microscopy Program Project.

Date: April 1–2, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn Hotel, 924 25th Street, NW., Washington, DC 20037.

Contact Person: Richard D. Rodewald, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5142, MSC 7840, Bethesda, MD 20892, (301) 435–1024, *rodewalr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neuronal Chemical Genetics.

Date: April 1, 2003.

Time: 10 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone conference call.)

Contact Person: Gillian Einstein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5198, MSC 7850, Bethesda, MD 20817, (301) 435–4433, *einsteig@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, DNA Repair.

Date: April 1, 2003.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone conference call.)

Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Oncological Sciences Initial Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6178, MSC 7804, Bethesda, MD 20814–9692, 301–435–3504, *vf6n@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Lung Carcinogenesis.

Date: April 1, 2003.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone conference call.)

Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7804, Bethesda, MD 20892, 301–435–1779, *riverase@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Therapy.

Date: April 1, 2003.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone conference call.)

Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6208, MSC 7804, Bethesda, MD 20892. (301) 435–1718. *perkinsp@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Reviews in Cognitive Development.

Date: April 2, 2003.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892. (301) 435–0902. *krausem@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Regulatory Mechanisms Underlying Brain Development.

Date: April 2, 2003.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone conference call.)

Contact Person: Gillian Einstein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5198, MSC 7850, Bethesda, MD 20817. (301) 435–4433. *einsteig@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 HEM–2 02M: CVA Member Conflict: ION Transport.

Date: April 2, 2003.

Time: 4 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 10, 10 Center Drive, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: Jerrold Fried, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892. (301) 435–1777.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Ethical, Legal and Social Issues in Genetics Special Emphasis Panel—Education Review.

Date: April 2, 2003.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: Rudy O. Pozzatti, PhD, Scientific Review Administrator, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, Building 31, Room B2B37, Bethesda, MD 20892–2032. 301 402–0838. *pozzattr@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.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Chemical Senses: Gustation.

Date: April 3, 2003.

Time: 9 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: John Bishop, PhD Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892. (301) 435–1250.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Genetic Instability.

Date: April 3, 2003.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: Victor A. Fung, PhD Scientific Review Administrator, Oncological Sciences Initial Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6178, MSC 7804, Bethesda, MD 20814–9692. 301–435–3504. *vf6n@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Ricin-Shiga Toxin.

Date: April 3, 2003.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: Jean Hickman, PhD Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892. (301) 435–1146.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Tumorigenesis and RNA stability.

Date: April 3, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: Richard Panniers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, 7842, Bethesda, MD 20892. (301) 435–1741.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pain: Peripheral Systems.

Date: April 3, 2003.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892. (301) 435–1250.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN 2 (02) Neuroendocrinology; Neuroimmunology, and Behavior.

Date: April 3, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892. 301–435–1245. *richard.marcus@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Learning and Memory: Neuroimaging Approaches.

Date: April 4, 2003.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892. (301) 435–1250.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 HEM–1 (03)M: Cardiac Physiology.

Date: April 4, 2003.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone conference call.)

Contact Person: Robert T. Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892. (301) 435–1195. *sur@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 18, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–7142 Filed 3–25–03; 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:

Identifying Best Practice Models of Mental Health and Substance Abuse Services for Homeless Adolescents, Runaway, and Throwaway Youth—New—This is a project of SAMHSA's Center for Mental Health Services. The first stage of this study will involve the compilation of a directory of agencies providing services to homeless, runaway and throwaway youth across the nation. The directory will be developed using published information and information on the internet about agencies providing services to these youth. This information will be summarized on one page, which will be emailed/mailed to the agency with a request that they complete or correct information as appropriate. The agency will be asked to email/mail back their completed/revised form; if necessary, agencies may be telephoned to complete or correct information.

From this universe of service providers, a probability sample of approximately 52 providers will be selected to receive a site visit. During the site visit, information will be collected from the facility director or a designee about the staff (*e.g.*, number and training), characteristics of the target service population, and services provided. In addition, at each site a sample of approximately 20 youth (age 12–21 years of age who are homeless, runaway, or thrownaway) will be selected for interview. A site designee will be asked to be present during the administration of the youth informed consents.

Data collection will span the period from August to December of 2003. It is anticipated that study results will be used at the federal, state, and local levels to determine best practices for service provision and to inform funding decisions.

Total response burden for this project is summarized in the following table.

Form name	Number of respondents	Responses/ respondent	Hours/ response	Total burden hours
Directory Questionnaire	500	1	0.25	125
Provider Survey	52	1	1.00	52
Youth Survey	1,040	1	0.75	780
Total	1,540			957

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: March 20, 2003.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 03–7176 Filed 3–25–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2003 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of Funding Availability for Targeted Capacity Expansion Initiatives for Substance Abuse Prevention (SAP) and HIV Prevention in Minority Communities: Services Grants (Short Title: Minority SAP and HIV Prevention Services Program).

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of FY 2003 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Request for Applications (RFA), including Part I, Targeted Capacity Expansion Initiatives for Substance Abuse Prevention (SAP) and HIV Prevention in Minority Communities: Services Grants (SP 03–005) (Short Title: Minority SAP and HIV Prevention Services Program), and Part II, General Policies and Procedures Applicable to All SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2003	Est. No. of awards	Project period
Targeted Capacity Expansion Initiatives for Substance Abuse Prevention (SAP) and HIV Prevention in Minority Communities: Services Grants.	May 23, 2003	$3.8 million	10–14	5 years.

The actual amount available for the award may vary depending on unanticipated program requirements and the number and quantity of applications received. FY 2003 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 108–7. This program is authorized under Section 516 of the Public Health Service Act. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: The National Clearinghouse for Alcohol and Drug Information (NCADI): (800) 789–2647 or (800–487–4889 TDD).

The PHS 5161–1 application form and the full text of the grant announcement are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov* (Click on ''Grant Opportunities'').

When requesting an application kit, the applicant must specify the particular announcement number for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Prevention (CSAP) is accepting applications for Fiscal Year 2003 grants to help community-based organizations expand their capacity to provide and sustain effective, integrated substance abuse prevention and HIV prevention services in high risk minority communities disproportionately impacted by the HIV/AIDS epidemic.

Eligibility: Eligible applicants are public and domestic private non-profit entities such as:

- Not for profit community based organizations
- National organizations
- Colleges and universities
- Clinics and hospitals
- Faith-based organizations
- Health care delivery organizations
- Tribal government and tribal/urban Indian entities and organizations
- Historically Black colleges and universities (HBCUs)
- Tribal colleges and universities (TCUs)
- Hispanic serving institutions (HSIs)
- Members of the Hispanic Association of Colleges and Universities.

Since the purpose of this RFA is to expand the capacity of community-based organizations, State and local government agencies are not eligible to apply.

Availability of Funds: It is expected that approximately $3.8 million will be available for ten (10) to fourteen (14) awards in FY 2003. The average annual award will range from $250,000 to

$300,000 in total costs (direct and indirect). Actual funding levels will depend on the availability of funds. Applications with proposed budgets that exceed $350,000 will be returned without review.

Period of Support: Awards may be requested for up to 5 years.

Criteria for Review and Funding

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criterion. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.243.

Program Contact: For questions on program issues, contact: Francis C. Johnson, M.S.W., CSAP/SAMHSA, Rockwall II, Suite 950, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2332, [email] *fjohnson@samhsa.gov.*

For questions on grants management issues, contact: Steve Hudak, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9666, e-Mail: *shudak@samhsa.gov.*

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2003 activity is subject to the Public Health System Reporting Requirements.

PHS Non-Use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Pub. L. 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2003 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials or on SAMHSA's website under ''Assistance with Grant Applications''. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 18, 2003.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 03–7281 Filed 3–25–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2003 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability for Cooperative Agreements to Conduct Targeted Capacity Expansion (TCE) of Methamphetamine and Inhalant Prevention Interventions and/or Infrastructure Development (Short Title: Prevention of Meth and Inhalant Abuse).

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of FY 2003 funds for cooperative agreements for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Request for Applications (RFA), including Part I, Cooperative Agreements to Conduct Targeted Capacity Expansion (TCE) of Methamphetamine and Inhalant Prevention Interventions and/or Infrastructure Development (SP 03–006) (Short Title: Prevention of Meth and Inhalant Abuse), and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2003	Est. number of awards	Project period
Cooperative Agreements to Conduct Targeted Capacity Expansion (TCE) of Methamphetamine and Inhalant Prevention Interventions and/or Infrastructure Development.	May 23, 2003	$4 million	14	3 years

The actual amount available for the award may vary depending on unanticipated program requirements and the number and quantity of applications received. FY 2003 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 108–7 This program is authorized under section 519E of the Public Health Service Act. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: The National Clearinghouse for Alcohol and Drug Information (NCADI): (800) 789–2647 or (800–487–4889 TDD).

The PHS 5161–1 application form and the full text of the grant announcement are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov,* (Click on ''Grant Opportunities'').

When requesting an application kit, the applicant must specify the particular announcement number for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Prevention is accepting applications for fiscal year 2003 for cooperative agreements to conduct targeted capacity expansion of methamphetamine and inhalant prevention interventions and/or infrastructure development.

Eligibility: Eligible applicants are public and domestic private non-profit entities such as:

- Units of State and local governments.
- Indian tribes and tribal organizations.
- Community-based organizations.
- Managed care and other health care delivery systems.
- Universities and colleges.
- Faith-based organizations and,
- Local law enforcement agencies.
- Current grantees as well as entities that are not current grantees.

Availability of Funds: It is expected that approximately $4 million will be available for fourteen (14) awards in FY 2003. The average annual award will range from $300,000 to $350,000 in total costs (direct and indirect). Actual funding levels will depend on the availability of funds. Applications with proposed budgets that exceed $350,000 will be returned without review.

Period of Support

Awards may be requested for up to 3 years.

Criteria for Review and Funding

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criterion. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.243.

Program Contact: For questions on program issues, contact: Pamela C. Roddy, Ph.D, CSAP/SAMHSA, Rockwall II, Suite 1075, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1001, [email] *proddy@samhsa.gov*.

For questions on grants management issues, contact: Steve Hudak, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9666, E-Mail: *shudak@samhsa.gov.*

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b. A summary of the project (PHSIS), not to exceed one page, which provides:

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Executive Order 12372: Applications submitted in response to the FY 2003 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations

at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials or on SAMHSA's website under ''Assistance with Grant Applications''. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 18, 2003.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 03–7282 Filed 3–25–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–5700–BX; Closure Notice No. NV–030–03–001]

Temporary Closure of Public Lands: Washoe County, NV

AGENCY: Bureau of Land Management, Nevada.

ACTION: Notice of closure.

SUMMARY: The Carson City Field Office Manager announces the temporary closure of selected public lands under his administration. This action is being taken to provide for public safety during the 2003 Pylon Racing Seminar and 2003 Reno National Championship Air Races.

EFFECTIVE DATES: June 19 through June 22, 2003, and September 7 through September 14, 2003.

FOR FURTHER INFORMATION CONTACT: Charles P. Pope, Assistant Manager, Nonrenewable Resources, Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89701. Telephone (775) 885–6000.

SUPPLEMENTARY INFORMATION: This closure applies to all the public, on foot or in vehicles. The public lands affected by this closure are described as follows:

Mt. Diablo Meridian

T. 21 N., R. 19 E.,
Sec. 8, N1/2NE1/4, SE1/4NE1/4 and E1/2SE1/4;
Sec. 16, N1/2 and SW1/4.

Aggregating approximately 680 acres.

The above restrictions do not apply to emergency or law enforcement personnel or event officials. The authority for this closure is 43 CFR 8364.1. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisoned for not more than 12 months.

A map of the closed area is posted in the Carson City Field Office of the Bureau of Land Management.

Dated: January 27, 2003.

Charles P. Pope,

Assistant Manager, Nonrenewable Resources, Carson City Field Office.

[FR Doc. 03–7171 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–310–0777–XG]

Notice of Resource Advisory Council Vacancy

AGENCY: Bureau of Land Management, Northeast California Resource Advisory Council, Susanville, California, Interior.

ACTION: Notice of vacancy and call for nominations.

SUMMARY: Pursuant to authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and the Federal Land Policy and Management Act (Pub. L. 94–579), the U. S. Bureau of Land Management is seeking nominations to fill a vacant seat on the Northeast California Resource Advisory Council. The person selected to fill the vacancy will complete an unexpired term that ends in September 2004. The appointee will be eligible to compete for the full three-year term when the current term expires.

SUPPLEMENTARY INFORMATION: The council vacancy is in membership category one: persons holding federal livestock grazing permits. The appointment will be made by the Secretary of the Interior, as are all BLM Resource Advisory Council appointments. The person selected must have knowledge or experience in the interest area specified, and must have knowledge of the geographic area under the council's purview (the Northeast portion of California and the Northwest corner of Nevada).

Qualified applicants must have demonstrated a commitment to collaborate with varied interests to solve a broad spectrum of natural resource issues.

Nomination forms are available by contacting BLM Public Affairs Officer Joseph J. Fontana, 2950 Riverside Drive, Susanville, CA 96130; by telephone (530) 252–5332; or e-mail, *jfontana@ca.blm.gov*. Nominations must be returned to: Bureau of Land Management, 2950 Riverside Drive, Susanville, CA 96130, Attention Public Affairs Officer, no later than April 25, 2003. Individuals can nominate themselves, or interest groups can submit nominations. Nominations must include letters of support from the interest groups the nominee will represent.

FOR FURTHER INFORMATION CONTACT: BLM Alturas Field Manager Tim Burke at (530) 233–4666, or Public Affairs Officer Joseph J. Fontana at the above phone or e-mail address.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 03–7161 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–1020–PG; GP3–0061]

Call for Nominations for the Eastern Washington Resource Advisory Council

AGENCY: Bureau of Land Management (BLM).

ACTION: Notice of extended nomination due date for **Federal Register** notice (GP3–0061) regarding Eastern Washington Resource Advisory Council vacancy.

SUMMARY: The purpose of this notice is to extend the due date for accepting public nominations for the Bureau of Land Management (BLM) Eastern Washington Resource Advisory Council (RAC) that has an open position to represent environmental and/or conservation interests. This position will expire in 2006. The RAC provides advice and recommendations to the BLM and the USDA Forest Service on

land use planning and management of public lands within their geographic areas. Public nominations will be accepted until April 21, 2003.

The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by BLM.

Section 309 of FLPMA directs the Secretary to select 10- to 15-member citizen-based advisory councils that are established and authorized consistent with requirements of the Federal Advisory Committee Act (FACA). As required by the FACA, RAC membership must be balanced and representative of the various interests concerned with management of public lands.

Individuals may nominate themselves or others. Nominees for the Eastern Washington RAC must be residents of Washington. Nominees will be evaluated based on their education, training, experience, and their knowledge of the geographical area of the RAC. Nominees should have demonstrated a commitment to collaborative resource decision-making. All nominations submitted must include letters of reference from represented interests or organizations, a completed background information nomination form, as well as any other information that speaks to the nominee's qualifications.

DATES: All nominations should be received in the Oregon BLM State Office by April 21, 2003.

FOR FURTHER INFORMATION CONTACT: Pam Robbins: (503) 808–6306, *pam_robbins@blm.gov,* BLM State Office, 333 Southwest 1st Avenue, Portland, Oregon 97204.

Dated: March 20, 2003.

Richard E. Hubbard,

Rangeland Management Specialist, Acting District Manager.

[FR Doc. 03–7174 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–110–03–1220–PA]

Notice of Intent To Prepare a Plan Amendment and Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare a Travel Management Plan Amendment to the White River Resource Management Plan (RMP) for the Wilson Creek area in Rio Blanco, and Moffat Counties, Colorado.

SUMMARY: In accordance with the National Environmental Policy Act, notice is hereby given that the Bureau of Land Management (BLM) is preparing an EA and RMP to address management of roads and trails of the approximate 6,805 acre Wilson Creek area administered by the White River Field Office. The Wilson Creek Area is approximately 10 miles north of Meeker, Colorado. Early participation is encouraged and will help determine the future management of public lands administered by the White River Field Office.

DATES: The official public scoping for this planning effort commences with the publication of this notice. The public is invited to submit scoping comments to the address listed below for 60 days following the date that this notice is published in the **Federal Register**. BLM will publish exact dates, times, and locations for public meetings through media announcements, Internet postings, and mailings at least 15 days in advance of the meetings. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

ADDRESSES: Written comments should be sent to the Bureau of Land Management, White River Field Office, 73544 Highway 64, Meeker, Colorado 81641 or e-mail *Chris_Ham@co.blm.gov.*

FOR FURTHER INFORMATION CONTACT: Chris Ham, Outdoor Recreation Planner, Telephone (970) 878–3845; E-mail—*Chris_Ham@co.blm.gov.*

SUPPLEMENTARY INFORMATION: The use of off-highway vehicles (OHVs), snowmobiles, mountain bikes, and horses has greatly increased in recent years. These are important uses of public lands, especially OHV use in the Wilson Creek Area. They have also created several management concerns:

(1) The proliferation of new, unplanned roads and trails that have or will create unacceptable resource damage.

(2) Existing land use designations that allow cross-country travel within the Wilson Creek area during a portion of the year.

(3) Private land trespass issues created by land ownership patterns.

(4) Effects of OHV use on quality hunting experience.

The White River Field Office has and will continue to consult, communicate and cooperate with local landowners, recreationists, the Northwest Colorado Resource Advisory Committee and other affected interest groups to develop and design a travel system that will provide access for recreation, business and industry needs while sustaining land health standards.

BLM will use an interdisciplinary approach to develop the plan amendment and environmental assessment in order to consider all identified resource issues and concerns. Disciplines involved in the planning process will include specialists with expertise in outdoor recreation, rangeland management, archaeology, wildlife, hydrology, minerals, and soils.

Dated: February 5, 2003.

Kent E. Walter,

Field Manager.

[FR Doc. 03–7166 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–1410–PG]

Notice of Public Meeting, Alaska Resource Advisory Council

AGENCY: Bureau of Land Management, Alaska State Office, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Alaska Resource Council will meet as indicated below.

DATES: The meeting will be held April 28–29, 2003, in the Binkley Room at Pike's Waterfront Lodge in Fairbanks, beginning at 8:30 a.m. The public comment period will begin at 1 p.m. April 28.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, Alaska State Office, 222 W. 7th Avenue #13, Anchorage, AK 99513. Telephone (907) 271–3322 or e-mail *Teresa_McPherson@ak.blm.gov.*

SUPPLEMENTARY INFORMATION: The 13-member Council advises the Secretary

of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Alaska. At this meeting, topics we plan to discuss include:

- Outdated withdrawals on federal public lands in Alaska.
- A process for accelerating the Alaska land transfer program.
- Status of planning in the National Petroleum Reserve Alaska (NPR–A).
- Other topics the Council may raise.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allotted for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, transportation, or other reasonable accommodations, should contact BLM.

Dated: March 17, 2003.

Henri R. Bisson,

State Director.

[FR Doc. 03–7183 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–JA–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–030–1610–DH; AZA–31733]

Notice of Realty Action and Intent To Amend the Kingman Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action and intent to prepare an Environmental Assessment (EA) to consider amending the Kingman Resource Management Plan (RMP).

SUMMARY: The Bureau of Land Management (BLM) Kingman Field Office (KFO) proposes to amend the Kingman RMP (1995) to allow for classification and disposal of certain public lands (*see* A below), and special designation of certain other public lands (*see* B below), for use as a shooting range and buffer as requested by the Arizona Game & Fish Department (AG&FD). A decision to amend the land use plan would constitute a proposed classification of the land, thirty (30) days after which the land would be classified unless the Secretary exercises jurisdiction pursuant to 43 CFR 2450.5. The lands proposed under A—Shooting Range below are proposed for classification under section 7 of the Taylor Grazing Act, 43 U.S.C. 315f and Executive Order No. 6910, and disposal under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 *et seq.*):

A—Shooting Range

Gila and Salt River Meridian, Mohave County, Arizona

T. 19 N., R. 21 W.,
Sec. 35, S½NE¼NE¼, SE¼NW¼NE¼, E½SW¼NE¼, SE¼NE¼, N½NE¼SE¼, N½SW¼NE¼SE¼, NE¼NW¼SE¼, N½SE¼NW¼SE¼;
Sec. 36, S½NW¼NE¼, N½SW¼NE¼, N½S½SW¼NE¼, S½N½NW¼, S½NW¼, N½NE¼NW¼SW¼, NW¼NW¼SW¼;

Containing approximately 315 acres.

The lands identified under B—Buffer below are being considered through the plan amendment process for special designation for retention and management under a Cooperative Management Plan/Agreement between the AG&FD and the BLM for safety purposes:

B—Buffer

Gila and Salt River Meridian, Mohave County, Arizona

T. 19 N., R. 21 W.,
Sec. 25, SW¼NE¼SE¼, S½NW¼SE¼, S½N½SW¼, S½S½;
Sec. 26, S½NE¼SE¼, SE¼NW¼SE¼, E½SW¼SE¼, SE¼SE¼;
Sec. 35, N½NE¼NE¼, NE¼NW¼NE¼;
Sec. 36, N½N½N½, S½NE¼NE¼, N½SE¼NE¼;

Containing approximately 470 acres.

Upon publication of this notice, the lands described under ''A'' above are hereby segregated from all forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the R&PP Act. The segregative effect applies to the Federal surface but only to the Federally-owned minerals in section 36. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

DATES: The public is invited to identify issues and concerns to be addressed in the EA to be prepared for the potential RMP amendment. Submissions should be in writing or by e-mail (see addresses below). Comments must be postmarked no later than 30 days following the date of publication of this notice in the **Federal Register**. Future public involvement activities, opportunities and review/comment periods will be announced at least 15 days in advance through other notices, media releases, or mailings. A public open house will be held on the Mohave Valley Campus of Mohave Community College, Room 210, 3400 Highway 95, Bullhead City, Arizona.

ADDRESSES: Comments on the various aspects of this Notice as identified in the Supplemental Information should be sent to John R. Christensen, Field Manager, Bureau of Land Management, Kingman Field Office, 2475 Beverly Avenue, Kingman, Arizona 86401. Comments, including names and street addresses of respondents, will be available for public review at the Kingman Field Office during regular business hours, (7:45 a.m. to 4:30 p.m.) Monday through Friday, except legal holidays, and may be published as part of the EA. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Joyce Cook, Realty Specialist, Kingman Field Office, 2475 Beverly Avenue, Kingman, Arizona, 86401, telephone (928) 692–4428.

SUPPLEMENTARY INFORMATION: The Kingman Resource Management Plan (RMP), approved in 1995, identified land for R&PP uses, *i.e.* churches, schools, parks, fire departments, etc., with a caveat that non-conforming uses may be considered on a case-by-case basis. A shooting range is considered, by most, to be a non-conforming use. A previously proposed location for this action was met with opposition based on its proximity to residential development. Planning criteria include those identified for R&PP in the RMP and project specific criteria developed to aid in location of the shooting range on public land and determine suitability for classification for disposal through R&PP. Other criteria may be developed through public input. The amendment would consider whether restrictions on uses or activities, such as case-by-case approvals, would be needed to ensure public safety within the buffer area. The remainder of public land, not identified above, will continue to be managed as provided for in the approved RMP and actions in the vicinity of the shooting range would be considered on a case-by-

case basis to determine effects to or from the shooting range.

Comments should be written and apply to one or more of the following aspects:

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application, proposed action and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a shooting range. Copies of the application, proposed action and plan of development are available from the BLM address or contact listed above.

Amendment Comments: Interested parties may submit comments regarding the project planning criteria used to determine a location on public lands or provide additional criteria for consideration. Copies of the criteria for this project are available from the BLM address or contact listed above.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a shooting range. Comments on the classification should be limited to whether the land is physically suited for a shooting range, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Following the public open house and end of the period to receive comments, an Environmental Assessment (EA) will be prepared by an interdisciplinary team consisting of BLM and AG&FD personnel to determine the impacts of the proposed plan amendment and classification for disposal.

It is anticipated that the following issues will be analyzed in the EA: Noise, Drainage, Lead Contamination, Visual, Wildlife particularly Desert Tortoise, Mineral Ownership, Safety, Socio-Economics, Access, Cultural and Tribal Consultation.

Following the preparation of the EA there will be further public involvement opportunities to comment on the EA.

Dated: January 27, 2003.

Ruben A. Sanchez,

Acting Field Manager, Kingman Field Office.

[FR Doc. 03–7167 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ030–1020–00–241A; AZA 31791]

Notice of Realty Action Recreation and Public Purposes (R&PP) Act Classification

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following public lands in Mohave County, Arizona have been examined and found suitable for classification for lease or conveyance to Mohave County Board of Supervisors under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The Mohave County Board of Supervisors proposes to use the lands for a Maintenance Yard.

Gila and Salt River Meridian, Mohave County, Arizona

Township 21 N., R. 18 W., Sec 8, NE¼NW¼NW¼.

Comprising 1.5 acres, more or less.

The lands are not needed for Federal purposes. Lease or conveyance is consistent with current BLM land use planning and would be in the public interest. The lease/patent, when issued, will be subject to the following terms, conditions, and reservations.

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.
2. A right-of-way for ditches and canals constructed by the authority of the United States.
3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.
4. Those rights for road purposes granted to the Mohave County Board of Supervisors by permit number AZA–17931.
5. Subject to other valid existing rights.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Kingman Field Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purpose Act and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed lease/conveyance or classification of the land to the Kingman Field Manager, 2475 Beverly Avenue, Kingman, Arizona 86401. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Dated: January 29, 2003.

John R. Christensen,

Field Manager.

[FR Doc. 03–7168 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–360–01–1430–EU: CACA–43380]

Notice of Realty Action, Noncompetitive Sale of Public Lands in Siskiyou County; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation and sale of public land.

SUMMARY: The following public lands have been found suitable for direct sale under sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at not less than the estimated fair market value of $20,000.00. The land will not be offered for sale until at least 60 days after the date of this notice.

Mount Diablo Meridian

T.47N., R.1W.,
Section 14, Lot 3.

Containing 30.14 Acres more or less.

DATES: Submit comments on or before May 12, 2003.

FOR FURTHER INFORMATION CONTACT: Howard Matzat at the Bureau of Land Management, 355 Hemsted Dr., Redding, CA 96002, phone (530) 224–2100. The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

This land is being offered by direct sale for state purposes to the State of California, consistent with 43 CFR 2711.3–3(a)(1). It has been determined that the public lands contain no mineral values; therefore, mineral interests may be conveyed simultaneously. Acceptance of the direct sale offer will

qualify the purchaser to make application for the conveyance of the mineral estate. The land is not needed for Federal purposes.

Conveyance is consistent with current BLM land use planning and would be in the public interest.

The patent, when issued, will be subject to the following terms, conditions and reservations:

1. A right-of-way for ditches and canals constructed by the authority of the United States.

2. Valid existing rights.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Redding Field Office, 355 Hemsted Dr., Redding, California, 96002.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit written comments regarding the proposed sale to Charles M. Schultz, Field Office Manager, Redding Field Office, Bureau of Land Management, 355 Hemsted Dr., Redding, CA 96002. In the absence of timely objections, this proposal shall become the final determination of the Department of Interior.

Dated: February 7, 2003.

Duane Marti,

Acting Chief, Branch of Lands Management (CA–930).

[FR Doc. 03–7165 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–5853–EU]

Notice of Realty Action: Competitive Sale of Public Lands in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: The following lands have been designated for disposal under Public Law 105–263, the Southern Nevada Public Land Management Act of 1998 (112 Stat.2343). They will be sold competitively in accordance with section 203 and section 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713 and 1719) at not less than the appraised fair market value (FMV).

Mount Diablo Meridian, Nevada

T. 19 S., R. 60 E.,
Sec. 30, W½SE¼NE¼NE¼;
Sec. 32, SE¼NW¼NW¼SE¼, NE¼SW¼NW¼SE¼.
T. 20 S., R. 60 E.,
Sec. 6, W½NE¼NW¼SE¼.
T. 22 S., R. 60 E.,
Sec. 12, E½SW¼SE¼NE¼, SW¼SE¼SE¼NE¼;
Sec. 13, SW¼SE¼SW¼NW¼;
Sec. 15, W½NW¼SW¼NE¼, E½NE¼SE¼NW¼;
Sec. 18, E½SW¼SE¼SW¼;
Sec. 20, NW¼NE¼NE¼NE¼, S½NE¼NE¼NE¼, W½NW¼NE¼NE¼, S½SW¼NE¼NE¼, N½SE¼NE¼NE¼, S½NE¼NW¼NE¼, SE¼NW¼NW¼NE¼, E½SE¼NW¼NE¼, N½SW¼NW¼NE¼, NW¼SE¼NW¼NE¼, NE¼NE¼SW¼NE¼, N½NW¼SW¼NE¼, N½NE¼SE¼NE¼, NW¼NW¼SE¼NE¼, SW¼SW¼NE¼NW¼, SE¼SE¼NE¼NW¼, N½NE¼NW¼NW¼, SW¼NE¼NW¼NW¼, NE¼SE¼NW¼NW¼, NE¼NW¼SW¼NW¼, E½NE¼SE¼NW¼, NW¼NE¼SE¼NW¼, NW¼NE¼SW¼NW¼, N½NW¼SE¼NW¼;
Sec. 21, NE¼NW¼SE¼NE¼, NW¼NE¼SE¼NE¼;
Sec. 22, N½NE¼NE¼NE¼, SE¼NE¼NE¼NE¼, SW¼NW¼SW¼NW¼, N½SW¼SW¼NW¼;
Sec. 23, SE¼NE¼SW¼NW¼, SE¼NW¼SW¼NW¼, NE¼SW¼SW¼NW¼, S½SW¼SW¼NW¼, N½SE¼SW¼NW¼, NW¼NE¼SW¼SW¼, N½NW¼SW¼SW¼, SW¼NW¼SW¼SW¼, NW¼SW¼SW¼SW¼;
Sec. 24, NE¼NW¼SW¼NE¼;
Sec. 26, E½NE¼NW¼NW¼, NW¼NE¼NW¼NW¼, N½SW¼NE¼NW¼NW¼.
T. 22 S., R. 61 E.,
Sec. 29, SE¼SW¼SW¼SW¼, NE¼SW¼SW¼SW¼, NW¼SE¼SW¼SW¼, SW¼NW¼SW¼SW¼, SE¼NW¼SW¼SW¼, NE¼NW¼SW¼SW¼;
Sec. 33, Lot 68;
T. 23 S., R. 61 E.,
Sec. 5, Lots 5, 8, S½SE¼NW¼NE¼.
T. 21 S., R. 62 E.,
Sec. 28, E½SW¼SE¼SW¼, W½SE¼SE¼SW¼.

Assembled Parcels: Mount Diablo Meridian, Nevada

T. 19 S., R. 59 E.,
Sec. 13, W½NW¼NE¼NE¼, E½NE¼NW¼NE¼, W½NE¼NW¼NE¼, E½NW¼NW¼NE¼, W½NW¼NW¼NE¼, E½SW¼NW¼NE¼, W½SE¼NW¼NE¼, W½SW¼NE¼NE¼, E½NE¼SW¼NE¼, E½NW¼SW¼NE¼, W½NW¼SW¼NE¼, E½SW¼SW¼NE¼, W½SE¼SW¼NE¼, E½SE¼SW¼NE¼, W½SE¼SE¼NE¼, W½NW¼NE¼NW¼, W½SW¼NW¼NW¼, E½SW¼NE¼NW¼, W½SE¼NE¼NW¼, E½NW¼SW¼NW¼, W½NW¼SW¼NW¼, W½SE¼SW¼NW¼, W½NW¼NE¼SW¼, E½NE¼NW¼SW¼, W½NE¼NW¼SW¼, W½SW¼NW¼SW¼, E½SW¼NW¼SW¼, E½SW¼NE¼SW¼, E½NE¼SW¼SW¼, W½NE¼SW¼SW¼, W½NW¼SW¼SW¼, W½SW¼SW¼SW¼, E½SW¼SW¼SW¼, W½SE¼SW¼SW¼, E½SE¼SW¼SW¼, E½SE¼SE¼SW¼, E½NE¼NE¼SE¼, E½NW¼NE¼SE¼, W½SW¼NE¼SE¼, W½SE¼NE¼, W½SE¼NE¼SE¼, E½SE¼NE¼SE¼, E½NE¼SE¼SE¼, W½NE¼SE¼SE¼, W½NW¼SE¼SE¼, E½NE¼SW¼SE¼, E½NW¼SW¼SE¼, W½NW¼SW¼SE¼, E½SW¼SW¼SE¼, W½SE¼NE¼, W½SE¼SW¼SE¼, W½SW¼SE¼SE¼, W½SE¼SE¼SE¼, E½SE¼SE¼SE¼;
Sec. 24, W½NE¼NE¼NE¼, E½NW¼NE¼NE¼, W½NW¼NE¼NE¼, E½NE¼NW¼NE¼, W½NE¼NW¼NE¼, W½NW¼NW¼NE¼, W½SW¼NW¼NE¼, E½SW¼NW¼NE¼, E½SE¼NW¼NE¼, W½SW¼NE¼NE¼, E½SW¼NE¼NE¼, E½NE¼SE¼NE¼, E½NE¼SW¼NE¼, W½NE¼SW¼NE¼, E½NW¼SW¼NE¼, W½NW¼SW¼NE¼, W½SE¼SW¼NE¼, E½SE¼SW¼NE¼, W½SE¼SE¼NE¼, W½NW¼NE¼NW¼, E½NW¼NW¼NW¼, W½NW¼NW¼NW¼, W½SW¼NW¼NW¼, E½SW¼NW¼NW¼, E½SE¼NW¼NW¼, W½SW¼NE¼NW¼, E½SW¼NE¼NW¼, E½SE¼NE¼NW¼, W½NE¼SE¼NW¼, E½NE¼SW¼NW¼, E½NW¼SW¼NW¼, W½NW¼SW¼NW¼, W½SW¼SW¼NW¼, E½SW¼SW¼NW¼, E½NW¼NW¼SW¼,

W½NE¼NW¼SW¼,
W½NW¼NW¼SW¼,
W½SW¼NW¼SW¼,
W½NW¼SE¼SW¼,
E½NW¼SW¼SW¼,
W½SW¼SW¼SW¼,
E½SE¼SW¼SW¼;
T. 22 S., R. 60 E.,
Sec. 22, NW¼NE¼NE¼NW¼,
SE¼NW¼NW¼NW¼,
SW¼NE¼NW¼NW¼,
W½SE¼NW¼NW¼,
S½NW¼NE¼NW¼,
NW¼SW¼NE¼NW¼;
Sec. 23, NW¼NW¼NW¼,
NE¼NW¼NW¼,
NW¼SW¼NW¼NW¼,
NW¼SE¼NW¼NW¼,
NW¼SW¼NE¼NW¼,
E½SW¼NE¼NW¼,
NW¼SE¼NE¼NW¼,
SE¼SW¼NW¼NW¼,
NW¼NW¼SW¼NW¼;
Sec. 24, N½NW¼NW¼SW¼,
NW¼NE¼NW¼SW¼,
NW¼NW¼NE¼SW¼,
SE¼NW¼NE¼SW¼,
W½NE¼NE¼SW¼,
NW¼NW¼SW¼SW¼,
SW¼NE¼SE¼SW¼,
N½SW¼SE¼SW¼,
SE¼SW¼SE¼SW¼,
N½SE¼SE¼SW¼,
SW¼SE¼SE¼SW¼,
E½SW¼SW¼SW¼,
NW¼SE¼SW¼SW¼,
SE¼SE¼SW¼SW¼,
NW¼SW¼NW¼SW¼,
SE¼NE¼NW¼SW¼,
N½NE¼SW¼SW¼,
W½SW¼NE¼SW¼,
SE¼SW¼NE¼SW¼,
SW¼SE¼NE¼SW¼,
NE¼NW¼SE¼SW¼;
Sec. 25, W½NW¼NW¼NW¼,
NW¼NE¼NW¼NW¼,
S½NE¼NW¼NW¼,
NE¼SW¼NW¼NW¼,
SW¼SW¼NW¼NW¼,
NW¼NW¼SW¼NW¼,
SW¼SW¼NE¼NW¼,
NW¼NW¼SE¼NW¼,
NE¼SW¼SW¼NW¼,
W½NE¼SW¼NW¼,
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W½NE¼NW¼SE¼,
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NW¼NW¼NE¼SE¼,
E½NW¼NE¼SE¼, E½NE¼SE¼,
NW¼SE¼SE¼, W½NE¼SE¼SE¼,
NE¼NE¼SE¼SE¼,
SE¼NW¼SW¼SW¼,
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W½SW¼SE¼NE¼,
SE¼NE¼SE¼NE¼,
NW¼SE¼SE¼NE¼,
E½SE¼NW¼SE¼,
NW¼SW¼NE¼SE¼, NW¼SW¼SE¼,
W½NE¼SW¼SE¼,
NW¼SW¼SW¼SE¼,
E½SW¼SW¼SE¼, S½SE¼SW¼SE¼,
SE¼SW¼SE¼SE¼,
SW¼SE¼SE¼SE¼.

Consisting of 1,103.76 acres, gross.

In addition to the lands described herein, parcels that have been published in a previous Notice of Realty Action (NORA), and were previously offered but did not sell, may be re-offered at this sale.

When the land is sold, conveyance of the locatable mineral interests will occur simultaneously with the sale of the land. The locatable mineral interests being offered have no known mineral value. Acceptance of a sale offer will constitute an application for conveyance of those mineral interests. In conjunction with the final payment, the applicant will be required to pay a $50.00 non-refundable filing fee for processing the conveyance of the locatable mineral interests.

The terms and conditions applicable to the sale are as follows:

All Parcels are Subject to the Following

1. All leaseable and saleable mineral deposits are reserved on land sold; permittees, licensees, and lessees retain the right to prospect for, mine, and remove the minerals owned by the United States under applicable law and any regulations that the Secretary of the Interior may prescribe, including all necessary access and exit rights.

2. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

3. All land parcels are subject to all valid existing rights. Parcels may also be subject to applications received prior to publication of this Notice if processing the application would have no adverse affect on the appraised FMV. Encumbrances of record are available for review during business hours, 7:30 a.m. to 4:15 p.m., PDT, Monday through Friday, at the Bureau of Land Management, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, NV.

4. All land parcels are subject to reservations for roads, public utilities and flood control purposes, both existing and proposed, in accordance with the local governing entities' Transportation Plans.

5. All purchasers/patentees, by accepting a patent, agree to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the patentee or their employees, agents, contractors, or lessees, or any third-party, arising out of or in connection with the patentee's use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee and their employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in: (1) Violations of Federal, state, and local laws and regulations that are now or may in the future become, applicable to the real property; (2) Judgments, claims or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Other releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or state environmental laws; off, on, into or under land, property and other interests of the United States; (5) Other activities by which solids or hazardous substances or wastes, as defined by Federal and state environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by Federal and state law. This covenant shall be construed as running with the patented real property and may be enforced by the United States in a court of competent jurisdiction.

Maps delineating the individual sale parcels will be available for public review at the BLM Las Vegas Field Office. Appraisals for each parcel will be available for public review at the Las Vegas Field Office on or about April 7, 2003.

Each parcel will be offered by sealed bid, and at oral auction. All sealed bids

must be received at the BLM Las Vegas Field Office (LVFO), 4701 N. Torrey Pines Drive, Las Vegas, NV 89130, no later than 4:15 p.m., PDT, June 3, 2003. Sealed bid envelopes must be marked on the lower front left corner with the parcel number and sale date. Bids must be for not less than the appraised FMV and a separate bid must be submitted for each parcel.

Each sealed bid shall be accompanied by a certified check, money order, bank draft, or cashier's check made payable to the Bureau of Land Management, for not less than 10 percent of the amount bid.

The highest qualified sealed bid for each parcel will become the starting bid for oral bidding. If no sealed bids are received, oral bidding will begin at the appraised FMV.

All parcels will be offered for competitive sale by oral auction beginning at 10 a.m. PDT, June 5, 2003, at the Clark County Commission Chambers, Clark County Government Center, 500 S. Grand Central Parkway, LasVegas, Nevada. Registration for oral bidding will begin at 8:30 a.m. the day of sale and will continue throughout the auction. All oral bidders are required to register.

The highest qualifying bid for any parcel, whether sealed or oral, will be declared the high bid. The apparent high bidder, if an oral bidder, must submit the required bid deposit immediately following the close of the sale in the form of cash, personal check, bank draft, cashiers check, money order or any combination thereof, made payable to the Bureau of Land Management, for not less than 20 percent of the amount bid. If not paid by close of the auction, funds must be delivered no later than 4:15 p.m. the day of the sale to the BLM Las Vegas Field Office. Should the apparent high bidder for parcels N–76401 and N–76406 default, the next high bidder for those parcels will be declared the apparent high bidder.

The remainder of the full bid price, whether sealed or oral, must be paid within 180 calendar days of the sale date. Failure to pay the full price within the 180 days will disqualify the apparent high bidder and cause the entire bid deposit to be forfeited to the BLM.

Unsold parcels, with the exception of parcels N–76401 and N–76406, may be offered on the Internet. Internet auction procedures will be available at *www.auctionrp.com.* If unsold on the Internet, parcels may be offered at future auctions without additional legal notice. Upon publication of this notice and until the completion of the sale, the BLM is no longer accepting land use applications affecting any parcel being offered for sale, including parcels being offered for sale that have been published in a previous Notice of Realty Action. However, land use applications may be considered after the completion of the sale within parcels that are not sold through sealed, oral, or on-line Internet auction procedures.

Federal law requires bidders to be U.S. citizens 18 years of age or older; a corporation subject to the laws of any State or of the United States; a State, State instrumentality, or political subdivision authorized to hold property; or an entity including, but not limited to, associations or partnerships capable of holding property or interests therein under the laws of the State of Nevada. Certification of qualification, including citizenship or corporation or partnership, must accompany the bid deposit.

In order to determine the fair market value of the subject public lands through appraisal, certain assumptions have been made of the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this notice, the Bureau of Land Management gives notice that these assumptions may not be endorsed or approved by units of local government. Furthermore, no warranty of any kind shall be given or implied by the United States as to the potential uses of the lands offered for sale, and conveyance of the subject lands will not be on a contingency basis. It is the buyer's responsibility to be aware of all applicable local government policies and regulations that would affect the subject lands. It is also the buyer's responsibility to be aware of existing or projected use of nearby properties. When conveyed out of federal ownership, the lands will be subject to any applicable reviews and approvals by the respective unit of local government for proposed future uses, and any such reviews and approvals would be the responsibility of the buyer. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

Detailed information concerning the sale, including the reservations, sale procedures and conditions, planning and environmental documents is available for review at the Bureau of Land Management, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130, or by calling (702) 515–5114. This information will also be available on the Internet at *http://propertydisposal.gsa.gov.* Click on NV for Nevada. It will also be available on the Internet at *http://www.nv.blm.gov.* Click on Southern Nevada Public Land Management Act.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, the general public and interested parties may submit comments to the Field Manager, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130. Any adverse comments will be reviewed by the State Director, who may sustain, vacate, or modify this realty action in whole or in part. In the absence of any adverse comments, this realty action will become the final determination of the Department of Interior. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from the sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws or is determined to not be in the public interest. Any comments received during this process, as well as the commentor's name and address, will be available to the public in the administrative record and/or pursuant to a Freedom of Information Act request. You may indicate for the record that you do not wish to have your name and/or address made available to the public. Any determination by the Bureau of Land Management to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. A commentor's request to have their name and/or address withheld from public release will be honored to the extent permissible by law.

Lands will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Mark T. Morse,

Field Manager.

[FR Doc. 03–7162 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–025–02–1430–EU: GP0–0086]

Realty Action: Direct Sale of Public Land in Harney County, OR

AGENCY: Bureau of Land Management (BLM), Burns District.

ACTION: Notice of Realty Action, Direct Sale of Public Land, OR–56570.

SUMMARY: The following described public land in Harney County, Oregon, has been examined and found suitable

for sale under Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713 and 1719), at not less than the appraised market value:

Willamette Meridian

T. 20 S., R. 36 E.,
sec. 3, W½NW¼SW¼NW¼,
S½SW¼NW¼.

The area described contains 25 acres, more or less in Harney County, Oregon. The appraised market value for this parcel has been determined to be $5000.

This land is being considered for direct sale to the adjacent landowners, Tom and Kathleen Turner, to resolve a long-term, inadvertent, unauthorized occupancy of the public land. The encroachment involves outbuildings, fences, equipment storage, and other uses associated with the adjacent Turner Ranch headquarters that were inadvertently placed on public land many years ago prior to the Turner's ownership of the ranch. The parcel is the minimum size possible to ensure that all of the encroachments are included while utilizing an aliquot part description to avoid the need for an expensive land survey.

In accordance with 43 CFR 2710.0–6(c)(3)(iii) direct sale procedures are appropriate to resolve an inadvertent unauthorized occupancy of the land and to protect existing equities in the land.

The Turners will be allowed 30 days from receipt of a written offer to submit a deposit of at least 20 percent of the appraised market value of the parcel, plus administrative costs and 180 days thereafter to submit the balance. Federal regulations describe procedures to address unauthorized use which include provisions to reimburse BLM for administrative costs.

The following rights, reservations, and conditions will be included in the patent conveying the land:

1. A reservation to the United States for a right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. A right-of-way for buried communication cable purposes granted to CenturyTel of Oregon, Inc., its successors or assigns, by right-of-way No. OR 54973, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

3. A right-of-way for public road and highway purposes granted to Harney County, its successors or assigns, by right-of-way No. OR 57062, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761), as amended.

The patent would also include a notice and indemnification statement under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9620) holding the United States harmless from any release of hazardous materials that may have occurred as a result of the unauthorized use of the property by other parties.

A successful bid constitutes an application for conveyance of the mineral interests also being offered under the authority of section 209(b) of the Federal Land Policy and Management Act of 1976. In addition to the full purchase price, a nonrefundable fee of $50 will be required from the prospective purchaser for purchase of the mineral interests to be conveyed simultaneously with the sale of the land.

The land described is segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

DATES: This office has prepared Documentation of Land Use Plan Conformance and National Environmental Policy Act Adequacy to evaluate the proposal. On or before 45 days from the date of publication in the **Federal Register** interested persons may submit written comments. In the absence of any objections, this proposal will become the determination of the Department of the Interior.

ADDRESSES: Written comments should be submitted to the Joan Suther, Three Rivers Resource Area Field Manager, 28910 Hwy 20 West, Hines, Oregon 97738.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this land sale is available from Skip Renchler, Realty Specialist at the above address, phone (541) 573–4443.

Dated: February 12, 2003.

Joan M. Suther,

Three Rivers Resource Area Field Manager.

[FR Doc. 03–7169 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–116–2822–JL–P124, OR–116–2822–JL–P158; HAG03–0076]

Temporary Road Closure and Supplementary Rules for Public Lands in Jackson County, Oregon

AGENCY: Medford District Office, Bureau of Land Management, Interior.

ACTION: Closure and Interim Final Supplementary Rules.

SUMMARY: The Bureau of Land Management (BLM) is publishing this closure notice and these interim final supplementary rules regulating motorized and mechanized vehicle use on specific public lands in Jackson County, Oregon. These public lands are within and in the immediate vicinity of the recent fire areas labeled the Squires Peak Fire and the East Antelope Fire. This action is necessary for public safety and to protect fire-damaged watersheds from further degradation.

DATES: The closures and interim final supplementary rules will be effective from March 26, 2003, until June 30, 2006, unless rescinded before that date. You may comment on the closures and interim final supplementary rules. You must submit your comments to BLM at the appropriate address below on or before May 27, 2003. BLM will not necessarily consider any comments received after the above date in making its decisions on the final supplementary rules.

ADDRESSES: Mail or personal delivery: Field Office Manager, Ashland Field Office, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504. Email response: *jhoppe@or.blm.gov.*

FOR FURTHER INFORMATION CONTACT: John Samuelson, Ashland Field Office, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504 or telephone 541–618–2313. Persons who use a telecommunications device for the deaf (TDD) may contact this individual by calling the Federal Information Relay Service (FIRS) at (800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION

I. Public Comment Procedures

II. Background

III. Discussion of Interim Final Supplementary Rules

IV. Procedural Matters

I. Public Comment Procedures

A. How do I comment on the interim final rule?

If you wish to comment, you may submit your comments by any one of several methods.

(1) You may mail comments to: Field Office Manager, Ashland Field Office, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504.

(2) You may deliver comments to: Field Office Manager, Ashland Field Office, Bureau of Land Management,

3040 Biddle Road, Medford, Oregon 97504.

(3) You may email comments to: *jhoppe@or.blm.gov*.

If you do not receive a confirmation that we have received your electronic message, contact us directly at 541–523–1256.

Please make your comments on the supplementary rules as specific as possible, confine them to issues pertinent to the rules, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the supplementary rules that you are addressing.

BLM may not necessarily consider or include in the Administrative Record for the final supplementary rules comments that BLM receives after May 27, 2003 or comments delivered to an address other than those listed above.

B. May I Review Comments Submitted By Others?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES:** Mail or personal delivery'' during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays.

Individual respondents may request confidentiality, which we will honor to the extent allowable by law. If you wish to withhold your name or address, except for the city or town, you must state this prominently at the beginning of your comment. 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.

II. Background

Notice is hereby given that all motorized and mechanized travel is prohibited on roads, trails, and public lands in two areas recently burned by wildfires. The two areas are: the Squires Peak Fire and the East Antelope Fire. The Squires Peak Fire area is located southwest of Medford, Oregon, in Jackson County. The East Antelope Fire area is located northeast of Ashland, Oregon, also in Jackson County. This action is necessary to insure public safety and to prevent additional resource damage while restoration and rehabilitation activities proceed in the two affected areas.

This rule includes the following roads and public lands within the perimeter of the Squires Peak Fire:

All public lands within the fire perimeter are located in Section 31, T. 38 S., R. 2 W., Sections 35 and 36, T. 38 S., R. 3 W., Sections 5, 6, 7, and 8, T. 39 S., R. 2 W., and Sections 1 and 2, T.39 S., R. 3 W., Willamette Meridian. BLM roads closed are as follows: #39–3–3.0, #39–2–7.1, #38–3–26.2, #38–2–31.0, and #38–2–31.1 including those portions outside of the fire perimeter. BLM roads remaining open include: #38–3–26.1 and #28–2–29.0. This area is further designated on the Map titled ''Squires Peak Fire Restricted Area'', prepared by the Bureau of Land Management and dated January 31, 2003.

The rule also includes all public lands within the fire perimeter of the East Antelope Fire: These lands are within the fire perimeter as located in Sections 12, 13, and 24, T. 38 S., R. 1 E., and Sections 7, 17, 18, and 19, T. 38 S., R. 2 E., Willamette Meridian. This area is further designated on the Map titled ''East Antelope Fire Restricted Area'', prepared by the BLM and dated January 31, 2003.

III. Discussion of Rule

Why is this rule being published as interim final?

We are making these closures effective immediately because significant health and safety risks to the public and danger of further damage to fire-damaged and fragile resources require immediate action. The significant loss of ground cover and vegetation in these fire areas has caused accelerated erosion and potential dangers from water run-off and subsequent instability of existing roads, trails, and cross country routes. The BLM needs to take immediate and aggressive action to stop man-caused damage and to begin stabilizing the fire areas.

Because of the immediate and ongoing hazards to the public's health and safety and because of the need to protect natural resources, we find good cause to publish these rules as interim final, effective March 26, 2003, and allowing 60 days for public comment.

IV. Procedural Matters

The principal author of this interim final rule is Richard Drehobl, assisted by John Samuelson of the Ashland Resource Area, Medford District Office, BLM.

Regulatory Planning and Review (E.O. 12866)

This rule is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

The supplementary rules will not affect legal commercial activity, but contain rules of conduct for public use of a limited selection of public lands.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The supplementary rules will not affect legal commercial activity, but contain rules of conduct for public use of a limited selection of public lands.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

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

- Does not have an annual effect on the economy of $100 million or more. (*See* the discussion under Regulatory Planning and Review, above.)
- Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. (*See* the discussion above under the Regulatory Flexibility Act.)
- 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.

Unfunded Mandates Reform Act

The closures and supplementary rules do not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year. They do not have a significant or unique effect on state, local, or tribal governments or the private sector. The closures and rules have no effect on governmental or tribal entities. A statement containing the information required by the Unfunded Mandates

Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, we find that the closures and supplementary rules do not have significant takings implications. The enforcement provision interim final does not include any language requiring or authorizing forfeiture of personal property or any property rights. E.O. 12630 addresses concerns based on the Fifth Amendment dealing with private property taken for public use without compensation. The two fire areas are both on public land managed by the Bureau of Land Management, and any owners of private inholdings are specifically excluded from the effect of the closures and rules. Therefore no private property is affected. A takings implications assessment is not required.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, we find that the closures and supplementary rules do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The closures and rules do 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. The rules do not preempt state law.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

Consultation and Coordination With Indian Tribal Governments (E.O. 13175)

In accordance with Executive Order 13175, we have found that this final rule would not include policies that have tribal implications. The rule would not affect lands held for the benefit of Indians, Aleuts, and Eskimos.

Paperwork Reduction Act

The closures and supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The closures and supplementary rules do not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required. [EA prepared?? need to refer to it]

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections?

(5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the interim final rule? What else could we do to make the interim final rule easier to understand?

If you have any comments that concern how we could make this rule easier to understand, in addition to sending the original to the address shown in **ADDRESSES**, above, please send a copy to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You may also e-mail the comments to this address: Execsec@ios.doi.gov.

The authority for these closures and supplementary rules is found in Authority: 43 U.S.C. 1733; 43 CFR 8364.1; and 43 CFR 8365.1–6.

Sec. 1 Prohibited acts.

a. *Prohibited acts.* Within the closed area you must not:

1. Operate any motorized vehicle.

2. Operate any mechanized vehicle.

b. *Exemptions.* The following are exempt from prosecution under the prohibited acts:

1. Any person operating a motorized vehicle on a publicly maintained State or County road;

2. Any Federal, state or local officers or employees or contractor in the scope of their duties;

3. Members of any organized rescue or fire-fighting force in the performance of official duty;

4. Any private landowners owning property within the fire perimeters and exercising rights of ingress/egress to that property using existing roads; and

5. Any person authorized in writing by BLM.

Sec. 2 Penalties.

On public lands, under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8360.0–7, any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Dated: February 12, 2003.

Elaine M. Brong,

Oregon State Director.

[FR Doc. 03–7170 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–085–03–1430–AA]

Implementation of Off Highway Vehicle (OHV) Management, Upper Columbia-Salmon Clearwater District, ID

AGENCY: Bureau of Land Management, Upper Columbia-Salmon Clearwater District, Idaho, Interior

ACTION: Implementation of Off Highway Vehicle (OHV) management for the Salmon Field Office, Upper Columbia-Salmon Clearwater District, BLM.

SUMMARY: In a **Federal Register** notice dated February 25, 2000, the Salmon Field Office notified the public of the BLM's intent to amend the Lemhi Resource Management Plan (RMP) (BLM 1987) to address several management concerns, including the need for Aadditional guidance for management of resources, values, and uses on public lands within the (Lewis and Clark National Historic) Trail corridor and its surrounding area, and for other areas where visitor use is increasing substantially.'' This concern has been addressed through amended off-highway vehicle use (OHV) designations for the approximately 594,837-acre Salmon Field Office area, as well as other management decisions. The Lemhi RMP amendment was approved by the Idaho State Director on August 29, 2001. As stated in 43 CFR 8342.2(b), that approval constituted the formal designation of off-highway vehicle use areas for the Salmon Field Office area. This Notice is published in compliance with 43 CFR 8364.1 Closure and restriction orders. Additional efforts to inform the public of the changes in OHV designations will be made during the next six to twelve months as the Salmon

Field Office holds informational meetings, prepares and distributes a Travel Map, installs signs identifying the restricted or closed areas, and contacts public land visitors via the media and in the field.

Changes in OHV designations were primarily made to address existing or potential future impacts to cultural, historic, and scenic resources; fisheries and wildlife habitat; undeveloped and non-motorized recreational opportunities; and native vegetation in the Salmon Field Office area. These designations were developed based on public and tribal input and an environmental analysis of various management alternatives. This closure and restriction order supersedes the OHV designation and closure notices published in the **Federal Register** by the Salmon District Office on September 5, 1986; September 29, 1987; and April 24, 1989.

FOR FURTHER INFORMATION CONTACT: For further information about the amended OHV designations or to obtain a copy of the RMP amendment (which includes maps of the OHV designations), please contact Michael Liner, Outdoor Recreation Planner, by phone at (208) 756–5466, by e-mail at Michael_Liner@blm.gov, or by mail at the Bureau of Land Management, 50 Highway 93 South, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: The majority (about 96.5%) of public lands administered by the Salmon Field Office now have an OHV designation of ''limited,'' which means that motorized vehicle travel within specified areas and/or on designated routes, roads, vehicle ways, or trails is subject to restrictions. The remaining public lands (approximately 3.5%) are designated ''closed''; *i.e.*, motorized vehicle travel is prohibited in those areas.

Exceptions for Off-road Vehicle Use—Excluding the Eighteenmile Wilderness Study Area (WSA), located about 15 miles southeast of Leadore, Idaho (see point ''(1)'' of the Limited and Closed Designation Areas in the following two paragraphs), temporary exceptions to the OHV limitations and closures for the Salmon Field Office area may be authorized for any military, fire, emergency, or law enforcement vehicle while it is being used for emergency purposes, any vehicle in official use, and any vehicle whose use is expressly authorized in writing by the authorized officer.

The following additional exceptions for off-road travel may apply in ''Limited'' Designation Areas; vehicle use may be allowed:

(a) Within 300 feet of existing roads, vehicle ways, or trails for direct access to campsites, to retrieve downed big game, or to harvest forest products;

(b) Immediately adjacent to existing roads, vehicle ways, and trails for purposes such as parking, turning around, or passing another vehicle;

(c) If the vehicle weighs 1,500 pounds or less gross vehicle weight and is traveling on at least six inches of continuous snow cover; and

(d) Snowmobiles on groomed trails only.

These exceptions (a) through (d) are referenced in the ''Limited Designation Areas'' section below when they pertain to a given limitation.

''Closed'' Designation Areas—The areas designated ''closed'' to OHV use are as follows. (1) The portion of the Eighteenmile WSA recommended to Congress as suitable for wilderness designation (14,796 acres) is closed to OHV use to maintain the area's suitability for wilderness designation. Temporary exceptions for OHV use are allowed in emergencies and search and rescue operations, for official purposes by the BLM and other Federal, State, and local agencies, and to build or maintain structures or installations, as provided for in the Interim Management Policy and Guidelines for Lands Under Wilderness Review (BLM 1995). (2) The 236-acre Trail Creek Area of Critical Environmental Concern (ACEC), located approximately 12 miles west of Lemhi, Idaho, is closed to OHV use to preserve the unroaded old growth forest and riparian habitat and provide additional protection to high quality elk habitat. (3) About 1,200 acres on the hillside above the Chief Tendoy Cemetery (located about 20 miles southeast of Salmon, Idaho) are closed to OHV use for safety reasons (the area is extremely steep and hazardous). (4) Approximately 1,080 acres in the Birch Creek Springs area located about 35 miles south of Leadore, Idaho, are closed to OHV use to protect the unique wetland, riparian, and vegetative resources of the area.

''Limited'' Designation Areas—Specific restrictions within ''limited'' designation areas are as follows. (1) OHV travel within the portion of the Eighteenmile WSA recommended to Congress as ''non suitable'' for wilderness designation (10,126 acres) is limited yearlong to one designated route along the northwestern boundary (the Powderhorn Gulch Road) to allow some motorized access to the WSA while still protecting the WSA's suitability for wilderness designation (exception (b) applies). Temporary exceptions for OHV use off of this route are allowed in emergencies and search and rescue operations, for official purposes by the BLM and other Federal, State, and local agencies, and to build or maintain structures or installations, as provided for in the Interim Management Policy and Guidelines for Lands Under Wilderness Review (BLM 1995). (2) OHV use within the Continental Divide National Scenic Trail Special Recreation Management Area (SRMA) (about 4,600 acres located along the eastern boundary of the Field Office area) is limited to designated routes to reduce conflicts between motorized and non-motorized recreation opportunities within the SRMA and to provide habitat security for wintering big game. The following designated routes may be used yearlong: The portion of the Divide Road beginning about six miles south of Lemhi Pass, the Copper Queen Road, the Cow/Yearian Divide Ridge Road, the two branches of the Reese Creek Road, the Reese/Peterson Divide Ridge Road, the Whiskey Springs Ridge Road east of State Highway 29, and the ''spur'' road off the Whiskey Springs Ridge Road (exceptions (a), (b), and (c) apply). A northern section of the Divide Road (beginning at the Copper Queen Road intersection and continuing about four miles to the Cow/Yearian hydrologic divide) and two spur roads off the Divide Road may be traveled seasonally, from May 1 through December 15 (exceptions (a), (b), and (d) apply). (3) OHV travel within the Chief Tendoy Cemetery is limited yearlong to the designated route to the monument (no exceptions for off-road travel) to ensure protection of the Cemetery and associated Native American burials. This 40-acre parcel in T19N, R24E, B.M.

Section 28: NE¼ SW¼ was reserved for an Indian Cemetery by a Secretarial decree on October 1, 1907. (4) OHV travel within the Lewis and Clark National Historic Trail SRMA (three areas totaling approximately 31,014 acres) is limited to designated routes to protect the historic trail from ground disturbance and to maintain the natural and historical integrity of the trail area. In the River Bluffs area just north of Salmon, Idaho, OHV use is limited yearlong to the Recreation and Public Purposes Act lease site designated use areas (two areas totaling about 74 acres), the River Bluff Road, the Sagehen Flat Road, the Powerline Road, and the road that heads south from the Powerline Road toward Kirtley Creek (no exceptions for off-road use apply). (*Note:* The designated use areas within the Recreation and Public Purposes Act lease site are provided to be consistent with the lease stipulations.) OHV travel within the Agency Creek portion of the

SRMA is limited to the seasonal and yearlong routes listed in section (9) below (exceptions (a), (b), and (d) apply). OHV travel within the Tower Creek portion of the SRMA is limited to the seasonal and yearlong routes listed in section (10) below (exception (b) applies). (5) OHV travel within the 1,060-acre Sevenmile ACEC, located about seven miles south of Salmon, Idaho, is limited yearlong to two designated routes in the upper portion of the ACEC: The route which accesses the Sunset Heights Water District Spring and the route which accesses the upper portion of the Sevenmile watershed (exceptions (a) and (b) apply). This use limitation is implemented to help ensure public safety and resource protection in areas with steep slopes and highly erosive soils, while allowing motorized access in more stable areas.

(6) OHV use within the following recreation sites and use areas is limited to designated routes and use areas yearlong to ensure visitor safety and reduce conflicts between motorized and non-motorized recreation use (no exceptions for off-road use apply): The Shoup Bridge, Morgan Bar, Williams Lake, Tower Creek, Smokey Cubs, McFarland, and Agency Creek Recreation Sites, as well as several access points along the Salmon River: Eightmile River Access, Elevenmile River Access, Lime Creek Trailhead, and Kilpatrick River Access. (7) OHV use on about 29,599 acres in the Hayden, Basin, and Muddy creek areas west of Lemhi, Idaho, is limited to designated routes in order to address erosion concerns and the potential for sedimentation impacts to occupied threatened/endangered fish habitat (exceptions (a), (b), and (c) apply). The Hayden Creek Road and Basin Creek Road may be used by motorized vehicles yearlong. OHV use on the following designated routes is only allowed from June 16 to February 28: Muddy Creek Road, Colson Cutoff, Roostercomb Mountain Road, and several additional unnamed routes between Basin Creek and Muddy Creek. (8) No vehicle travel is allowed on the following roads constructed for previous timber sales, unless specifically authorized by the BLM: Baldy Basin, Sawmill Canyon, Birch Creek, and McDevitt Creek. These restrictions are implemented to reduce water quality impacts. (9) OHV use on about 25,904 acres in the Kenney, Pattee, and Agency creek drainages (located approximately 15 miles southeast of Salmon, Idaho) is limited to designated routes and/or closed seasonally (exceptions (a), (b), and (d) apply). These limitations are implemented to improve habitat security in big game winter range and to protect cultural and scenic resources in the Lewis and Clark Trail SRMA. Motorized travel is allowed yearlong on the Alkali Flat Road, Warm Springs Wood Road, Agency Creek Road, Divide Road (excepting about four miles beginning at the Copper Queen Road intersection south to the Cow/Yearian hydrologic divide), Copper Queen Road, and about four miles of the Pattee Creek Road. OHV use on several routes in the Agency, Pattee, and Warm Springs Creek drainages is only permitted from May 1 through December 15. The following route is designated for snowmobile use: The Divide Road from Lemhi Pass south to the Copper Queen Road to the Agency Creek Road. Vehicle travel is permitted on existing roads, vehicle ways, and trails from May 1 through December 15 on about 1,260 acres south of Kenney Creek and 2,325 acres south of the SRMA boundary (exceptions (a) and (b) apply); the remainder of the year these areas are closed to OHV use to protect wintering big game. (10) OHV use on about 5,192 acres in the Tower Creek area located about 11 miles north of Salmon, Idaho, is limited to designated routes to protect wildlife habitat and cultural and scenic resources along the Lewis and Clark National Historic Trail (exception (b) applies). Travel is allowed yearlong on the Kriley Gulch Road and Tower Creek Road. From May 1 through December 15, travel is also allowed on the ridge route (from U.S. Highway 93 to a point about 2.9 miles from the highway) and the route that bears west off the ridge route about 1.5 miles from the highway. (11) OHV use on about 7,805 acres in the Badger Springs area (located about seven miles north of Salmon, Idaho) is prohibited from December 16 through April 30 to protect big game winter habitat. The remainder of the year vehicle use is limited to existing roads, vehicle ways, and trails. (12) In the Henry Creek area (approximately 4,046 acres) located about nine miles south-southwest of Salmon, Idaho, OHV use is only allowed on existing roads, vehicle ways, and trails from April 11 through September 19; during this time, motorized access is limited to vehicles 48 inches in width or narrower (exception (b) applies). These limitations are implemented to address safety and erosion concerns. (13) OHV use on all remaining public lands not affected by the above limitations or closures (about 402,385 acres) is limited to the existing roads, vehicle ways, and trails visible on 1993–1994 aerial photos and/or 1992 digital orthophotos, as verified through on-the-ground review (exceptions (a), (b), and (c) apply). Vehicle travel on single-track vehicle ways is limited to two-wheeled vehicles and will not promote expansion of those ways into two-track routes. These limitations are implemented to reduce impacts to cultural resources, visual resources, native vegetation, and fisheries and wildlife habitat.

Dated: February 12, 2003.

Jenifer L. Arnold,

Acting District Manager.

[FR Doc. 03–7163 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS) Scientific Committee of the Minerals Management Advisory Board; Announcement of Plenary Session

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Advisory Board OCS Scientific Committee will meet at the Hilton Anchorage Hotel in Anchorage, Alaska.

DATES: Tuesday, April 22, 2003, from 8:30 a.m. to 5 p.m., Wednesday, April 23, from 7:45 a.m. to 3:15 p.m., and Thursday, April 24, from 8:30 a.m. to 5 p.m.

ADDRESSES: Hilton Anchorage Hotel, 500 West Third Avenue, Anchorage, Alaska 99501, telephone (907) 272–7411.

FOR FURTHER INFORMATION CONTACT: A copy of the agenda may be requested from MMS by calling Ms. Carolyn Beamer at (703) 787–1211. Other inquiries concerning the OCS Scientific Committee meeting should be addressed to Dr. James Kendall, Executive Secretary to the OCS Scientific Committee, Minerals Management Service, 381 Elden Street, Mail Stop 4043, Herndon, Virginia 20170–4817 or by calling (703) 787–1656.

SUPPLEMENTARY INFORMATION: The OCS Scientific Committee is an outside group of non-Federal scientists which advises the Director, MMS, on the feasibility, appropriateness, and scientific merit of the MMS OCS Environmental Studies Program as it relates to information needed for informed OCS decisionmaking.

The Committee will meet in plenary session on Tuesday, April 22. Presentations will be made by the Deputy Associate Director for Offshore Minerals Management and the Director,

Coastal Marine Institute, University of Alaska Fairbanks. Other presentations and discussions will focus on the draft recommendations of the U.S. Commission on Ocean Policy, a report from the OCS Policy Committee, and updates on the OCS Scientific Committee's Mercury Subcommittee and Sand and Gravel Subcommittee. The remainder of the day will focus on presentations by the MMS OCS Regional Offices on their research priorities and information needs in the context of regional decisionmaking.

On Wednesday, April 23, the Committee will meet in discipline breakout sessions (*i.e.*, physical oceanography, biology, and socioeconomics) to review the specific research plans of the regional offices for Fiscal Years 2004 and 2005.

On Thursday, April 24, the Committee will meet in plenary session for presentations from the Alaska OCS Region's Information Transfer Meeting held March 10–12, 2003, and for reports of the discipline breakout sessions of the previous day. In the afternoon, the plenary session will continue with Committee Business.

The meetings are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the plenary session.

Authority: Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C., Appendix I, and the Office of Management and Budget's Circular A–63, Revised.

Dated: March 20, 2003.

Thomas A. Readinger,

Associate Director for Offshore Minerals Management.

[FR Doc. 03–7125 Filed 3–25–03; 8:45 am]

BILLING CODE 4043–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Dam Adaptive Management Work Group (AMWG), Notice of Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Cancellation of public meeting.

SUMMARY: The Bureau of Reclamation is canceling the Adaptive Management Work Group Meeting scheduled for March 28, 2003, in Flagstaff, Arizona. At the AMWG meeting held on January 28, 2003, the Humpback Chub Ad Hoc Group (HBC AHG) was formed to consider actions to implement a comprehensive research and management program for the humpback chub in the Colorado River. As such, the HBC AHG requires additional time to complete various assignments in preparation for presentation to the AMWG.

FOR FURTHER INFORMATION CONTACT: Dennis Kubly, telephone (801) 524–3715; faxogram (801) 524–3858; or via e-mail at *dkubly@uc.usbr.gov.*

Dated: March 14, 2003.

Dennis Kubly,

Chief, Adaptive Management Group, Environmental Resources Division, Upper Colorado Regional Office.

[FR Doc. 03–7184 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–352]

Andean Trade Preference Act: Effect on the U.S. Economy and on Andean Drug Crop Eradication

AGENCY: United States International Trade Commission.

ACTION: Notice of opportunity to submit comments in connection with the 2002 ATPA report.

EFFECTIVE DATE: March 19, 2003.

FOR FURTHER INFORMATION CONTACT: Joanne Guth (202–205–3264), Country and Regional Analysis Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436.

Background: Section 206 of the Andean Trade Preference Act (ATPA) (19 U.S.C. 3204) requires that the Commission submit annual reports to the Congress regarding the economic impact of the Act on U.S. industries and consumers and, in conjunction with other agencies, the effectiveness of the Act in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries. Section 206(b) of the Act requires that each report include:

(1) The actual effect of ATPA on the U.S. economy generally as well as on specific domestic industries which produce articles that are like, or directly competitive with, articles being imported under the Act;

(2) The probable future effect that ATPA will have on the U.S. economy generally and on domestic industries affected by the Act; and

(3) The estimated effect that ATPA has had on drug-related crop eradication and crop substitution efforts of beneficiary countries.

Notice of institution of the investigation and the schedule for such reports under section 206 of ATPA was published in the **Federal Register** of March 10, 1994 (59 FR 11308). The ninth report, covering calendar year 2002, is to be submitted by September 30, 2003.

Written Submissions: The Commission does not plan to hold a public hearing in connection with the preparation of this ninth report. However, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on June 13, 2003. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436. The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's Rules, as amended, 67 FR 68036 (Nov. 8 2002).

Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

Issued: March 21, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–7250 Filed 3–25–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: extension of a currently approved collection for which approval will expire: National Crime Victimization Survey (NCVS).

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 27, 2003. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Craig A. Perkins, National Crime Victimization Survey (NCVS), (202) 307–0758, Office of Justice Programs, US Department of Justice, 810 Seventh Street NW., Washington, DC 20531.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Extension of a Currently Approved Collection

(2) *The title of the form/collection:* National Crime Victimization Survey.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection: Form Number:* NCVS–1, NCVS–1A, NCVS–2, NCVS–500, NCVS–7, NCVS–572(L), NCVS–573(L), NCVS–574(L), NCVS–541, NCVS–545, NCVS–1SP, and NCVS–2SP.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract. Primary:* Individuals or Households. *Other:* None. The National Crime Victimization Survey collects, analyzes, publishes, and disseminates statistics on the amount and type of crime committed against households and individuals in the United States. Respondents include persons age 12 or older living in about 45,650 interviewed households.

(5) *An estimate of the total number of respondents is 110,100 and the amount of time estimated for an average respondent to respond/reply:* It will take the average interviewed respondent an estimated 23 minutes to respond, the average non-interviewed respondent an estimated 7 minutes to respond, the estimated average followup interview is 12 minutes, and the estimated average followup for a non-interview is 1 minute.

(6) An estimate of the total public burden (in hours) associated with the collection is 74,010 hours annual burden.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of justice, 601 D Street NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20530.

Dated: March 21, 2003.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 03–7240 Filed 3–25–03; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

National Instant Criminal Background Check System Section Agency Information Collection Activities: Proposed Collection Comments Requested

ACTION: 30-day notice of information collection under review: Reinstatement, with change, of a previously approved collection for which approval has expired Federal Firearms Licensee (FFL) Enrollment/E-Check Enrollment Form FFL Officer/Employee Acknowledgement of Responsibilities under the National Instant Criminal Background Check System (NICS) Form.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), National Instant Criminal Background Check System (NICS) Section has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (Volume 67, Number 225, Pages 70241–70242 on November 21, 2002), allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until April 25, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component's estimate of the

burden of the proposed collection of the information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of Information Collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *Title of the Form:* Federal Firearms Licensee (FFL) Enrollment/E-Check Enrollment Form FFL Officer/Employee Acknowledgment of Responsibilities under the National Instant Criminal Background Check System (NICS) Form.

(3) *Agency Form Number, if any, and the applicable component of the department sponsoring the collection:*

Form Number: 1110–0026.

Sponsor: Criminal Justice Information (CJIS) Services Division of Federal Bureau of Investigation (FBI), Department of Justice (DOJ).

(4) *Affected Public who will be asked or required to respond, as well as brief abstract: Primary:* Any Federal Firearms Licensee (FFL) or State Point of Contact (POC) requesting access to conduct NICS Checks telephonically or by the Internet through the NICS E-Check.

Brief Abstract: The Brady Handgun Violence Prevention Act of 1993, required the Attorney General to establish a national instant criminal background check system that any Federal Firearms Licensee may contact, by telephone or by other electronic means, such as the NICS E-Check, for information, to be supplied immediately, on whether receipt of a firearm to a prospective purchaser would violate state of federal law. Information pertaining to licensees who may contact the NICS is being collected to manage and control access to the NICS and to the NICS E-Check, to ensure appropriate resources are available to support the NICS, and also to ensure the privacy and security of NICS information.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that enrollment occurs at approximately 500 per month for a total of 6,000 per year.

The average response time for reading the directions for the Federal Firearms License Enrollment/E–Check Enrollment Form is estimated to be two minutes; time to complete the form is estimated to be three minutes; and the time it takes to assemble, mail, or fax the form to the FBI is estimated to be three minutes, for a total of eight minutes.

The average hour burden for this specific form is 6,000 × 8 minutes/60 = 800 hours.

The FFL Officer/Employee Acknowledgment of Responsibilities Form takes approximately three minutes to read the responsibilities and two minutes to complete the form, for a total of five minutes. The average hour burden for this specific form is 6,000 × 5 minutes/60 = 500 hours.

The accompanying letter mailed with the packet takes an additional two minutes to read which would be 6,000 × 2 minutes/60 = 200 hours.

The entire process of reading the letter and completing both forms would take 15 minutes per respondent. The average hour burden for completing both forms and reading the accompanying letter would be 6,000 × 15/60 = 1,500 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The entire process of reading the letter and completing both forms would take 15 minutes per respondent. The average hour burden for completing both forms and reading the accompanying letter would be 6,000 × 15/60 = 1,500 hours.

If additional information is required, contact: Mr. Robert B. Briggs, Department Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: March 20, 2003.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 03–7126 Filed 3–25–03; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1367]

Strengthening Abuse and Neglect Courts in America: Management Information Systems Project

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of solicitation.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is requesting applications for the Strengthening Abuse and Neglect Courts in America: Management Information Systems (SANCA MIS) project. The project will help abuse and neglect courts develop, implement, and maintain automated information systems that enhance court compliance with the Adoption and Safe Families Act of 1997, by automating national functional data standards and tracking national performance measures.

DATES: Applicants must begin their online applications by April 25, 2003. Applications must be completed online, and all required letters, signed by the appropriate authorities, must be received in one fax transmission by May 27, 2003. See **SUPPLEMENTARY INFORMATION** below for information on electronic access and specific information on who must submit letters.

FOR FURTHER INFORMATION CONTACT: Kristen Kracke, Program Manager, Child Protection Division, Office of Juvenile Justice and Delinquency Prevention, at 202–616–3649. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

How to Apply: The Office of Justice Programs (OJP) requires that you submit your application for funding electronically through the OJP Grants Management System (GMS). Access through the Internet to this online application system will expedite and streamline the submission, receipt, review, and processing of your request for funding.

To learn how to begin your online application process, go to *www.ojp.usdoj.gov/fundopps.htm.*

All applicants must fax the following letters:

- A letter of designation as the State Court Improvement Project (CIP) applicant, signed by the State CIP coordinator, or a letter of support from the State CIP coordinator, whichever letter applies, as described under the eligibility criteria.
- A letter identifying the applicant's ''Eligibility Designation.''
- A signed Statement of Collaborative Application.

All three letters must be faxed to 202–354–4147 by May 27, 2003. All three required letters must be signed by the appropriate parties and must have the GMS-assigned application number located on the subject line.

Purpose

The purpose of the Strengthening Abuse and Neglect Courts in America: Management Information Systems

(SANCA MIS) project is to develop, implement, and maintain automated information systems that enable the Nation's abuse and neglect courts to effectively and efficiently meet the intended goals of the Adoption and Safe Families Act (ASFA) of 1997 (Pub. L. 105–89), which seeks to protect children's safety, permanency, and well-being.

Authority: 42 U.S.C. 670 (Strengthening Abuse and Neglect Courts Act).

Background

When ASFA was signed into law in November 1997, it was widely hailed as a milestone in the campaign to improve child welfare practice. Since then, this legislation has substantially influenced courts, child welfare agencies, and others who work to improve the lives of abused and neglected children. ASFA mandates that children's health and safety be considered paramount when courts make decisions about children's welfare. The Act also places important new limitations on the concept of reasonable efforts to return victims of child abuse and neglect to their families. Under the Act, a permanent plan must be established for foster children within 12 months of the date they enter care. In addition, States must seek the termination of parental rights (TPR) of any parent whose child has been in foster care for 15 of the preceding 22 months, except in specified circumstances.

Although they are considered by most as an important step toward improving outcomes for abused and neglected children, these reforms have significantly increased the demands on child welfare agencies and, in particular, the dependency courts that oversee them. ASFA requires new, accelerated timelines for processing abuse and neglect cases. As a result, courts must provide a greater degree of judicial oversight at a time when many are already overburdened and facing significant case backlogs. As noted in a recent study on judicial workload, ASFA has both ''increased judicial responsibilities * * * in child abuse and neglect cases and decreased the acceptable period of time within which a case can be resolved'' (Dobbin and Gatowski, 2001). New regulations governing mandatory TPR filings have also contributed to demands on court time. The U.S. Department of Health and Human Services (HHS) estimates that in March 1998 as many as one-third of foster children had been in foster care long enough to mandate the filing of TPR proceedings, which typically take several days to conduct (U.S. General Accounting Office, 1999).

ASFA's unprecedented focus on results and accountability has also increased demands made on courts and child welfare agencies. Another of the Act's key provisions requires that Federal outcome measures be developed to assess how well States meet ASFA goals and, subsequently, to inform a performance-based incentive system. These outcome measures, which are used in the new Child and Family Services Reviews, were published by HHS in the **Federal Register** (Vol. 64, No. 161) on August 20, 1999. Careful case tracking and information management is, therefore, critical for State child welfare systems. Early findings from the first 17 Child and Family Services Reviews provide preliminary evidence of the crucial role that courts play in ensuring positive outcomes for children and providing case tracking to meet ASFA guidelines. Specifically, these findings suggest that court oversight during the case review process is needed to ensure that the needs of children and families are accurately assessed and that services are mobilized to address those needs. Review findings also highlight the importance of collaborative relationships between the courts and child welfare agencies. Such relationships foster compliance not only with specific ASFA provisions but also with ASFA's intent to provide a permanent place for children who must be removed from their homes.

Unfortunately, research suggests that the systems used by dependency courts to manage information—particularly, computerized MISs—are largely undeveloped. In a recent study conducted by the National Council of Juvenile and Family Court Judges (NCJFCJ) (Dobbin and Gatowski, 1998), the vast majority of court personnel described their court's MIS as ''very problematic.'' One court improvement specialist noted that ''The primary reason for untimely outcomes is bad data. * * * We can't spot check to identify problems, and we don't know how many cases are out of timeframes.'' In light of this identified need, OJJDP has supported several efforts that improve juvenile court functions. In 2001, OJJDP provided funds to help the National Center for State Courts (NCSC) develop and publish functional standards for juvenile court MISs. The product of this effort—Integrated Juvenile Justice Case Management Standards—provides juvenile courts with detailed guidance regarding the functions that should be included in their MISs. The core functional standards can be viewed online at *www.ncsc.dni.us/NCSC/CTP/HTDocs/Standards.htm*. This effort also identifies design considerations that will improve information sharing with noncourt partners (*e.g.*, child welfare agencies, schools, social services organizations). When completed, these design considerations will help courts communicate with key partner agencies, thereby enhancing the management of juvenile court cases.

In addition, important efforts to identify performance measures specific to the dependency court system are now underway. CIP, supported by the David and Lucile Packard Foundation, has provided funding to the American Bar Association (ABA), NCSC, and NCJFCJ to identify standardized outcome measures for court performance. Such efforts will help track the achievements of courts and child welfare agencies (Flango, 2001).

Although this significant work continues to advance and inform State and local efforts, without funding to increase capacity or improve MIS infrastructure, many courts have found it difficult to meet the new ASFA requirements. In recognition of this need, legislators passed the Strengthening Abuse and Neglect Courts Act (the Act) (Pub. L. 106–314) in October 2000. This law authorizes an appropriation of $25 million, to be administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), to help courts meet ASFA requirements. However, no funds were appropriated. In fiscal year 2002, Congress earmarked $2 million of OJJDP's appropriation to initiate the implementation of the Act. This funding provides for the development of the SANCA MIS project outlined in this solicitation.

Goal

The goal of the SANCA MIS project is to improve the efficiency and effectiveness of abuse and neglect courts nationwide and to increase their ability to meet ASFA requirements.

Objectives

The SANCA MIS project seeks to develop, implement, and maintain MIS improvements by doing the following:

- Implementing national standards to measure the performance of courts responsible for processing child abuse and neglect cases.
- Implementing national functional standards for court automation.
- Establishing key data elements that address the above performance measures and functional standards as they relate to the pilot courts.

• Developing MIS or MIS enhancements that incorporate the above objectives.

• Coordinating the automated data collection and case tracking systems of child welfare and other relevant agencies, courts, or court components (*e.g.,* domestic violence courts).

• Providing courts with timely reports regarding the progress that is being made to improve compliance with ASFA requirements and the processing of child abuse and neglect cases.

Performance Measures

To ensure compliance with the Government Performance and Results Act, Pub. L. 103–62, this solicitation notifies applicants that OJP's performance under this solicitation will be measured by the following performance measure: The number of MIS systems enhanced or developed to achieve safety, permanency, and well-being, for abused and neglected children. Award recipients will be required to collect and report data in support of this measure. Specifically, award recipients will provide the following data on court improvement: (1) The number of new national performance measures tracked, (2) the number of new national functional data standards automated, (3) the number of new data elements collected, (4) the number of new reports generated, and (5) the number of court improvement strategies implemented.

Assistance in obtaining this information will facilitate future program planning and will allow OJP to provide Congress with measurable results of federally funded programs.

Program Strategy

OJJDP will select up to six courts to receive funding through cooperative agreements for a 24-month demonstration period.

Project Phases

Establishing the SANCA MIS project requires a multiphase, collaborative process with national partners and technical advisors. The project will be conducted in three phases.

• Phase I: Planning and Design, approximately 12 months.

• Phase II: Pilot Implementation, approximately 6 months.

• Phase III: Full Implementation and Sustainability, approximately 6 months.

Phase I will involve hiring and/or contracting program and technical staff as needed; engaging a local collaborative to develop the project; surveying and analyzing user needs in the court and existing system capabilities and capacity; collaborating with national partners, technical advisors, and other selected pilot sites to identify and develop the core performance measures and functional standards; tailoring and customizing the national measures and standards to match the needs of the pilot jurisdiction; developing the implementation plan and design specifications; and developing software.

Phase II will involve implementing, entering data for, and testing the design in a pilot stage, followed by retooling and generating initial reports.

Phase III will involve implementing the system for all users, establishing regular maintenance procedures, generating reports at full scale, and identifying and establishing the ongoing court improvements implemented in response to the reports.

All phases will be established in the cooperative agreement as benchmarks, and funding will be directly related to those benchmarks. Applicants are asked to estimate their budget needs for each phase. Funding for subsequent phases will be contingent on the completion of the benchmarks for the previous phase.

Project Design

The SANCA MIS project will establish a set of pilot sites with both a high capacity for collaboration and court improvement and a need for support in building information systems. These sites will develop and enhance MIS and case-tracking systems for proceedings conducted by, or under the supervision of, abuse and neglect courts. The development and enhancement of these systems should substantially increase courts' ability to track cases, identify and eliminate existing backlogs, process abuse and neglect cases in a timely manner, and move children into safe and stable families. Measures for tracking court performance, particularly in regard to the provisions and requirements of ASFA, are a required component of MIS development and enhancement.

The development and enhancement of MISs will be coordinated with work currently in progress at the national level. Selected pilot sites will be required to partner with the national team to (1) incorporate the national performance measures established through CIP by NCSC, NCJFCJ, and ABA, and (2) incorporate the national functional standards developed by NCSC. Data elements for both the measures and the functional standards will be identified by national technical advisors and partners with input from and in consultation with the SANCA MIS pilot site. The project design requires that the national team and the pilot sites work together to develop, test, and implement the national performance measures and functional standards tailored to each pilot court. The SANCA MIS project will pilot the implementation of these tailored measures and standards to demonstrate their effectiveness. These pilot efforts will inform future court developments and help to transfer the capabilities of MIS tracking and measurement to other courts on a broad scale. Applicants must be aware that these national measures and functional standards are preliminary and will be finalized after the grant is awarded; therefore, the challenge to successful applicants will be to develop a plan for planning that is flexible enough to incorporate this developmental national work in Phase I. Successful applicants will contribute to this national development, receive technical support and guidance during the pilot, and test the work.

Copies of the draft performance measures established by CIP and information on the functional standards can be obtained from the Juvenile Justice Clearinghouse (JJC) and NCSC (both are listed in the Contacts section of this solicitation). Examples of the draft performance measures include the following:

• The percentage of children who are the subject of additional allegations of maltreatment while under court jurisdiction.

• The percentage of children who are the subject of additional allegations of maltreatment within 12 months after court jurisdiction has ended.

• The percentage of children who are placed in permanent homes and court jurisdiction is ended within 6, 16, 18, and 24 months from removal.

• The percentage of cases in which both parents receive written service of process within the required time standards or where notice of hearing has been waived by parties.

• The percentage of cases that are adjudicated within 30, 60, and 90 days after the filing of the dependency petition.

The functional standards for managing juvenile cases are intended to help court managers, analysts, designers, and software developers identify the functions of new or enhanced systems during the system definition stage of MIS development. Although the standards identify which tasks the system should perform, the system designer determines how those functions should be accomplished. Courts nationwide can use these standards to develop in-house systems and solicitations for vendor-supplied systems. Each court should customize the standards with appropriate

terminology and specifications that are based on local and State procedures, policies, and customs. The standards include 16 function categories, each of which identifies a full range of functions. Examples of these functions are provided below.

- Case initiation and indexing functions (*e.g.*, assign referral numbers and person identifiers; establish links between each juvenile and his or her family).
- Docketing and related recordkeeping functions (*e.g.*, create docket entry and update case information; maintain history of attorney assignments).
- Scheduling functions (*e.g.*, identify, display, and suggest resolutions to scheduling conflicts; output schedules upon user request).
- Document generation and processing functions (*e.g.*, generate notices to notify parties that petitions and other documents have been received/accepted; produce electronic forms and other documents).
- Calendaring functions (*e.g.*, produce calendars individually—by judge, for example—or in batches; distribute calendars electronically).
- Hearings functions (*e.g.*, provide for minute entry; create and print orders and supporting documents resulting from hearings on line in courtroom).

In addition to using automation to improve court efficiency and track performance, efforts to automate court models and improve strategies for caseflow procedures, case management, representation of children, interagency interfaces, intercourt interface (*e.g.*, dependency and criminal courts), and ''best practice'' standards can be incorporated, as appropriate, into selected pilot courts.

Grantees will be required to coordinate with child welfare agencies and, when possible and appropriate, with child welfare collection systems, including the statewide automated child welfare information system (SACWIS) and the adoption and foster care analysis and reporting system (AFCARS). Coordinating with other key courts involved in child abuse and neglect cases (such as domestic violence cases) is also encouraged. However, coordination, consultation, and systems integration with the related State court is *required,* particularly with regard to the State court improvement plan funded under section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note).

Selected pilot courts will be required to establish a collaborative committee to plan and implement the project. The collaborative must include the presiding judge or judges, key court staff (*e.g.*, court administrators, clerks), court MIS staff (including contractors and software developers), representatives from the child welfare agency, prosecuting attorney(s), guardians *ad litem* and attorneys/advocates for children (including CASAs, if appropriate), and other court and community organizations and individuals involved in efforts to improve the manner in which courts handle child welfare cases.

Selected sites will be required to identify key staff, including both lead program staff for coordinating the overall project within the court and its partners and technology staff. Applicants may contract out technology services; however, awardees will be required to establish and maintain control of all project activities (including software development, system implementation, training activities, staff supervision, and report generation). In addition, selected pilot sites must retain the ability and capacity to generate reports on their own, without relying on independent contractors.

Selected pilot courts will be required to develop a plan for MIS development and enhancement efforts. Following the grant award, OJJDP and the national technical advisors for the SANCA MIS project will issue guidance regarding the requirements of the plan. These plans must be reviewed and approved by OJJDP; approval will be based in part on advice and recommendations submitted by the national technical advisors. Once approved, selected pilot sites will be authorized to move to the design phase and then to the pilot implementation phase, with access to corresponding funds. Plans must be developed with both the core partners and stakeholders described above (and identified in the application) and with program and technology staff. Selected pilot courts will be expected to adopt the national performance measures and functional standards and to customize them according to the jurisdiction in which they will be used. The customized measures and standards should then be transferred directly into plans for systems development. Plans also should be based upon and include an assessment of current infrastructure; data and data needs specific to the jurisdiction; issues related to confidentiality, case management, and communications and data sharing across court dockets; and compatibility with, and data needs similar to those of, other courts and the child welfare agency.

Eligibility Requirements

Applications are invited *only* from State and local courts responsible for processing child abuse and neglect cases in jurisdictions where the *following projects* are being implemented: HHS's Court Improvement Program (CIP), OJJDP's Model Dependency Courts, OJJDP's Safe Start Initiative, and OJJDP's Safe Kids/Safe Streets Initiative. In all cases, the child abuse and neglect court must be the lead agency for the SANCA MIS project and must apply on behalf of and with full support from the collaborative partners from the projects listed above.

If a court applies through one of the OJJDP eligible projects, the application must be coordinated and consistent with the State CIP strategic plan. These OJJDP eligible projects are required to provide a letter of support from the State CIP coordinator ensuring that the application is consistent with the State CIP strategic plan and the State CIP efforts. This letter must be provided via fax by the application deadline.

For the HHS CIP, courts that receive a grant from the State CIP are eligible to apply; however, *only one court per State may apply* in this HHS CIP category. Any eligible CIP court interested in applying for the SANCA MIS project must, therefore, first contact their State CIP coordinator to indicate their interest. If more than one CIP-eligible court expresses interest, the State CIP coordinator will then need to make a determination regarding which court should apply as the designated CIP applicant for that State. The State CIP coordinator must fax a letter clearly identifying the application by the assigned GMS number and stating that it is being submitted as the one State-designated CIP applicant. This letter is to be faxed as part of the application deadline.

Note: In cases where the above projects overlap in a single jurisdiction, the court must apply collaboratively with *all* the projects identified above. OJJDP will accept only one application from each of the four projects in a specific jurisdiction. Applicants and jurisdictions that fail to comply with the eligibility requirements by submitting more than one application may disqualify *all applicants* from that State or locality. *Exception:* This requirement will not preclude, however, the State CIP coordinator from offering one State-designated CIP application in addition to the collaborative application. If, for example, a local jurisdiction has a CIP grant, a Safe Kids/Safe Streets project, and a Model Dependency Court project, the local court is required to apply collaboratively with each of the projects or grantees. The State CIP coordinator would be required to provide a letter of support for this collaborative

application and would still be able to submit one other State-designated application.

Applicants must fax a letter clearly marked with a subject line entitled ''Eligibility Designation for application number ___'' and identify the application as eligible under one of the following areas, as determined by the primary lead program or project: (1) HHS's Court Improvement Program, (2) Model Dependency Court, (3) Safe Start Initiative, or (4) Safe Kids/Safe Streets Project. If the application is being submitted in collaboration with other projects, the applicant must indicate the Eligibility Designation for application number __ as follows: ''Eligibility Designation: ____ in collaboration with ____ and ____'' filling in one or more of the invited projects identified above as eligible. This letter is to be faxed as part of the application deadline.

All applicants must submit a Statement of Collaborative Application via fax, following the same instructions as referenced above. It is imperative that the application be mutually submitted by all of the stakeholders needed to develop this project. Applicants must submit a statement signed by each participating member stating that they are substantially involved in the development of the plan and are committed to participating in the collaborative pilot project. The statement must contain each collaborative member's original signature, typed/printed name, address, telephone number, and affiliation (title and agency or role [in the case of a parent or community representative]). The statement should demonstrate a clear commitment to participate in the national development and pilot implementation of the performance measures and functional standards.

Applicants must identify all the eligible, invited projects in their jurisdiction and apply in collaboration with these projects; therefore, a special section in the Statement of Collaborative Application must be set aside to identify these projects and to affirm that the application has been developed in coordination and collaboration with them. The lead agency for each eligible, invited project must sign the statement. For instance, if a jurisdiction contains both a Model Dependency Court project and a Safe Start Initiative, the projects must submit an application collaboratively, and the lead agencies of each must sign a statement of joint application.

Finally, applicants must also demonstrate a high capacity for collaboration and court improvement while also demonstrating a strong need for support to develop MIS capabilities.

Applicants must comply with *all the requirements* set forth in this solicitation to be eligible for competition under this award. Absence of the required faxed letters, for instance, may result in disqualification.

Selection Criteria

All applications will be evaluated and rated by a peer review panel according to the selection criteria outlined below. Applicants must use these selection criteria headings for their program narrative and must present information in this order. Selection criteria will be used to assess each applicant's responsiveness to application requirements, compliance with eligibility requirements, organizational capability, and thoroughness and innovation in response to strategic issues related to project implementation. Staff and peer reviewer recommendations are advisory only; the final award decision will be made by the OJJDP Administrator, who will consider geographic diversity and other factors.

Problem(s) To Be Addressed (10 Points)

Applicants must provide a preliminary but detailed analysis of the court and organize and provide the information in the following manner:

Section One: Jurisdictional Context and Organizational Structure. Applicants must provide a detailed description of the jurisdiction of the court, the organizational structure of the court, and the court's case-level role in working—both formally and informally—with the child welfare agency. Applicants also must describe how the court is administered with respect to judicial assignments, rotation policies, docket setting, and case assignments.

Section Two: Data Automation and Information Management. Applicants should describe the current level of data automation, information management, infrastructure, and capacity in terms of the jurisdiction's ability to test the national performance measures and functional standards. Applicants should provide a detailed description of the current infrastructure (both human and technological) for data collection, case tracking, and performance measurement, if applicable. Applicants also should describe State-level automation systems and their requirements and system compatibility and current levels of coordination. In addition, applicants should discuss the status of coordination and system compatibility with SACWIS and the child welfare agency.

In addition, applicants should describe what is currently known about cases under their jurisdiction regarding case levels, flow, tracking, and outcomes; case planning and management; and the court and child welfare agency's compliance with ASFA requirements.

This section should demonstrate an understanding of current MISs and a need for improved MIS capability.

Applicants may provide supplemental evidence, documentation, or sample illustrations of information conveyed in this section in the appendix.

Goals and Objectives (10 Points)

Applicants must outline how the SANCA MIS project will improve their court. Applicants should describe how the involved agencies and systems will operate, in terms of improving outcomes for children consistent with ASFA and in terms of improving court function, after implementing the SANCA MIS pilot. Applicants must provide a clear discussion of the proposed project goals and objectives as they logically relate to the SANCA MIS pilot and the project phases. These goals and objectives must be quantifiable, measurable, and attainable within the timeframe of the project (24 months).

Project Design (20 Points): The Plan for Planning

Applicants must describe their strategy for the SANCA MIS project through each of the three phases outlined above. Given the phased approach and the fact that Phase I requires developing a detailed MIS design and implementation plan, applicants should carefully and specifically outline only the process that the pilot court will use to manage the collaborative and to plan the program's overall design. Because the actual planning will occur after the award in coordination with national support and guidance, applicants are instructed to submit a plan for planning.

The strategy should outline who will be involved at the collaborative, staffing, and MIS-user levels. The strategy should discuss how often the planners will meet and what tasks will be completed by when and by whom. This detailed workplan for the planning phase should include the steps for hiring or contracting a designer, steps for customizing the national measures and standards, and a clear commitment to partnering with the national team. (Specific guidance about the national cross-site partnership will be provided after selection and grant award.)

Applicants must also outline specific tasks and a timeline chart for completing Phases II and III, as described above, with responsible staff/collaborative members identified.

Management and Organizational Capability (40 Points)

Applicants should use this section to describe a sound leadership design and an administration and operating structure that is capable of carrying out the proposed initiative. Applicants should demonstrate the following: Organizational and collaborative readiness, an effective team management structure involving the lead court and the collaborative partners, and a strong organizational capability that is commensurate with the scope of work outlined in this solicitation. These elements and their share of the 40 points available under this criterion are discussed below.

Section One: Organizational and Collaborative Readiness (15 Points). Applicants should provide a detailed description of how the court and its partners are ready to engage in the full scope of this project. Applicants should demonstrate a readiness to implement court improvement strategies based on data from automated reports and measurements, which will be generated through the project. In addition, applicants must (1) describe how the proposed vision and project design will build on and complement current collaborative planning processes to achieve the project's objectives; (2) discuss the court and its partners' history of collaboration and planning; (3) include a description of participants, major milestones, and the nature and process of the collaboration; (4) clarify what has been done, what is in process, and what remains to be done; and (5) demonstrate the existence, viability, and accomplishments to date of multidisciplinary arrangements whereby various courts and agencies in a jurisdiction are working cooperatively or collaboratively to improve the lives of children and families, especially those arrangements involving child abuse and neglect and domestic violence.

Applicants should also demonstrate evidence of a climate favorable to children and families by listing current court and agency policies, legislation, cross-agency/cross-court protocols, and interagency agreements that aid collaboration in regard to child welfare issues and cases. Applicants should provide examples of policies or legislation in the appendix.

Section Two: Management (15 Points). Applicants should outline a proposed staffing structure and management plan that includes at least one high-level, experienced lead coordinator. Key technology staff and data specialists should also be identified. Applicants should identify roles and responsibilities for all staff and describe the core management team. In addition, the capabilities and experience of all staff and consultants who will participate in the management team or play lead roles in the effort should be included. Applicants should (1) provide résumés of key personnel and include their job descriptions in the appendix, (2) indicate the percentage of time that each named staff person or consultant will devote to the project, (3) describe the supervision lines and lines of authority, and (4) describe the management structure and practices that will be used to evaluate the staff, take corrective action when needed, and ensure the success of the program.

Section Three: Organizational Capability (10 Points). Applicants should identify members of the collaborative's key leadership and describe their respective roles and responsibilities. Key leadership must include, at a minimum, the presiding judge or judges. (See the Project Design section above for specific membership requirements.) Court administrators also should play a key leadership role. Applicants must have demonstrated expertise in the organizational capabilities necessary to oversee a project of this size and scope. In particular, applicants should provide evidence of specific and detailed experience in leading collaborative and court improvement efforts. Applicants also must clearly demonstrate a commitment to participating collaboratively with OJJDP, the national partners and technical advisors, and other relevant partners in the completion, tailoring, and testing of the yet-to-be finalized national performance measures and functional standards. Furthermore, applicants should demonstrate a willingness and ability to build capacity beyond their own jurisdiction and to transfer knowledge to other courts and related partner agencies.

Budget (10 Points)

Applicants must provide a detailed budget and supporting budget narrative that are complete, detailed, reasonable, allowable, and cost effective in relation to the activities to be performed. The budget narrative should indicate the extent to which resources have been committed for the 24 months of the budget and project period. Applicants may apply for up to $200,000, depending on need and current infrastructure. Budgets must be reasonable and consistent with the infrastructure and project vision described in this solicitation. (Please note the Matching or Cost-Sharing Requirement section, which appears below.)

Additionally, applicants should provide a breakdown of their budgets by phase. Access to and use of funds available at each of the three phases will be contingent on the successful completion of the identified deliverables for each phase (as indicated above). This contingency will ensure that funding is available for all aspects of project implementation and completion.

Appendix (10 Points)

To help reviewers gauge the likelihood of awardee success, applicants must submit the following appendixes as evidence of their readiness and potential.

Applicants are encouraged to submit relevant materials in the appendixes described below:

Appendix A: State of the Court. Applicants may submit materials as evidence to support the State of the Court section of the application.

Appendix B: Evidence of Organizational and Collaborative Capability. Applicants may submit materials demonstrating their capacity to meet the scope of this project—not only from an information systems perspective but from a collaborative, court improvement perspective. Capacity should be demonstrated internally (within the court), across other relevant courts, and with other agencies. Evidence of improvement strategies implemented within and across agencies and courts will demonstrate the strongest support for collaborative efforts.

Applicants must document the existence of a climate favorable to children and families by listing current court and agency policies, legislation, cross-agency/cross-court protocols, and interagency agreements that aid collaboration in regard to child welfare issues and cases. Applicants may provide a bibliography that includes effective date(s) and relevant pages.

Appendix C: Key Staff and Consultant Résumés. Applicants must include résumés and job descriptions for the key staff and consultants named in the Management and Organizational Capability section of the application.

Format

The narrative portion of the application (excluding forms, assurances, and the appendix) must not

exceed 20 pages, double-spaced, and must be typed in a standard 12-point font. The double-spacing requirement applies to all parts of the program narrative, including any lists, tables, bulleted items, or quotations. These guidelines are necessary to maintain fair and uniform standards among all applicants. If the narrative does not conform to these standards or any other standards outlined in this solicitation, OJJDP may deem the application ineligible for consideration.

Award Period

The SANCA MIS project will be funded in the form of a cooperative agreement for a 24-month project and budget period.

Award Amount

Applicants may apply for a one-time award of up to $200,000 for the 24-month project and budget period.

Matching or Cost-Sharing Requirement

The Federal law authorizing this project stipulates a cost-sharing requirement: Local and State courts must spend $1 for every $3 spent in Federal funds. Therefore, applicants must provide at least 25 percent of the total approved cost of the project. The total approved cost is the sum of the Federal share and the non-Federal share. For example, a project requesting $200,000 per budget period must include a match of at least $67,000 per budget period. The non-Federal share may be a cash or inkind contribution. If approved for funding, grantees will be held accountable for the commitment of non-Federal resources. Failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Catalog of Federal Domestic Assistance (CFDA) Number

For this program, the CFDA number, which is required on Standard Form 424, Application for Federal Assistance, is 16.542. This form is included in the *OJJDP Application Kit,* which can be obtained by calling JJC at 800–638–8736 or by sending an e-mail request to *puborder@ncjrs.org.* The Application Kit is also available online at *www.ncjrs.org/pdffiles1/ojjdp/s1000480.pdf.*

Coordination of Federal Efforts

To encourage better coordination among Federal agencies in addressing State and local needs, DOJ is requesting that applicants provide information on the following: (1) Active Federal grant award(s) supporting this or related efforts, including awards from DOJ; (2) any pending application(s) for Federal funds for this or related efforts; and (3) plans for coordinating any funds described in items (1) or (2) with the funding sought by this application. For each Federal award, applicants must include the program or project title, the Federal grantor agency, the amount of the award, and a brief description of its purpose.

''Related efforts'' is defined for these purposes as one of the following:

- Efforts for the same purpose (*i.e.*, the proposed award would supplement, expand, complement, or continue activities funded with other Federal grants).
- Another phase or component of the same program or project.
- Services of some kind (*e.g.*, technical assistance, research, or evaluation) for the program or project described in the application.

Contacts

The following organizations may provide resources:

American Bar Association Center on Children and the Law: 202–662–1720; *www.abanet.org/child.*

Juvenile Justice Clearinghouse: 800–638–8736; *www.ojjdp.ncjrs.org.*

National Center for State Courts: 800–616–6109; *www.ncsconline.org.*

National Clearinghouse on Child Abuse and Neglect: 800–394–3366; *www.calib.com/nccanch.*

National Council for Juvenile and Family Court Judges: 775–327–5300; *www.pppncjfcj.org.*

U.S. Department of Health and Human Services, The Administration for Children and Families: *www.acf.dhhs.gov.*

References

Dobbin, S.A., and Gatowski, S.I. 2001. *Judicial Workload Estimates: Redefining the Concept of Judicial Work.* Technical Assistance Bulletin. Reno, NV: National Council of Juvenile and Family Court Judges.

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Flango, V.E. 2001. Measuring progress in improving court processing of child abuse and neglect cases. *Family Court Review* 39(2):158–169.

U.S. General Accounting Office. 1999. *Juvenile Courts: Reforms Aim To Better Serve Maltreated Children.* Washington, DC: U.S. General Accounting Office.

Dated: March 20, 2003.

William L. Woodruff,

Deputy Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 03–7208 Filed 3–25–03; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

March 20, 2003.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail *King.Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for EBSA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB 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 submission of responses.

Agency: Employee Benefits Security Administration (EBSA).

Type of Review: Extension of a currently approved collection.

Title: ERISA Summary Annual Report Requirement.

OMB Number: 1210–0040.

Affected Public: Business or other for-profit; not-for-profit institutions; and individuals or households.

Frequency: Annually.

Type of Response: Third party disclosure.

Number of Respondents: 815,114.

Number of Annual Responses: 304,195,943.

Estimated Time Per Response: 30 minutes.

Total Burden Hours: 421,761.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $188,211,295.

Description: Section 104(b)(3) of the Employee Retirement Income Security Act and regulations at 29 CFR 2520.104b–10 require employee benefit plans to furnish a summary of the plan's annual report to participants and beneficiaries for purposes of disclosing basic easy to understand financial information.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–7195 Filed 3–25–03; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) issued during the period of March 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production of such firm or subdivision.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–42,034; E.M. Bair, Canton, OH.

In the following case, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criterion (a)(2)(A) (I.C.) (Increased imports) and (a) (2)(B) (II.B) (No shift in production o a foreign country) have not been met.

TA–W–50,544; Firestone Tube Co., Russellville, AR.

TA–W–50,514; General Electric Co., Industrial Systems, Mebane, NC.

TA–W–50,531; Hankins Lumber Co., Inc., Grenada, MS.

TA–W–51,056; Fishing Vessel (F/V) Mariam, Dillingham, AK.

TA–W–50,204; Kokusai Semiconductor Equipment Corp., Billerica Facility, Billerica, MA.

TA–W–50,443; Flexcel Manufacturing, a Div. of Kimball International, Danville, KY.

TA–W–50,457; TLC Polyform, Inc., Beaverton, MI.

TA–W–50,505; Newport Steel Corp., Newport, KY.

TA–W–50,578; Cleveland Chair, Madisonville, TN.

TA–W–50,705; Rexam Medical Packaging, Healthcare Flexibles Div., Mt. Holly, NJ.

TA–W–51,086; Fishing Vessel (F/V) Golda June, Dillingham, AK.

TA–W–50,922; Premtec, Inc., Gastonia, NC.

TA–W–51,060; Fishing Vessel (F/V), Jeweline M, Manokotak, AK.

TA–W–50,792; Fishing Vessel (F/V) Hammer Time, Togiak, AK.

TA–W–50,760; Set Net, Alaska Commercial Fisheries Entry Commission, Permit #SO4T58778L, Clark's Point, AK.

TA–W–50,711; Fishing Vessel (F/V) Captain Chris, Nushagak, AK.

TA–W–51,000; Set Net, State of Alaska Commercial Fisheries Entry Commission, Permit #SO4T59937S, Naknek, AK.

TA–W–51,016; Fishing Vessel (F/V) Helen Marg, New Stuy, AK.

TA–W–50.718; Fishing Vessel (F/V) Adrian D., Clarks Point, AK.

TA–W–50,750; Fishing Vessel (F/V) Roeboat, Togiak, AK.

TA–W–51,015; Fishing Vessel (F/V), New Stuy, AK.

TA–W–51,035; Fishing Vessel (F/V) Michelle Dawn, Pilot Point, AK.

TA–W–50,762; State of Alaska Commercial Fisheries Entry Commission Permit #SO4T59580, Dillingham, AK.

TA–W–50,757; Fishing Vessel (F/V) Desiree Marie III, Togiak, AK.

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–50,962; Sykes Enterprises, Inc., Eveleth, MN.

TA–W–42,315; Alcatel USA Marketing, Inc., Voice Network Div. (VND), Wireless Switching Group, EMX 5000 Product Group, Plano, TX.

TA–W–50,438; Computer Sciences Corp., Applications Services Div., Somerset, NJ.

TA–W–50,609; Cendant Corp., Elizabethon, TN.

TA–W–50,737; Austin Powder Co., Bend, OR.

The investigation revealed that criteria (2) has not been met. The workers' firm (or subdivision) is not an upstream supplier or components for trade-affected companies.

TA–W–50,458; Smurfit-Stone Container Corp., Corrugated Container Div., Spartanburg, SC.

The investigation revealed that criterion (a)(2)(A) (I.A) (no employment declines) has been met.

TA–W–50,997; State of Alaska Commercial Fisheries Entry Commission Permit #SO4T57783F, South Naknek, AK.

TA–W–51,034; Fishing Vessel (F/V) Tianna Sea, Port Heiden, AK.

TA–W–50,791; Fishing Vessel (F/V) Sally Ann, Manokotak, AK.

TA–W–50,716; Fishing Vessel (F/V) Miss Kristy, Clarks Point, AK.

TA–W–50,998; State of Alaska Commercial Fisheries Entry Commission Permit #SO4T60185R, South Naknek, AK.

The investigation revealed that criterion (a)(2)(A) (I.B) (sales or production, or both did not decline) and (a)(2)(A) (II.B) (no shift in production to a foreign country) have not been met.

TA–W–50,603; F/V Norona, Homer, AK.

The investigation revealed that criterion (a)(2) (I.A.) (No employment declines) and (a)(2)(B) (No shift in production to a foreign country) have been met.

TA–W–50,675; Springfield Wire, Inc., Springfield, MA.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of section 222 have been met.

TA–W–50,883; BOC Edwards, Fabrication and Machine Shop, Philadelphia, PA: February 11, 2002.

TA–W–50,165; Weyerhaeuser Co., Fine Papers Div., Johnsonburg, PA: November 15, 2001.

TA–W–50,624; Agilent Technologies, Inc., Electronic Product and Solutions Group, World-Wide Materials, Printed Circuit Assembly Group, Loveland, CO: January 16, 2002.

TA–W–50,821; Gold Toe Brands, Inc., Newton, NC: January 22, 2002.

TA–W–50,263; OMG Fidelity, Inc., a wholly owned subsidiary of The OM Group, Inc., Newark, NJ: December 4, 2001.

TA–W–50,538; Dana Corp., Perfect Circle Div., Richmond Liner Foundry, Richmond, IN: January 8, 2002.

TA–W–50,688 & A; Golden Northwest Aluminum, Inc., Northwest Aluminum Co., The Dalles, OR and Goldendale, WA: January 9, 2003.

TA–W–50,725 & A,B,C: Maxtor Corp., Milpitas, CA, Longmont, CO, Shrewsbury, ME and San Jose, CA: January 6, 2002.

TA–W–50,736 & A,B; Isola Laminate Systems Corp., Fremont, CA, Chandler, AZ and Ridgeway, SC: January 27, 2002.

TA–W–50,846; Torque-Traction Manufacturing Technologies, Inc., a Subsidiary of Dana Corp., Jonesboro, AR: January 31, 2002.

TA–W–50,895; Americal Corp., Goldsboro, NC: February 12, 2002.

TA–W–50,966; Acco Chain and Lifting Products, Saltville, VA: February 24, 2002.

TA–W–51,002; Ansell Healthcare, Ansell Golden Needles Div., Wilkesboro, NC: February 26, 2002.

TA–W–50,855; Magna Powertech, Grand Rapids, MI: February 10, 2002.

TA–W–50,150 & A,B; Thomasville Furniture Industries, Inc., Plant B, Thomasville, NC, Plant E, Thomasville, NC and Plant SFD, Thomasville, NC: November 20, 2001.

TA–W–50,208; Marshall Erdman and Associates, Inc., FMG Div., Waunakee, WI: November 27, 2002.

TA–W–50,521; Gorecki Manufacturing, Inc., Milaca, MN: January 3, 2002.

The following certification has been issued. The requirement of upstream supplier to trade certified primary firm has been met.

TA–W–50,034; Plastic Products Co., Inc., Moline, IL:November 8, 2001.

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of section 222 have been met.

TA–W–50,825; LG. Philips Displays, Inc., Ottawa, OH: January 17, 2002.

TA–W–50,126; Johnson Controls, Inc., Fullerton, CA: November 13, 2001.

TA–W–50,158; Alcatel USA Marketing, Inc., Voice Network Div., PB3 Building, Plano, TX: November 19, 2001.

TA–W–50,584; Lockheed Martin Postal Technologies, Inc., Tulsa, OK: January 6, 2002.

TA–W–50,594; Maxcess Technologies, Inc., including leased workers of Alternative Staffing and Innovative Partners, Summerville, SC: January 16, 2002.

TA–W–50,345; Gateway Forest Products, Ward Cove, AK: December 12, 2001.

TA–W–50,490; CCL Container, Inc., Aluminum Production Department, Harrisonburg, VA: January 2, 2002.

TA–W–50,799; LG. Philips Displays, Inc., Ann Arbor, MI: February 3, 2002.

TA–W–50,629; Truth Hardware, West Hazelton, PA: January 20, 2002.

TA–W–50,670; Abitibi Consolidated Corp., Sheldon, TX: January 23, 2002.

TA–W–50,714; Fishing Vessel (F/V) Miss Mary, Manokotak, AK: January 21, 2002.

TA–W–50,726; Accuride International, Inc., Santa Fe Springs, CA: January 29, 2002.

TA–W–50.774; A-Plus Manufacturing, North Andover, MA: January 29, 2002.

TA–W–50,776; North Safety Products, a subsidiary of Norcross Safety Products, Tallmadge, OH: February 3, 2002.

TA–W–50,934; Shadowline, Inc., Morganton, NC: February 11, 2002.

TA–W–50,935; Coe Newness/McGehee Corp., Ukiah, CA: February 7, 2002.

TA–W–51,006; Forecaster of Boston, Fall River, MA: February 5, 2002.

TA–W–51,091; Ingersoll Products Co., Chicago, IL: February 27, 2002.

TA–W–50,797; E.I. DuPont de Nemours & Co., Inc., DuPont Performance Coatings, Rochester, NY: February 6, 2002.

TA–W–50,662; OBG Distribution Co. LLC, Celina, TN: January 10, 2002.

TA–W–50,646; Levelor Kirsch Window Fashions, Athens, GA: January 20, 2002.

TA–W–50,404; Vernay Laboratories, Inc., Yellow Springs, OH: December 11, 2001.

TA–W–50,420; Walbro Engine Management, LLX, Cass City, MI: December 17, 2001.

TA–W–50,589; VF Corp., VF Playwear, Inc., Danville, VA: January 15, 2002.

TA–W–50,596; Reptron Manufacturing Services, a Div. of Reptron Electronics, Inc., Hibbing, MN: January 15, 2002.

Also, pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA-TAA) and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA-TAA issued during the month of March 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA-TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA-TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from

Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

None.

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of section 250(a) of the Trade Act, as amended.

None.

Affirmative Determinations NAFTA-TAA

None.

I hereby certify that the aforementioned determinations were issued during the month of March 2003. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 14, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–7198 Filed 3–25–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of February, 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production of such firm or subdivision.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–41, 777; Patterson UTI Drilling, Snyder, TX.

In the following case, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criterion (a)(2)(A) (I.C.) (Increased imports) and (a)(2)(B) (II.B) (No shift in production from a foreign country) have not been met.

TA–W–50,253; Johns-Manville, Natchez, MS.
TA–W–50,414; Pacon Corp., Bemiss-Jason Div., Neenah, WI.
TA–W–50,363; Microsemi Corp., Scottsdale, AZ.
TA–W–50,348; Egger Steel Co., Sioux Falls, SD.
TA–W–50,304; Defiance Metal Products, Bedford, PA.
TA–W–50,180A; Dallco Industries, Inc., York Springs, PA.
TA–W–50,330; Bardon Rubber Co., Inc., Union Grove, WI.
TA–W–50,035; Strong Wood Products, Inc., Strong, ME.
TA–W–50,076; Altadis USA, Inc., McAdoo, PA.
TA–W–50,082; Sara Lee Intimate Apparel, Playtex Apparel, Inc., Dover, DE.
TA–W–50,287; Corning Cable Systems, Telecommunications Cable Plant, Hickory, NY.

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–50,271; Partminer Information Services, Div. of Partminer, Inc., Englewood, CO.
TA–W–50,469; Supra Telecom, Quincy, IL.
TA–W–50,492; Adventure Travel, Iron Mountain, MI.
TA–W–50,507; Nortel Networks, Research Triangle Park, NC.
TA–W–50,628; Xerox Corp., Telweb Equipment Center, Irving, TX.
TA–W–50,660; Abitibi Consolidated Sales Corp., West Tacoma Div., Stellacoom, WA.
TA–W–50,643; Aran Mold & Die Co., Inc., Elmwood Park, NJ.
TA–W–50,633; Barry of Goldsboro, Goldsboro, NC.
TA–W–50,308; Helicopter Aviation Services Corp., Mount Pleasant, PA.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–42,289; Interlake Material Handling, Inc., Pontiac Manufacturing Plant, Pontiac, IL: February 10, 2001.
TA–W–41,912; ADC Telecommunications, 5655 Eleventh Avenue East, Shakopee, MN: August 5, 2001.
TA–W–42,284; Custom Forest Products, Inc., Grayling, MI: October 8, 2001.
TA–W–42,265; Charles Navasky and Co., Philipsburg, PA: October 2, 2001.
TA–W–42,265A, B; Streamline Fashions, Philipsburg, PA and Northside Manufacturing, Philipsburg, PA: November 3, 2002.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of section 222 have been met.

TA–W–50,180; Dallco Industries, Inc., York, PA: November 22, 2001.
TA–W–50,128; GE Greenville Gas Turbines, LLC, Greenville, SC: November 15, 2001.
TA–W–50,051; Blue Ridge Sportswear, Palmerton, PA: November 8, 2001.
TA–W–50,499; Marion County Shirt Co., Marshall, AR: January 6, 2002.
TA–W–50,608; A.O. Smith, Electrical Products Co., McMinnville, TN: January 9, 2002.
TA–W–50,261; Advanced Power Technology, Inc., Bend, OR: December 5, 2001.
TA–W–50,707; NWB USA, Inc., Petersburg, VA: January 28, 2002.
TA–W–50,003; Weyerhaeuser Co., Western Lumber Div., Green Mountain/Longview Lumber Operations, Longview, WA: November 4, 2001.

The following certifications have been issued. The requirements of (a)(2)(B) (Shift in production) of Section 222 have been met.

TA–W–50,581; Chapin Manufacturing, Inc., Batavia, NY: January 2, 2002.
TA–W–50,103; K&C Knitting, Inc., Passaic, NJ: November 7, 2001.

TA–W–50,557; Crane Valves North America, Div. of the Crane Corp., Signal Hill, CA: December 14, 2001.

TA–W–50,561; Douglas Furniture of California, LLC, Redondo Beach, CA: January 9, 2002.

TA–W–50,698; Motor Coach Industries, Inc., Div. of Motor Coach Industries International, Inc., Pembina, ND: January 24, 2002.

TA–W–50,156; ITT-Jabsco, Div. of ITT Industries, Costa Mesa, MA: November 19, 2001.

TA–W–50,407; Eaton Corp., Cutler-Hammer Group, Sensors Div., Everett, WA: December 23, 2001.

TA–W–50,413; American Tack and Hardware, Monsey, NY: December 5, 2001.

The following certification has been issued. The requirement of upstream supplier to trade certified primary firm has been met.

TA–W–50,592; Specialty Minerals, Inc., Cloquet, MN: January 15, 2002.

Also, pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), subchaper D, chapter 2, title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of February 2003.

In order for an affirmative determination to be made and a certifiation of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either——

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–06491; Hoffco\Comet Industries, Inc., Rushville, IN.

NAFTA–TAA–07637; Xerox Corp., (Soho) Small office/Home Office Div., Canadaigue, NY.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–06399; United Plastics Group, Inc., Brooksville Plant, Brooksville, FL: June 26, 2001.

I hereby certify that the aforementioned determinations were issued during the months of February 2003. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 18, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–7197 Filed 3–25–03; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,417]

ABM Brevard, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 2, 2003, in response to a petition filed by a company official on behalf of workers at ABM, Brevard, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 10th day of March, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–7201 Filed 3–26–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,884]

Border Apparel, El Paso, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 13, 2003, in response to a worker petition filed on behalf of workers at Border Apparel, El Paso, Texas.

The petition regarding the investigation has been deemed invalid. Consequently, the investigation has been terminated.

Signed at Washington, DC this 11th day of March 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–7205 Filed 3–25–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,353 and TA–W–42,353A]

Cerf Brothers Bag Company, New London, MO, Cerf Brothers Bag Company, Vandalia, MO; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 1, 2002 in response to a worker petition, which was filed on behalf of workers at Cerf Brothers Bag Company, New London and Vandalia, Missouri.

The petition has been deemed invalid. The investigation revealed that the workers at the subject firm filed for two locations and therefore the submitted petition is invalid. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 10th day of March 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–7199 Filed 3–25–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,937]

Gerber Plumbing Fixtures Corporation, Kokomo, IN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 24, 2003, in response to a worker petition filed by the Glass, Molders, Pottery, Plastics & Allied Workers International Union, AFL–CIO, on behalf of workers at Gerber Plumbing Fixtures Corporation, Kokomo, Indiana.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 11th day of March 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–7206 Filed 3–25–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,494]

Manufacturers Services Limited (MSL), Arden Hills, MN; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Manufacturers Services Limited (MSL), Arden Hills, Minnesota. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–50,494; Manufacturers Services Limited (MSL), Arden Hills, Minnesota (March 7, 2003).

Signed in Washington, DC this 18th day of March, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–7202 Filed 3–25–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,672]

North American Marine Jet, Inc., Benton, AR; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 24, 2003, in response to a petition filed by the rapid response specialist on behalf of workers at North American Marine Jet, Inc., Benton, Arkansas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC this 7th day of March, 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–7203 Filed 3–25–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,323]

Potlatch Corporation, Lewiston, ID; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 12, 2002, in response to a worker petition which was filed by the Trade Act Coordinator of Idaho Department of Labor on behalf of workers at the Potlatch Corporation, Lewiston, Idaho.

The petitioner has requested that the petition be withdrawn. Consequently, and the investigation has been terminated.

Signed in Washington, DC, this 7th day of March 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–7200 Filed 3–25–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations begin or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 7, 2003.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 7, 2003.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 3rd day of March 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted between 02/04/2003 and 2/14/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
42,360	Precision Twist Drill Co. (USWA)	Rhinelander, WI	02/06/2003	02/16/2002
50,770	Warp Knit Mills, Inc. (Comp)	Lincolnton, NC	02/04/2003	02/04/2003
50,771	Spartech Plastics (IBT)	Conneaut, OH	02/04/2003	02/03/2003
50,772	Symbol Technologies (MI)	Farmington Hill, MI	02/04/2003	01/29/2003
50,773	Crystal Dyeing and Finishing (Comp)	Hickory, NC	02/04/2003	02/03/2003
50,774	A–Plus Manufacturing (Comp)	N. Andover, MA	02/04/2003	01/29/2003
50,775	Harman Wisconsin, Inc. (Comp)	Prairie, du Chie, WI	02/04/2003	01/31/2003
50,776	North Safety Products (Wkrs)	Tallmadge, OH	02/04/2003	02/03/2003
50,777	A.O Smith EPC (Comp)	Ripley, TN	02/04/2003	02/02/2003
50,778	Great Northern Bark Company (Comp)	Columiba Falls, MT	02/04/2003	01/31/2003
50,779	Jacobson Greenhouses, Inc. (Comp)	Spokane, WA	02/04/2003	01/22/2003
50,780	Piedmont Carving Co., Inc. (Comp)	Thomasville, NC	02/04/2003	01/31/2003
50,781	Certifying Service Express (Comp)	Janesville, WI	02/04/2003	01/31/2003
50,782	EMCO Flow Systems (CO)	Longmont, CO	02/04/2003	01/31/2003
50,783	Precise Courtesy Corporation (Wkrs)	Buffalo Grove, IL	02/04/2003	01/23/2003
50,784	Sara Lee Hosiery (Wrks)	Rockingham, NC	02/04/2003	01/28/2003
50,785	RMI Titanium Company (USWA)	Niles, OH	02/04/2003	01/17/2003
50,786	Pure Resources (Wkrs)	Midland, TX	02/04/2003	01/21/2003
50,787	Tinnerman Palnut Engineer Products, LLC (Comp).	Massillon, OH	02/04/2003	01/31/2003
50,788	Republic Engineered Products (USWA)	Canton, OH	02/04/2003	01/30/2003
50,789	Premcor Refining Group, Inc. (TX)	Port Arthur, TX	02/04/2003	01/27/2003
50,790	Dura Automotive Systems, Inc. (Comp)	Livonia, MI	02/04/2003	01/28/2003
50,791	F/V Sally Ann (Comp)	Manokotak, AK	02/04/2003	01/27/2003
50,792	F/V Hammer Time (Comp)	Togiak, AK	02/04/2003	01/23/2003
50,793	Matthew Thornson (Comp)	Dillingham, AR	02/04/2003	02/03/2003
50,794	Santa Rosa, Inc. (Comp)	Kodiak, AK	02/04/2004	02/03/2003
50,795	Purl Knit Fabrics Corporation (Wkrs)	Brooklyn, NY	02/06/2003	12/02/2002
50,796	General Electric (IUE)	Euclid, OH	02/06/2003	01/22/2003
50,797	DuPont (Comp)	Rochester, NY	02/06/2003	01/10/2003
50,798	Overseas Manufacturing Systems of Amer. (W	El Paso, TX	02/06/2003	01/16/2003
50,799	LG Philips Displays (Comp)	Ann Arbor, MI	02/06/2003	02/03/2003
50,800	Flexcel (Comp)	Batesville, MS	02/06/2003	01/16/2003
50,801	Johnston Industries, Inc. (Comp)	Opp, AL	02/06/2003	02/04/2003
50,802	Applied Micro Circuits Corporation (Comp)	San Diego, CA	02/06/2003	01/21/2003
50,803	Rock Tenn (Wkrs)	El Paso, TX	02/06/2003	01/20/2003
50,804	Aetna, Inc. (Wkrs)	Allentown, PA	02/06/2003	01/22/2003
50,805A	Bassett Furniture Industries (Co.)	Dublin, GA	02/06/2003	02/04/2003
50,805	Bassett Furniture Industries (Co.)	Macon, GA	02/06/2003	02/04/2003
50,806	Levolor Kirsch Window Fashions (Comp)	Ogden, UT	02/10/2003	02/05/2003
50,807	MCB Inc. (Wkrs)	Los Angeles, CA	02/10/2003	01/21/2003
50,808	Thomson Industries (Comp)	Port Washington, NY	02/10/2003	12/31/2002
50,809	Eastman Kodak Company (NY)	Rochester, NY	02/10/2003	01/24/2003
50,810	Deltech Polymers Corporation (Comp)	Troy, OH	02/10/2003	01/24/2003
50,811	Penske Truck LSG Administration (Wkrs)	Brea, CA	02/10/2003	01/27/2003
50,812	Federal Mogul (Wkrs)	Blackburg, VA	02/10/2003	01/24/2003
50,813	General Binding Corp. (Wkrs)	DeForest, WI	02/10/2003	01/31/2003
50,814	Caterpillar Paving Products, Inc. (Wkrs)	Brooklyn Park, MN	02/10/2003	02/03/2003
50,815	Nexans Magnet Wire U.S.A. (Wkrs)	Mexico, MO	02/10/2003	02/04/2003
50,816	Nevamar Company (Comp)	Hampton, SC	02/10/2003	02/04/2003
50,817	Diamond Brands (Comp)	Strong, ME	02/10/2003	02/04/2003
50,818	Hitchiner Manufacturing Co, Inc. (NH)	Littleton, NH	02/10/2003	02/05/2003
50,819	Yarway Corporation (Comp)	Blue Bell, PA	02/10/2003	01/22/2003
50,820	Lapp Insulator (Wkrs)	Le Roy, NY	02/10/2003	11/07/2002
50,821	Gold Toe Brands, Inc. (Comp)	Newton, NC	02/10/2003	01/22/2003
50,822	Henlopen Manufacturing Co., Inc. (Comp)	Watertown, CT	02/10/2003	01/30/2003
50,823	Alcoa Compostion Foils (Wkrs)	Pevely, MO	02/10/2003	01/30/2003
50,824	Formtech Enterprises, Inc. (Comp)	Jackson, MI	02/10/2003	02/06/2003
50,825	LG Philips Displays Company (IBEW)	Ottawa, OH	02/10/2003	01/17/2003
50,826	Allegheny Ludlum Steel (USWA)	Massillon, OH	02/10/2003	01/30/2003
50,827	Advanced Mircro Devices (Wkrs)	Austin, TX	02/10/2003	02/05/2003
50,828	Radisys Corporation (Wkrs)	Hillsobro, OR	02/10/2003	01/30/2003
50,829	Engineered Medical Systems (Comp)	Indianapolis, IN	02/10/2003	01/03/2003
50,830	Tyco Plastics (IUE)	Louisville, KY	02/10/2003	01/29/2003
50,831	EIMCO, LLC (USWA)	Bluefield, WV	02/10/2003	02/03/2003
50,832	Ionics, Inc. (Comp)	Bridgeville, PA	02/10/2003	02/05/2003
50,833	Caraustar Industries (Comp)	Fayetteville, NC	02/10/2003	02/01/2003
50,834	TSI Graphics, Inc. (Wkrs)	Effingham, IL	02/10/2003	02/05/2003
50,835	Reliant Fastener (USWA)	Rock Falls, IL	02/10/2003	01/02/2003
50,836	F/V The Fox (Comp)	Metlakatla, AK	02/10/2003	02/05/2003

APPENDIX—Continued

[Petitions instituted between 02/04/2003 and 2/14/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
50,837	George Wilson (Comp)	Anchorage, AK	02/10/2003	02/07/2003
50,838	F/V Windy Sea (Comp)	Kodiak, AK	02/10/2003	02/04/2003
50,839	F/V Seamaid (Comp)	Manokotak, AK	02/10/2003	01/28/2003
50,840	Elsie M. Bartman (Comp)	Manokotak, AK	02/10/2003	01/30/2003
50,841	F/V Lynn C (Comp)	Port Heiden, AK	02/10/2003	02/02/2003
50,842	F/V Anna Mae (Comp)	Port Heiden, AK	02/10/2003	02/04/2003
50,843	F/V My Girls (Comp)	Port Heiden, AK	02/10/2003	02/04/2003
50,844	F/V Jennifer Lynn (Comp)	Togiak, AK	02/10/2003	01/23/2003
50,845	Vishay Dale Electronics, Inc. (Comp)	Norfolk, NE	02/11/2003	02/07/2003
50,846	Torque-Traction Mfg. Tech., Inc. (AR)	Jonesboro, AR	02/11/2003	01/31/2003
50,847	Elmer's Products, Inc. (IAM)	Bainbridge, NY	02/11/2003	01/31/2003
50,848	Strategic Distribution, Inc. (Comp)	Lenoir, NC	02/11/2003	01/31/2003
50,849	Diamond Brands (Comp)	Wilton, ME	02/11/2003	02/10/2003
50,850	PTC Alliance Midwest Manufacturing (USWA)	Chicago Heights, IL	02/11/2003	02/05/2003
50,851	Sentex Systems (Comp)	Chatsworth, CA	02/11/2003	01/30/2003
50,852	Micro Instrument Company (Comp)	Escondido, CA	02/11/2003	01/31/2003
50,853	OK foods, Inc. (AR)	Ft. Smith, AR	02/11/2003	02/10/2003
50,854	Reitz Tool, Inc. (Comp)	Cochranton, PA	02/11/2003	02/10/2003
50,855	Magna Powertech (MI)	Grand Rapids, MI	02/11/2003	02/10/2003
50,856	Schlumberg Technology Corporation (TX)	Webster, TX	02/11/2003	02/10/2003
50,857	Centre State International Trucks, Inc. (Comp)	West Burlington, IA	02/11/2003	01/09/2003
50,858A	Freedom Plastics, LLC (Comp)	Sheffield, IL	02/11/2003	02/10/2003
50,858	Freedom Plastics, LLC (Comp)	Sheffield, IL	02/11/2003	02/10/2003
50,859	Vishay—Cera Mite (Wkrs)	Oconto Falls, WI	02/11/2003	02/07/2003
50,860	Cannondale Corporation (Comp)	Bedford, PA	02/11/2003	02/10/2003
50,861	Andrew Corporation (Wkrs)	Glen Rock, PA	02/11/2003	01/28/2003
50,862	F/V/ Silver Eagle (Comp)	Dillingham, AK	02/11/2003	02/06/2003
50,863	Eric Slotten (Comp)	Egegik, AK	02/11/2003	02/06/2003
50,864	F/V Jenny O. Daun (Comp)	Naknek, AK	02/11/2003	02/04/2003
50,865	Fibermark (MI)	Rochester, MI	02/12/2003	02/11/2003
50,866	AstenJohnson (Comp)	Jonesboro, GA	02/12/2003	02/06/2003
50,867	Eaton Remanufacturing (MI)	Oshtemo, MI	02/12/2003	02/03/2003
50,868	Ge-Ray Fabrics (Comp)	Morganville, NJ	02/12/2003	02/11/2003
50,869	Lear Corporation (Comp)	Grand Rapids, MI	02/12/2003	02/07/2003
50,870A	Freedom Plastics LLC (Co.)	Shefield, IL	02/12/2003	02/10/2003
50,870	Freedom Plastics, LLC (Comp)	Joliet, IL	02/12/2003	02/10/2003
50,871	Jabil Circuit, Inc. (Comp)	St. Petersburg, FL	02/12/2003	02/10/2003
50,872A	Leslie Fay Marketing, Inc. (Co.)	Pittston, PA	02/12/2003	01/30/2003
50,872	Leslie Fay Marketing, Inc. (Comp)	Laflin, PA	02/12/2003	01/30/2003
50,873	Scantibodies Laboratory, Inc. (Comp)	Santee, CA	02/12/2003	01/29/2003
50,874	Ocwen Federal Bank (Wkrs)	W. Palm Beach, FL	02/12/2003	01/31/2003
50,875	Rockford Powertrain (UAW)	Loves Park, IL	02/12/2003	02/12/2003
50,876	Mechanical Products Company, L.L.C. (UAW)	Jackson, MI	02/12/2003	02/12/2003
50,877	F/V Number One (Comp)	Manokotak, AK	02/12/2003	01/22/2003
50,878	Cannondale Corporation (Comp)	Bedford, PA	02/13/2003	02/10/2003
50,879	Maine Brand Manufacturing, Inc. (ME)	Littleton, ME	02/13/2003	02/12/2003
50,880	Savane International Corporation (Wkrs)	Santa Teresa, NM	02/13/2003	02/01/2003
50,881	Volex, Inc. (Wrks)	Chula Vista, CA	02/13/2003	02/04/2003
50,882	Pirelli Cable (Wkrs)	Colusa, CA	02/13/2003	02/04/2003
50,883	BOC Edwards (Comp)	Philadelphia, PA	02/13/2003	02/11/2003
50,884	Border Apparel (Comp)	El Paso, TX	02/13/2003	02/04/2003
50,885	Flying J. Oil and Gas, Inc. (Comp)	North Salt Lake, UT	02/13/2003	02/07/2003
50,886	Dana Brake Parts, Inc. (Comp)	Litchfield, IL	02/13/2003	02/11/2003
50,887	General Binding Corporation (Wkrs)	De Forest, WI	02/13/2003	02/03/2003
50,888	Go-Dan Industries, Inc. (USWA)	Buffalo, NY	02/13/2003	02/12/2003
50,889	Mega Tech of Oregon (Wkrs)	Corvallis, OR	02/13/2003	02/07/2003
50,890	Calapoois Valley Mushrooms (Comp)	Brownsville, OR	02/13/2003	02/07/2003
50,891	OSRAM Sylvania (Comp)	Lake Zurich, IL	02/13/2003	02/11/2003
50,892	Mastercraft Fabrics, LLC (Comp)	Morganton, NC	02/13/2003	02/24/2003
50,893	Best Manufacturing Gruop, LLC (Comp)	Griffin, GA	02/13/2003	02/10/2003
50,894	Electronic Data Systems (EDS) (Wkrs)	Albuquerque, NM	02/13/2003	02/12/2003
50,895	Americal corporation (Comp)	Goldsboro, NC	02/13/2003	02/12/2003
50,896	Easton Corporation (Comp)	Rochester Hills, MI	02/13/2003	01/15/2003
50,897	Michael Miller (Comp)	Inglis, FL	02/14/2003	01/21/2003
50,898	S/V Scampi (Comp)	Inglis, FL	02/14/2003	01/21/2003
50,899	John Halsey (Comp)	Homosassa, FL	02/14/2003	01/21/2003
50,900	David Beck (Comp)	Homosassa, FL	02/14/2003	01/21/2003
50,901	Holeinthewater Shrimp company (Comp)	Yankeetown, FL	02/14/2003	01/21/2003
50,902	Daniel Blanton (Comp)	Homosassa, FL	02/14/2003	01/20/2003
50,903	Jason Madison (Comp)	Homosassa, FL	02/14/2003	01/20/2003

APPENDIX—Continued

[Petitions instituted between 02/04/2003 and 2/14/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
50,904	B.J. Everett (Comp)	Old Town, FL	02/14/2003	02/12/2003
50,905	S/V Vagabond (Comp)	Inglis, FL	02/14/2003	01/21/2003
50,906	Arvin Meritor (Comp)	Gordonsville, TN	02/14/2003	02/11/2003
50,907	FCI USA, Inc. (Wkrs)	Etters, PA	02/14/2003	02/04/2003
50,908	Halliburton (Wkrs)	Alvarado, TX	02/14/2003	02/13/2003
50,909	International Foam, Inc. (UNITE)	Carlstadt, NJ	02/14/2003	02/13/2003
50,910	Managed Business Solutions (Comp)	Fort Collins, CO	02/14/2003	02/12/2003
50,911	Benton Veneer Company (AR)	Benton, AR	02/14/2003	02/13/2003
50,912	Kroehler Furniture Mfg. Co., Inc. (Wkrs)	Conover, NC	02/14/2003	02/05/2003

[FR Doc. 03–7196 Filed 3–25–03; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,684]

Producto Machine Company, Bridgeport, CT; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 27, 2003, in response to a worker petition filed by a company official on behalf of workers at Producto Machine Company, Bridgeport, Connecticut.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 10th day of March 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–7204 Filed 3–25–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,948]

Tordenskjold Marine Mobile, Inc., Daphne, AL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 24, 2003, in response to a worker petition filed by the State of Alabama Employment Service on behalf of workers at Tordenskjold Marine Mobile, Daphne, Alabama.

The Department has been unable to locate company officials of the subject firm or to obtain the information necessary to reach a determination on worker group eligibility. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 12th day of March 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–7207 Filed 3–25–03; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Appraisal Policy; Request for Comment

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of document; request for comment.

SUMMARY: NARA is seeking public comment on the draft Appraisal Policy. This proposal is part of NARA's series of records management initiatives to examine and redesign, as necessary, its records management policies and procedures. The draft policy is available on the NARA Opportunities for Public Comment web page at: *http://www.archives.gov/about_us/opportunities_for_comment/opportunities_for_comment.html.* For a paper copy of the report, contact the person listed in **FOR FURTHER INFORMATION CONTACT.**

DATES: Comments must be received by April 18, 2003.

ADDRESSES: Please send your comments to Susan Cummings (NPOL) by e-mail to *susan.cummings@nara.gov* or by fax to 301–837–0319 or by mail to NPOL, National Archives at College Park, Room 4100, 8601 Adelphi Rd, College Park, MD 20740–6001

FOR FURTHER INFORMATION CONTACT: Susan Cummings at 301–837–1636.

SUPPLEMENTARY INFORMATION: The Strategic Plan of the National Archives and Records Administration (NARA) states that NARA will ensure ready access to essential evidence that documents the rights of American citizens, the actions of Federal officials, and the national experience. In support of the NARA Strategic Plan, this draft Appraisal Policy sets out the strategic framework, objectives, and guidelines that the National Archives and Records Administration uses to determine whether Federal records have archival value. It also provides more specific guidelines for appraising the continuing historical value of certain categories of records including personal data records, research and development records, scientific observations, and environmental information.

Dated: March 21, 2003.

Nancy Allard,

Federal Register Liaison.

[FR Doc. 03–7333 Filed 3–25–03; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or

views with respect to this permit application by April 25, 2003. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the ''Agreed Measures for the Conservation of Antarctic Fauna and Flora'' for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follows:

1. Applicant

[Permit Application No. 2004–001]

Werner Stamback, Environmental Officer, Quark Expeditions, Inc., 980 Post Road, Darien, CT 06820.

Activity for Which Permit is Requested

Enter Antarctic Specially Protected Areas. The applicant proposes to conduct educational visits for passengers, staff and crew of the icebreaker, *Kapitan* Khlebnikov, to the following areas in the Ross Sea and McMurdo Sound region of Antarctica: Cape Hallett, Victoria Land (ASPA #106); Cape Evans Historic Site (ASPA #154); Hut and associated artifacts, Backdoor Bay, Cape Royds, Ross Island (ASPA #156); Discovery Hut, Hut Point, Ross Island (ASPA #157); and, Huts and associated artifacts, Cape Adare (ASPA #158). Visits will be conducted in accordance with the relevant Management Plans for each site. Access to the sites may be by zodiac or helicopter as appropriate.

Location

ASPA #106—Cape Hallett, Victoria Land
ASPA #154—Cape Evans Historic Site
ASPA #156—Hut and associated artifacts, Backdoor Bay, Cape Royds, Ross Island
ASPA #157—Discovery Hut, Hut Point, Ross Island
ASPA #158—Huts and associated artifacts, Cape Adare.

Dates

March 15, 2003 to March 15, 2007.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 03–7266 Filed 3–25–03; 8:45 am]

BILLING CODE 7555–01–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review; Comment Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Request for comments.

SUMMARY: Under the provision of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to publish a Notice in the Federal Register notifying the public that Agency is preparing an information collection request for OMB review and approval and to request public review and comment on the submission.

At OPIC's request, OMB is reviewing this information collection for emergency processing for 90 days, under OMB control number 3420–0015

Comments are being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses for other forms of technology. The proposed form under review is summarized below.

DATES: Comments must be received within 30 calendar days of this notice.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency submitting officer. Comments on the form should be submitted to the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: Bruce Campbell, Record Manager, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527; 202–336–8563.

Summary Form Under Review

Type of Request: Revised form.
Title: Application for Financing.
Form Number: OPIC 115.
Frequency of Use: Once per investor per project.
Type of Respondents: Business or other institution (except farms); individuals.
Standard Industrial Classification Codes: All.
Description Affected Public: U.S. companies or citizens investing overseas.
Reporting Hours: 3.5 hours per project.
Number of Responses: 300 per year.
Federal Cost: $15,750.
Authority for Information Collection: Sections 231, 234(a), 239(d), and 240A of the Foreign Assistance Act. of 1961, as amended.
Abstract (Needs and Uses): The application is the principal document used by OPIC to determine the investor's and the project's eligibility for debt financing, assess the environmental impact and developmental effects of the project, measure the economic effects for the U.S. and the host country economy, and collection information for underwriting analysis.

Dated: March 20, 2003.

Eli Landy,

Senior Counsel & FOIA Director.

[FR Doc. 03–7157 Filed 3–25–03; 8:45 am]

BILLING CODE 3210–01–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review; Comment Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Request for comments.

SUMMARY: Under the provision of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that Agency is preparing an information collection request for OMB review and approval and to request public review and comment on the submission.

At OPIC's request, OMB is reviewing this information collection for emergency processing for 90 days, under OMB control number 3420–0020.

Comments are being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology. The proposed form under review is summarized below.

DATES: Comments must be received within 30 calendar days of this notice.

ADDRESSES: Copies of the subject form and the request for review prepared for

submission to OMB may be obtained from the Agency submitting officer. Comments on the form should be submitted to the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: Bruce Campbell, Record Manager, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20572; 202–336–8563.

Summary Form Under Review

Type of Request: Revised form.

Title: Expedited Screening Questionnaire On-Lending Transactions.

Form Number: OPIC 168.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institution (except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies investing overseas.

Reporting Hours: 3.5 hours per project.

Number of Responses: 300 per year.

Federal Cost: $15,750.

Abstract (Needs and Uses): The application is the principal document used by OPIC to determine the investor's and the project's eligibility for debt financing, assess the environmental impact and developmental effects of the project, measure the economic effects for the U.S. and the host country economy, and collect information for underwriting analysis.

Dated: March 20, 2003.

Eli Landy,

Senior Counsel & FOIA Director.

[FR Doc. 03–7158 Filed 3–25–03; 8:45 am]

BILLING CODE 3210–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: RI 25–41

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for review of a revised information collection. RI 25–41, Initial Certification of Full-Time School Attendance, is used to determine whether a child is unmarried and a full-time student in a recognized school. OPM must determine this in order to pay survivor annuity benefits to children who are age 18 or older.

Comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Approximately 1,200 RI 25–41 forms are completed annually. It takes approximately 90 minutes to complete the form. The annual burden is 1,800 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or via E-mail to *mbtoomey@opm.gov*. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349, Washington, DC 20415–3540.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Cyrus S. Benson, Team Leader, Desktop Publishing and Printing Team, Budget and Administrative Services Division. (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 03–7264 Filed 3–25–03; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meetings

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, April 17, 2003;
Thursday, May 1, 2003;
Thursday, May 15, 2003.

The meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

This scheduled meeting will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of a meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on this meeting may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5538, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: March 20, 2003.

Mary M. Rose,

Chairperson, Federal Prevailing Rate Advisory Committee.

[FR Doc. 03–7263 Filed 3–25–03; 8:45 am]

BILLING CODE 6325–49–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and

Information Services, Washington, DC 20549.

Extension: Rule 15c2–8; SEC File No. 270–421; OMB Control No. 3235–0481.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 15c2–8 Delivery of Prospectus

Rule 15c2–8 requires broker-dealers to deliver preliminary or final prospectuses to specified persons in association with securities offerings. This requirement ensures that information concerning issuers flows to purchasers of the issuers' securities in a timely fashion. There are approximately 8,000 broker-dealers, any of which potentially may participate in an offering subject to Rule 15c2–8. The Commission estimates that Rule 15c2–8 creates approximately 10,600 burden hours with respect to 120 initial public offerings and 460 other offerings.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: March 20, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7222 Filed 3–25–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Request Under Review

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 9b–1; SEC File No. 270–429; OMB Control No. 3235–0480. Rule 15c2–7; SEC File No. 270–420; OMB Control No. 3235–0479.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collections of information discussed below.

Rule 9b–1 Options Disclosure Document

Rule 9b–1 (17 CFR 240.9b–1) sets forth the categories of information required to be disclosed in an options disclosure document (''ODD'') and requires the options markets to file an ODD with the Commission 60 days prior to the date it is distributed to investors. In addition, Rule 9b–1 provides that the ODD must be amended if the information in the document becomes materially inaccurate or incomplete and that amendments must be filed with the Commission 30 days prior to the distribution to customers. Finally, Rule 9b–1 requires a broker-dealer to furnish to each customer an ODD and any amendments, prior to accepting an order to purchase or sell an option on behalf of that customer.

There are 5 options markets that must comply with Rule 9b–1. These 5 respondents work together to prepare a single ODD covering options traded on each market, as well as amendments to the ODD. These respondents file no more than one amendment per year, which requires approximately 8 hours per year for each respondent. Thus, the total compliance burden for options markets per year is 40 hours. The approximate cost per hour is $100, resulting in a total cost of compliance for these respondents of $4,000 per year (40 hours at $100).

In addition, approximately 2,000 broker-dealers must comply with Rule 9b–1. Each of these respondents will process an average of three new customers for options each week and, therefore, will have to furnish approximately 156 ODDs per year. The postal mailing or electronic delivery of the ODD takes respondents no more than 30 seconds to complete for an annual compliance burden for each of these respondents of 78 minutes, or 1.3 hours. Thus, the total compliance burden per year is 2,600 hours (2,000 broker-dealers × 1.3 hours). The approximate cost per hour to these respondents is $10 per hour, resulting in a total cost of compliance for these respondents of $26,000 per year (2,600 hours at $10).

The total compliance burden for all respondents under this rule (both options markets and broker-dealers) is 2640 hours per year (40 + 2,600), and total compliance costs of $30,000 ($4,000 + $26,000).

Rule 15c2–7 Identification of Quotations

Rule 15c2–7 (17 CFR 240.15c2–7) enumerates the requirements with which brokers and dealers must comply when submitting a quotation for a security (other than a municipal security) to an inter-dealer quotation system.

It is estimated that there are 8,500 brokers and dealers. Industry personnel estimate that approximately 900 notices are filed pursuant to Rule 15c2–7 annually. Based on industry estimates that respondents complying with Rule 15c2–7 spend 30 seconds to add notice of an arrangement and 1 minute to delete notice of an arrangement, the staff estimates that, on an annual basis, respondents spend a total of 11.25 hours to comply with Rule 15c2–7, based upon past submissions. The average cost per hour is approximately $35. Therefore, the total cost of compliance for brokers and dealers is approximately $393.75

The retention period for the recordkeeping requirement under Rule 15c2–7 is three years following the date a quotation is submitted. The recordkeeping requirement under this Rule is mandatory to assist the Commission with monitoring brokers and dealers who submit quotations to an inter-dealer quotation system. This rule does not involve the collection of confidential information.

Please note that 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 control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, D.C. 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: March 19, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7223 Filed 3–25–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 15g–6; SEC File No. 270–349; OMB Control No. 3235–0395. Rule 17a–8; SEC File No. 270–53; OMB Control No. 3235–0092.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Rule 15g–6—Account statements for penny stock customers

Rule 15g–6 under the Securities Exchange Act of 1934 (the ''Act'') requires brokers and dealers that sell penny stocks to their customers to provide monthly account statements containing information with regard to the penny stocks held in customer accounts. The information is required to be provided to customers of broker-dealers that effect penny stock transactions in order to provide those customers with information that is not now publicly available. Without this information, investors would be less able to protect themselves from fraud and to make informed investment decisions.

The staff estimates that there are approximately 270 broker-dealers that are subject to the rule. The staff estimates that the firms affected by the rule will, at any one time, have approximately 150 new customers with whom they have effected transactions in penny stocks, each of whom would receive a maximum of 12 account statements per year, for a total of 1,800 account statements annually for each firm (150 customers × 12 account statements/customer). The staff estimates that a broker-dealer would expend approximately three minutes in processing the information required for each account statement. Accordingly, the estimated average annual burden would equal 90 hours (1,800 account statements × 3 minutes/account statement × 1 hour/60 minutes), and the estimated average total burden would equal 24,300 hours (90 hours × 270).

Rule 17a–8—Financial Recordkeeping and Reporting of Currency and Foreign Transactions

Rule 17a–8 under the Act requires brokers and dealers to make and keep certain reports and records concerning their currency and monetary instrument transactions. The requirements allow the Commission to ensure that brokers and dealers are in compliance with the Currency and Foreign Transactions Reporting Act of 1970 (''Bank Secrecy Act'') and with the Department of the Treasury regulations under that Act.

The reports and records required under this rule initially are required under Department of the Treasury regulations, and additional burden hours and costs are not imposed by this rule.

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 control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, D.C. 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: March 14, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7224 Filed 3–25–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47540; File No. SR–Amex–2001–92]

Self-Regulatory Organizations; Notice of Filing of Amendment Nos. 2 and 3 to Proposed Rule Change by the American Stock Exchange LLC To Simplify the Manner in Which a Contrary Exercise Advice Is Submitted and To Extend by One Hour the Time for Members To Submit Customer's Contrary Exercise Advices

March 19, 2003.

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 October 29, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change seeking to modify the manner in which Contrary Exercise Advices (''CEAs'') are submitted to the Exchange. The Amex amended its proposal on December 17, 2001.[3] The original proposal and Amendment No. 1 were published in the **Federal Register** on January 15, 2002 for notice and comment.[4] The Commission received four comment letters regarding the proposal.[5] The Amex responded to the commenters in Amendment No. 2, which the Amex filed with the Commission on June 19, 2002.[6] On March 6, 2003, the Amex submitted

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Jeffrey P. Burns, Assistant General Counsel, Amex, to Jennifer L. Colihan, Special Counsel, Division of Market Regulation (''Division''), Commission, dated December 14, 2001 (''Amendment No. 1'').

[4] Securities Exchange Act Release No. 45253 (January 8, 2002), 67 FR 2003.

[5] *See* letter from Mark R. Mudry, Chairman, the Options Operations Subcommittee of the OCC Roundtable, to Jonathan G. Katz, Secretary, Commission, dated February 22, 2002; letter from Margo R. Topman, Vice President, Assistant General Counsel, Goldman, Sachs & Co., to Jonathan G. Katz, Secretary, Commission, dated February 15, 2002; letter from Thomas N. McManus, Executive Director and Counsel, Morgan Stanley, to Jonathan G. Katz, Secretary, Commission, dated February 11, 2002; and letter from Mark Straubel, Assistant Vice President, Pershing, to Secretary, Commission, dated February 5, 2002.

[6] *See* letter (with exhibit) from Jeffrey P. Burns, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated June 18, 2002 (''Amendment No. 2''). In Amendment No. 2, the Amex responded to the commenters and proposed to revise its original proposal to extend the one hour for all accounts to submit a CEA, to extend the deadline of 2 hours and 28 minutes following the time announced for the close of trading in equity options on that day instead of 6:30 p.m. (NY time) for all accounts to deliver a CEA or Advice Cancel where the Amex modifies the close of trading at expiration, and to require the Exchange to provide advance notice on the prior business day in order to establish earlier cut-off times for the submission of a CEA due to the Exchange modifying the close of trading or to unusual circumstances. The Exchange also proposed three new Commentaries to Amex Rule 980 to: (1) Clarify that cut-off times for the submission of a CEA may be extended due to operational and/or systems problems at the Exchange; (2) clarify that while option holders are required to make a final decision to exercise by 5:30 p.m. (NY time), member and member organizations will have one hour to process the CEA for delivery to the Exchange by 6:30 p.m. (NY time) if the CEA is expected to be electronically submitted, and 5:30 p.m. (NY time) for manual or physical delivery of a CEA at the Exchange; and (3) require firms that employ an electronic submission method to adopt specific written procedures for the electronic submission of CEAs.

Amendment No. 3 to the proposal.[7] This Amendment completely replaces and supersedes the original filing and Amendment Nos. 1 and 2. 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 Amex proposes to amend Amex Rule 980: (i) To simplify the manner in which a CEA is submitted to the Exchange; (ii) to extend by one hour the cut-off time for members and member organizations to submit CEAs to the Exchange; and (iii) to add new paragraphs (g) and (h) for the purpose of establishing different cut-off times for the decision to exercise or not exercise an expiring option and for the submission of a CEA based on a modified trading session or due to ''unusual circumstances.'' Below is the text of the proposed rule change, as amended. New text is italicized. Deleted text is bracketed.

* * * * *

Rule 980. Exercise of Option Contracts

(a) [Subject to the restrictions established by the Exchange pursuant to Rule 905 and to such other restrictions which may be imposed by the Exchange pursuant to Rules 907 and 909 or by the Options Clearing Corporation (''OCC'') pursuant to its rules, an outstanding option contract may be exercised during the time period specified in the rules of OCC by the tender to OCC of an exercise notice in accordance with its rules.] *An outstanding option contract may be exercised by the tender to the Options Clearing Corporation (''OCC'') of an exercise notice made during the periods, and using the procedures, specified in OCC rules.* An exercise notice may be tendered to OCC only by the clearing member in whose OCC account the option contract is carried. *Option exercises are also subject to restrictions that are established by or may be imposed by the Exchange in Rules 905, 907 and 909, and in this rule.* Members and member organizations may establish fixed procedures as to the latest [hour at which] *time* they will accept exercise instructions from customers.

(a) [Final decisions by options holders to either exercise or not exercise expiring equity options must be made by members or member organizations not later than 5:30 p.m., New York time on the business day immediately prior to the expiration date (''the exercise cut-off time''). In this regard, members and member organizations must either] *Special procedures apply to the exercise of equity options on the last business day before their expiration (''expiring options''). Unless waived by OCC, expiring options are subject to the Exercise-by-Exception (''Ex-by-Ex'') procedure under OCC Rule 805. This rule provides that, unless contrary instructions are given, option contracts that are in-the-money by specified amounts shall be automatically exercised. In addition to OCC rules, the following Exchange requirements apply with respect to expiring options. Option holders desiring to exercise or not exercise expiring options must either:*

[(ii)]*(i)* take no action and allow exercise determinations to be made in accordance with OCC's [Exercise-by-Exception] *Ex-by-Ex* procedure where applicable[.]*; or*

[(i)]*(ii)* submit a *''*Contrary Exercise Advice*''* to the Exchange *by the deadline specified in paragraph (c) below.* A Contrary Exercise Advice is a *communication either: (A)* [form prescribed by the Exchange for use by a member or member organization to indicate a final exercise decision committing an options holder] to not exercise an [equity] option[s position which] *that* would *be* automatically [be] exercised [pursuant to] *under* OCC's [Rule 805 Exercise-by-Exception] *Ex-by-Ex* procedure, or *(B)* to exercise an [equity] option [position which] *that* would not *be* automatically [be] exercised [pursuant to] *under* OCC's [Exercise-by-Exception] *Ex-by-Ex* procedure. *A* Contrary Exercise Advice[s can] *may* be submitted by *a* [any] member or member organization *by using the Exchange's Contrary Exercise Advice Form, OCC's Clearing Management and Control System (C/MACS), a Contrary Exercise Advice form of any other* [at a place designated for that purpose by any] national [options] *securities* exchange of which [they are] *the firm is* a member and where the option is listed, or [may be transmitted to the Exchange via OCC in a format prescribed by OCC; or] *such other method as the Exchange may prescribe. A Contrary Exercise Advice may be canceled by filing an ''Advice Cancel'' with the Exchange or resubmitted at any time up to the submission cut-off times specified below.*

(c) *Exercise cut-off time. Option holders have until 5:30 p.m. New York time on the business day immediately prior to the expiration date to make a final decision to exercise or not exercise an expiring option. For customer accounts, members and member organizations may not accept exercise instructions after 5:30 p.m. New York time but have until 6:30 p.m. New York time to submit a Contrary Exercise Advice. For non-customer accounts, members and member organizations may not accept exercise instructions after 5:30 p.m. New York time but have until 6:30 p.m. New York time to submit a Contrary Exercise Advice if such member or member organization employs an electronic submission procedure with time stamp for the submission of exercise instructions by option holders. Consistent with Commentary .04, members and member organizations are required to submit a Contrary Exercise Advice by 5:30 p.m. for non-customer accounts if such Members and/or member organization do not employ an electronic submission procedure with time stamp for the submission of exercise instructions by option holders.* [In those instances when OCC has waived the Exercise-by-Exception procedure, a Contrary Exercise Advice is still required to be submitted by members and member organizations wishing to exercise an option that would not have been automatically exercised, or exercise an option that would have been automatically exercised had the Exercise-by-Exception procedure been in effect. The applicable underlying security price in such instances will be as described in OCC Rule 805(1), which is normally the last sale price in the primary market for the underlying security. In cases where the Exercise-by-Exception procedure has been waived for an options class, OCC rules require that members and member organizations wishing to exercise such options must submit an affirmative Exercise Notice to OCC, whether or not a Contrary Exercise Advice has been filed.]

[Each member or member organization which maintains a proprietary or public customer account position in an expiring option is responsible for ensuring that final exercise decisions are indicated to the Exchange Member organizations who have accepted the responsibility to indicate final exercise decisions on behalf of another member or non-member firm and shall take necessary steps to ensure that such decisions are properly indicated to the Exchange. Member organizations may establish a

[7] *See* letter from Jeffrey P. Burns, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated March 5, 2003, replacing Form 19b–4 in its entirety (''Amendment No. 3''). In Amendment No. 3, Amex made changes to its rule text and provided additional discussion in response to comments.

processing cut-off time prior to the Exchange's exercise cut-off time at which they will no longer accept final exercise decisions in expiring options from options holders for which they carry accounts.]

(d) If OCC has waived the Ex-by-Ex procedure for an options class, members and member organizations must either:

(i) submit to the Exchange, a Contrary Exercise Advice, in a manner specified by the Exchange, within the time limits specified in paragraph (c) above if the holder intends to exercise the option, or

(ii) take no action and allow the option to expire without being exercised.

In cases where the Ex-by-Ex procedure has been waived, OCC rules require that members and member organizations wishing to exercise such options must submit an affirmative Exercise Notice to OCC, whether or not a Contrary Exercise Advice has been filed with the Exchange.

(e) An Exchange member organization that has accepted the responsibility to indicate final exercise decisions on behalf of another member or non-member firm shall take the necessary steps to ensure that such decisions are properly indicated to the Exchange. Such member organization may establish a processing cut-off time prior to the Exchange's exercise cut-off time at which it will no longer accept final exercise decisions in expiring options from option holders for whom it indicates final exercise decisions. Each member or member organization that indicates final exercise decisions through another broker-dealer is responsible for ensuring that final exercise decisions for all of its proprietary (including market maker) and public customer account positions are indicated in a timely manner to such broker-dealer.

[(d)] *(f)* Members and member organizations may make final exercise decisions after the exercise cut-off time but prior to expiration without having submitted a Contrary Exercise Advice*:* (i) In order to remedy mistakes made in good faith*;* [,] (ii) to take appropriate action as the result of a failure to reconcile unmatched Exchange option transactions*;* [,] or (iii) where exceptional circumstances have restricted an option holder's ability to inform a member organization of a decision regarding exercise, or a member organization's ability to receive an option holder's decision by the cut-off time. The burden of establishing any of the above exceptions rests solely on the member or member organization seeking to rely on such exceptions.

(g) In the event the Exchange provides advance notice on or before 5:30 p.m. (NY time) on the business day immediately prior to the last business day before the expiration date indicating that a modified time for the close of trading in equity options on such last business day before expiration will occur, then the deadline to make a final decision to exercise or not exercise an expiring option shall be 1 hour 28 minutes following the time announced for the close of trading on that day instead of the 5:30 p.m. (NY time) deadline found in Rule 980(c). However, members and member organizations may deliver a Contrary Exercise Advice or Advice Cancel to the Exchange within 2 hours 28 minutes following the time announced for the close of trading in equity options on that day instead of the 6:30 p.m. (N.Y. time) deadline found in Rule 980(c) for customer accounts and non-customer accounts where such member firm employs an electronic submission procedure with time stamp for the submission of exercise instructions. For non-customer accounts, members and member organizations that do not employ an electronic procedure with time stamp for the submission of exercise instructions are required to deliver a Contrary Exercise Advice or Advice Cancel within 1 hour and 28 minutes following the time announced for the close of trading on that day instead of the 5:30 p.m. (NY time) deadline found in Rule 980(c).

(h)(1) The Exchange may establish extended cut-off times for decision to exercise or not exercise an expiring option and for the submission of Contrary Exercise Advices on a case by case basis due to unusual circumstances.

(2) The Exchange with at least one (1) business day prior advance notice, by 12 noon on such day, may establish a reduced cut-off time for the decision to exercise or not exercise an expiring option and for the submission of Contrary Exercise Advices on a case-by-case basis due to unusual circumstances; provided, however, that under no circumstances should the exercise cut-off time and the time for submission of a Contrary Exercise Advice be before the close of trading.

Commentary

.01 For purposes of this Rule 980, the terms ''customer account'' and ''non-customer account'' have the same meaning as defined in OCC By-Laws Article I(C)(25) and Article I (N)(2), respectively.

.02[.01] Each member organization shall prepare a memorandum of every [final] exercise [decision] *instruction received showing the time when such instruction was so* [for which a Contrary Exercise Advice is required showing the time when such decision was made or] received. Such memoranda shall be subject to the requirements of SEC Rule 17a–4(b).

.03 In the event of an ''unusual circumstance,'' Rule 980(h)(1) provides that the Exchange may extend the cut-off times for exercise instructions and the submission of a Contrary Exercise Advice beyond the normal time frames specified in Rule 980(c). For purposes of subparagraph (h)(1), an ''unusual circumstance'' includes, but is not limited to, increased market volatility; significant order imbalances; significant volume surges and/or systems capacity constraints; significant spreads between the bid and offer in underlying securities; internal system malfunctions affecting the ability to disseminate or update market quotes and/or deliver orders; or other similar occurrences. Rule 980(h)(2) specifies that the Exchange may also reduce such cut-off times for ''unusual circumstances.'' For purposes of subparagraph (h)(2), an ''unusual circumstance'' includes, but is not limited to, a significant news announcement concerning the underlying security of an option contract that is scheduled to be released just after the close on the business day immediately prior to expiration.

.04 Although the deadline for all option holders to make a final decision to exercise or not exercise is 5:30 p.m. (NY time), the deadline for the submission of the Contrary Exercise Advice in the case of non-customer accounts will depend on the manner of the decision to exercise or not exercise.

(i) For electronic timestamp submissions of the exercise decision by non-customer option holders, a Contrary Exercise Advice submitted by members and member organizations must be received by the Exchange by 6:30 p.m. (NY time).

(ii) For manual submissions of the exercise decision by non-customer option holders, members and member organizations must submit a Contrary Exercise Advice at the Exchange via the Contrary Exercise Advice Box by 5:30 p.m. (NY time).

.05 Each member organization shall establish fixed procedures to insure secure time stamps in connection with their electronic systems employed for the recording of submissions to exercise or not exercise expiring options.

.06 [.02] In the event a member or member organization makes a final exercise decision after the exercise cut-off time pursuant to an exception set

forth in clauses (i), (ii) or (iii) of paragraph [(d)]*(f)* of Rule 980, the member or member organization shall maintain a memorandum setting forth the circumstances regarding such exception and shall file a copy of the memorandum with the Exchange's Market Surveillance Department no later than 12 noon on the first business day following the respective expiration.

.07 [.03] The filing of a Contrary Exercise Advice required by this rule does not serve to substitute as the effective notice to OCC for the exercise or non-exercise of expiring options.

* * * * *

I. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change, as amended. 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 Options Clearing Corporation (''OCC''), the issuer of all Amex-traded options contracts, has an established procedure for options holders wishing to exercise in-the-money options [8] before they expire. Known as Ex-by-Ex, the procedure provides for the automatic exercise at expiration of any equity option contract that is ¾ of a point or more in-the-money for customer accounts or ¼ point or more in-the-money for any other accounts.[9] Option holders who wish to have their contracts exercised in accordance with the Ex-by-Ex procedure need to take no further action; those contracts that are in-the-money by the appropriate amount will be automatically exercised. Option holders who do not wish to have their options automatically exercised or who wish their options to be exercised under different parameters than the Ex-by-Ex procedure, must file a CEA with the Exchange pursuant to Amex rule 980, and instruct OCC of their ''contrary'' intention.[10] The rule is designed to deter individuals from taking improper advantage of late-breaking news by requiring evidence of an option holder's intention to exercise or not exercise expiring equity options via the submission of a CEA. Members and member organizations satisfy the filing requirement by manually submitting a CEA form or by electronically submitting the CEA through OCC's Clearing Management and Control System (C/MACS).

The principal goal of Amex rule 980 is to maintain a level playing field between persons holding long and short positions in expiring equity options. The Amex believes that after trading has ended on the final trading day before expiration, persons who are short the option have no way to close out their short position. To put option holders on equal footing, Amex Rule 980 attempts to keep to a minimum the time period in which a holder can exercise the option after the close of trading on the last business day prior to expiration, generally known as ''Expiration Friday.'' [11]

The current exercise cut-off time for an option holder to decide whether or not to exercise is 5:30 p.m. (NY time) on the business day immediately prior to the expiration date.[12] Under the proposal, the exercise cut-off time set forth in amended Amex Rule 980(c) will not change except in cases of a modified trading session or due to ''unusual circumstances.'' Current Amex rule 980 imposes a uniform 5:30 p.m. cut-off time for the submission of CEAs for all accounts without differentiating between customer and non-customer accounts.

The proposed rule change was prompted by concerns expressed by clearing firms that the deadline for submitting CEAs is problematic for customer accounts,[13] due to the logistical difficulties of receiving customer exercise instructions and processing them through their retail branch systems and back office areas before submitting them to the Exchange. Therefore, the Exchange proposes to adopt a cut-off time of 6:30 p.m. (NY time) for members and member organizations to submit CEAs for customer accounts. In response to concerns expressed by commenters, the Exchange also proposes to allow members and member organizations to submit CEAs for non-customer accounts [14] by 6:30 p.m. (NY time) provided such member or member organization employs an electronic procedure with time stamp recording for the submission of exercise instructions by options holders. In those cases where members or member organizations do not employ an electronic submission procedure for the submission of exercise instructions, CEAs for non-customer accounts must be submitted to the Exchange by 5:30 p.m. (NY time). The different CEA submission deadlines are set forth in amended Amex Rule 980(c) and new Commentary .04.

Although most firms have electronic submission procedures, the Exchange is concerned that those firms that manually submit CEAs could have an opportunity to improperly extend the 5:30 p.m. (NY time) deadline to exercise or not exercise an option if *all* non-customer accounts were subject to the 6:30 p.m. (NY time) deadline for the submission of CEAs. This concern on the part of the Exchange is based on the difficulty in monitoring a manual procedure that has different times for deciding whether or not to exercise the option and for the submission of the CEA.

Accordingly, in the case of non-customer accounts, the Exchange has proposed to limit the 6:30 p.m. (NY time) deadline for submitting CEAs to those member firms that have an electronic submission procedure for deciding whether to exercise or not exercise an option. In connection with the use of an electronic submission procedure by member firms, the Exchange proposes the addition of new Commentary .05 that requires members and member organizations employing electronic submissions to establish procedures to secure time stamps in connection with their electronic systems employed for the recording of

[8] ''In-the-money'' for a call option occurs if the current market value of the underlying security is above the exercise price of the option. For put options, ''in-the-money'' means the current value of the underlying security is below the exercise price of the option.

[9] *See* OCC Rule 805(d).

[10] A CEA may be canceled by filing an ''Advice Cancel'' with the Exchange at any time up to the submission cut-off deadline specified in proposed amended Amex Rule 980(c).

[11] ''Expiration Friday'' is generally the last business day prior to the expiration of an option contract.

[12] The ''expiration date'' of an options contract generally is the Saturday immediately following the third Friday of the expiration month of such option. *See* OCC By-Laws Article I (E)(k).

[13] A ''customer account'' is defined in OCC By-Laws Article I (C)(25) as an account of a Clearing Member which is confined to Exchange transactions cleared and positions carried by the Clearing Member on behalf of its securities customers, other than those transactions of market-makers which are cleared through a market-makers account. OCC By-Laws define a ''securities customer'' as a person having a securities account at a broker or dealer other than a non-customer of such broker or dealer. *See* OCC By-Laws Article I (S)(1).

[14] A ''non-customer account'' generally means a person that is not a customer of a broker or dealer defined in Rule 8c–1 and 15c2–1 under the Act. *See* OCC By-Laws Article I (N)(2).

submissions to exercise or not exercise expiring options.

The OCC on occasion will suspend the use of its Ex-by-Ex procedure, such as when trading in the underlying stock has been halted or if accurate price data is unavailable for the determination of closing prices. When this occurs and there is no automatic exercise, all options contract holders must send an exercise notice to the OCC if they wish to exercise, regardless of whether the option is in or out-of-the-money. Currently, when the OCC suspends its Ex-by-Ex procedure for an option class, Amex rule 980 requires the submission of a CEA. Thus, when the OCC has waived the Ex-by-Ex procedure, option holders must determine what price would have been used, even though the only available price might be a stale last sale price (a price the OCC did not feel comfortable using). Option holders then must determine whether a CEA needs to be submitted to the Exchange evidencing the intention to exercise or not exercise.

In the Amex's view, the options exchanges have long viewed this process as cumbersome and confusing to option holders. Therefore, the Amex proposes to amend Amex rule 980(d) to eliminate the requirement that a CEA be submitted if the holder does not want to exercise the option when OCC has waived its Ex-by-Ex procedure for that options class. As a result, when the Ex-by-Ex procedure has been waived, submission of instructions to the Exchange to exercise will be required only when the options holder wants to exercise the option contract.

The proposed rule change would also permit the Exchange to establish different exercise cut-off time as an exception to amended amex Rule 980(c) to address situations where the Exchange has advanced prior knowledge or warning of a modified trading session at expiration, or in the case of ''unusual circumstances.''

Specifically, proposed Amex rule 980(g) would be applicable when a different or modified close of trading is announced due to a market-wide event. In such cases, the Exchange would have forewarning of the event and would be required to provide notice of a change in exercise cut-off time by 5:30 p.m. (NY time) on the business day prior to the last trading day before expiration. For example, if the day after Thanksgiving is the last trading day prior to expiration with a close of trading of 1 p.m. (NY time), then the Exchange would, with prior notice up to the Wednesday before Thanksgiving, be able to reduce the cut-off time of the decision to exercise or not exercise expiring options to 1 hour 28 minutes after the close of trading. With respect to the submission of a CEA by members and member organizations, the cut-off time would be reduced to 2 hours and 28 minutes after the close of trading for customer accounts and non-customer accounts where the member firm employs an electronic procedure with time stamp for the submission of exercise instructions. Member firms that do not employ an electronic submission procedure for exercise instructions would be required to submit a CEA within 1 hour and 28 minutes after the close of trading for its non-customer accounts. Accordingly, the normal exercise cut-off time would not apply and, similar to amended Amex Rule 980(c), the deadline for submitting CEAs to the Exchange for non-customer accounts would depend on the use of an electronic submission procedure for the submission of exercise instructions.

Proposed Amex rule 980(h)(1) would permit the Exchange to extend the cut-off time period for the decision to exercise or not exercise expiring options, as well as the submission of a CEA due to unusual circumstances. Situations that may arise that are deemed to be ''unusual circumstances'' are set forth in revised Commentary .03. An ''unusual circumstance'' for purposes of proposed paragraph (h)(1) includes, but is not limited to, increased market volatility; significant order imbalances; significant volume surges and/or systems capacity constraints; significant spreads between the bid and offer in underlying securities; internal system malfunctions affecting the ability to disseminate or update market quotes and/or deliver orders; or other similar occurrences.

Proposed Amex Rule 980(h)(2) would permit the Exchange with one (1) business day prior advance notice by 12 noon (NY time) to establish a reduced cut-off time for the decision to exercise or not exercise expiring options as well as the submission of the CEA. The reduced cut-off time under this new paragraph for both the decision to exercise or not exercise and the submission of the CEA may not occur before the close of trading. The primary purpose of this proposed paragraph (h)(2) is to permit the Exchange to reduce cut-off times because of an ''unusual circumstance,'' such as a significant news event occurring after the close. Revised Commentary .03 to Amex Rule 980 provides that for purposes of subparagraph (h)(2), an ''unusual circumstance'' is a significant news announcement concerning the underlying security of an option contract that is scheduled to be released after the close on the last trading day prior to expiration. For example, a decision on whether a particular merger will be approved or whether a ''blockbuster'' new product will receive regulatory approval that occurs after the close of trading would justify a reduced cut-off time so that persons holding short positions are not prejudiced by being unable to close out their positions. The Exchange believes that this would maintain a level playing field between persons holding long and short positions in expiring options.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act [15] in general, and furthers the objectives of section 6(b)(5) of the Act [16] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of change, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

A. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

B. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange received four comment letters [17] regarding the original proposal and Amendment No. 1. The Exchange believes that it has responded to the comments and concerns raised in these comment letters as reflected in Amendment Nos. 2 and 3.

II. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange 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.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *See supra* note.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2001–92 and should be submitted by April 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7113 Filed 3–25–03; 8:45 am]

BILLING CODE 8010–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47531; File No. SR–Amex–2002–33]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change as Amended by Amendment No. 1 Thereto Relating to Proprietary Order Routing Facilities for Amex Listed Options and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 Thereto

March 19, 2003.

I. Introduction

On April 16, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to prohibit members from using facilities that are not owned or operated by the Exchange to transmit orders electronically from the Amex floor to other exchanges through a direct electronic link, and to receive orders transmitted electronically to the Amex floor from other exchanges through a direct electronic link for the purchase or sale of Amex listed options after the complete implementation of the permanent intermarket linkage in the options market (''Options Linkage''). On April 30, 2002, Amex submitted Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended, was published in the **Federal Register** on May 8, 2002.[4] The Commission received one comment letter on the proposed rule change.[5] On May 28, 2002, Amex submitted Amendment No. 2 to the proposed rule change.[6] On September 13, 2002, Amex submitted a response to the ISE Letter.[7] On December 30, 2002, Amex submitted an additional response to the ISE Letter.[8] This order approves the amended proposed rule change, provides notice of filing of Amendment No. 2 and grants accelerated approval to Amendment No. 2.

II. Description of the Proposal and Amendment No. 2

As originally filed, Amex proposed to prohibit members from using facilities that are not owned or operated by the Exchange to transmit orders[9] electronically from the Amex floor to other exchanges through a direct electronic link, and to receive orders transmitted electronically to the Amex floor from other exchanges through a direct electronic link for the purchase or sale of Amex listed options upon the complete implementation of the Options Linkage.[10]

In Amendment No. 2, Amex limited the proposed rule change to apply only to facilities and services of another registered exchange on the Amex floor that provide a direct electronic link to the other exchange. The proposed rule change would not alter the current ability of members and member organizations, with the prior written approval of Amex, to use an electronic order routing facility or service owned and operated by a registered broker-dealer to transmit orders for Amex listed options to another registered exchange for execution.

III. ISE Letter and Amex Responses

ISE Letter

In the ISE Letter, ISE argues that Amex's proposal has significant customer protection and competitive implications because it would require an Amex floor broker that sees an ISE price that is superior to the Amex price to route the order off-floor for transmission to the ISE. ISE believes the delay caused by off-floor transmissions raises serious risks that the ISE market may not be available when the customer order reaches ISE. In addition, ISE believes the Amex floor broker may determine that the delay makes the possibility of ISE execution too risky and may execute the order on the Amex at the inferior price. ISE points out that once the Options Linkage is implemented, the Amex broker could incur trade-through liability if the broker executes the order on the Amex at the inferior price.

ISE argues that in limiting members' ability to send orders electronically to other markets, the Amex impedes competition because, without this limitation, free market forces and price competition would lead to the sending of order flow to exchanges displaying superior prices. ISE stated its view that, under the proposal, market makers could use only the Options Linkage to access competing exchanges electronically, even if there may be more efficient methods of access, and that the Options Linkage will provide only limited access because: (1) Brokers will not have direct access to the Options Linkage; (2) market makers are prohibited from using the Options Linkage as an order delivery system for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Geraldine M. Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated April 29, 2002 (''Amendment No. 1''). In Amendment No. 1, Amex included the text of the proposed rule change.

[4] *See* Securities Exchange Act Release No. 45864 (May 2, 2002), 67 FR 30985.

[5] *See* letter from Michael J. Simon, Senior Vice President and Secretary, International Securities Exchange, Inc. (''ISE''), to Jonathan Katz, Secretary, Commission, dated May 28, 2002 (''ISE Letter'').

[6] *See* letter from Geraldine M. Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division, Commission, dated May 24, 2002 (''Amendment No. 2'').

[7] *See* letter from Bill Floyd-Jones, Assistant General Counsel, Amex, to Deborah Flynn, Division, Commission, dated September 13, 2002 (''Amex Initial Response'').

[8] *See* letter from Bill Floyd-Jones, Assistant General Counsel, Amex, to Deborah Flynn, Division, Commission, dated December 27, 2002 (''Amex Supplemental Response'').

[9] These facilities cannot be used for listed equities and Exchange-Traded Funds as the Intermarket Trading System serves as the mechanism for routing trading interest in these securities between exchanges.

[10] The Commission approved the Plan for the Purpose of Creating and Operating an Intermarket Options Linkage (''Linkage Plan'') in July 2000. *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000).

customer orders; and (3) the number of principal orders market makers may send through the Options Linkage is restricted. ISE claims that Amex wrongly implies that the Options Linkage would render obsolete the need for proprietary access systems.

Amex Initial Response

In the Amex Initial Response, Amex stated that it had addressed ISE's concerns in Amendment No. 2. In Amendment No. 2, Amex clarified that, after the Options Linkage is implemented, Amex members would continue to have electronic access to ISE from the Amex floor through broker-dealer order routing facilities; members would only be precluded from using ISE terminals on the Amex floor.

Amex Supplemental Response

In the Amex Supplemental Response, Amex responded in greater detail to ISE's concerns that the proposal is anti-competitive. Amex argues that it is not required by any applicable law or regulation to permanently maintain on its floor a separate, direct electronic link operated by the ISE to transmit orders in options to that exchange.

In addition, Amex argues that more than adequate alternative means exist for Amex member firms to route orders from the Amex floor to the ISE. Even though its use is restricted, the Options Linkage would be available. Furthermore, Amex's proposal would not alter the ability of Amex member firms to route orders from the floor of Amex to ISE using their own (or third party) proprietary order routing facilities. Amex believes the proprietary routing systems available to most, if not virtually all, Amex members on the Amex's floor are sufficiently fast and efficient that they can essentially function as an exchange-to-exchange system for orders sent from the floor of one exchange. Amex points out that not one Amex member firm has complained that the removal of the direct linkage with ISE when the Options Linkage is implemented would make it difficult for it to route orders to ISE. With respect to broker-dealers, they will have indirect access to the Options Linkage by delivering an order to the Amex specialist, who will have direct access to the Options Linkage.

IV. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [11] and, in particular, the requirements of Section 6 of the Act [12] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act [13] because it should remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest.

Specifically, prohibiting Amex members from using the facilities and services of another registered exchange on the floor of the Amex as a direct electronic link to transmit orders electronically to the other exchange for the purchase or sale of listed options once the Options Linkage has been implemented is not an inappropriate burden on competition. The Commission agrees that neither the Act nor Commission rules require Amex to permit its members to have another exchange's terminals on Amex's floor to provide direct electronic access to that exchange. Finally, Amex represents that Amex members will be able to access other exchanges, as they do today, through their own or another registered broker-dealer's electronic order routing facility or service, as well as through the Options Linkage.

The Commission also finds good cause for approving Amendment No. 2 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 2 clarifies and limits the scope of Amex's proposal in response to the ISE Letter. Specifically, Amendment No. 2 addresses the concern raised in the ISE Letter that the proposal would preclude an Amex member from using its own or a third party's proprietary facility to access another exchange. Accordingly, consistent with Section 19(b)(2) of the Act,[14] the Commission is accelerating approval of Amendment No. 2.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2 to the proposed rule change, including whether Amendment No. 2 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 Amendment No. 2 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 Exchange. All submissions should refer to File No. SR–Amex–2002–33 and should be submitted by April 16, 2003.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–AMEX–2002–33), as amended by Amendment No. 1, is approved, and that Amendment No. 2 to the proposed rule change is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7116 Filed 3–25–03; 8:45 am]

BILLING CODE 8010–01–P

[11] In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(5).

[14] 17 CFR 240.19b-4.

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47548; File No. SR–CBOE–2003–13]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Governing the Settlement Procedures for Index Options in Certain Unusual Circumstances

March 20, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 19, 2003, the Chicago Board Options Exchange, Incorporated (''CBOE'' 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. CBOE asserts that this proposal meets the criteria of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder[4] and is, therefore, immediately effective upon filing with the Commission. 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

CBOE proposes to amend its rules governing the settlement procedures for its index options in certain unusual circumstances. Below is the text of the proposed rule change. New language is in italics; deleted language is in brackets.

* * * * *

Rule 24.7—Trading Halts, Suspensions, or Primary Market Closure

Rule 24.7.

(a)–(d) No change.

(e) When the primary market for a security underlying the current index value of an index option does not open for trading, *halts trading prematurely, or otherwise experiences a disruption of normal trading* on a given day, *or if a particular security underlying the current index value of an index option does not open for trading, halts trading prematurely, or otherwise experiences a disruption of normal trading on a given day in its primary market,* the price of that security shall be determined, for the purposes of calculating the current index value at expiration, [based on the opening price of that security on the next day that its primary market is open for trading. This procedure shall not be used if the current index value at expiration is fixed] in accordance with the Rules and By-Laws of The Options Clearing Corporation.

Interpretations and Policies: No change.

* * * * *

Rule 24.9—Terms of Index Option Contracts

Rule 24.9

(a)–(1)–(3) No Change.

(4) A.M.–Settled Index Options. The last day of trading for A.M.-settled index options shall be the business day preceding the last day of trading in the underlying securities prior to expiration. The current index value at the expiration of an A.M.-settled index option shall be determined, for all purposes under these Rules and the Rules of the Clearing Corporation, on the last day of trading in the underlying securities prior to expiration, by reference to the reported level of such index as derived from first reported sale (opening) prices of the underlying securities on such day, except that [(i) I]in the event that the primary market for an underlying security does not open for trading, *halts trading prematurely, or otherwise experiences a disruption of normal trading* on that day, *or in the event that the primary market for an underlying security is open for trading on that day, but that particular security does not open for trading, halts trading prematurely, or otherwise experiences a disruption of normal trading on that day,* the price of that security shall be determined, for the purposes of calculating the current index value at expiration, as set forth in Rule 24.7(e).[, unless the current index value at expiration is fixed in accordance with the Rules and By-Laws of The Options Clearing Corporation. (ii) In the event that the primary market for an underlying security is open for trading on that day, but that particular security does not open for trading on that day, the price of that security, for the purposes of calculating the current index value at expiration, shall be the last reported sale price of the security.]

Remainder of Rule: No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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. CBOE 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 prospect of imminent war with Iraq has again prompted CBOE to review its settlement procedures for index options to ensure that the final settlement value of such options converges with the corresponding values of the underlying stock index or stock index future, in the event of any market disruption. The Exchange believes that ensuring this convergence is vital to eliminating any unplanned arbitrage risk for public customers and other investors, as was set forth in greater detail in a previous CBOE filing (SR–CBOE–2000–02).[5]

SR–CBOE–2000–02 amended CBOE Rules 24.7(e) and 24.9(a)(4) to ensure convergence of the values of options and their underlying securities in the event that a primary market for one or more of the component securities of such indexes failed to open. In making these changes, CBOE noted that it

> recognize[d] the authority of the Options Clearing Corporation (''OCC'') to establish a final settlement value for index options in the event of a primary market closure pursuant to its Rules and By-Laws. The rule change proposed here makes clear that such action by the OCC would take precedence in determining any final index settlement value.[6]

The changes that CBOE made to its settlement rules in SR–CBOE–2000–02 were designed to mirror the rules of futures markets like the Chicago Mercantile Exchange (''CME''), which trades some of the index products underlying CBOE's index options. Since the approval of SR–CBOE–2000–02, however, the CME has changed its rules again. Even more importantly, the Commission recently approved changes to the OCC's rules and by-laws in order to give OCC ''broad discretionary authority to adjust settlement values for OCC-cleared index options and futures whenever, and in whatever manner, OCC deems appropriate to avoid a disconnect between the futures and options markets or among the futures markets.''[7]

In light of these changes, particularly those giving the OCC authority to ensure convergence between the settlement values of OCC-cleared index options and their underlying futures or other securities, the Exchange believes it can best ensure this convergence by amending CBOE Rules 24.7(e) and 24.9(a)(4) to make clear that—in cases where either a primary market for a security underlying the current index value of an index option, or just a particular such security, does not open for trading, halts trading prematurely, or otherwise experiences a disruption of normal trading—the price of that security shall be determined, for the purposes of calculating the current index value at expiration, in accordance

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 42857 (May 30, 2000), 65 FR 36185 (June 7, 2000) (notice of filing of and Commission order granting accelerated approval to proposed rule change).

[6] 65 FR at 36186.

[7] *See* Securities Exchange Act Release No. 46561 (September 26, 2002), 67 FR 61943, 61944 (October 2, 2002) (Commission approval of SR–OCC–2002–09).

with the rules and by-laws of the OCC. This filing implements those changes.

2. Statutory Basis

The Exchange believes that the proposed changes to CBOE Rules 24.7(e) and 24.9(a)(4) are consistent with and in furtherance of the provisions of section 6(b)(5) of the Act.[8] CBOE believes that, by establishing Exchange rules that make clear that current index option settlement values in the event of market disruption shall be determined in accordance with the rules and by-laws of the OCC, this filing will help public customers and market-makers alike to be better able to use stock index options to predictably hedge their transactions in stock index futures and/or the underlying stocks themselves. CBOE further believes that this rule change would improve the efficiency of, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, thus better protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of 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

CBOE asserts that, 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[9] and Rule 19b–4(f)(6) thereunder.[10] At any time within 60 days of the filing of the 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.[11]

A proposed rule change filed under Rule 19b–4(f)(6) normally would not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. CBOE has requested that the Commission waive the 30-day pre-operative waiting period. The Commission believes that waiving the 30-day period is consistent with the protection of investors and the public interest. The Commission has previously found that allowing OCC to have authority to determine settlement prices for OCC-cleared index options in times of market disruptions is consistent with the Act,[12] and the Exchange's proposal incorporates by reference the OCC's ability to exercise that authority with respect to CBOE-traded index options. The Commission believes that market participants should be able to benefit immediately from this clarification and that no purpose would be served by delaying the operative date of this rule change for 30 days. Accordingly, the Commission hereby determines to waive the 30-day pre-operative period, and the proposed rule change becomes operative immediately.[13]

Rule 19b–4(f)(6) also requires the self-regulatory organization submitting the proposed rule change to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission. CBOE has requested that the Commission waive the five-day pre-filing requirement, and the Commission hereby grants that request.

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 the Exchange. All submissions should refer to File No. SR–CBOE–2003–13 and should be submitted by April 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7225 Filed 3–25–03; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] *See* 15 U.S.C. 78s(b)(3)(C).

[12] *See* 67 FR at 91944.

[13] 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. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47541; File No. SR–CBOE–2002–67]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Amending its Margin Rule 12.3 To Incorporate Security Futures

March 20, 2003.

On November 1, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change amending CBOE Rule 12.3 (''Margin Requirements'') to incorporate security futures. On November 21, 2002, the CBOE filed an amendment to the proposed rule change.[3] The proposed rule change was published for comment in the **Federal Register** on December 16, 2002.[4] The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as amended.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Madge M. Hamilton, Senior Attorney, CBOE, to Theodore R. Lazo, Senior Special Counsel, Division of Market Regulation (''Division''), Commission, dated November 20, 2002 (''Amendment No. 1'').

[4] Securities and Exchange Act Release No. 46971 (December 9, 2002), 67 FR 77108.

I. Description of the Proposed Rule Change

CBOE has proposed to amend its margin rules, in a manner consistent with the joint margin regulations of the Commission and the Commodity Futures Trading Commission (''CFTC'')[5] to incorporate security futures. Specifically, the proposed rule change adds a new provision (k) to CBOE Rule 12.3 to address margin for security futures contracts. Proposed Rule 12.3(k) would: (1) Require the initial and maintenance margin for security futures contracts to be 20 percent unless an offset provision provides for a different margin requirement or the positions are excluded from CBOE Rule 12.3(k); (2) allow for good faith margin of certain positions in security futures contracts; (3) clarify that security futures contracts have no value for margin purposes; (4) make necessary conforming changes to other CBOE margin provisions; and (5) make some non-substantive changes to CBOE margin rules for consistency purposes.

CBOE's proposed margin requirement for security futures contracts would adopt the applicable provisions of the Joint Regulations of the SEC and CFTC (''Joint Regulations'').[6] In particular, CBOE Rule 12.3(k) would require compliance with the security futures contract margin requirements of the SEC and CFTC, in addition to the Exchange margin rules and Regulation T of the Federal Reserve Board. Accordingly, under proposed CBOE Rule 12.3(k)(1), the initial and maintenance margin requirement for a security futures contract would be 20 percent of the current market value of the contract unless an offset provision enumerated in 12.3(k) or another rule provided for a different margin requirement.[7]

Proposed CBOE Rules 12.3(k)(2) and 12.3(k)(3) would set a time limit for obtaining required margin by incorporating by reference the same time frame that the SEC's Net Capital Rule[8] permits maintenance margin calls to remain unsatisfied before the member organization must deduct the maintenance margin deficiency in computing its net capital. As a result, if a customer did not satisfy an initial or maintenance margin call on a security futures contract for five days, the proposed rule change would require the broker or dealer carrying that customer's security futures positions would be required to take a deduction for the undermargined customer account when computing its own net capital.

CBOE Rule 12.3(k)(4) would expressly state that day trading rules do not apply to security futures contracts. CBOE has noted that the Joint Regulations do not include a day trading margin requirement.

The proposed rule change includes lower margin requirements for a security futures contract held in conjunction with an offsetting position in another security futures contract, an underlying security, or an option on an underlying security.[9] Specifically, the proposed rule change would incorporate the offsets identified in the **Federal Register** release announcing the adoption of the Joint Regulations, except for the offset involving a broad-based index future (No. 17) because a broad-based index future may not be carried in a securities account. In addition, the proposed rule change includes a definition of the term ''underlying basket'' as pertains to security futures contracts,[10] which would require that the composition of the basket match the composition of the index being offset.

The proposed rule change also would amend CBOE Rule 12.3(f) (''Market-Maker and Specialist Accounts'') to permit options market-makers to receive good faith margin treatment from a CBOE member for certain transactions in security futures contracts that are based on the same underlying security as the options in which they make markets. In addition, the proposed rule change provides that security futures contracts that qualify for the ''security futures dealer'' exclusion from margin under the Joint Regulations[11] would be subject to margin that is satisfactory to the member and the carrying broker or dealer.

Proposed changes to CBOE Rule 12.5 (''Determination of Value for Margin Purposes'') would clarify that security futures contracts have no value for margin purposes. Proposed amendments to CBOE Rule 12.2 (''Time Margin Must Be Obtained'') and CBOE Rule 12.9 (''Meeting Margin Calls by Liquidation Prohibited'') would clarify that these rules do not apply to security futures contracts. The proposed rule change would also make necessary conforming changes to other margin provisions,[12] and other changes for consistency purposes.

II. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, the Commission believes that the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act,[14] which requires, among other things, that the rules of the Exchange be designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest.[15] In addition, the Commission believes that the proposed rule change is consistent with section 7(c)(2)(B) of the Act,[16] which provides, among other things, that the margin requirements for security futures must preserve the financial integrity of markets trading security futures, prevent systemic risk, be consistent with the margin requirements for comparable exchange-traded options, and provides that the margin levels for security futures may be no lower than the lowest level of margin, exclusive of premium, required for any comparable exchange-traded option.

The Commission believes that the rule change is generally consistent with the customer margin rules for security futures adopted by the Commission and the CFTC. In particular, the Commission notes that, CBOE's proposed rule change provides that, with respect to security futures contracts, its members must collect proper and adequate margin in accordance with the Joint Regulations. As a result, the proposed rule change requires a minimum margin level of 20% of current market value for positions in security futures, which the Commission believes is the minimum margin level necessary to satisfy the

[5] *See* Securities Exchange Act Release No. 46292 (August 1, 2002), 67 FR 53146 (August 14, 2002).

[6] 17 CFR 242.400 through 242.406 and 17 CFR 41.42 through 41.49.

[7] The current market value of the contract would be calculated on a market-to-market basis at the conclusion of each trading day. Based on the market-to-market value of a security futures contract, a variation settlement amount could be debited from or credited to a customer's account balance at the conclusion of the trading day. These variation settlement entries represent actual cash withdrawals from, or deposits to, the account that will change its cash balance in the same way as would any other routine cash withdrawal or deposit. When account equity is computed, variation settlement amounts are automatically accounted for in that they can be viewed as integrated into the cash balance, which is a component of the formula for computing equity.

[8] 17 CFR 240.15c3–1(c)(2)(xii).

[9] In some cases only lower maintenance margin levels are proposed.

[10] *See* proposed CBOE Rule 12.3(k)(5)(D).

[11] SEC Rule 400(c)(2)(v); CFTC Rule 41.42(c)(2)(v).

[12] *See* Proposed CBOE Rules 12.3(b), (f)(1)(A) and (D), (2)(A), (3)(A)(i), (A)(ii), (A)(iii) and (A)(iv), (g)(i), (h), and (i)(2).

[13] 15 U.S.C. 78s(b)(2).

[14] 15 U.S.C. 78f(b)(5).

[15] In approving the proposed rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78g(c)(2)(B).

requirements of section 7(c)(2)(B) of the Act.

In addition, Rule 403 under the Act [17] provides that a national securities exchange may set margin levels lower than 20% of the current market value of the security future for an offsetting position involving security futures and related positions, provided that an exchange's margin levels for offsetting positions meet the criteria set forth in Section 7(c)(2)(B) of the Act. The offsets proposed by CBOE are consistent with the strategy-based offsets permitted for comparable offset positions involving exchange-traded options and therefore consistent with section 7(c)(2)(B) of the Act.

Finally, the Commission believes it is consistent with the Act for the CBOE to exclude from its margin requirements positions in security futures contracts carried in a futures account. The Commission believes that by choosing to exclude such positions from the scope of its rules, the CBOE has made compliance by members that are subject to regulatory requirements of several SROs easier.

III. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[18] that the proposed rule change (SR–CBOE–2002–67), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7228 Filed 3–25–03; 8:45 am]

BILLING CODE 8010–01–P

[17] 17 CFR 240.403(b)(2).

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47536; File No. SR–ISE–2003–12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by International Securities Exchange, Inc., Relating to Fee Changes

March 19, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 12, 2003, the International Securities Exchange, Inc. (''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. 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 Exchange is proposing to establish a $.10 surcharge for non-public customer transactions in options on certain Select Sector SPDR Funds and exchange traded funds based on indexes developed by the Frank Russell Company.

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 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

The Exchange is proposing to add to the list of options of Select Sector SPDR Funds and exchange traded funds based on indexes developed by the Frank Russell Company that will be subject to the $.10 surcharge on the Exchange's Schedule of Fees. The Exchange's Schedule of Fees currently lists three (3) Select Sector SPDR Funds and five (5) exchange traded funds based on indexes developed by the Frank Russell Company that are subject to the surcharge.[3] The Exchange is proposing to add options on four (4) more Select Sector SPDR Funds [4] and five (5) more exchange traded funds based on the indexes developed by the Frank Russell Company [5] that will be subject to the surcharge. These additional options are listed in the Schedule of Fees.

The purpose of the fee for trading in these options is to defray the licensing costs. The ISE believes that charging the participants that trade in options on these instruments is the most equitable means of recovering the costs of the license. However, because competitive pressures in the industry have resulted in the waiver of all transaction fees for customers, we propose to exclude Public Customer Orders (as defined in Exchange Rule 100) from this additional fee. This additional fee will only be charged with respect to non-Public Customer Orders.[6]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) of the Act that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.[7]

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not 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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 47075 (December 20, 2002), 67 FR 79673 (December 30, 2002)(SR–ISE–2002–29) and 47243 (January 23, 2003), 68 FR 5066 (January 31, 2003)(SR–ISE–2003–01).

[4] Pursuant to this proposed rule change, the proposed fee will apply to options on the Health Care Select Sector SPDR Fund, Industrial Select Sector SPDR Fund, Consumer Discretionary Select SPDR Fund and Materials Select Sector SPDR Fund.

[5] Pursuant to this proposed rule change, the proposed fee will apply to options on the following exchange traded funds: Russell Midcap Index Fund iShares, Russell 3000 Value Index Fund iShares, Russell 3000 Growth Index Fund iShares, Russell Midcap Growth Index Fund iShares, and Russell Midcap Value Index Fund iShares.

[6] Under Exchange Rule 100, a ''Public Customer'' is a person that is not a broker or dealer in securities, and a ''Public Customer Order'' is an order for the account of a Public Customer. Accordingly, the execution of orders for the account of a ''non-broker-dealer'' will not be subject to the proposed $.10 surcharge fee. All other orders, *i.e.*, orders for the account of a broker-dealer, will be subject to the proposed $.10 surcharge fee. Telephone conversation between Joseph Ferraro, Assistant General Counsel, ISE, and Jennifer Colihan, Special Counsel, Division of Market Regulation, Commission, on March 18, 2003.

[7] 15 U.S.C. 78f(b)(4).

and, therefore, has become effective immediately pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and Rule 19b–4(f)(2) thereunder.[9] 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.

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. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer File No. SR–ISE–2003–12 and should be submitted by April 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7117 Filed 3–25–03; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47532; File No. SR–ISE–2001–15]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the International Securities Exchange LLC Relating to a Pilot Program for Quotation Spreads

March 19, 2003.

I. Introduction

On May 25, 2001, the International Securities Exchange LLC (''ISE'' or ''Exchange''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Supplementary Material .01 to ISE Rule 803, ''Obligations of Market Makers,'' to establish a six-month pilot program in which the allowable quotation spread for options on up to 50 underlying securities (the ''Pilot Options'') will be $5, regardless of the price of the bid.[3]

The proposed rule change was published for comment in the **Federal Register** on November 27, 2002.[4] No comments were received regarding the proposal. This order approves the proposed rule change.

II. Description

Currently, the ISE's rules contain maximum quotation spread requirements that generally vary from $.25 to $1, depending on the price of the option. Specifically, ISE Rule 803(b)(4) requires options market makers to bid and offer so as to create differences of no more than $.25 between the bid and offer for each options contract for which the bid is less than $2; no more than $.40 where the bid is at least $2 but does not exceed $5; no more than $.50 where the bid is more than $5 but does not exceed $10; no more than $.80 where the bid is more than $10 but does not exceed $20; and no more than $1 where the bid is $20 or greater. The bid/offer differentials do not apply to in-the-money options series when the spread in the underlying securities market is wider than the differentials set forth above. For such series, ISE Rule 803(b)(4) permits the bid/ask differential to be as wide as the quotation on the primary market of the underlying security.

The ISE proposes to expand the allowable spread to $5 in up to 50 Pilot Options (up to five per each of the ISE's ten options bins). The ISE represents that it will monitor the quotation quality of the Pilot Options for a six-month pilot period and, based on the results, recommend either relaxing the spread requirements for all options, ending the pilot, or adjusting the spread requirements.

III. Discussion

The Commission finds that, due to the ISE's market structure, discussed in greater detail below, the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] Specifically, the Commission finds that the proposal, which will allow ISE market makers to widen their quotations for Pilot Options when they believe that market conditions require wider spreads, is consistent with section 6(b)(5) of the Act[6] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes generally that maximum quotation spread parameters in the options market are important safeguards to ensure that market maker quotes in options are not unnecessarily wide. The Commission nevertheless believes that the ISE provides sufficiently strong incentives for market makers to disseminate competitive quotes without maximum quotation spread parameters. Specifically, each ISE market maker uses an automatic quotation system to quote independently, customers and professional traders can enter limit orders on the ISE's book, and market makers are only allocated trades when they are quoting at the best price. Moreover, the larger the size of a market maker's quote, the larger portion of a trade it is allocated. The Commission believes that these attributes and rules of the ISE provide strong market incentives for market makers to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The ISE's pilot program will include only equity options and not index options. Telephone conversation between Mike Simon, Senior Vice President and General Counsel, ISE, and Yvonne Fraticelli, Special Counsel, Division of Market Regulation (''Division''), Commission, on February 25, 2003.

[4] *See* Securities Exchange Act Release No. 46860 (November 20, 2002), 67 FR 70988.

[5] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

maintain narrow and competitive quotation spreads. Consequently, the Commission believes that the ISE's proposal to establish a $5 maximum spread on a pilot basis in 50 options classes is consistent with the Act.

The ISE is implementing the proposal on a six-month pilot basis. Prior to the conclusion of the pilot program, the ISE has agreed to submit a report to the Commission assessing the operation of the pilot program and, in particular, the quality of the quotations for the Pilot Options.[7] The report will include: (1) The identity of the Pilot Options; (2) information concerning the frequency with which quotations for the Pilot Options were narrower than the current quote spread parameters for options at that price, at the current quote spread parameters for options at that price, and wider than the current quote spread parameters for options at that price; (3) the average quotation spread for each Pilot Option during each month of the pilot program; (4) the widest and narrowest quote spreads for each Pilot Option during each month of the pilot program; (5) any problems that developed during the pilot program and how the ISE addressed those problems; and (6) any additional information that would help the Commission assess the pilot program.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposal is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–ISE–2001–15) is approved as a six-month pilot program to expire on September 19, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7119 Filed 3–25–03; 8:45 am]

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[7] Telephone conversation between Mike Simon, Senior Vice President and General Counsel, ISE, and Yvonne Fraticelli, Special Counsel, Division, Commission, on March 19, 2003.

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47538; File No. SR–ISE–2003–09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by International Securities Exchange, Inc., Relating to Limiting the Liability of Index Licensors for Options on Fund Shares

March 19, 2003.

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 March 12, 2003, the International Securities Exchange, Inc. (''ISE'' or ''Exchange'') submitted to 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 ISE. 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 ISE is proposing to limit the liability of index licensors who grant the ISE a license to use their underlying indexes or portfolios in connection with the trading of options on Fund Shares. The text of the proposed rule change appears below. Proposed new language is *italicized.*

* * * * *

Rule 507. Limitation on the Liability of Index Licensors for Options on Fund Shares.

(a) The term ''index licensor'' as used in this Rule refers to any entity that grants the Exchange a license to use one or more indexes or portfolios in connection with the trading of options on Fund Shares (as defined in rule 502(h)).

(b) No index licensor with respect to any index or portfolio underlying an option on Fund Shares traded on the Exchange makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any option contract on Fund Shares based thereon or for any other purpose. The index licensor shall obtain information for inclusion in, or for use in the calculation of, such index or portfolio from sources it believes to be reliable, but the index licensor does not guarantee the accuracy or completeness of such index or portfolio, any opening, intra-day or closing value therefor, or any data included therein or related thereto. The index licensor hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to any such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Fund Shares based thereon. The index licensor shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index or portfolio, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any option contract on Fund Shares based thereon, or arising out of any errors or delays in calculating or disseminating such index or portfolio.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of and basis for the proposed rule change 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 ISE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The ISE proposes to limit the liability of index licensors who grant the ISE a license to use their underlying indexes or portfolios in connection with the trading of options on Fund Shares. The ISE recently entered into a license agreement with an index licensor, and that agreement calls for the ISE to adopt a rule limiting the index licensor's liability. This proposed rule is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

substantially similar to Chicago Board Options Exchange rule 6.15.[3]

2. Statutory Basis

The ISE believes that the proposed rule change is consistent with section 6(b)(5) of the Act[4] in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not 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

The ISE has not solicited, and does not intend to solicit, comments in connection with this proposed rule change. The ISE has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The ISE has designated the foregoing rule change as effecting a change that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days from the date of filing. In addition, the ISE provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date.[5] Accordingly, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[6] and rule 19b–4(f)(6) thereunder.[7] 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.

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 the ISE. All submissions should refer to File No. SR–ISE–2003–09 and should be submitted by April 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7229 Filed 3–25–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47530; File No. SR–NASD–2003–30]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify SuperMontage Fees for NNMS Order Entry Firms

March 19, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on March 3, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), 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 Nasdaq. Nasdaq has designated this proposal as one establishing or changing a due, fee or other charge imposed by the self-regulatory organization under section 19(b)(3)(A)(ii) of the Act[3] and rule 19b–4(f)(2) thereunder,[4] which renders the rule effective upon Commission receipt of this filing. 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 the Substance of the Proposed Rule Change

Nasdaq proposes to modify the fees paid by NNMS Order Entry Firms (''OE Firms'') for certain order executions through Nasdaq's SuperMontage system. Nasdaq will implement the rule change on the later of: (i) April 1, 2003; or (ii) the date on which Nasdaq implements a change to its SuperMontage system that inhibits automatic matching of OE Firms' orders, as described in SR–NASD–2002–173.[5]

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

Rule 7010. System Services

(a) –(h) No change.

(i) Nasdaq National Market Execution System (SuperMontage)

The following charges shall apply to the use of the Nasdaq National Market Execution System (commonly known as SuperMontage) by members:

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[3] *See* Securities Exchange Act Release No. 45817 (April 24, 2002), 67 FR 21785 (May 1, 2002) (SR–CBOE–2002–19).

[4] 15 U.S.C. 78f(b)(5).

[5] As required under Securities Exchange Act rule 19b–4(f)(6)(iii), the ISE provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter period as designated by the Commission. *See* Prefiling Notice of Proposed Rule Change (SR–ISE–2003–09), dated February 25, 2003.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release No. 47301 (January 31, 2003), 68 FR 6236 (February 6, 2003) (SR–NASD–2002–173).

Order Entry	
Non-Directed Orders (excluding Preferenced Orders)	No charge.
Preferenced Orders:	
Preferenced Orders that access a Quote/Order of the member that entered the Preferenced Order.	No charge.
Other Preferenced Orders	$0.02 per order entry.
Directed Orders	$0.10 per order entry.
Order Execution	
Non-Directed or Preferenced Order that accesses the Quote/Order of a market participant that does not charge an access fee to market participants accessing its Quotes/Orders through the NNMS:	
Charge to member entering order	$0.003 per share executed (but no more than $120 per trade for trades in securities executed at $1.00 or less per share).
Credit to member providing liquidity	$0.002 per share executed (but no more than $80 per trade for trades in securities executed at $1.00 or less per share).
Non-Directed or Preferenced Order that accesses the Quote/Order of a market participant that charges an access fee to market participants accessing its Quotes/Orders through the NNMS.	$0.001 per share executed (but no more than $40 per trade for trades in securities executed at $1.00 or less per share).
Directed Order	$0.003 per share executed.
Non-Directed or Preferenced Order entered by a [member] *Nasdaq Quoting Market Participant* that accesses [a] *its own* Quote/Order [of such member].	No charge.
Non-Directed Order entered by an NNMS Order Entry Firm that accesses its own Quote/Order.	*$0.001 per share executed (but no more than $40 per trade for trades in securities executed at $1.00 or less per share).*
Order Cancellation	
Non-Directed and Preferenced Orders	No charge.
Directed Orders	$0.10 per order cancelled.
(j)–(s) No change.	

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq 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

On January 31, 2003, the Commission approved a proposed rule change to allow, on a 90-day pilot basis commencing February 10, 2003, OE Firms to enter non-marketable limit orders into SuperMontage using the SIZE Market Participant Identifier (''SIZE'').[6] Since the inception of this pilot program, Nasdaq has applied its pre-existing SuperMontage fee schedule to market activity associated with orders entered into SIZE by OE Firms. As a result of Nasdaq's recent decision to eliminate all of the fees that had formerly applied to the cancellation and modification of orders entered into SIZE,[7] OE Firms now have the opportunity to expose these orders to the market without charge.

In addition, under the SuperMontage fee schedule, OE Firms that enter orders into SIZE are eligible to receive the $0.002 per share liquidity provider credit that market makers (and electronic communications networks (''ECNs'')) that do not charge access fees) receive when they provide liquidity to support order executions. Thus, when an order entered into SIZE by an OE Firm matches a non-directed order and an execution occurs, the market participant that entered the non-directed order will pay $0.003 per share executed[8] and the OE Firm will receive a credit of $0.002 per share.[9]

As described in the filing to implement the pilot program, OE Firms currently have their orders processed in a manner similar to that of Quoting Market Participants, in that SuperMontage first attempts to match an OE Firm's non-directed orders with orders in SIZE from the same OE Firm. As is true for Quoting Market Participants, moreover, Nasdaq has not assessed a charge (or provided a liquidity provider credit) when an OE Firm's non-directed order executes against the OE Firm's own order in SIZE. Upon the implementation of an upcoming modification to SuperMontage, however, non-directed orders entered by an OE Firm will execute solely based on the algorithm selected by the OE Firm (price/time, price/time with fee consideration, or price/size).[10] Accordingly, although it is possible that an OE Firm's non-directed orders will be matched against its orders in SIZE, the system will no longer give an automatic preference to the OE Firm's orders in SIZE.

In light of this System modification, Nasdaq is proposing that an OE Firm entering a non-directed order that accesses a limit order that the OE Firm itself has posted in SIZE will pay $0.001 per share executed (but no more than $40 per trade for trades in securities executed at $1.00 or less per share). The $0.001 per share fee is equivalent to the OE Firm paying the net of the $0.003 order execution fee that it would pay to access the Quote/Order of a market

[6] *Id.* SIZE is the anonymous market participant identified (''MPID'') that represents the aggregate size of all Non-Attributable Quotes and Orders entered by market participants in Nasdaq at a particular price level. Non-Attributable Quotes and Orders are not displayed in the Nasdaq Quotation Montage using the market participant's MPID. Instead, the SIZE MPID is displayed when the aggregate trading interest at a particular price level of such Non-Attributable Quotes and Orders falls within the number of levels (currently five) authorized for aggregation and display on either side of the market.

[7] *See* Securities Exchange Act Release No. 47300 (January 31, 2003); 68 FR 6234 (February 6, 2003) (SR–NASD–2003–10). The entry of such orders has been free since the inception of the SuperMontage.

[8] Subject to a $120 per trade cap for trades in securities executed at $1.00 or less per share.

[9] Subject to an $80 per trade cap for trades in securities executed at $1.00 or less per share.

[10] Nasdaq expects to implement this system change on March 17, 2003.

maker and the $0.002 credit that it would receive if its order in SIZE had been accessed by another market participant.[11]

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[12] including section 15A(b)(5) of the Act,[13] which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge and, therefore, has become effective immediately pursuant to section 19(b)(3)(A)(ii) of the Act[14] and rule 19b–4(f)(2) thereunder.[15] 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.

[11] By contrast, when a market maker or ECN enters a non-directed or preferenced order that accesses its own Quote/Order (*i.e.*, its proprietary quote, or a limit order that it has entered into SIZE or posted under its own MPID), it pays no order execution fee (but also receives no credit as a liquidity provider). Nasdaq believes that this added discount is an appropriate mechanism to ensure that market participants who undertake the burdens of continuous liquidity provision are provided benefits commensurate with their activities. Nasdaq also believes that the discount serves to encourage market makers and ECNs to enter orders into SuperMontage and thereby expose them to the full market, rather than internalizing them through their own proprietary crossing systems.

[12] 15 U.S.C. 78o–3.

[13] 15 U.S.C. 78o–3(5).

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 19b–4(f)(2).

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 the NASD. All submissions should refer to file number SR–NASD–2003–30 and should be submitted by April 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7114 Filed 3–25–03; 8:45 am]

BILLING CODE 8010–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47539; File No. SR–NFA–2003–02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Futures Association Regarding the Interpretive Notice to NFA Compliance Rule 2–9 Concerning Ethics Training Requirements

March 19, 2003.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–7 under the Act,[2] notice is hereby given that on March 6, 2003, the National Futures Association (''NFA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by the NFA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. NFA also has filed the proposed rule change with the Commodity Futures Trading Commission (''CFTC'').

On March 5, 2003, NFA submitted the proposed rule change to the CFTC for approval. The CFTC has not yet given such approval.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

The proposed rule change adopts a new Interpretive Notice to NFA Compliance Rule 2–9 Concerning Ethics Training Requirements. The Interpretive Notice expands on the CFTC's Statement of Acceptable Practices for ethics training and provides additional guidance to firms in meeting their ethics training obligations.

Section 15A(k) of the Act[3] makes NFA a national securities association for the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products under section 15(b)(11) of the Act.[4] Some of the firms that are affected by this rule change are broker-dealers registered under section 15(b)(11).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NFA has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in Item IV below. These statements are set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

During examinations of its Member firms, NFA asks for feedback on any areas in which Members may need more guidance. One of the areas that has recently required some clarification is ethics training. In 2001, the CFTC issued a Statement of Acceptable Practices (''Statement'') for ethics training. This Statement was designed to allow flexibility in the format, frequency and providers of ethics training, giving each firm the freedom to tailor training to suit their own operations. Also, firms are no longer

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] 15 U.S.C. 78o–3(k).

[4] 15 U.S.C. 78o(b)(11).

required to submit ethics training information to NFA. Because the CFTC Statement is general in nature, Member firms have indicated that they would like NFA to provide some type of additional guidance.

In response, NFA's Board of Directors (''Board'') adopted the proposed Interpretive Notice to assist NFA Members in interpreting the changes to the ethics training rules. The Interpretive Notice outlines these changes and discusses them in more detail than the CFTC's Statement. This guidance comes in the form of an Interpretive Notice because the Board considers ethics training to be an element of a Member's supervisory obligations under NFA Compliance Rule 2–9.

2. Statutory Basis

The rule change is authorized by, and consistent with, section 15A(k)(2)(D) of the Act.[5]

B. Self-Regulatory Organization's Statement on Burden on Competition

The rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act and the Commodity Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NFA did not publish the rule change to the membership for comment. NFA did not receive comment letters concerning the rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is not effective because the CFTC has not approved the proposed rule change.

Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of section 19(b)(1) of the Act.[6]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically to the following e-mail address: *rule-comments@sec.gov.* 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 these filings also will be available for inspection and copying at the principal office of NFA. Electronically submitted comments will be posted on the Commission's website (*http://www.sec.gov*). All submissions should refer to File No. SR–NFA–2003–02 and should be submitted by April 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7112 Filed 3–25–03; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78o–3(k).

[6] 15 U.S.C. 78s(b)(1).

[7] 17 CFR 200.30–3(a)(75).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47533; File No. SR–NFA–2003–01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Futures Association Regarding the Interpretive Notice to NFA Compliance Rule 2–9 Concerning Enhanced Supervisory Requirements

March 19, 2003.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–7 under the Act,[2] notice is hereby given that on March 6, 2003, the National Futures Association (''NFA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule changes described in Items I, II, and III below, which Items have been prepared by the NFA. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons. NFA also has filed the proposed rule change with the Commodity Futures Trading Commission (''CFTC'').

On March 5, 2003, NFA requested that the CFTC make a determination that review of the proposed rule change is not necessary. The CFTC made such a determination on March 17, 2003.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

The proposed rule change makes two amendments to NFA's Interpretive Notice to NFA Compliance Rule 2–9 Concerning Enhanced Supervisory Requirements. The first amendment refines the triggering criteria to eliminate associated persons who worked at a Disciplined Firm for less than 60 days more than 10 years ago. The second amendment expands the definition of Disciplined Firm to include firms that are barred by the SEC or NASD because of deceptive sales practices involving security futures contracts.

Section 15A(k) of the Act[3] makes NFA a national securities association for the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products under Section 15(b)(11) of the Act.[4] Some of the firms that are affected by this rule change are broker-dealers registered under Section 15(b)(11).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NFA has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in Item IV below. These statements are set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Interpretive Notice entitled ''Compliance Rule 2–9: Enhanced Supervisory Requirements'' (''Notice'') was originally issued in 1993 and has been amended and revised from time to time since then. On February 15, 2001, NFA's Board of Directors (''Board'') adopted changes to the Notice to impose enhanced supervisory requirements on

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] 15 U.S.C. 78o–3(k).

[4] 15 U.S.C. 78o(b)(11).

firms that had previously been exempted because they had fewer than five APs. The revised Notice also treated FCMs and all of their guaranteed IBs as a single firm for purposes of determining whether the enhanced supervision requirements are triggered. In addition, the definition of a Disciplined Firm was expanded to include firms that have been closed down or permanently barred from the industry solely as a result of promotional material violations.

The Board's 2001 changes to the Notice have achieved their desired effect of adding a number of potentially problematic firms to the group of Members that are required to tape record all conversations with customers and prospects. However, NFA's Telemarketing Procedures Waiver Committee (''Waiver Committee'') has granted waiver requests made by several of the newly included firms because the Committee felt that, under their particular circumstances, those firms did not pose a threat to the public and should not be subject to mandatory taping.

Some waivers have been granted in cases where the AP whose prior employment at a Disciplined Firm triggered enhanced supervisory requirements had worked at such a firm for only a short period of time or a long time ago. NFA staff reviewed the employment histories of APs who have worked at Disciplined Firms with regard to their tenure at and the passage of time since such employment to determine if the current triggering criteria can be further refined so as to affect the fewest number of Members while capturing the problem firms that concern the Board.

NFA staff studied a variety of data related to the employment histories of APs who worked for Disciplined Firms. The data was broken down to identify APs with a cumulative tenure of fewer than 60 days with a Disciplined Firm as well as those with fewer than 30 days. Other tables identified APs for whom at least 5, 7 or 10 years had passed since they had last worked at such a firm. Staff also considered the backgrounds of other firms that the APs had worked at and the APs' personal disciplinary histories.

After analyzing this data, it became apparent that when a cumulative tenure of less than 60 days at Disciplined Firms was combined with the passage of more than 10 years since employment with a Disciplined Firm, the resulting group of APs did not have an atypical number of disciplinary actions taken against them and they tended to currently work for firms that did not cause concerns about sales practice training and experience. Currently, 27 active APs fit the profile of those that have been employed for a cumulative total of less than 60 days at a Disciplined Firm more than 10 years ago and of these 27, only 2 have worked at any other firms that have been charged with violations related to sales practices or promotional material. Both of those actions resulted in settlements in which the firm paid a fine. Not one of the active APs has ever personally been the subject of any disciplinary action by NFA, the CFTC or an Exchange.

Based upon this data, the Board felt that the triggering criteria in the Notice can be further refined while still achieving the Board's desire to impose supervisory enhancements on firms that cause concern. Not including these APs for purposes of calculating whether a Member was subject to enhanced supervision would serve the efficiency and fairness of the Waiver Committee's function by altogether removing some non-problematic firms from the waiver process. The Board, therefore, amended the Notice so that APs who have been employed for a cumulative total of less than 60 days at a Disciplined Firm more than 10 years ago would not be included in the triggering criteria.

The Board also amended the term ''Disciplined Firm'' in the Notice. Currently, the term Disciplined Firm as it is defined in the Notice includes Members that have been barred by NFA or the CFTC for deceptive sales practices or promotional material. With the advent of trading in security futures products and at the request of the Securities and Exchange Commission, the Board amended the definition of a Disciplined Firm set out in the Notice to include broker-dealers that have been barred from doing business by the SEC or NASD because of deceptive sales practices involving security futures. The Board felt that including these firms would promote NFA's mandate of customer protection and is consistent with the Board's reason for establishing enhanced supervisory requirements. Under the proposed expanded definition of a Disciplined Firm, a Member would be required to count individuals who have been trained at and worked for either Member or non-Member broker-dealers that have been barred by the NASD and SEC for using dishonest sales practices to market security futures products when determining whether the composition of the Member's sales force triggers an obligation to tape and to abide by the other enhanced supervisory requirements established in the Notice.

2. Statutory Basis

The rule change is authorized by, and consistent with, Section 15A(k) of the Act.[5]

B. Self-Regulatory Organization's Statement on Burden on Competition

The rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act and the Commodity Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NFA did not publish the rule changes to the membership for comment. NFA did not receive comment letters concerning the rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(7)(B) of the Act,[6] the proposed rule change became effective on March 17, 2003.

Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[7]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically to the following e-mail address: *rule-comments@sec.gov*. 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

[5] 15 U.S.C. 78o–3(k).

[6] 15 U.S.C. 78s(b)(7)(B).

[7] 15 U.S.C. 78s(b)(1).

Room. Copies of these filings also will be available for inspection and copying at the principal office of NFA. Electronically submitted comments will be posted on the Commission's Web site (http://www.sec.gov). All submissions should refer to File No. SR–NFA–2003–01 and should be submitted by April 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47549; File No. SR–PCX–2003–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. To Amend its Fee Schedule for Services Provided to ETP Holders and Sponsored Participants That Trade Nasdaq Securities on the Archipelago Exchange

March 20, 2003.

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 January 30, 2003, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), through its wholly owned subsidiary, PCX Equities, Inc. (''PCXE''), 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 March 19, 2003, the Exchange amended the proposal.[3] The PCX has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the PCX under section 19(b)(3)(A)(ii) of the Act,[4] which renders the proposal effective upon filing with the Commission. 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, through PCXE, proposes to amend its fee schedule for services provided to ETP Holders and Sponsored Participants that trade Nasdaq securities on the Archipelago Exchange, the equities trading facility of PCXE. The text of the proposed rule change is available at the PCX 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 PCX 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 PCX 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 proposes to amend the fees charged to ETP Holders[5] and Sponsored Participants[6] (collectively ''Users'') that access the ArcaEx trading facility to include certain fees and credits for Nasdaq securities. ArcaEx is scheduled to begin trading Nasdaq securities pursuant to unlisted trading privileges[7] in the early first quarter of 2003. The Exchange proposes to adopt fees for Nasdaq securities that parallel the Exchange's rate structure for exchange-listed securities.

Trade-Related Charges

(a) Transaction Fees. The PCX currently charges all Users a transaction fee of $0.003 per share for orders in exchange-listed securities that extract liquidity by responding to, and executing against, orders residing in the ArcaEx Book (''Book'').[8] The Exchange proposes to charge this same transaction fee to Users for orders in Nasdaq securities. The Exchange believes that this proposed fee will provide incentives for increasing order flow to ArcaEx, and will have the effect of attracting resting limit orders into the Book, which will help promote liquidity, transparency, and in turn, price discovery. The Exchange notes that the following items continue to be excluded from this fee: (i) Directed Orders, regardless of account type, that are matched within the Directed Order Process;[9] (ii) Directed Orders for the account of a retail public customer that are executed partially or in their entirety via the other Order processes;[10] (iii) orders executed in the Opening Auction and the Market Order Auction;[11] (iv) Cross Orders;[12] and (v) participants in the Nasdaq UTP Plan that transmit orders via telephone.[13]

The PCX also proposes to charge a transaction fee of $0.004 per share for any unfilled or residual portion of a User's order in Nasdaq securities (including a retail public customer

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[8] 17 CFR 200.30–3(a)(75).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* March 18, 2003 letter from Rhonda Y. Jones, Regulatory Policy, PCX, to Joseph P. Morra, Special Counsel, Division of Market Regulation, SEC, and attachments (''Amendment No. 1''). Amendment No. 1 replaces and supersedes the original proposed rule change in its entirety. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on March 19, 2003, the date the PCX filed Amendment No. 1. *See* section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] *See* PCXE Rule 1.1(n).

[6] A ''Sponsored Participant'' means ''a person which has entered into a sponsorship arrangement with a Sponsoring ETP Holder pursuant to [PCXE] Rule 7.29.'' *See* PCXE Rule 1.1(tt).

[7] *See* Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges (''Nasdaq UTP Plan''). The participants in the Nasdaq UTP Plan are the National Association of Securities Dealers, Inc. (''NASD''), the American Stock Exchange LLC (''Amex''), the Boston Stock Exchange, Inc. (''BSE''), the Chicago Stock Exchange, Inc. (''CHX''), the Cincinnati Stock Exchange, Inc. (''CSE''), the Pacific Exchange, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''Phlx''). Eligible securities under the Nasdaq UTP Plan are defined in section III.B.

[8] ArcaEx maintains an electronic file of orders, called the ArcaEx Book, through which orders are displayed and matched. The ArcaEx Book is divided into four components, called processes—the Directed Order Process, the Display Order Process, the Working Order Process, and the Tracking Order Process. *See* PCXE Rules 7.36 and 7.37 for a detailed description of these order execution processes.

[9] The Directed Order Process is the first step in the ArcaEx execution algorithm. Through this Process, Users may direct an order to a Market Maker with whom they have a relationship and the Market Maker may execute the order. To access this process, the User must submit a Directed Order, which is a market or limit order to buy or sell that has been directed to a particular Market Maker by the User. *See* PCXE Rule 7.37(a)(description of ''Directed Order Process'').

[10] If a retail public customer order has not been executed in its entirety after progressing through the Directed Order, Display Order, Working Order, and Tracking Order processes, the remaining portion of such order, if eligible, will be routed to another market center or participant. Any executed portion of that order will be subject to the proposed transaction fee of $0.004 per share.

[11] *See* PCXE Rules 7.35(b) and (c) for a detailed description of the Opening Auction and the Market Order Auction, respectively.

[12] A Cross Order is defined as a two-sided order with instructions to match the identified buy-side with the identified sell-side at a specified price (the cross price), subject to price improvement requirements. *See* PCXE Rule 7.31(s).

[13] *See* footnote 7, *supra*.

order)[14] that is routed away via ArcaEx and executed by another market center or participant. The proposed transaction fee of $0.004 per share is the same amount that is currently applied to orders in exchange-listed securities that are routed away and executed by another market center or participant. The Exchange believes that this fee is reasonable and is structured to allocate fairly the costs of operating the ArcaEx facility.

(b) Odd and Mixed Lots. The Exchange proposes to charge all odd-lot orders executed in Nasdaq securities (including the odd-lot portion of a mixed lot) a $0.03 per share transaction fee for orders that extract liquidity by responding to, and executing against, orders residing in the ArcaEx Book. In addition, the PCX proposes to adopt a $0.03 per share transaction fee for orders in Nasdaq securities that are routed away and executed by another market center or participant. These proposed transaction fees for Nasdaq securities are of the same amount as currently applied to odd-lot orders in exchange-listed securities. The PCX notes that odd-lot orders that are created as a result of a partial fill of a round lot will be excluded from these fees.

Market Maker Transaction Credits

The Exchange proposes to increase the level of the transaction credit paid to Market Makers who provide liquidity in exchange-listed securities. Currently, Market Makers who enter Q Orders [15] in exchange-listed securities that are subsequently executed against incoming marketable orders, earn a credit of $0.0015 per share.[16] The Exchange proposes to increase the level of the transaction credit for exchange-listed securities from $0.0015 to $0.0025 per share.[17] The Exchange is also proposing to establish a $0.002 credit per share for Nasdaq securities. In addition, $0.02 per share will be credited to any Market Maker that executes against an odd-lot order in a Nasdaq security during the Odd Lot Tracking Process.[18] These credits are intended to provide an additional incentive to firms to become Market Makers in exchange-listed and Nasdaq securities and to build liquidity in the Book, which will foster price competition and order interaction.

Other Fees, Charges and Credits

(a) User Transaction Credit. PCX proposes to establish a transaction credit for Users who provide liquidity in the Book in Nasdaq securities. Under the proposal, a User that enters a resting limit order into the Book that is subsequently executed against an incoming marketable order in a Nasdaq security will receive a credit of $0.002 per share. This credit is designed to enhance market efficiency and fairness by offering incentives to market participants that provide liquidity through ArcaEx. Any credit received by a User will be applied to reduce any charges payable to ArcaEx. Any remaining balance may be paid directly to the User.

(b) ''Drop Copy'' Processing Fee. The PCX currently charges Market Makers a $0.001 per share fee for processing ''drop copies''[19] of their transactions executed on other market centers. The Exchange proposes to broaden the application of this fee to include any ETP Holders that want to receive drop copies of such off-board transactions. The current fee of $0.001 per share will remain in effect and will apply to such off-board transactions in exchange-listed and Nasdaq securities. In addition, the Exchange notes that Market Maker transactions that are subject to this fee will continue to be ineligible to receive the Market Maker Transaction Credit or User Transaction Credit. The Exchange believes that this fee is reasonable and is structured to allocate fairly the costs of operating the ArcaEx facility.

2. Statutory Basis

The Exchange believes the proposal is consistent with section 6(b) of the Act,[20] in general, and section 6(b)(4) of the Act,[21] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [22] and subparagraph (f)(2) of Rule 19b-4 thereunder,[23] because it establishes or changes a due, fee, or other charge. At any time within 60 days of the filing of the 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 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 PCX. All submissions should refer to file number SR-PCX–2003–04 and should be submitted by April 16, 2003.

[14] *See* footnote 10, *supra.*

[15] Q Orders are limit orders that are submitted to ArcaEx by a Market Maker in those securities in which the Market Maker is registered to trade. *See* PCXE Rule 7.31(k).

[16] The transaction credit applied to orders in Exchange-Traded Funds (''ETFs'') and American Depositary Receipts (''ADRs'') is currently $0.002 per share.

[17] The current $0.02 per share credit that is provided to any Market Maker that executes against an odd-lot order in the Odd Lot Tracking Order Process will remain in effect.

[18] The Tracking Order Process is the fourth step of the ArcaEx execution algorithm. If the unfilled marketable order (or portion of an order) that enters the Tracking Order Process is an odd lot, such order will be executed against a Market Maker that is registered as an Odd Lot Dealer. *See* PCXE Rules 7.31(g) and 7.37(c).

[19] Under the current fee schedule, a ''drop copy'' is an electronic report of a transaction for a Market Maker's account that is executed on another market center and that has been prepared for informational purposes (*e.g.*, Market Maker inventory tracking, surveillance audit trail). Market Maker transactions that are subject to this fee will not be eligible to receive the Market Maker Transaction Credit or User Transaction Credit.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(4).

[22] 15 U.S.C. 78s(b)(3)(A)(ii).

[23] 17 CFR 240.19b-4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7227 Filed 3–25–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47543; File No. SR–Phlx–2003–11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Delivery of Immediate or Cancel Orders Via AUTOM and an Increase in the AUTOM Order Delivery Size for Off-Floor Broker-Dealer Orders

March 20, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 10, 2003, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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 Phlx. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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

Phlx proposes to amend Exchange Rule 1080, Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO–X),[5] to add a new eligible order type, Immediate or Cancel (''IOC''), for delivery by both customers and broker-dealers. The Exchange also proposes to amend Exchange Rule 1080(b)(i)(C) to reflect that the Options Committee has determined to increase the eligible AUTOM order delivery size for off-floor broker dealer orders from 200 contracts to 1,000 contracts for all options.[6]

The text of the proposed rule change is set forth below. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO–X)

Rule 1080. (a) No change.

(b) Eligible Orders

(i) The following types of orders are eligible for entry into AUTOM:

(A) Agency orders up to the maximum number of contracts permitted by the Exchange may be entered. Agency orders up to 1000 contracts, depending on the option, are eligible for AUTOM order delivery, subject to the approval of the Options Committee. The following types of agency orders are eligible for AUTOM; day, GTC, *Immediate or Cancel (''IOC''),* market, limit, stop, stop limit, all or none, or better, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order, market close, market on opening, limit on opening, limit close, and possible duplicate orders.

(B) No change.

(C) Off-floor broker-dealer limit orders, up to the minimum number of contracts permitted by the Exchange, subject to the restrictions on order entry set forth in Commentary .05 of this Rule. Generally, orders up to [200] *1,000* contracts, depending on the option, are eligible for AUTOM order delivery on an issue-by-issue basis, subject to the approval of the Options Committee. The Options Committee may determine to increase the eligible order delivery size to an amount greater than [200] *1,000* contracts, on an issue-by-issue basis. The following types of broker-dealer limit orders are eligible for AUTOM: day, GTC, *IOC,* simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order.

(ii)-(iii) No change.

(c)-(j) No change.

Commentary: No change.

* * * * *

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 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

Phlx represents that the purpose of the proposed rule change is to increase the automated handling of options orders, and attract additional order flow, by allowing customers and broker-dealers to deliver Immediate or Cancel (''IOC'')[7] orders via AUTOM, amending the rule to reflect that the Exchange's Options Committee[8] has determined to increase the eligible AUTOM delivery size of off-floor broker-dealer orders[9] from 200 contracts to 1,000 contracts for all issues.

IOC Orders. Exchange Rule 1080(b)(i)(A) lists the various types of agency orders[10] that are eligible for

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] AUTOM is the Exchange's electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution feature, AUTO–X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor. *See* Exchange Rule 1080.

[6] The Exchange represents that this proposal will have no impact on AUTO–X. Telephone call among Rick Rudolph, Director and Counsel, CBOE; Terri Evans, Assistant Director, Division of Market Regulation (''Division''), Commission; and Jennifer Lewis, Attorney, Division, Commission, on March 20, 2003.

[7] An ''IOC'' order means a limit order that is to be executed in whole or in part as soon as such order is received, and the portion not executed, if any, is immediately canceled.

[8] The Exchange's Options Committee has general supervision of the dealings of members on the equity and index options trading floor, and shall make or recommend such rules as it may deem necessary for the convenient and orderly transaction of business upon the equity and index options trading floor. *See* Exchange By-Law Article X, Section 10–19.

[9] In April, 2002, the Commission approved a proposed rule change to allow the delivery of orders for the account(s) of off-floor broker-dealers via AUTOM on a six-month pilot basis (the ''pilot''). *See* Securities Exchange Act Release No. 45758 (April 15, 2002), 67 FR 19610 (April 22, 2002) (SR–Phlx–2001–40). The pilot was approved on a permanent basis in October, 2002. *See* Securities Exchange Act Release No. 46660 (October 15, 2002), 67 FR 64951 (October 22, 2002) (SR–Phlx–2002–50).

[10] The Exchange has defined an agency order as any order entered on behalf of a public customer, and does not include any order entered for the account of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest. *See, e.g.,* Exchange Rule 229.02. *See also,* Securities

Continued

AUTOM, and Exchange Rule 1080(b)(i)(C) currently lists the various types of off-floor broker-dealers that may be delivered via AUTOM. Currently, neither of these rules allows the delivery of IOC orders via AUTOM. The instant proposal would provide that both agency and off-floor broker dealer IOC orders may be delivered via AUTOM.

The Exchange believes that the addition of this new AUTOM eligible order type should enable the Exchange to better compete for customer and broker-dealer order flow by attracting orders which, if not immediately executed, would be cancelled. Investors would have full, immediate information as to the status of such orders, and would be able to respond immediately to reports (either executions or cancellations) stemming from the delivery of such orders. Particularly in times of high market volatility, such information can be critical to customers and broker-dealers who need to make decisions swiftly in response to such reports. The Exchange believes that this new AUTOM eligible order type should facilitate customers and broker-dealers in making such decisions.

The Exchange expects to deploy the systems necessary for the acceptance of IOC orders via AUTOM by April 25, 2003.

Increase in Off-Floor Broker-Dealer Order Delivery Size. As stated above, the Exchange's Options Committee has determined to increase the eligible AUTOM delivery size of off-floor broker-dealer orders from 200 contracts to 1,000 contracts for all issues.[11] The proposed rule change would amend Rule 1080(b)(i)(C) to reflect this determination, and would provide that the Options Committee may determine, on an issue-by-issue basis, to increase the eligible order delivery size to an amount greater than 1,000 contracts. The purpose of this provision is to make the Exchange's rules consistent with current practices.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[12] in general, and section 6(b)(5),[13] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and protect investors and the public interest by: (1) Allowing customers and broker-dealers to deliver IOC orders via AUTOM, which should enable the Exchange to better compete for customer and broker-dealer order flow and enable investors to have immediate information as to the status of IOC orders delivered via AUTOM; and (2) making the Exchange's rules regarding the AUTOM order delivery size for off-floor broker-dealer orders consistent with current practices.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate 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 were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6)[15] thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)[16] does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designated if such action is consistent with the protection of investors and the public interest. The Phlx has requested, so that the Exchange may remain competitive with other exchanges that have similar rules in effect, that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in Rule 19b–4(f)(6)(iii).[17] 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 Exchange to immediately begin accepting Immediate or Cancel orders from customers and broker-dealers through AUTOM, and, with respect to the increase in the eligible AUTOM order delivery size for off-floor broker-dealer orders, will provide better notice to the public of the Exchange's practices. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[18]

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.

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 the Phlx. All submissions should refer to File No. SR–Phlx-2003–11 and should be submitted by April 16, 2003.

Exchange Act Releases Nos. 46763 (November 1, 2002), 67 FR 68898 (November 13, 2002) (SR–Phlx-2002–04); and 40970 (January 25, 1999), 64 FR 4922 (February 1, 1999) (SR–Phlx-98–44).

[11] Currently, Exchange Rule 1080(b)(i)(C) provides that generally, orders up to 200 contracts, depending on the option, are eligible for AUTOM order delivery on an issue-by-issue basis, subject to the approval of the Options Committee, and that the Options Committee may determine to increase the eligible order delivery size to an amount greater than 200 contracts, on an issue-by-issue basis.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] *Id.*

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] 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).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–7226 Filed 3–25–03; 8:45 am]

BILLING CODE 8010–01–P

[19] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before April 25, 2003. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: HUBZone Application Data Update.

No: 2227.

Frequency: On Occasion.

Description of Respondents: HUBZone certified Small Business Concerns.

Responses: 6,000.

Annual Burden: 3,000.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 03–7120 Filed 3–25–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before April 25, 2003. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Small Business Questionnaire (Use of Telecommunication).

No: N/A.

Frequency: On Occasion.

Description of Respondents: Small Businesses.

Responses: 750.

Annual Burden: 63.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 03–7121 Filed 3–25–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before April 25, 2003. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: PRO–Net.

No: N/A.

Frequency: On Occasion.

Description of Respondents: Small Firms.

Responses: 10,000.

Annual Burden: 2,500.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 03–7122 Filed 3–25–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

AGENCY: Small Business Administration.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before May 27, 2003.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and

enhance the quality of the collection, to Dr. Radwan Saade, Economist, Office of Advocacy, Small Business Administration, 409 3rd Street SW., Suite 7800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Dr. Radwan Saade, Economist, 202–205–6878 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''Costs of Litigation to Small Business''.

Form No: N/A.

Description of Respondents: Small Businesses.

Annual Responses: 100.

Annual Burden: 50.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 03–7123 Filed 3–25–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (2003–2)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, DOT.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the second quarter 2003 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The second quarter 2003 RCAF (Unadjusted) is 1.020. The second quarter 2003 RCAF (Adjusted) is 0.522. The second quarter 2003 RCAF–5 is 0.502.

DATES: April 1, 2003.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1533. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā 2 Dā Legal, Suite 405, 1925 K Street, NW., Washington, DC 20006, phone (202) 293–7776. [Assistance for the hearing impaired is available through FIRS: 1–800–877–8339.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: March 19, 2003

By the Board, Chairman Nober, Vice Chairman Burkes, and Commissioner Morgan.

Vernon A. Williams,

Secretary.

[FR Doc. 03–7065 Filed 3–25–03; 8:45 am]

BILLING CODE 4915–00–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34321]

Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over BNSF's rail lines between BNSF milepost 143.2 near Los Angeles, CA, and BNSF milepost 10.5 near Riverside, CA,[1] a distance of approximately 57.2 miles.[2]

The transaction was scheduled to be consummated on March 14, 2003 (7 days after the notice was filed). The temporary trackage rights will allow UP to conduct maintenance work on its lines.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34321, must be filed with the Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert T. Opal, 1416 Dodge Street, Room 830, Omaha, NE 68179.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: March 18, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–6921 Filed 3–25–03; 8:45 am]

BILLING CODE 4915–00–P

[1] On March 7, 2003, UP concurrently filed a petition for partial revocation of this class exemption in STB Finance Docket No. 34321 (Sub-No. 1), *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company,* wherein UP and BNSF request that the Board permit the proposed overhead trackage rights arrangement described in the present proceeding to expire on or about May 12, 2003. That petition will be addressed by the Board in a separate decision.

[2] The original notice of exemption stated that the distance involved is 52.2 miles. By letter filed March 12, 2003, UP states that the correct distance for the trackage rights is 57.2 miles. By letter filed March 13, 2003, UP explains that the milepost designations of the trackage rights segment (between BNSF mileposts 143.4 and 10.5) do not reflect the actual length of the segment between Los Angeles and Riverside because the trackage includes portions of two BNSF subdivisions that have noncontiguous milepost designations.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34320]

Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over a BNSF line of railroad between BNSF milepost 203.0 near Keddie, CA, and BNSF milepost 0.0 near Klamath Falls, OR,[1] a distance of approximately 203.0 miles.[2]

The transaction was scheduled to be consummated on March 16, 2003. The purpose of the temporary trackage rights is to facilitate maintenance work on UP's lines.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

[1] On March 7, 2003, UP and BNSF filed a petition for partial revocation of this class exemption in STB Finance Docket No. 34320 (Sub-No. 1), *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company,* wherein UP and BNSF request that the Board permit the proposed overhead trackage rights arrangement described in the present proceeding to expire on or about May 22, 2003. That petition will be addressed by the Board in a separate decision.

[2] By amendment filed March 12, 2003, a representative of UP indicates that the correct distance of the involved trackage is 203.0 miles in lieu of 202.5 miles as initially stated.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34320, must be filed with the Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert T. Opal, 1416 Dodge Street, Room 830, Omaha, NE 68179.

Board decisions and notices are available on our Web site at *''http://www.stb.dot.gov.''*

Decided: March 18, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–6922 Filed 3–25–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34298]

Chattahoochee & Gulf Railroad Co., Inc.—Acquisition and Operation Exemption—Line of Central of Georgia Railroad Company

Chattahoochee & Gulf Railroad Co., Inc. (CGR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31,[1] to acquire and operate an approximately 24.2-mile line of the Central of Georgia Railroad Company (CGA) extending from approximately milepost J357.8 at the Hilton, GA station to approximately milepost J382.0 at the Dothan, AL station in Early County, GA, and Houston and Henry Counties, AL. In addition, CGR will acquire approximately 2.8 miles of incidental overhead trackage rights over CGA extending from milepost J355.0 to milepost J357.8 at or near Hilton, for the purpose of interchange with the Chattahoochee Industrial Railroad.[2]

CGR certifies that its projected annual revenues will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed $5 million.

CGR states that it is close to reaching an agreement with CGA, a subsidiary of Norfolk Southern Railway Company, concerning the involved transaction; the transaction was scheduled to be consummated on or after March 7, 2003 (7 days after the exemption was filed).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34298, must be filed with the Surface Transportation Board, 1925 K Street N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on: Troy W. Garris, Weiner Brodsky Sidman Kider PC, 1300 19th Street, NW., Fifth Floor, Washington, DC 20036–1609.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: March 19, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–7235 Filed 3–25–03; 8:45 am]

BILLING CODE 4915–00–P

[1] CGR subsequently filed an ''Errata Sheet,'' amending the verified notice.

[2] This proceeding is related to *Gulf & Ohio Railways Holding Co., Inc.; H. Peter Claussen and Linda C. Claussen—Continuance in Control Exemption—Chattahoochee & Gulf Railroad Co., Inc.,* STB Finance Docket No. 34299, wherein Gulf & Ohio Railways Holding Co., Inc., and H. Peter Claussen and Linda C. Claussen, all noncarriers, have concurrently filed a petition for exemption to continue in control of CGR upon CGR's becoming a carrier.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 30186 (Sub–No. 3)]

Tongue River Railroad Co.—Construction and Operation—Western Alignment

AGENCY: Surface Transportation Board, DOT.

ACTION: Amended Notice of Intent to Prepare a Supplement to the Final Environmental Impact Statement and Request for Comments on the Adequacy of the Final Scope of the Supplement Dated February 3, 1999.

SUMMARY: On March 11, 2003, the Surface Transportation Board (Board) issued a decision giving notice that it would allow the Tongue River Railroad Company (TRRC) to supplement the application it filed on April 27, 1998 (''*Tongue River III*''), pursuant to 49 U.S.C. 10901, to construct and operate a 17.3-mile line of railroad known as the ''Western Alignment'' in Rosebud and Big Horn Counties, Montana, to be built from Decker, Montana to a point 17.3 miles north of Decker. The Western Alignment is an alternative routing for a portion of the 41-mile Ashland to Decker, Montana rail line approved for construction on November 8, 1996 in Finance Docket No. 30186 (Sub-No. 2), and referred to as ''*Tongue River II.*'' The *Tongue River III* proceeding had been held in abeyance at the applicant's request since March 2, 2000, but it is again active. Accordingly, the purpose of this notice is to announce that the environmental review of *Tongue River III* will also resume, and to request comments from the public on its final scope, which was published on February 3, 1999, and on whether there is new environmental information that warrants inclusion in the Supplemental Environmental Impact Statement (SEIS) that will be prepared.

In 1996, in *Tongue River II*, the Board approved TRRC's application to build a 41-mile line of railroad between Ashland and Decker, MT.[1] The line would connect with an 89-mile railroad line between Miles City and two termini located near Ashland that TRRC was previously authorized to construct, but has not yet built.[2] Together, this 130-mile line would provide a new, shorter route than is currently available to transport coal from the Montana Powder River Basin to eastern destinations.

In the *Tongue River II* proceeding, the Board, following issuance of a Final Environmental Impact Statement addressing environmental concerns that had been raised, approved construction and operation of a routing for the southernmost portion of the Ashland to Decker line—the Four Mile Creek Alternative.[3] *Tongue River III* involves a 17.3-mile alternate routing, called the Western Alignment, to the Four Mile Creek Alternative approved in *Tongue River II.*

On July 10, 1998, the Board's Section of Environmental Analysis (SEA) issued a notice of intent to prepare a SEIS to address the proposed new routing. A final scoping notice, published in the **Federal Register** on February 3, 1999

[1] That decision is currently on appeal before the U.S. Court of Appeals for the 9th Circuit, with judicial review held in abeyance pending resolution of the instant *Tongue River III* application. See *Northern Plains Resource Council, Inc., et al.* v. *Surface Transportation Board*, No. 97–70037 (9th Cir. Filed Jan. 7, 1997).

[2] *Tongue River Railroad Company—Rail Construction and Operation—in Custer, Powder River, and Rosebud Counties, Montana*, Finance Docket No. 30186 (Sub-No. 1) (STB served May 9, 1986) (*Tongue River I*).

[3] The authority was subject to extensive environmental conditions.

(*see* 64 FR 53390[4]), specified that the SEIS would evaluate the Western Alignment in full, as well as refinements to alignments previously considered in *Tongue River I* and *Tongue River II*, where significantly changed circumstances suggested that previous work was no longer adequate. On March 2, 2000, before SEA completed its Draft SEIS, TRRC requested that SEA suspend its environmental work. Almost three years later, on December 19, 2002, TRRC advised SEA that it was now in a position to move forward and asked SEA to resume its environmental review of the application.

On January 17, 2003, TRRC filed a request with the Board seeking to update its previously submitted evidence on the transportation merits. TRRC stressed that its updated information would be minimal, and it identified five general areas to be addressed.[5] On March 11, 2003, the Board served its decision allowing TRRC to file its supplemental evidence on the transportation merits. The Board will establish a procedural schedule for replies after TRRC has filed its evidence and the agency has had an opportunity to review it.

SEA is now resuming its environmental review of the application. SEA intends to use the final scope issued in February, 1999, because, based on currently available information, it appears to thoroughly cover environmental issues requiring analysis in the SEIS. However, because of the three-year lapse in action on the *Tongue River III* application, it may be appropriate to update portions of the final scope, or the environmental record that serves as the basis of the SEIS to reflect new environmental circumstances that may differ significantly from when the final scoping notice was published in 1999. SEA is aware of issues related to coal bed methane development in the region, changes in listed Endangered and Threatened species, and that there may be U.S. Army Corps of Engineers jurisdictional changes as a result of the SWANCC case (*Solid Waste Agency of Northern Cook County* v. *Corps of Engineers*, 531 U.S. 159, 51 ERC 1833 (2001)). In addition, information that TRRC will provide on the transportation issues in response to the Board's decision of March 11, 2003, may require modifications to the final scoping notice for *Tongue River III* published on February 3, 1999.

Therefore, SEA requests comments from all interested parties on whether and how the final scope of environmental issues associated with the Western Alignment, as published in the February 1999 final scoping notice, may now require modification. In addition, we invite interested parties to provide us with information, including specific examples, on any significant changes in land use, topography, wetlands or water resources, endangered species, or cultural resources that warrant inclusion in the final scope and consideration in the SEIS. If significant changes have occurred that could affect the final scope as published in February 1999, we should be informed of these changes now so that we can consider such evidence in determining what, if any, changes to the final scope of the SEIS should be made.

All comments should provide specific evidence to support the claims that are made. We want to know with specificity why commenters believe that environmental circumstances have changed significantly, warranting changes to the final scope and further analysis in the SEIS.

SEA will also consult affected Federal, state, and local agencies on any appropriate changes to the final scope of the SEIS. After considering comments filed in response to this Notice, and evaluating whether new information filed on the transportation issues will affect the final scope of the environmental study and all other available information, SEA will publish an amended final scope in the **Federal Register**. SEA will then prepare a draft SEIS including preliminary mitigation recommendations that will be available for a 45-day comment period. Based on comments on the draft SEIS, and any further analysis, SEA will prepare a final SEIS, which will include appropriate environmental mitigation recommendations. The Board will consider the draft and final SEIS, and any comments or other available environmental information, in deciding whether to grant TRRC's application. In its decision, the Board will consider both environmental and transportation-related issues and will impose any environmental conditions it considers appropriate.

DATES: Written comments on the adequacy of the final scope of potential environmental issues dated February 3, 1999, are due 45 days from this Notice, on May 12, 2003. TRRC may reply within 15 days thereafter.

ADDRESSES: Send an original and 10 copies of comments referring to STB Finance Docket No. 30186 (Sub-No. 3) to: Surface Transportation Board, Case Control Unit, Washington, DC 20423–0001, Attention: Kenneth Blodgett, Section of Environmental Analysis.

FOR FURTHER INFORMATION CONTACT: Kenneth Blodgett, (202) 565–1554. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

The Web site for the Surface Transportation Board is *http://www.stb.dot.gov.*

Decided: March 19, 2003.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 03–7066 Filed 3–25–03; 8:45 am]

BILLING CODE 4915–00–P

[4] The February 3, 1999 final scoping notice provides a discussion of prior Tongue River proceedings before the Agency and is available at *http://www.access.gpo.gov/su_docs/.*

[5] TRRC stated that it intends to update the record in the following five areas: (1) Transfer of the Otter Creek Tracts 1, 2, and 3 to the State of Montana; (2) tonnage forecasts, financial forecasts, and estimated construction costs; (3) TRRC's business structure, proposed financial structure, and plan for raising the funds required for construction; (4) supporting statements from Montana officials; and (5) the effects, if any, of the Board's recent approval of the Dakota, Minnesota, and Eastern Railroad's proposed construction of a rail line to serve the southern Powder River Basin in Wyoming. *See Dakota, Minnesota & Eastern Railroad Corporation Construction into the Powder River Basin*, STB Finance Docket No. 33407 (STB served Jan. 30, 2002), *appeal filed, Mid States Coalition for Progress, et al.,* v. *Surface Transportation Board*, No. 02–1359 *et al.* (8th Cir. filed Feb. 7, 2002). In addition, the Board has indicated that it expects TRRC to provide further insight into its relationship, if any, with The Burlington Northern and Santa Fe Railway Company, with which the proposed line connects.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 17, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 25, 2003 to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515–0145.

Form Number: None.

Type of Review: Reinstatement.

Title: Cargo Container and Road Vehicle Certification for Transport Under Customs Seal.

Description: This information is used in a voluntary program to received internationally recognized Customs certification that intermodal containers/road vehicles meet construction requirements of international Customs convention.

Respondents: State, Local or Tribal Government, Individual or households, Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 25.

Estimated Burden Hours Per Respondent /Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 10,600 hours.

Clearance Officer: Tracey Denning, (202) 927–1429, U.S. Customs Service, Information Services Branch, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA, Clearance Officer.

[FR Doc. 03–7239 Filed 3–25–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Departmental Offices

Delegation of Authority to the Director, Office of Foreign Assets Control

AGENCY: Departmental Offices, Treasury.

ACTION: Notice.

DATES: Treasury Department Order 100–15 became effective on March 20, 2003.

SUMMARY: On March 20, 2003, the Secretary of the Treasury issued Treasury Department Order 100–15 in order to delegate to the Director, Office of Foreign Assets Control, subject to any terms and conditions that the President or Secretary might prescribe, the authority to perform any and all acts incident to the accomplishment or furtherance of an order vesting property as directed in the Executive order signed by the President dated March 20, 2003, ''Confiscating and Vesting Certain Iraqi Property,'' or by the Secretary pursuant to that order.

SUPPLEMENTARY INFORMATION: The text of Treasury Department Order 100–15 follows.

Dated: March 21, 2003.

Richard S. Carro,

Senior Advisor to the General Counsel, (Regulatory Affairs).

Treasury Department Order No. 100–15

Delegation to the Director, Office of Foreign Assets Control, subject to any terms and conditions that the President or Secretary of the Treasury may prescribe, the authority to perform any and all acts incident to the accomplishment or furtherance of an order vesting property as directed in the Executive order signed by the President dated March 20, 2003, ''Confiscating and Vesting Certain Iraqi Property,'' or by the Secretary of the Treasury pursuant to that order.

Treasury Department, Washington, DC, March 20, 2003.

In the Executive order signed by the President dated March 20, 2003, ''Confiscating and Vesting Certain Iraqi Property,'' the President vested in the United States Department of the Treasury all right, title, and interest in blocked funds held in the United States in certain accounts in the name of the Government of Iraq, the Central Bank of Iraq, Rafidain Bank, Rasheed Bank, or the State Organization for Marketing Oil. In that order, the President also authorized me to take additional steps to carry out the purposes of the order.

By virtue of the authority vested in the Secretary of the Treasury, including the authority granted by 31 U.S.C. 321(b) and by the Executive order signed by the President dated March 20, 2003, ''Confiscating and Vesting Certain Iraqi Property,'' I hereby delegate to the Director, Office of Foreign Assets Control, subject to any terms and conditions that the President or I may prescribe, the authority to perform any and all acts incident to the accomplishment or furtherance of an order vesting property as directed in the Executive order signed by the President dated March 20, 2003, ''Confiscating and Vesting Certain Iraqi Property,'' or by me pursuant to that order.

John W. Snow,

Secretary of the Treasury.

[FR Doc. 03–7302 Filed 3–25–03; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 851

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 851, Affiliations Schedule.

DATES: Written comments should be received on or before May 27, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, or through the Internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Affiliations Schedule.

OMB Number: 1545–0025.

Form Number: 851.

Abstract: Form 851 is filed by the parent corporation for an affiliated group of corporations that files a consolidated return (Form 1120). Form 851 provides IRS with information on the names and identification numbers of the members of the affiliated group, the taxes paid by each member of the group, and stock ownership, changes in stock ownership and other information to determine that each corporation is a qualified member of the affiliated group as defined in Internal revenue Code section 1504.

Current Actions: There are no changes being made to Form 851 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations and farms.

Estimated Number of Responses: 4,000.

Estimated Time Per Response: 14 hrs., 6 min.

Estimated Total Annual Burden Hours: 56,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal

revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 17, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–7268 Filed 3–25–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8288–B

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8288–B, Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests.

DATES: Written comments should be received on or before May 27, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, or through the Internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests.

OMB Number: 1545–1060.

Form Number: 8288–B.

Abstract: Section 1445 of the Internal Revenue Code requires transferees to withhold tax on the amount realized from sales or other dispositions by foreign persons of U.S. real property interests. Code sections 1445(b) and (c) allow the withholding to be reduced or eliminated under certain circumstances. Form 8288–B is used to apply for a withholding certificate from IRS to reduce or eliminate the withholding required by Code section 1445.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 5,079.

Estimated Time Per Respondent: 5 hr., 40 min.

Estimated Total Annual Burden Hours: 28,798.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 17, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–7269 Filed 3–25–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5754

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5754, Statement by Person(s) Receiving Gambling Winnings.

DATES: Written comments should be received on or before May 27, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, or through the Internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6401, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Statement by Person(s) Receiving Gambling Winnings.

OMB Number: 1545–0239.

Form Number: 5754.

Abstract: Section 3402(q)(6) of the Internal Revenue Code requires that a statement be given to the payer of

certain gambling winnings by the person receiving the winnings when that person is not the winner or is one of a group of winners. It enables the payer to prepare Form W–2G, Certain Gambling Winnings, for each winner to show the winnings taxable to each and the amount withheld. IRS uses the information on Form W–2G to ensure that recipients are properly reporting their income.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and not-for-profit institutions.

Estimated Number of Responses: 306,000.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 61,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 17, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–7270 Filed 3–25–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–119227–97]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final and temporary regulation, REG–119227–97 (TD 8879), Kerosene Tax; Aviation Fuel Tax; Taxable Fuel Measurement and Reporting; Tax on Heavy Trucks and Trailers; Highway Vehicle Use Tax.

DATES: Written comments should be received on or before May 27, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, (202) 622–6665, or through the Internet (*Allan.M.Hopkins@irs.gov*) Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Kerosene Tax; Aviation Fuel Tax; Taxable Fuel Measurement and Reporting; Tax on Heavy Trucks and Trailers; Highway Vehicle Use Tax.

OMB Number: 1545–1418.

Regulation Project Number: REG–119227–97 Final and Temporary.

Abstract: The regulation finalizes proposed and temporary regulations relating to the tax on kerosene, the refund for certain aviation fuel producers, and the registration rules for certain truck dealers.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 346,080.

Estimated Time Per Respondent: 17 min.

Estimated Total Annual Burden Hours: 97,583 hours.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 17, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–7271 Filed 3–25–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–8–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–8–91 (TD 8643), Distributions of Stock and Stock Rights (Section 1.305–5(b)(5)).

DATES: Written comments should be received on or before May 27, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, (202) 622–6665, or through the Internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Distributions of Stock and Stock Rights.

OMB Number: 1545–1438.

Regulation Project Number: CO–8–91.

Abstract: The requested information is required to notify the Service that a holder of preferred stock callable at a premium by the issuer has made a determination regarding the likelihood of exercise of the right to call that is different from the issuer's determination.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 333.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 17, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–7272 Filed 3–25–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–107644–97]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–107644–97 (TD 8769), Permitted Elimination of Preretirement Optional Forms of Benefit (§ 1.411(d)–4).

DATES: Written comments should be received on or before May 27, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, (202) 622–6665, or through the Internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Permitted Elimination of Preretirement Optional Forms of Benefit.

OMB Number: 1545–1545.

Regulation Project Number: REG–107644–97.

Abstract: This regulation permits an amendment of a qualified plan or other employee pension benefit plan that eliminates plan provisions for benefit distributions before retirement age but after age 70½. The regulation affects employers that maintain qualified plans and other employee pension benefit plans, plan administrators of these plans and participants in these plans.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and not-for-profit institutions.

Estimated Number of Respondents: 135,000.

Estimated Average Time Per Respondent: 22 min.

Estimated Total Annual Burden Hours: 48,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of

information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 17, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–7273 Filed 3–25–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13388

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13388, Improving the Accuracy of EITC Returns.

DATES: Written comments should be received on or before May 27, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Improving the Accuracy of EITC Prepared Returns.

OMB Number: 1545–1825.

Form Number: 13388.

Abstract: Form 13388 is a postcard that will be sent to tax preparers that submitted a mixture of paper and electronic returns for their clients. The postcard provides these professionals an opportunity to acquire additional information about the Earned Income Tax Credit (EITC). It is part of a brochure to encourage 100% filing of EITC returns.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,000.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 150.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 20, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–7274 Filed 3–25–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8594

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8594, Asset Acquisition Statement.

DATES: Written comments should be received on or before May 27, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, at (202) 622–3179, or *Larnice.Mack@irs.gov*, or Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Asset Acquisition Statement.

OMB Number: 1545–1021.

Form Number: 8594.

Abstract: Internal Revenue Code section 1060 requires reporting to the IRS by the buyer and seller of the total consideration paid for assets in an applicable asset acquisition. The information required to be reported includes the amount allocated to goodwill or going concern value. Form 8594 is used to report this information.

Current Actions: There are no changes being made to Form 8594 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 20,000.

Estimated Time Per Response: 16 hrs., 28 minutes.

Estimated Total Annual Burden Hours: 329,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 6, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–7275 Filed 3–25–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR–27–83; LR–54–85]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing temporary regulations, LR–27–83 (TD 7882), Floor Stocks Credits or Refunds and Consumer Credits or Refunds With Respect to Certain Tax-Repealed Articles; Excise Tax on Heavy Trucks (Section 145.4051–1) and LR–54–85 (TD 8050), Excise Tax on Heavy Trucks, Truck Trailers and Semitrailers, and Tractors; Reporting and Recordkeeping Requirements (Section 145.4052–1).

DATES: Written comments should be received on or before May 27, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins, (202) 622–6665, or through the internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: (LR–27–83) Floor Stocks Credits or Refunds and Consumer Credits or Refunds With Respect to Certain Tax-Repealed Articles; Excise Tax on Heavy Trucks, and (LR–54–85) Excise Tax on Heavy Trucks, Truck Trailers and Semitrailers, and Tractors; Reporting and Recordkeeping Requirements.

OMB Number: 1545–0745.

Regulation Project Number: LR–27–83; LR–54–85. Abstract: LR–27–83 requires sellers of trucks, trailers and semitrailers, and tractors to maintain records of the gross vehicle weights of articles sold to verify taxability. LR–54–85 requires that if the sale is to be treated as exempt, the seller and the purchaser musts be registered and the purchaser must give the seller a resale certificate.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 4,100.

Estimated Time Per Respondent: 1 hour, 1 minute.

Estimated Total Annual Burden Hours: 4,140.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 17, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–7276 Filed 3–25–03; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 68, No. 58

Wednesday, March 26, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–2000–7165, FMCSA–2000–7363, FMCSA–2000–7918, FMCSA–2001–8398]

Qualification of Drivers; Exemption Applications; Vision

Correction

In notice document 03–6627 beginning on page 13360 in the issue of Wednesday, March 19, 2003 make the following correction:

On page 13361, in the second column, under the heading **Exemption Decision**, in the 26th line, ''Boy E. Mathews'' should read ''Roy E. Mathews''.

[FR Doc. C3–6627 Filed 3–25–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
March 26, 2003

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for Three Threatened Mussels and Eight Endangered Mussels in the Mobile River Basin; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI73

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for Three Threatened Mussels and Eight Endangered Mussels in the Mobile River Basin

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 three threatened (fine-lined pocketbook, orange-nacre mucket, and Alabama moccasinshell) and eight endangered freshwater mussels (Coosa moccasinshell, ovate clubshell, southern clubshell, dark pigtoe, southern pigtoe, triangular kidneyshell, southern acornshell, and upland combshell), listed in 1993 under the Endangered Species Act of 1973, as amended (Act). We propose to designate 26 river and stream segments (units) in the Mobile River Basin as critical habitat for these 11 mussel species. These units encompass a total of approximately 1,760 kilometers (km) (1,093 miles (mi)) of river and stream channels. Proposed critical habitat includes portions of the Tombigbee River drainage in Mississippi and Alabama; portions of the Black Warrior River drainage in Alabama; portions of the Alabama River drainage in Alabama; portions of the Cahaba River drainage in Alabama; portions of the Tallapoosa River drainage in Alabama and Georgia; and portions of the Coosa River drainage in Alabama, Georgia, and Tennessee.

Critical habitat identifies specific 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(a)(2) of the Act requires that Federal agencies ensure that actions they fund, authorize, or carry out are not likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of critical habitat. State or private actions, with no Federal involvement, are not affected.

Section 4 of the Act requires us to consider the economic and other relevant impacts of specifying any area as critical habitat. We hereby solicit data and comments from the public on all aspects of this proposal, including data on the economic and other impacts of the designation. We will conduct an analysis of the economic impacts of designating these areas as critical habitat prior to a final determination. That economic analysis will be conducted in a manner that is consistent with the ruling of the 10th Circuit Court of Appeals in *N.M. Cattle Growers Ass'n* v. *USFWS.* When the draft economic analysis is completed, we will announce its availability with a notice in the **Federal Register**. With publication of the notice of availability, a comment period will be opened for a minimum of 30 days to allow for public comments on the draft economic analysis and proposed rule concurrently.

DATES: We will consider comments received by June 24, 2003. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by May 12, 2003.

ADDRESSES: If you wish to submit comments and information, you may submit your comments and information by any one of several methods:

1. You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Suite A, Jackson, MS 39213.

2. You may hand-deliver written comments and information to our Mississippi Fish and Wildlife Office, at the above address, or fax your comments to 601/965–4340.

3. You may send comments by electronic mail (e-mail) to *paul_hartfield@fws.gov.* For directions on how to submit electronic filing of comments, see the ''Public Comments Solicited'' section.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Hartfield at the above address (telephone 601/321–1125, facsimile 601/965–4340).

SUPPLEMENTARY INFORMATION:

Background

This proposed rule addresses 11 bivalve mollusks or mussels (possessing a soft body enclosed by 2 shells) in the family Unionidae that are native to the Mobile River basin. The mussels addressed in this rule are the threatened fine-lined pocketbook (*Lampsilis altilis*), orange-nacre mucket (*Lampsilis perovalis*), and Alabama moccasinshell (*Medionidus acutissimus*), and the endangered Coosa moccasinshell (*Medionidus parvulus*), southern clubshell (*Pleurobema decisum*), dark pigtoe (*Pleurobema furvum*), southern pigtoe (*Pleurobema georgianum*), ovate clubshell (*Pleurobema perovatum*), triangular kidneyshell (*Ptychobranchus greeni*), upland combshell (*Epioblasma metastriata*), and southern acornshell (*Epioblasma othcaloogensis*). Unionid mussels, in general, live embedded in the bottom (sand, gravel, and/or cobble substrates) of rivers, streams, and other bodies of water. These mussels siphon water into their shells and across four gills that are specialized for respiration and food collection. Sexes in unionid mussels are usually separate. Males release sperm into the water; the sperm are then taken in by the females through their siphons during feeding and respiration. Eggs are held in the gills of the female where they come into contact with the sperm. Once eggs are fertilized, females retain them in their gills until the larvae (glochidia) fully develop. The change (metamorphosis) of the larvae of most unionid species into juvenile mussels requires that the larvae undergo a stage of parasitism on the fins, gills, or skin of a fish. Mature mussel glochidia are released into the water and they must find and attach to a suitable host fish species in order to develop into a juvenile mussel. Glochidia may be released separately or in masses termed conglutinates. The duration of the parasitic stage varies with water temperature, mussel species, and, perhaps, host fish species. Developed juvenile mussels normally detach from their fish host and sink to the stream bottom, where they continue to develop, provided they land in a suitable substrate with correct water conditions. Because of the dependence on this life stage and transport/dispersal process, unionid mussels usually only parasitize one or a few suitable host fish species that occupy similar habitats as the mussels. Consequently, the presence of suitable host fish species is considered an essential element in the life cycle of unionid mussels.

These 11 mussel species are historically native to portions of the Mobile River Basin (Basin). The Basin is composed of seven major river systems (Mobile, Tombigbee, Black Warrior, Alabama, Cahaba, Coosa, and Tallapoosa) and drains portions of the states of Alabama, Mississippi, Georgia, and Tennessee. Biological factors relevant to these freshwater mussels' habitat requisites are discussed in the Primary Constituent Elements portion of this proposed rule.

Taxonomy, Life History, and Distribution

Fine-Lined Pocketbook (Lampsilis altilis (Conrad 1834))

The fine-lined pocketbook is a medium-sized mussel, suboval in shape, and rarely exceeds 100 millimeters (mm) (4 inches (in)) in length. The ventral margin (bottom) of the shell is often angled posteriorly in females, resulting in a pointed posterior margin. The periostracum (skin of the shell) is yellow-brown to blackish and has fine rays on the posterior half. The nacre (shell interior) is white, becoming iridescent posteriorly.

Gravid females (females with larvae) have been observed March through June. Fine-lined pocketbooks have also been observed releasing glochidia in a single large conglutinate (Haag *et al.*, 1999), termed a superconglutinate (Haag *et al.*, 1995). Redeye bass (*Micropterus coosa*), spotted bass (*M. puctulatus*), largemouth bass (*M. salmoides*), and green sunfish (*Lepomis cyanellus*) have been identified as suitable hosts (Haag *et al.*, 1999).

The fine-lined pocketbook was historically reported from the Tombigbee, Black Warrior, Cahaba, Alabama, Tallapoosa, and Coosa Rivers and many of their tributaries in Alabama, Georgia, Mississippi, and Tennessee. The species has apparently disappeared from the Tombigbee and Alabama River drainages, and possibly from the Black Warrior River drainage. Since publication of the final rule listing the fine-lined pocketbook, this mussel continues to survive in the upper Cahaba River and the Little Cahaba River (Jefferson/Shelby/Bibb Counties, Alabama); Coosa River (Cherokee County, Alabama) and its tributaries, including Duck Creek (Walker County, Georgia), Euharlee Creek (Bartow County, Georgia), Conasauga River (Murray/Whitfield County, Georgia; Polk County, Tennessee), and Holly Creek (Murray County, Georgia), Terrapin Creek, and South Fork Terrapin Creek (Cleburne County, Alabama); Yellowleaf Creek and its tributary Muddy Prong (Shelby County, Alabama); Kelly Creek and its tributary Shoal Creek (Shelby/St. Clair County, Alabama), Choccolocco Creek (Calhoun County, Alabama) and its tributaries Cheaha Creek (Talladega/Clay County, Alabama), Shoal Creek (Cleburne County, Alabama), Hatchet Creek (Coosa/Clay County, Alabama), and Tallasahatchee Creek (Talladega County, Alabama); and the Tallapoosa River and tributaries, including Uphapee Creek (Macon County, Alabama), Choctafaula Creek (Macon/Lee County, Alabama), Chewacla Creek (Macon/Lee County, Alabama), Opintlocco Creek (Macon County, Alabama), Cane and Little Cane Creeks (Cleburne County, Alabama), Muscadine Creek (Cleburne County, Alabama), Big Creek (Haralson County, GA), and McClendon Creek (Paulding County, Georgia). Populations are small and localized within these streams (Dodd *et al.*, 1986; Evans, 2001; Feminella and Gangloff, 2000; Haag *et al.*, 1999; Herod *et al.*, 2001; E. Irwin, U.S. Geological Survey, *in litt.* 2000; Irwin *et al.*, 1998; Johnson and Evans, 2000; L. McDougal, U.S. Forest Service, *in litt.* 1994; McGregor, M. 1993; McGregor *et al.* 2000; Pierson, 1991a, 1992b, 1993; Shepard *et al.*, 1994; Williams and Hughes 1998).

Orange-nacre Mucket (*Lampsilis perovalis* (Conrad 1834))

The orange-nacre mucket is a medium-sized mussel, 50 to 90 mm (2.0 to 3.6 in) in length. The shell is oval in shape, moderately thick, and inflated. The posterior margin of the shell of mature females is obliquely truncate (shortened). The nacre is usually colored orange, rose, pink, or occasionally white. The periostracum varies from yellow to dark reddish brown, and with or without green rays.

The orange-nacre mucket expels mature glochidia in a single superconglutinate (Haag *et al.* 1995). Discharge of superconglutinates has been observed between March and June, with releases appearing concentrated in early April (Hartfield and Butler 1997). Redeye bass, spotted bass, and largemouth bass have been identified as suitable host fish for the orange-nacre mucket (Haag and Warren 1997).

The orange-nacre mucket was historically known from the Alabama, Tombigbee, Black Warrior, and Cahaba Rivers and their tributaries in Alabama and Mississippi. The species has disappeared from the mainstem Tombigbee, Black Warrior, and Alabama Rivers, but continues to survive in Tombigbee tributaries, including the Buttahatchee River (Lowndes/Monroe County, Mississippi; Lamar County, Alabama), and East Fork Tombigbee River (Itawamba/Monroe County, Mississippi), Luxapalila Creek and tributaries Yellow Creek (Monroe County, Mississippi; Lamar County, Alabama) and Cut Bank Creek (Lamar County, Alabama), Sipsey River (Greene/Pickens/Tuscaloosa County, Alabama), Coalfire, Lubbub, and Trussels Creeks (Pickens County, Alabama); Black Warrior River tributaries, including North River (Tuscaloosa/Fayette County, Alabama) and its tributary Clear Creek (Fayette County, Alabama), Locust and Blackburn Forks of the Black Warrior River (Blount County, Alabama), Sipsey Fork of the Black Warrior (Winston/Lawrence County, Alabama) and tributaries Thompson, Flannagin, and Borden Creeks (Lawrence County, Alabama), and Caney, North Fork Caney, Brushy, Capsey, Rush, Brown, and Beech Creeks (Winston/Lawrence County, Alabama); Cahaba River (Bibb/Jefferson/Shelby County, Alabama) and Little Cahaba River (Bibb/Shelby County, Alabama); and Alabama River tributaries Limestone Creek (Monroe County, Alabama) and Bogue Chitto Creek (Dallas County, Alabama). The orange-nacre mucket is locally common in the Sipsey Fork and several of its tributaries. All other populations are small and localized (Alabama Malacological Research Center, *in litt.,* 1996; Dodd *et al.* 1986; Haag and Warren 2001; Hartfield and Bowker 1992; Hartfield and Jones 1989, 1990; Jones 1991; Jones and Majure 1999; McGregor 1992; McGregor *et al.* 1996; McGregor 2000; McGregor *et al.* 2000; McGregor and Pierson 1999; McGregor and Haag *in prep.;* Miller 2000; MS Museum of Natural Science collection records 1989–1999; Pierson 1991a, b, 1992a; Shepard *et al.* 1998; Vittor and Associates 1993; Warren and Haag 1994; Yokley 2001).

Alabama Moccasinshell (*Medionidus acutissimus* (Lea 1831))

The Alabama moccasinshell is a small, delicate species, approximately 30 mm (1.2 in) in length. The shell is narrowly elliptical, and thin, with a well-developed acute posterior ridge that terminates in an acute point on the posterior ventral margin. The posterior slope is finely corrugated. The periostracum is yellow to brownish yellow, with broken green rays across the entire surface of the shell. The thin nacre is translucent along the margins and salmon-colored in the umbos (beak cavity).

Alabama moccasinshell females are gravid from October to June. This species lives completely embedded in stream bottoms for most of the year. Gravid females migrate to the surface of the stream bottom between March and June, anchor themselves to gravel by a bysal thread (protein thread), and lie exposed, displaying a black mantle lure apparently to attract potential host fish (P. Hartfield pers. obs. 1994; Haag and Warren 2001). Blackspotted topminnows (*Fundulus olivaceus*), Tuskaloosa darter (*Etheostoma douglasi*), redfin darter (*E. whipplei*), blackbanded darter (*Percina nigrofaciata*), naked sand darter

(*Ammocrypta beani*), southern sand darter (*A. meridiana*), johnny darter (*E. nigrum*), speckled darter (*E. stigmaeum*), saddleback darter (*Percina vigil*), and logperch (*P. caprodes*) have been identified as suitable host fish (Haag and Warren 1997, 2001).

The Alabama moccasinshell was historically known from the Alabama, Tombigbee, Black Warrior, Cahaba, and Coosa Rivers and their tributaries in Alabama, Mississippi, Georgia, and Tennessee. The species has disappeared from the mainstems of all of these rivers, but continues to survive in Tombigbee River tributaries, including Bull Mountain Creek (Itawamba County, Mississippi), Luxapalila Creek (Lowndes County, Mississippi) and tributary Yellow Creek (Lowndes County, Mississippi; Lamar County, Alabama), Buttahatchee River (Lowndes/Monroe County, Mississippi, Lamar County, Alabama), and tributary Sipsey Creek (Monroe County, Mississippi), Lubbub Creek (Pickens County, Alabama), and Sipsey River (Greene/Pickens County, Alabama); Black Warrior River tributaries, including the Sipsey Fork and tributaries (Winston/Lawrence County, Alabama); and Holly Creek (Murray County, Georgia) in the Coosa River drainage (Dodd *et al.*1986; Evans 2001; Hartfield and Bowker 1992; Hartfield and Jones 1989, 1990; Johnson and Evans 2000; Jones 1991; Jones and Majure 1999; McGregor 1992; McGregor *et al.* 1996; McGregor 2000; McGregor *et al.* 2000; MS Museum of Natural Science collection record 1984–2001; Pierson 1991a, b; Warren and Haag 1994; Yokley 2001). Except for the Sipsey Fork, populations are small and localized. Highest densities observed during field surveys have been from the Sipsey Fork and its headwater tributaries in Bankhead National Forest, where quantitative samples from selected sites estimated Alabama moccasinshells densities from 0 to 2.8/10 m^2 (Warren and Haag 1994).

Coosa Moccasinshell (*Medionidus parvulus* (Lea 1860))

The Coosa moccasinshell is a small species occasionally exceeding 40 mm (1.6 in) in length. The shell is thin and fragile, elongate and elliptical to rhomboidal in outline. The posterior ridge is inflated and smoothly rounded, terminating in a broadly rounded point; the posterior slope is finely corrugated. The periostracum is yellow-brown to dark brown and has fine green rays. The nacre is blue, occasionally with salmon-colored spots.

Coosa moccasinshells are usually completely buried in the stream bottom. Because this species is apparently closely related to the Alabama moccasinshell, gravid females of this species likely migrate to the surface of the stream bottom during spring glochidial release periods, as do gravid Alabama moccasinshell females. Coosa moccasinshell glochidia are known to use blackbanded darters as hosts; however, other species of darters are also likely to be used (P. Johnson, Tennessee Aquarium Research Institute, pers. comm. 2002).

The Coosa moccasinshell has been historically reported from the Cahaba River, the Sipsey Fork of the Black Warrior River, and the Coosa River, and their tributaries, in Alabama, Georgia, and Tennessee. Since the species was listed, its presence has been confirmed only in the Conasauga River (Murray/Whitfield County, Georgia; Bradley County, Tennessee), and its tributary, Holly Creek (Murray County, Georgia) (Johnson and Evans, 2000, Williams and Hughes 1998). It has apparently been eliminated from the Cahaba and Black Warrior River drainages, as well as from the Coosa River and many of its tributaries.

Ovate Clubshell (*Pleurobema perovatum* (Conrad 1834))

The ovate clubshell is a small to medium-sized mussel that rarely exceeds 50 mm (2.0 in) in length. The shell is oval to elliptical in shape, and has nearly terminal, inflated umbos. The posterior ridge is well-developed, broadly rounded, and often concave. The posterior slope is produced well beyond the posterior ridge. Periostracum color varies from yellow to dark brown, and occasionally has broad green rays that may cover most of the umbo and posterior ridge. The nacre is white. Gravid females of this species have been observed in June and July. Glochidia are released in well formed, white conglutinates (W.R. Haag unpublished data). Host fishes for this species are unknown.

The ovate clubshell was historically distributed in the Tombigbee, Black Warrior, Alabama, Cahaba, and Coosa Rivers and their tributaries in Mississippi, Alabama, Georgia, and Tennessee; and in Chewacla, Uphapee and Opintlocco Creeks in the Tallapoosa River drainage, Alabama. It has disappeared from the Black Warrior, Cahaba, and Alabama River drainages, as well as the mainstem Tombigbee River and Uphapee and Opintlocco Creeks. Currently, the species is known to survive in several Tombigbee River tributaries, including Buttahatchee River (Lowndes/Monroe County, Mississippi), Luxapalila Creek and its tributary Yellow Creek (Lowndes County, Mississippi), Sipsey River (Greene/Pickens/Tuscaloosa County, Alabama), Sucarnoochee River (Sumter County, Alabama), and Coalfire Creek (Pickens County, Alabama); and Chewacla Creek (Macon County, Alabama) in the Tallapoosa River drainage; and a short reach of the Coosa River below the mouth of Terrapin Creek (Cherokee County, Alabama) (Dodd *et al.* 1986, Feminella and Gangloff 2000, Hartfield and Bowker 1992, Hartfield and Jones 1990, Jones 1991, McGregor 1992, McGregor 1993, McGregor *et al.* 1996, McGregor 2000, McGregor and Haag *in prep.,* Miller 2000, Pierson, 1991a, b; Yokley 2001). Populations are small and localized.

Southern Clubshell (*Pleurobema decisum* (Lea 1831))

The southern clubshell is a medium sized mussel about 70 mm (2.8 in) long, with a thick shell, and heavy hinge plate and teeth. The shell outline is roughly rectangular, produced posteriorly with the umbos terminal with the anterior margin, or nearly so. The posterior ridge is moderately inflated and ends abruptly with little development of the posterior slope at the dorsum of the shell. The periostracum is yellow to yellow-brown with occasional green rays or spots on the umbo in young specimens.

Gravid southern clubshell females with mature glochidia have been collected in June and July. Glochidia are released in well formed conglutinates orange or white in coloration (Haag and Warren 2001). Blacktail shiner (*Cyprinella venusta*), Alabama shiner (*C. callistia*), and tricolor shiner (*C. trichroistia*) have been identified as fish host (Haag and Warren 2001, P. Johnson pers. comm. 2002).

With the exception of the Tensas/Mobile River, the southern clubshell was formerly known from every major river system in the Mobile River Basin, including the Alabama, Tombigbee, Black Warrior, Cahaba, Tallapoosa, and Coosa Rivers and many of their tributaries in Mississippi, Alabama, Georgia, and Tennessee. This species has disappeared from the Cahaba River drainage, the main channels of the Tombigbee and Black Warrior Rivers, and from a number of tributaries in all of the drainages. Southern clubshell continues to inhabit the East Fork Tombigbee River (Itawamba/Monroe County, Mississippi), Bull Mountain Creek (Itawamba County, Mississippi), Buttahatchee River (Monroe/Lowndes County, Mississippi), Luxapalila and Yellow Creeks (Lowndes County, Mississippi), Lubbub Creek (Pickens County, Alabama), and Sipsey River

(Greene/Pickens/Tuscaloosa County, Alabama) in the Tombigbee drainage; a short reach of the Alabama River and Bogue Chitto Creek (Dallas County, Alabama); Chewacla Creek (Macon County, Alabama) in the Tallapoosa drainage; Coosa River (Dead River) below Weiss Dam (Cherokee County, Alabama) and tributaries Kelly Creek (Shelby County, Alabama), Big Canoe Creek (St. Clair County, Alabama), Terrapin Creek (Cherokee County, Alabama), and Conasauga River (Murray/Whitfield County, Georgia) (Alabama Department of Conservation and Natural Resources/U.S. Fish and Wildlife Service collection records, 1998, 1999; Evans 2001; Feminella and Gangloff 2000; Hartfield and Bowker 1992; Hartfield and Jones 1989, 1990; Herod *et al.* 2001; Jones 1991; Jones and Majure 1999; McGregor 1993, 1999; McGregor *et al.* 1996; Miller 2000; Miller and Hartfield, 1988; Pierson, 1991a, b; Yokley 2001). The southern clubshell is relatively common in localized reaches of the Buttahatchee and Sipsey Rivers. Average density at four sites in the Coosa River below Weiss Dam was 0.19/square meter (Herod *et al.* 2001). It is rare to uncommon in other occupied streams.

Dark Pigtoe (*Pleurobema furvum* (Conrad 1834))

The dark pigtoe is a small to medium-sized mussel, occasionally reaching 60 mm (2.4 in) in length. The shell is oval in outline, and moderately inflated. Beaks are located in the anterior portion of the shell. The posterior ridge is abruptly rounded and terminates in a broadly rounded, subcentral, posterior point. The periostracum is dark, reddish brown with numerous and closely spaced, dark growth lines. The hinge plate is wide and the teeth are heavy and large, especially in older specimens. The nacre approaches white in the umbos, and is highly iridescent on the posterior margin. This species is gravid in June and releases glochidia in peach to pink-colored conglutinates (Haag and Warren 1997). The largescale stoneroller (*Campostoma oligolepis*), Alabama shiner, blacktail shiner, creek chub (*Semotilus atromaculatus*), and blackspotted topminnow have been confirmed as suitable hosts (Haag and Warren 1997).

The historic distribution of the dark pigtoe was probably restricted to the Black Warrior River system above the fall line (natural contour that marks a drop in land level). Since listing, the presence of the dark pigtoe has been confirmed in the Black Warrior River drainage from Sipsey Fork and its tributaries Caney, Brown, Rush, and Capsey Creeks (Winston/Lawrence County, Alabama); and from the North River and its tributary Clear Creek (Fayette County, Alabama) (Alabama Malacological Research Center, *in litt.,* 1996; Dodd *et al.* 1986; McGregor 1992; Pierson 1992a; Shepard *et al.* 1998; Vittor and Associates 1993; Warren and Haag 1994). Badly weathered shells have also been found in the Locust Fork of the Black Warrior River near the Jefferson-Blount County line. Populations are small and localized. Highest densities measured during field surveys have been from the Sipsey Fork and its headwater tributaries in Bankhead National Forest, where quantitative samples from selected sites estimated dark pigtoe densities from 0 to 4.8/10 m^2 (Warren and Haag 1994).

Southern Pigtoe (*Pleurobema georgianum* (Lea 1841))

The southern pigtoe is a small to medium-sized mussel occasionally exceeding 60 mm (2.4 in) in length. The shell is elliptical to oval in outline and somewhat compressed. The posterior slope is smoothly rounded. The pseudocardinal teeth (protrusions on the dorsal interior surface of the shell) are small but well-developed, and the nacre is white. The periostracum is yellow to yellow-brown. Growth lines are numerous and may be dark brown. Small specimens may have green spots at the growth lines along the posterior ridge and near the umbo. Host fish are Alabama shiner, blacktail shiner, and tricolor shiner (P. Johnson pers. comm. 2002).

The historic range of the southern pigtoe included the Coosa River and its tributaries in Alabama, Georgia, and Tennessee. The species is currently known to survive in the Conasauga River (Murray/Whitfield County, Georgia, Bradley County, Tennessee), Holly Creek (Murray County, Georgia), Shoal Creek (Cleburne County, Alabama), Big Canoe Creek (St. Clair County, Alabama), and Cheaha Creek (Talladega County, Alabama) (Evans 2001, Feminella and Gangloff 2000, Johnson and Evans, 2000; Pierson 1992b, 1993; Williams and Hughes 1998). Populations are small and localized.

Triangular Kidneyshell (*Ptychobranchus greeni* (Conrad 1834))

The triangular kidneyshell is oval to elliptical in outline, and may approach 100 mm (4.0 in) in length. The shell is generally compressed, and may be flattened ventral to the umbos. The posterior ridge is broadly rounded and terminates in a broad round point post-ventrally. The pseudocardinal teeth are heavy, and the laterals are heavy, gently curved and short. The periostracum is straw-yellow in young specimens, but becomes yellow-brown in older ones. It may have fine and wavy, or wide and broken, green rays anterior to the posterior ridge.

Gravid triangular kidneyshell females were observed in March 1994 and April 1996. Glochidia are packaged into conglutinates that mimic small aquatic fly larvae (Hartfield and Hartfield 1996) or fish eggs (Haag and Warren 1997). Suitable fish hosts have been identified as Warrior darter (*Etheostoma bellator*), Tuskaloosa darter, blackbanded darter and logperch (Haag and Warren 1997).

The historic range of the triangular kidneyshell included the Black Warrior, Cahaba, Alabama, and Coosa Rivers and tributaries in Alabama, Georgia, and Tennessee. The species has disappeared from the Alabama River, and from the primary channels of the Black Warrior and Coosa Rivers. Triangular kidneyshell is currently known to inhabit the Sipsey Fork and tributaries (Winston/Lawrence County, Alabama) and Locust Fork (Blount County, Alabama) of the Black Warrior; Cahaba River (Bibb County, Alabama); and Coosa tributaries Shoal Creek (Cleburne County, Alabama), Kelly Creek (Shelby County, Alabama), Big Canoe Creek (St. Clair County, Alabama), Conasauga River (Murray/Whitfield County, Georgia, Bradley County, Tennessee), Holly Creek (Murray County, Georgia), Coosawattee River (Gordon County, Georgia), and Oostanaula River (Floyd/Gordon County, Georgia). Populations are small and localized (Dodd *et al.* 1986, Evans 2001, Feminella and Gangloff 2000, Haag and Warren 1997, Johnson and Evans 2000, McGregor 1992, McGregor *et al.* 2000, Shepard *et al.* 1994, 1998; Warren and Haag 1994, Williams and Hughes 1998).

Southern Acornshell (*Epioblasma othcaloogensis* (Lea 1857))

The southern acornshell is a small mussel that may grow up to 30 mm (1.2 in) in shell length. The shells are round to oval in outline and sexually dimorphic, with a swollen posterior ridge in females. The periostracum is smooth, shiny, and yellow in color. Life history and host fish are unknown.

Historically, the southern acornshell occurred in the upper Coosa River system and the Cahaba River above the fall line in Alabama, Georgia, and Tennessee. The most recent records for the southern acornshell were from tributaries of the Coosa River in the early 1970s, and the Cahaba in the 1930s (58 FR 14330). It was our determination at the time of listing, with

consensus of the malacological (mollusk research) community, that this species was likely to persist in low numbers in the upper Coosa River drainage, and possibly in the Cahaba River. Surveys of Coosa River tributaries have been conducted by Service biologists, as well as Bogan and Pierson (1993a), Evans (2001), Feminella and Gangloff (2000), Johnson and Evans (2000), Pierson (1993, pers. comm. 1994), Williams and Hughes (1998), and others. Surveys of the Cahaba River have been conducted by Service biologists, Bogan and Pierson (1993b), McGregor *et al.* (2000), Shepard *et al.* (1994, 1998), and others. Despite these repeated surveys of historic habitat in the Coosa and Cahaba River drainages, no living animals or fresh shells of this species have been located in recent years (Evans 2001, Feminella and Gangloff 2000, Johnson and Evans 2000, McGregor *et al.* 2000, Pierson 1993, Shepard *et al.* 1994, 1998, Williams and Hughes 1998). Not withstanding the results of these surveys, this species' historic range includes thousands of miles of river and stream habitat in the Mobile River Basin, and there are many miles of stream which have not been adequately surveyed. Mussels are cryptic species, living buried in the stream bottom under water, and rare mussels are difficult to locate.

Upland Combshell (*Epioblasma metastriata* (Conrad 1838))

The upland combshell is a bivalve mollusk that rarely exceeds 60 mm (2.4 in) in length. The shells are rhomboidal to quadrate in outline and are sexually dimorphic. Males are moderately inflated with a broadly curved posterior ridge. Females are considerably inflated, with a sharply elevated posterior ridge that swells broadly post-ventrally forming a well-developed sulcus (the groove anterior to the posterior ridge). The posterior margin of the female is broadly rounded and comes to a point anterior to the posterior extreme. Periostracum color varies from yellowish-brown to tawny, and may or may not have broken green rays or small green spots. Hinge teeth are well-developed and heavy. This species likely releases glochidia during late spring or early summer (Service 2000). The host fish for this species have not been identified.

The historic range of the upland combshell included portions of the Black Warrior, Cahaba, and Coosa Rivers of the Mobile River Basin and some of their tributaries in Alabama, Georgia, and Tennessee. The most recent records for the upland combshell were from the Conasauga River, Georgia, in 1988, and from the Cahaba River, Alabama, in the early 1970s (58 FR 14330). When listed, the species was believed to be restricted to the Conasauga River in Georgia, and possibly portions of the upper Black Warrior and Cahaba River drainages. Surveys of Coosa River tributaries have been conducted by Service biologists, as well as Bogan and Pierson (1993a), Evans (2001), Feminella and Gangloff (2000), Johnson and Evans (2000), Pierson (1993, pers. comm. 1994), Williams and Hughes (1998), and others. Surveys of the Cahaba River have been conducted by Service biologists, Bogan and Pierson (1993b), McGregor *et al.* (2000), Shepard *et al.* (1994), and others. Surveys in the upper Black Warrior drainage have been done by Service biologists, Alabama Malacological Research Center, (*in litt.* 1996), Sheppard *et al.* (1998), Vittor and Associates (1993), Warren and Haag (1994), and others. However, these surveys of the Conasauga River and other historic habitat in the Coosa, Cahaba, and Black Warrior River drainages since the mussel was listed have failed to locate any evidence of the upland combshell (Evans 2001, Feminella and Gangloff 2000, Johnson and Evans 2000, McGregor 1992, McGregor *et al.* 2000, Pierson 1991a, Shepard *et al.* 1994, 1998, Vittor and Associates 1993, Warren and Haag 1994, Williams and Hughes 1998). Not withstanding the results of these surveys, this species' historic range includes thousands of miles of river and stream habitat in the Mobile River Basin, and there are many miles of stream which have not been adequately surveyed. Mussels are cryptic species, living buried in the stream bottom under water, and rare mussels are difficult to locate.

The summary of these 11 mussel species, presented above, represents our current understanding of their historic and current range and distribution. There has been some confusion in species identification in recent reports. For example, some survey reports have identified mussel populations from Black Warrior River tributaries, Cahaba River, and Bogue Chitto Creek as fine-lined pocketbook, while others have identified the same populations as orange-nacre mucket. Although there may be some overlap in these species' current ranges, we believe that this confusion originated from collectors unfamiliar with one or both species. There is also some confusion surrounding recently rediscovered populations of clubshell in the Coosa River drainage. Some biologists believe these populations may include painted clubshell (*Pleurobema chattanoogaense*), a form that we considered the same as southern clubshell (*Pleurobema decisum*) in the March 17, 1993, final rule listing for these 11 mussels (58 FR 14330). There is some morphological evidence that recognition of painted clubshell as a species may be warranted, however, recent genetic studies were unable to discriminate between the 2 forms. Therefore, at this time, we consider populations of clubshell in the Coosa River drainage to be southern clubshell. The distributions presented above, are based upon shell morphology as described and currently recognized in the scientific literature. Therefore, we will consider these species' current ranges as outlined above, until presented with new information.

Summary of Decline and Threats to Surviving Populations

The disappearance of these 11 mussel species from significant portions of their ranges is primarily due to changes in river and stream channels caused by dams, dredging, or mining, and historic or episodic pollution events (58 FR 14330). More than 1,700 km (1,100 mi) of large and small river habitat in the Basin have been impounded by dams for navigation, flood control, water supply, and/or hydroelectric production purposes. None of the 11 species are known to survive in impounded waters. Riverine mussels are killed during construction of dams, they may be suffocated by sediments that accumulate behind the dams; and the reduced water flow behind dams limits food and oxygen available to mussels. Many fish species that serve as hosts to mussel larvae are also eliminated by dams and impounded waters.

Other forms of habitat modification—such as channelization, channel clearing and desnagging (woody debris removal), and gold and gravel mining—caused stream bed scour and erosion, increased turbidity, reduction of groundwater levels, and sedimentation, often resulting in severe local impacts to, and even extirpation of, mussel species. Sedimentation may also eliminate or reduce recruitment of juvenile mussels (Negus 1966), and suspended sediments can also interfere with feeding (Dennis 1984).

Water pollution from coal mines, carpet mills, fabric dying mills, large industrial plants, inadequately treated sewage, and land surface runoff also contributed to the demise of the species in certain portions of their historic ranges. Freshwater mussels, especially in their early life stages, are extremely

sensitive to many pollutants (*e.g.*, chlorine, ammonia, heavy metals, high concentrations of nutrients) commonly found in municipal and industrial wastewater effluents (Havlik and Marking 1987, Goudreau *et al.* 1988, Keller and Zam 1991). Stream discharges from these sources may result in decreased dissolved oxygen concentration, increased acidity and conductivity, and other changes in water chemistry, which may impact mussels or their host fish.

The historic activities discussed above, especially dam construction, had a second major impact on mussel species by isolating surviving populations within limited portions of the Basin's major drainages. The Mobile River Basin Aquatic Ecosystem Recovery Plan (U.S. Fish and Wildlife Service 2000) recognized habitat fragmentation as one of the primary threats to the Basin's imperiled aquatic species. Small isolated mussel populations are more vulnerable to natural random events, such as droughts or floods, as well as to changes in human activities and land use practices that impact aquatic habitats (Neves *et al.* 1997). A number of the Basin's imperiled mussel populations that became restricted to small tributaries or river segments eventually disappeared because of individual or cumulative impacts of land uses such as urbanization, industrialization, mining, and certain agricultural activities and practices that resulted in sedimentation, eutrophication (an aquatic condition in which the increase in mineral and organic nutrients reduces dissolved oxygen producing an environment that favors plant life over animal life), or other negative effects to stream and river habitats (58 FR 14330, U.S. Fish and Wildlife Service 2000).

Human populations and associated needs for housing, commerce, recreation, water, electricity, forest and agricultural products, waste disposal, and mineral exploitation continue to increase in the Basin (U.S. Fish and Wildlife Service 2000). Currently surviving populations of endangered and threatened mussels remain vulnerable to habitat loss, population isolation, and the cumulative effects of these land use activities on aquatic environments (U.S. Fish and Wildlife Service 2000). More detailed information on threats to these species can be found in the March 17, 1993, final listing determination (58 FR 14330) and in the Mobile River Basin Aquatic Ecosystem Recovery Plan (U.S. Fish and Wildlife Service 2000).

Previous Federal Actions

Federal actions began when the orange-nacre mucket was included as a category 2 species (May 22, 1984, 49 FR 21675). We applied category 2 designations to those species for which some evidence of vulnerability existed, but for which we needed additional biological information to support a proposed rule to list as endangered or threatened. In the January 6, 1989, Notice of Review (54 FR 578–579), this species was again included as a category 2 species. In the same Notice of Review, the upland combshell, southern acornshell, and fine-lined pocketbook were additionally included as category 2 species. A status review completed in 1991 for these four species, and seven other mussels endemic to the Basin, recommended listing the upland combshell, southern acornshell, Coosa moccasinshell, southern clubshell, dark pigtoe, southern pigtoe, ovate clubshell, and triangular kidneyshell as endangered species, and the fine-lined pocketbook, orange-nacre mucket, and Alabama moccasinshell as threatened species (Hartfield 1991).

We proposed the 11 mussel species for protection under the Act on November 19, 1991 (56 FR 58339). In that proposed rule, we stated that critical habitat was not prudent because of the threat of illegal commercial harvest. Legal notices announcing the proposal and requesting public comments were published in *The Clarion-Ledger* (Jackson, Mississippi) on December 6, 1991; the *Mobile Press Register* (Mobile, Alabama) on December 7, 1991; and *The Atlanta Constitution* (Atlanta, Georgia), the *Commercial Dispatch* (Columbus, Mississippi), and the *Montgomery Advertiser* (Montgomery, Alabama) on December 8, 1991. We published a final rule on March 17, 1993 (58 FR 14330), listing the fine-lined pocketbook, orange-nacre mucket, and Alabama moccasinshell as threatened species, and the Coosa moccasinshell, ovate clubshell, southern clubshell, dark pigtoe, southern pigtoe, triangular kidneyshell, upland combshell, and southern acornshell as endangered species.

New mussel harvest regulations adopted by the State of Alabama, and other information received in public comments during the open comment period, removed our concerns about illegal commercial harvest, and in the final rule, we determined that critical habitat was prudent but not determinable for the 11 mussel species. The not determinable finding was because of insufficient information on distribution and the biological needs of these species. Section 4(b)(6)(C) of the Act provides that a concurrent critical habitat determination is not required with a final regulation implementing endangered or threatened status and that the final designation may be postponed for 1 additional year beyond the period specified in section 4(b)(6)(A), if a prompt determination of endangered or threatened status is essential to the conservation of the species, or if critical habitat is not then determinable. We found that prompt determination of status was essential to the conservation of these species and stated that we would attempt to evaluate critical habitat needs through research and recovery actions.

In late 1994, a Technical/Agency draft Mobile River Basin Aquatic Ecosystem Recovery Plan that included recovery objectives for the 11 mussels, among other listed species, was released for public review and comment. High levels of interest in details of the plan were expressed by the State of Alabama, certain environmental groups, and a number of water- and timber-related industries. As a result of a series of discussions sponsored by the Alabama Department of Economic and Community Affairs, a Mobile River Basin Coalition composed of various governmental, environmental, and industry representatives was organized for the purpose of reviewing, revising, and eventually implementing the recovery plan. A revised Technical/Agency draft was subsequently released for public review in 1998, and the final Mobile River Basin Aquatic Ecosystem Recovery Plan was published in 2000 (U.S. Fish and Wildlife Service 2000).

On October 12, 2000, the Southern Appalachian Biodiversity Project filed a lawsuit in U.S. District Court for the Eastern District of Tennessee against the Service, the Director of the Service, and the Secretary of the Department of the Interior, challenging our not determinable findings regarding critical habitat for 9 listed mussels. These 9 mussels represent 9 of the 11 Mobile River Basin mussels that were listed in 1993, and are listed as follows: upland combshell, southern acornshell, Coosa moccasinshell, southern clubshell, southern pigtoe, ovate clubshell, triangular kidneyshell, fine-lined pocketbook, and Alabama moccasinshell. On November 8, 2001, the District Court issued an order directing us to make a proposed critical habitat designation for these 11 Mobile River Basin mussels no later than March 17, 2003, and the final designation by March 17, 2004.

This proposal is the product of our reexamination of our 1993 not determinable finding for 11 mussels in the Mobile River drainage. The 2000 lawsuit did not include the dark pigtoe or the orange-nacre mucket, but we are considering them because they were a part of the original 1993 listing, they overlap in range with some of the other 9 species, and they occupy similar habitats within that range. It reflects our interpretation of the recent judicial opinions on critical habitat designation and the standards placed on us for making a prudency determination. If additional information becomes available on these species' biology, distribution, or threats to the species, we may reevaluate this proposal to propose additional critical habitat, propose boundary refinements that substantially changes existing proposed critical habitat, or withdraw our proposal to designate critical habitat. If boundary refinements of existing proposed critical habitat are required for a single unit or on a similar small scale based on additional information, we will allow additional time for public comment within the constraints of our court order.

Critical Habitat

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

In order for habitat to be included in a critical habitat designation, the habitat features must be ''essential to the conservation of the species.'' Such critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (i.e., areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Regulations at 50 CFR 424.02(j) define special management considerations or protection to mean any methods or procedures useful in protecting the physical and biological features of the environment for the conservation of listed species. If any areas containing the primary constituent elements are currently being managed to address the conservation needs of these mussel species, they may not require special management or protection, and, therefore, may not meet the definition of critical habitat in section 3(5)(A)(i) of the Act.

When we designate critical habitat, we may not have the information necessary to identify all habitat areas which are essential for the conservation of the species. Nevertheless, we are required to designate those areas we consider to be essential, using the best information available to us.

Within the geographic area of the species, we will designate only currently known essential areas. We will not speculate about what areas might be found to be essential if better information became available, or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs of the species, then the area will not be included in the critical habitat designation. Our regulations state that, ''The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species'' (50 CFR 424.12(e)). Accordingly, when the best available scientific data do not demonstrate that the conservation needs of the species require designation of critical habitat outside of occupied areas, we will not designate critical habitat in areas outside the geographic area occupied by the species.

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 area 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 guidance to ensure that our decisions are based on 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, information that should be considered includes the listing package for the species, the recovery plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys, studies, and biological assessments, unpublished materials, and expert opinion or personal knowledge.

Section 4 of the Act generally requires that we designate critical habitat at the time of listing and based on what we know at the time of designation. If we make a not determinable finding regarding critical habitat at the time of listing, section 4(b)(6)(C) of the Act requires that the Service publish a final regulation by not more than 1 additional year, based on such data as may be available at that time, designating, to the maximum extent prudent, such habitat. There are several thousands of miles of perennial streams in the Mobile River Basin. Most of these flow through private property, and may not have been adequately surveyed for mussels. Mussels are cryptic species, living buried in the stream bottom under water, and rare mussels are difficult to locate. We recognize that additional small, limited populations for some of these species could exist in some of these streams and may be discovered over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. Therefore, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the take prohibitions pursuant to section 9 of the Act, 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 will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning and recovery efforts if new

information available to these planning efforts calls for a different outcome.

Methods Used To Identify Proposed Critical Habitat for 11 Mussel Species

As required by section 4(b)(2) of the Act and implementing regulations (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 the Coosa moccasinshell, southern clubshell, dark pigtoe, southern pigtoe, ovate clubshell, triangular kidneyshell, southern acornshell, upland combshell, fine-lined pocketbook, orange-nacre mucket, and Alabama moccasinshell. We reviewed the available information pertaining to the historic and current distributions, life histories, host fishes, and habitats of, and threats to these species. The information used in the preparation of this proposed designation includes: Our own site-specific species and habitat information; unpublished survey reports, notes, and communications with other qualified biologists or experts; peer reviewed scientific publications; the final listing rule for 11 mussels in the Mobile River Basin (58 FR 14330); and the Mobile River Basin Aquatic Ecosystem Recovery Plan (U.S. Fish and Wildlife Service, 2000). In determining the areas that are essential to the conservation of the 11 mussels we considered all streams currently or historically known to be occupied by one or more of the species (see ''Taxonomy, Life History, and Distribution'' above). It is likely that other occupied stream or stream segments exist that may be essential to the survival and conservation of these mussels, but we do not currently know where these are, and therefore cannot include them in this proposed critical habitat designation.

Primary Constituent Elements

In accordance with sections 3(5)(A)(i) and 4(b)(1)(A) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to base critical habitat determinations on the best scientific data available and to focus on those physical and biological features (primary constituent elements) that are essential to the conservation of the species and that may require special management considerations or protection. Such requirements include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distribution of a species.

Based on the best available information, primary constituent elements essential for the conservation of these 11 mussel species include the following:

1. Geomorphically stable stream and river channels and banks;
2. A flow regime (*i.e.,* the magnitude, frequency, duration, and seasonality of discharge over time) necessary for normal behavior, growth, and survival of all life stages of mussels and their fish hosts in the river environment;
3. Water quality, including temperature, pH, hardness, turbidity, oxygen content, and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages;
4. Sand, gravel, and/or cobble substrates with low to moderate amounts of fine sediment, low amounts of attached filamentous algae, and other physical and chemical characteristics necessary for normal behavior, growth, and viability of all life stages;
5. Fish hosts with adequate living, foraging, and spawning areas for them; and,
6. Few or no competitive nonnative species present.

In considering and identifying primary constituent elements, we have taken into account the dynamic nature of riverine systems. We recognize that riparian areas and floodplains are integral parts of the stream ecosystem, important in maintaining channel geomorphology, and providing nutrient input, and buffering from sediments and pollution; and that side channel and backwater habitats may be important in the life cycle of fish that serve as hosts for mussel larvae.

Analysis Used To Delineate Critical Habitat

Currently, the greatest general threat to the survival and recovery of these 11 Mobile River Basin mussel species is the small size, extent, and isolation of their remaining populations. With the exception of the dark pigtoe, which is believed to be naturally restricted to streams and rivers in the Black Warrior drainage, these mussel species were once widespread in the Basin, found in a continuum of small streams to large rivers in 2 or more major drainages. As discussed under the ''Summary of Decline and Threats to Surviving Populations,'' and the Mobile River Basin Aquatic Ecosystem Recovery Plan (U.S. Fish and Wildlife Service 2000), 30 major dams were constructed in the Basin during the 20th century. These dams and their impounded waters present physical barriers to the natural dispersal of mussels (they prevent emigration (dispersal) of host fishes), and effectively isolate surviving mussel populations in limited portions of the Basin's major drainages. Small isolated aquatic populations are subject to natural random events (droughts, floods), and to changes in human activities and land use practices (urbanization, industrialization, mining, certain agricultural activities and practices, etc.), that may severely impact aquatic habitats (Neves *et al.* 1997). Without avenues of emigration to less affected watersheds, mussel populations gradually disappear where land use activities result in deterioration of aquatic habitats. Local random events, and changes in human activities within the Basin's unimpounded watersheds are believed to have caused or contributed to the disappearance of mollusks from significant portions of isolated stream habitats, resulting in the extinction of as many as 13 mussels, as well as a number of freshwater snail species (U.S. Fish and Wildlife Service 2000).

Most of the 11 mussel species considered in this proposed designation are currently represented by one or more small, restricted, and isolated populations. These surviving populations have been isolated from one another by dams and impounded reaches for 20 to 50 years, and remain vulnerable to the progressive degradation of their habitats from land surface runoff or random natural events such as droughts. In many of these surviving populations, there is also evidence of local population decline during the same time period (*e.g.,* Evans 2001, Hartfield and Jones 1990, Williams and Hughes, 1998, McGregor *et al.* 2000).

The Mobile River Basin Aquatic Ecosystem Recovery Plan (U.S. Fish and Wildlife Service 2000), recognized the complexity of conserving the Basin's imperiled species, and considered that downlisting or delisting these 11 mussels was unlikely in the foreseeable future because of the extent of their decline, the fragmentation and isolation of their habitats, and continuing impacts upon their habitats. Compounding these problems is a lack of information on specific habitat and life history requirements of these species, or on the physical threats that confront them (*e.g.,* sediment, nutrient, and other pollutant sensitivities, etc.). Threats compounded by habitat fragmentation and isolation

can be reduced by increasing the number, expanding the range, and increasing the density of populations. Preventing the extinction of those species listed as endangered, and arresting the continued decline of those species listed as threatened are the recovery objectives outlined in the recovery plan for these 11 mussels. The recovery plan emphasizes: (1) Protection of surviving populations of these mussels and their stream and river habitats; (2) enhancement and restoration of habitats; (3) and population management, including augmentation and reintroduction of the 11 mussels into portions of their historic ranges to obtain these recovery objectives. In determining which areas to propose as critical habitat for these 9 mussels, we considered the factors discussed in the recovery plan, as well as the mussels' historical distributions and the extent of current occupied habitats and their management potential.

We began our analysis by considering the historic ranges of the 11 mussel species. A large proportion of the Basin's streams and rivers that historically supported these mussels has been modified by existing dams and their impounded waters. Therefore, extensive portions of the upper Tombigbee River, Black Warrior River, Tallapoosa River, Alabama River, and Coosa River cannot be considered essential to the conservation of these species because they no longer provide the physical and biological features that are essential for their conservation (see ''Primary Constituent Elements'' section).

Free-flowing river segments and their tributaries peripheral to the known historic range of the 11 mussels, and without any records of the species also cannot be considered to be essential to the conservation of these species (*e.g.*, Mobile/Tensas River, lower Tombigbee River, etc.) and so were not considered further. Several streams with single site occurrence records of a single species were also not considered essential because of limited habitat availability, isolation, degraded habitat, and/or low management value or potential (*e.g.*, Etowah River, Big Wills Creek, Little River, Armuchee Creek, Euharlee Creek, Limestone Creek, etc.).

We then evaluated streams and rivers within the historic ranges of these 11 species which had evidence that these mussels had occurred there at some point (*i.e.*, collection records). We eliminated from consideration areas from which there have been no collection records for several decades and/or are remote from currently occupied areas (*e.g.*, portions of the lower Alabama River, lower Cahaba River, Mulberry Fork, Noxubee River, Talladega Creek, and others). In evaluating streams for the upland combshell and southern acornshell, specifically, we considered their historic ranges (Black Warrior, Cahaba, and Coosa River drainages). We selected those areas which have the best potential for and we believe are essential to the conservation of these two mussels based on collection history, surviving mussel species assemblages, and habitat conditions.

This analysis resulted in the identification of 25 of the 26 stream or river reaches within the Basin (habitat units) occupied by 1 or more of the 11 species and that contain the primary constituent elements as indicated by the presence and persistence of one or more of the listed mussels (Figure 1, Units 1 to 25). We believe that these areas also support darters, minnows, and other fishes that have been identified as hosts or potential hosts for one or more of the mussels, as evidenced by fish collection records (Mettee *et al.* 1996), the persistence of the mussels over extended periods of time, or field evidence of recruitment (Evans 2001, Hartfield and Jones 1990, and Herod *et al.* 2001, etc.). We consider all of these 25 of the 26 reaches essential for the conservation of these species. As discussed in the Recovery Plan, long-term conservation of these 11 mussels is unlikely in their currently reduced and fragmented state. Therefore, at a minimum, it is essential to include in this designation the reaches within the historic range that still contain mussels and the primary constituent elements of the habitat.

We then considered whether this essential area was adequate for the conservation of each of the 11 mussel species. Given that threats to the species are compounded by their limited distribution and isolation, it is unlikely that currently occupied habitat is adequate for the conservation of all 11 species. Conservation of these species requires expanding their ranges into currently unoccupied portions of their historic habitat because small, isolated, aquatic populations are subject to chance catastrophic events and to changes in human activities and land use practices that may result in their elimination. Larger, more contiguous populations can reduce the threat of extinction due to habitat fragmentation and isolation.

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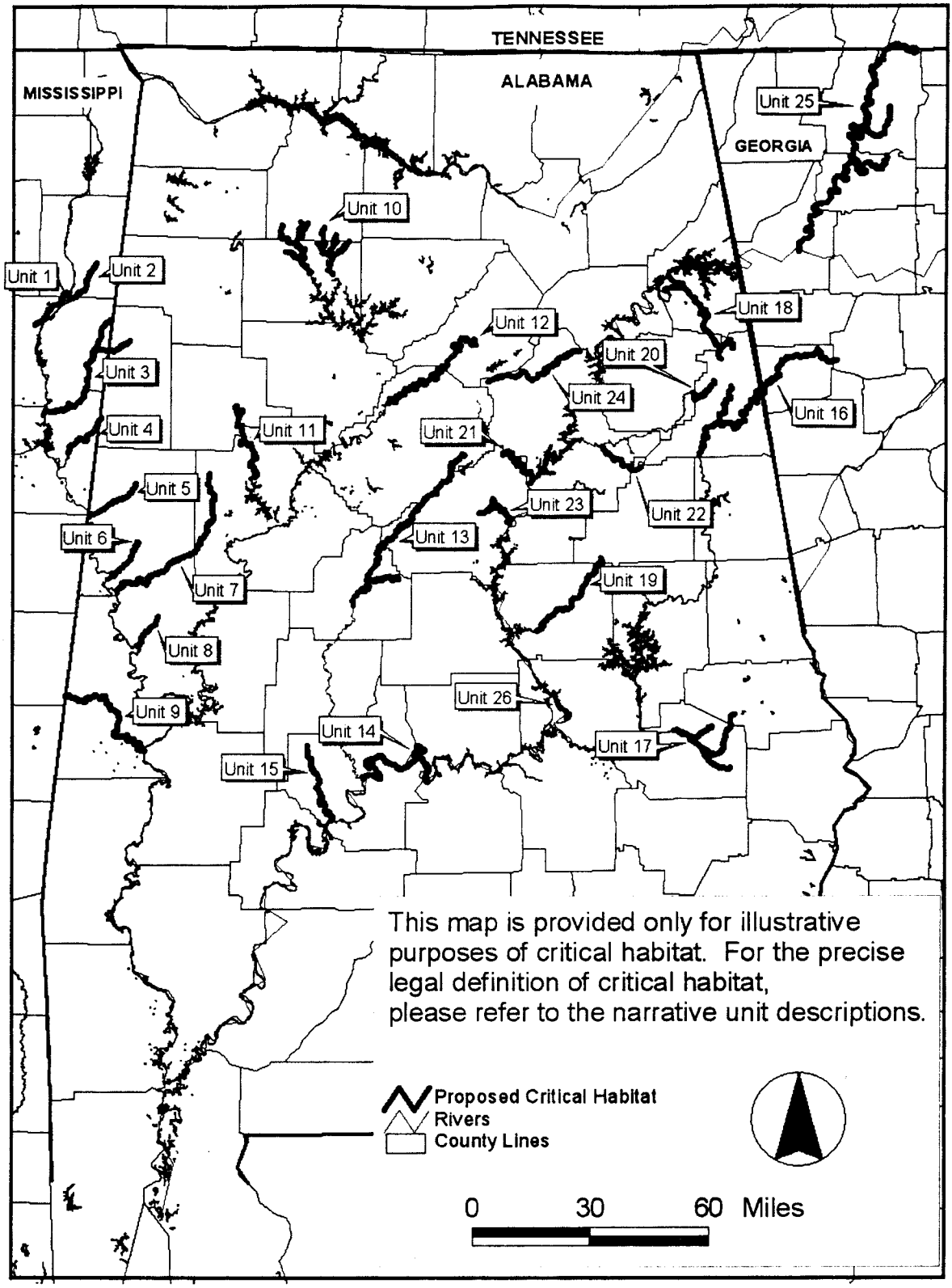

Figure 1: General locations of proposed critical habitat in the Mobile River Basin

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Because portions of the historic range of each of the 11 mussels were shared with 4 or more of the other mussel species, there is considerable overlap between species' current and historical distributions within 25 of the 26 habitat units. This offers opportunities to increase each species' current range and number of extant populations into units currently occupied by other listed species included in this designation. For

example, the Alabama moccasinshell historically inhabited 16 of the units, and currently inhabits 7; fine-lined pocketbook was known from 12 of the units, and currently inhabits 10; orange-nacre mucket historically occupied 15 units, and is currently found in 12; and Coosa moccasinshell historically occupied 9 of the units, but is currently found in only 1. Successful reintroduction of the species into units that they historically occupied (and that are currently occupied by 1 or more of the 11 species) would expand the number of populations, thereby reducing threat of extinction. Each of the 25 of the 26 habitat units (Units 1–25) are currently occupied by 1 or more of the listed mussels. Only two occupied habitat units and one unoccupied habitat unit are proposed for the dark pigtoe because its range was naturally restricted to the Black Warrior drainage, and we are unable to identify any other unoccupied habitat units in the drainage that provide constituent elements.

As noted above, conservation of these species requires expanding their ranges into unoccupied portions of historic habitat. Therefore, in addition to these 25 habitat units, we also propose to designate the Coosa River below Jordan Dam (Unit 26) as critical habitat for 9 of the 11 mussel species. Shells of the fine-lined pocketbook were last collected from this reach in 1989 (Pierson 1991a), and it is also within the historic range of 8 other species. This is the only unit currently not occupied by at least 1 of the 11 species (Johnson 2002). This area has recently been identified as presenting high potential for the successful reintroduction of imperiled mussels in the Coosa River drainage (Johnson 2002). In 1990, the Alabama Power Company initiated a 2000 cubic feet per second minimum flow into the Coosa River below Jordan Dam (Federal Energy Regulatory Commission (FERC) 1990), greatly improving aquatic habitat quality. The lower Coosa River not only offers high-quality riverine habitat, but due to local geology it is relatively protected from non-point runoff, a major threat to all existing populations of these species. There are historic records of fine-lined pocketbook and southern clubshell from this 13 km (8 mi) reach of river (Johnson 2002, Pierson 1991a), and it is within the historic range of Alabama moccasinshell, Coosa moccasinshell, ovate clubshell, southern pigtoe, triangular kidneyshell, southern acornshell, and upland combshell. As noted above, threats to these species can be reduced by expanding their current ranges through reintroduction into suitable habitats. Since the Coosa River below Jordan Dam is recognized as presenting the best opportunity for reestablishing populations of 9 of the 11 species and is viewed by experts as a high-quality example of remaining mussel habitat in the Basin, we believe it is also essential for their conservation, and propose to designate it as unoccupied habitat for these 9 mussel species.

As a result, we have defined 26 habitat units encompassing approximately 1,760 km (1,093 mi) of stream and river channels in Alabama, Mississippi, Georgia, and Tennessee, for these 11 mussel species (Figure 1). Although this represents only a small proportion of each species' historic range, these habitat units include a significant proportion of the Basin's remaining, highest quality, free-flowing rivers and streams, and reflect the variety of small stream to large river habitats historically occupied by each species. Because mussels are naturally restricted by certain physical conditions within a stream or river reach (*i.e.,* flow, substrate), they may be unevenly distributed within these habitat units. Uncertainty on upstream and downstream distributional limits of some populations may have resulted in small areas of occupied habitat excluded from, or areas of unoccupied habitat included in the designation.

We recognize that both historic and recent collection records upon which we relied are incomplete, and that there are river segments or small tributaries not included in this proposed designation that may harbor small, limited populations of one or more of the 11 species considered in this proposed designation, or that others may become suitable in the future. The exclusion of such areas does not diminish their potential individual or cumulative importance to the conservation of these species. However, we believe that with proper management each of the 26 habitat units are capable of supporting 1 or more of these 11 species, and will serve as source populations for artificial reintroduction into designated stream units, as well as assisted or natural migration into adjacent undesignated streams within the Basin.

At this time, the habitat areas contained within the units described below constitute our best evaluation of areas needed for the conservation of these species. Proposed critical habitat may be revised for any or all of these species should new information become available prior to the final rule, and existing critical habitat may be revised if new information becomes available after the final rule.

Need for Special Management Consideration or Protection

An area designated as critical habitat contains one or more of the primary constituent elements that are essential to the conservation of the species (see ''Primary Constituent Elements'' section), and that may require special management considerations or protection. Various activities in or adjacent to each of the critical habitat units described in this proposed rule may affect one or more of the primary constituent elements that are found in the unit. These activities include, but are not limited to, those listed in the ''Effects of Critical Habitat'' section as ''Federal Actions That May Affect Critical Habitat and Require Consultation.'' None of the proposed critical habitat units is presently under special management or protection provided by a legally operative plan or agreement for the conservation of these mussels. Therefore, we have determined that the proposed units may require special management or protection.

Proposed Critical Habitat Designation

The areas that we are proposing for designation as critical habitat for the 11 mussel species provide one or more of the primary constituent elements described above. In accordance with the Mobile River Aquatic Ecosystem Recovery Plan (2000), protection of the habitat in these units and their surviving populations is essential to the conservation of these 11 mussel species. All of the proposed areas require special management considerations to ensure their contribution to the conservation of these mussels. For each stream reach proposed as a critical habitat unit, the up- and downstream boundaries are described in general detail below; more precise estimates are provided in the Regulation Promulgation of this rule.

Critical Habitat Unit Descriptions

The critical habitat units described below include the stream and river channels within the ordinary high water line. As defined in 33 CFR 329.11, the ordinary high water line on nontidal rivers is the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas. We are proposing the following areas for

designation as critical habitat for the 11 mussel species (Refer to Table 1 for the location and extent of proposed critical habitat for each species and more specifically to § 17.95, Critical habitat-fish and wildlife, at the end of this rule).

TABLE 1.—APPROXIMATE RIVER DISTANCES, BY DRAINAGE, FOR OCCUPIED AND UNOCCUPIED PROPOSED CRITICAL HABITAT FOR THE 9 MUSSEL SPECIES*

Species, Status, Critical Habitat Unit, and State	Currently Occupied		Currently Unoccupied	
	Kilometers	Miles	Kilometers	Miles
Alabama moccasinshell				
THREATENED				
1. East Fork Tombigbee River, MS	.....	.....	26	16
2. Bull Mountain Creek, MS	34	21	.....	.....
3. Buttahatchee River, MS, AL	110	68	.....	.....
4. Luxapalila Creek, MS, AL	29	18	.....	.....
5. Coalfire Creek, AL	.....	.....	32	20
6. Lubbub Creek, AL	31	19	.....	.....
7. Sipsey River, AL	90	56	.....	.....
8. Trussels Creek, AL	.....	.....	21	13
9. Sucarnoochee River, AL	.....	.....	90	56
10. Sipsey Fork, AL	147	91	.....	.....
11. North River, AL	.....	.....	47	29
12. Locust Fork, AL	.....	.....	102	63
13. Cahaba River, AL	.....	.....	124	77
15. Bogue Chitto Creek, AL	.....	.....	52	32
25. Oostanuala complex, GA, TN	16	10	191	119
26. Lower Coosa River, AL	.....	.....	13	8
Total	457	283	698	433
Fine-lined pocketbook				
THREATENED				
13. Cahaba River, AL	124	77	.....	.....
16. Tallapoosa River, AL, GA	161	100	.....	.....
17. Uphapee complex, AL	74	46	.....	.....
18. Coosa River, AL	78	48	.....	.....
19. Hatchet Creek, AL	66	41	.....	.....
20. Shoal Creek, AL	26	16	.....	.....
21. Kelly Creek, AL	34	21	.....	.....
22. Cheaha Creek, AL	27	17	.....	.....
23. Yellowleaf Creek, AL	39	24	.....	.....
24. Big Canoe Creek, AL	.....	.....	29	18
25. Oostanaula complex, GA, TN	115	71	92	57
26. Lower Coosa River, AL	.....	.....	13	8
Total	744	461	134	83
Orange-nacre mucket				
THREATENED				
1. East Fork Tombigbee River, MS	26	16	.....	.....
2. Bull Mountain Creek, MS	.....	.....	34	21
3. Buttahatchee River, MS, AL	87	54	23	14
4. Luxapalila Creek, MS, AL	29	18	.....	.....
5. Coalfire Creek, AL	32	20	.....	.....
6. Lubbub Creek, AL	31	19	.....	.....
7. Sipsey River, AL	90	56	.....	.....
8. Trussels Creek, AL	21	13	.....	.....
9. Sucarnoochee River, AL	.....	.....	90	56
10. Sipsey Fork, AL	147	91	.....	.....
11. North River, AL	47	29	.....	.....
12. Locust Fork, AL	102	63	.....	.....
13. Cahaba River, AL	124	77	.....	.....
14. Alabama River, AL	.....	.....	73	45
15. Bogue Chitto Creek, AL	52	32	.....	.....
Total	788	480	220	136
Coosa moccasinshell				
ENDANGERED				
18. Coosa River, AL	.....	.....	78	48
19. Hatchet Creek, AL	.....	.....	66	41
20. Shoal Creek, AL	.....	.....	26	16
21. Kelly Creek, AL	.....	.....	34	21
22. Cheaha Creek, AL	.....	.....	27	17
23. Yellowleaf Creek, AL	.....	.....	39	24

TABLE 1.—APPROXIMATE RIVER DISTANCES, BY DRAINAGE, FOR OCCUPIED AND UNOCCUPIED PROPOSED CRITICAL HABITAT FOR THE 9 MUSSEL SPECIES *—Continued

Species, Status, Critical Habitat Unit, and State	Currently Occupied		Currently Unoccupied	
	Kilometers	Miles	Kilometers	Miles
24. Big Canoe Creek, AL	.....	.....	29	18
25. Oostanaula Complex, GA, TN	115	71	92	57
26. Lower Coosa River, AL	.....	.....	13	8
Total	115	71	404	250
Dark pigtoe				
ENDANGERED				
10. Sipsey Fork, AL	147	91	.....	.....
11. North River, AL	47	29	.....	.....
12. Locust Fork, AL	.....	.....	102	63
Total	194	120	102	63
Ovate clubshell				
ENDANGERED				
1. East Fork Tombigbee River, MS	.....	.....	26	16
2. Bull Mountain Creek, MS	.....	.....	34	21
3. Buttahatchee River, MS, AL	87	54	23	14
4. Luxapalila Creek,MS, AL	29	18	.....	.....
5. Coalfire Creek, AL	32	20	.....	.....
6. Lubbub Creek, AL	.....	.....	31	19
7. Sipsey River, AL	90	56	.....	.....
8. Trussels Creek, AL	.....	.....	21	13
9. Sucarnoochee River, AL	90	56	.....	.....
10. Sipsey Fork, AL	.....	.....	147	91
11. North River, AL	.....	.....	47	29
12. Locust Fork, AL	.....	.....	102	63
13. Cahaba River, AL	.....	.....	124	77
17. Uphapee complex, AL	74	46	.....	.....
18. Coosa River, AL	18	11	60	37
19. Hatchet Creek, AL	.....	.....	66	41
21. Kelly Creek, AL	.....	.....	34	21
24. Big Canoe Creek, AL	.....	.....	29	18
25. Oostanaula complex, GA, TN	.....	.....	206	128
26. Lower Coosa River, AL	.....	.....	13	8
Total	420	261	963	596
Southern clubshell				
ENDANGERED				
1. East Fork Tombigbee River, MS	26	16	.....	.....
2. Bull Mountain Creek, MS	34	21	.....	.....
3. Buttahatchee River, MS, AL	87	54	23	14
4. Luxapalila Creek, MS AL	29	18	.....	.....
5. Coalfire Creek, AL	.....	.....	32	20
6. Lubbub Creek, AL	31	19	.....	.....
7. Sipsey River, AL	90	56	.....	.....
8. Trussels Creek, AL	.....	.....	21	13
9. Sucarnoochee River, AL	.....	.....	90	56
13. Cahaba River, AL	.....	.....	124	77
14. Alabama River, AL	73	45	.....	.....
15. Bogue Chitto Creek, AL	52	32	.....	.....
17. Uphapee Complex, AL	74	46		
18. Coosa River, AL	71	44	7	4
19. Hatchet Creek, AL	.....	.....	66	41
21. Kelly Creek, AL	26	16	8	5
24. Big Canoe Creek, AL	29	18	.....	.....
25. Oostanaula Complex, GA, TN	15	9	130	120
26. Lower Coosa River, AL	.....	.....	13	8
Total	637	394	577	358
Southern pigtoe				
ENDANGERED				
18. Coosa River, AL	.....	.....	78	48
19. Hatchet Creek, AL	.....	.....	66	41
20. Shoal Creek, AL	26	16	.....	.....
21. Kelly Creek, AL	.....	.....	34	21

TABLE 1.—APPROXIMATE RIVER DISTANCES, BY DRAINAGE, FOR OCCUPIED AND UNOCCUPIED PROPOSED CRITICAL HABITAT FOR THE 9 MUSSEL SPECIES *—Continued

Species, Status, Critical Habitat Unit, and State	Currently Occupied		Currently Unoccupied	
	Kilometers	Miles	Kilometers	Miles
22. Cheaha Creek, AL	27	17	.....	.....
23. Yellowleaf Creek,	.....	.....	39	24
24. Big Canoe Creek, AL	29	18	.....	.....
25. Oostanaula Complex, GA, TN	115	71	92	57
26. Lower Coosa River, AL	.....	.....	13	8
Total	197	122	322	199
Triangular kidneyshell				
ENDANGERED				
10. Sipsey Fork, AL	147	91	.....	.....
11. North River, AL	.....	.....	47	29
12. Locust Fork, AL	102	63	.....	.....
13. Cahaba River, AL	105	65	19	12
18. Coosa River, AL	.....	.....	78	48
19. Hatchet Creek, AL	.....	.....	66	41
20. Shoal Creek, AL	26	16	.....	.....
21. Kelly Creek, AL	26	16	8	5
22. Cheaha Creek, AL	.....	.....	27	17
23. Yellowleaf Creek, AL	.....	.....	39	24
24. Big Canoe Creek, AL	29	18	.....	.....
25. Oostanaula Complex, GA, TN	206	128	.....	.....
26. Lower Coosa River, AL	.....	.....	13	8
Total	641	397	297	184
Southern acornshell				
ENDANGERED				
13. Cahaba River, AL	.....	.....	124	77
18. Coosa River, AL	.....	.....	78	48
19. Hatchet Creek, AL	.....	.....	66	41
21. Kelly Creek, AL	.....	.....	34	21
24. Big Canoe Creek, AL	.....	.....	29	18
25. Oostanaula Complex, GA, TN	.....	.....	205	128
26. Lower Coosa River, AL	.....	.....	13	8
Total	.....	.....	549	341
Upland combshell				
ENDANGERED				
12. Locust Fork, AL	.....	.....	102	63
13. Cahaba River, AL	.....	.....	124	77
18. Coosa River, AL	.....	.....	78	48
19. Hatchet Creek, AL	.....	.....	66	41
21. Kelly Creek, AL	.....	.....	34	21
24. Big Canoe Creek, AL	.....	.....	29	18
25. Oostanaula Complex, GA, TN	.....	.....	205	128
26. Lower Coosa River, AL	.....	.....	13	8
Total	.....	.....	651	404

* Table 1 refers to the location and extent of proposed critical habitat for each species. For more detail, refer to § 17.95. Table 1 will reflect totals on a species level only, because units are listed under each species as appropriate.

Upper Tombigbee River Drainage, Alabama, Mississippi

The Tombigbee River and several of its tributaries above the confluence of the Black Warrior River historically supported robust populations of the orange-nacre mucket, Alabama moccasinshell, southern clubshell, and ovate clubshell. Construction of navigation dams has eliminated these species from the mainstem river, and the dams and impounded waters isolate all surviving tributary populations from each other.

Unit 1. East Fork Tombigbee River, Monroe, Itawamba Counties, Mississippi

Unit 1 encompasses 26 km (16 mi) of the East Fork Tombigbee River channel in Mississippi extending from Mississippi Highway 278, Monroe County, upstream to the confluence of Mill Creek, Itawamba County, Mississippi. This reach of the East Fork Tombigbee River continues to support the southern clubshell and orange-nacre mucket (Hartfield and Jones 1989, Miller and Hartfield 1988, Mississippi Museum of Natural Science (MMNS) mussel collections 1984–2001). This unit is within the historic range of the

Alabama moccassinshell and ovate clubshell.

Unit 2. Bull Mountain Creek, Itawamba County, Mississippi

Unit 2 encompasses 34 km (21 mi) of the Bull Mountain Creek stream channel in Mississippi extending from Mississippi Highway 25, upstream to U.S. Highway 78, Itawamba County, Mississippi. Bull Mountain Creek supports the southern clubshell and Alabama moccasinshell (Jones and Majure 1999). This unit is within the historic range of the orange-nacre mucket (records are from the early 1980's (MMNS mussel collections)) and the ovate clubshell.

Unit 3. Buttahatchee River and Tributary, Lowndes/Monroe County, Mississippi; Lamar County, Alabama

Unit 3 encompasses 110 km (68 mi) of river and stream channel in Mississippi and Alabama, including 87 km (54 mi) of the Buttahatchee River, extending from the confluence with Tombigbee River, Lowndes/Monroe County, Mississippi, upstream to the confluence of Beaver Creek, Lamar County, Alabama; and 23 km (14 mi) of Sipsey Creek, extending from its confluence with the Buttahatchee River, upstream to the Mississippi/Alabama State Line, Monroe County, Mississippi. The Buttahatchee River continues to support and provide habitat for the southern clubshell, orange-nacre mucket, ovate clubshell, and Alabama moccasinshell (Haag and Warren 2001, Hartfield and Jones 1989, Jones 1991, McGregor 2000). The current distribution of the Alabama moccasinshell also extends into its tributary Sipsey Creek (McGregor 2000).

Unit 4. Luxapalila Creek and Tributary, Lowndes County, Mississippi; Lamar County, Alabama

Unit 4 encompasses 29 km (18 mi) of stream channel, including 15 km (9 mi) of Luxapalila Creek, extending from Waterworks Road, Columbus, Mississippi, upstream to approximately 1.0 km (0.6 mi) above Steens Road, Lowndes County, Mississippi; and 15 km (9 mi) of Yellow Creek extending from its confluence with Luxapalila Creek, upstream to the confluence of Cut Bank Creek, Lamar County, Alabama. Luxapalila and Yellow Creeks support and provide habitat for the southern clubshell, orange-nacre mucket, ovate clubshell, and Alabama moccasinshell (Hartfield and Bowker 1992, McGregor 2000, Miller 2000, Yokley 2001).

Unit 5. Coalfire Creek, Pickens County, Alabama

Unit 5 encompasses 32 km (20 mi) of the Coalfire Creek stream channel extending from the confluence with the Aliceville Lake (Tombigbee River), upstream to U.S. Highway 82, Pickens County, Alabama. Coalfire Creek supports the orange-nacre mucket and ovate clubshell (P. Hartfield, Service field records 1991; McGregor 2000). The creek is in the historic range of the southern clubshell and Alabama moccasinshell.

Unit 6. Lubbub Creek, Pickens County, Alabama

Unit 6 encompasses 31 km (19 mi) of the Lubbub Creek stream channel extending from its confluence with the impounded waters of Gainesville Lake (Tombigbee River), upstream to the confluence of Little Lubbub Creek, Pickens County, Alabama. This stream supports the southern clubshell, orange-nacre mucket, and Alabama moccasinshell (P. Hartfield, Service field records 1991, McGregor 2000, Pierson 1991a). It is in the historic range of the ovate clubshell.

Unit 7. Sipsey River, Greene/Pickens, Tuscaloosa Counties, Alabama

Unit 7 encompasses 90 km (56 mi) of the Sipsey River channel from the confluence with Gainesville Lake (Tombigbee River), Greene/Pickens County, upstream to Alabama Highway 171 crossing, Tuscaloosa County, Alabama. This small river supports and provides some of the best remaining habitat for the southern clubshell, orange-nacre mucket, ovate clubshell, and Alabama moccasinshell (Haag and Warren 1997, McCullagh *et al.* in press, McGregor 2000, MMNS Mussel Collection, Pierson, 1991 a, b).

Unit 8. Trussels Creek, Greene County, Alabama

Unit 8 encompasses 21 km (13 mi) of creek channel extending from its confluence with the Tombigbee River, upstream to Alabama Highway 14, Greene County, Alabama. The orange-nacre mucket continues to survive in Trussels Creek, and it is in the historic range of the ovate clubshell, Alabama moccasinshell, and southern clubshell (P. Hartfield field records 1993, McGregor 2000).

Unit 9. Sucarnoochee River, Sumter County, Alabama

Unit 9 encompasses 90 km (56 mi) of the Sucarnoochee River channel in Alabama, extending from its confluence with the Tombigbee River, upstream to the Mississippi/Alabama State Line, Sumter County, Alabama. The ovate clubshell continues to survive in the Sucarnoochee River (McGregor *et al.* 1996). The river is within the historic range of the southern clubshell, orange-nacre mucket, and Alabama moccasinshell.

Black Warrior River Drainage, Alabama

The Black Warrior River and its tributaries historically supported populations of the orange-nacre mucket, Alabama moccasinshell, Coosa moccasinshell, southern clubshell, ovate clubshell, dark pigtoe, triangular kidneyshell, and upland combshell. There are also records of the fine-lined pocketbook from the drainage. Dam construction for navigation and hydropower and episodic water pollution resulted in the extirpation of the Coosa moccasinshell, southern clubshell, ovate clubshell, and upland combshell from this drainage. Three tributary drainages continue to support two or more endangered and threatened mussels. Dams and impounded waters currently isolate these drainages from each other.

Unit 10. Sipsey Fork Drainage, Winston, Lawrence Counties, Alabama

Unit 10 encompasses 147 km (91 mi) of stream channel in Alabama, including: Sipsey Fork, 31 km (19 mi), from section 11/12 line, T10S R8W, Winston County, upstream to the confluence of Hubbard Creek, Lawrence County, Alabama; Thompson Creek, 8 km (5 mi), from confluence with Hubbard Creek, upstream to section 2 line, T8S R9W, Lawrence County, Alabama; Brushy Creek, 35 km (22 mi), from the confluence of Glover Creek, Winston County, Alabama, upstream to section 9, T8S R7W, Lawrence County, Alabama; Capsey Creek, 15 km (9 mi), from confluence with Brushy Creek, Winston County, upstream to the confluence of Turkey Creek, Lawrence County, Alabama; Rush Creek, 10 km (6 mi), from confluence with Brushy Creek, upstream to Winston/Lawrence County Line, Winston County, Alabama; Brown Creek, 5 km (3 mi), from confluence with Rush Creek, Winston County, upstream to section 24 line, T8S R7W Lawrence County, Alabama; Beech Creek, 3 km (2 mi), from confluence with Brushy Creek, to confluence of East and West Forks, Winston County, Alabama; Caney Creek and North Fork Caney Creek, 13 km (8 mi), from confluence with Sipsey Fork, upstream to section 14 line, Winston County, Alabama; Borden Creek, 18 km (11 mi), from confluence with Sipsey Fork, Winston County, Alabama,

upstream to the confluence of Montgomery Creek, Lawrence County, Alabama; Flannagin Creek, 10 km (6 mi), from confluence with Borden Creek, upstream to confluence of Dry Creek, Lawrence County, Alabama. The upper Sipsey Fork drainage currently supports the most robust and extensive populations of the dark pigtoe, orange-nacre mucket, Alabama moccasinshell, and triangular kidneyshell (Haag and Warren 1997; Haag *et al.* 1995; Hartfield 1991; Hartfield and Butler 1997; Hartfield and Hartfield 1996; McGregor 1992, Warren and Haag 1994). Ovate clubshell have been reported from this drainage (Dodd 1986).

Unit 11. North River and Tributary, Tuscaloosa, Fayette Counties, Alabama

Unit 11 encompasses 47 km (29 mi) of river and stream channel in Alabama, including: North River, 42 km (26 mi) extending from Tuscaloosa County Road 38, Tuscaloosa County, upstream to confluence of Ellis Creek, Fayette County, Alabama; Clear Creek, 5 km (3 mi), from its confluence with North River, to Bays Lake Dam, Fayette County, Alabama. Small numbers of the dark pigtoe and orange-nacre mucket continue to survive in the North River and Clear Creek (McGregor and Pierson 1999, Pierson 1992a, Vittor and Associates 1993). This area is in the historic range of the Alabama moccasinshell, triangular kidneyshell, and ovate clubshell.

Unit 12. Locust Fork and Tributary, Jefferson, Blount Counties, Alabama

Unit 12 encompasses 102 km (63 mi) of river and stream channel in Alabama, including: Locust Fork, 94 km (58 mi) extending from U.S. Highway 78, Jefferson County, upstream to the confluence of Little Warrior River, Blount County, Alabama; Little Warrior River, 8 km (5 mi), from its confluence with the Locust Fork, upstream to the confluence of Calvert Prong and Blackburn Fork, Blount County, Alabama. Scattered collections of the orange-nacre mucket and triangular kidneyshell suggest an enduring population of these species in the Locust Fork (P. Johnson pers. comm. 2002, Hartfield 1991, Shepard *et al.* 1988). This stream is also in the historic range of the dark pigtoe, Alabama moccasinshell, ovate clubshell, and upland combshell.

Cahaba River Drainage, Alabama

The Cahaba River and tributaries historically supported the orange-nacre mucket, fine-lined pocketbook, Alabama moccasinshell, southern clubshell, ovate clubshell, triangular kidneyshell, upland combshell, and southern acornshell. Episodic and persistent pollution events have caused the decline of the mussel community throughout the drainage, as well as the extirpation of five of the listed mussels.

Unit 13. Cahaba River and Tributary, Jefferson, Shelby, Bibb Counties, Alabama

Unit 13 encompasses 124 km (77 mi) of river channel in Alabama, including: Cahaba River, 105 km (65 mi) extending from U.S. Highway 82, Centerville, Bibb County, upstream to Jefferson County Road 143, Jefferson County, Alabama; Little Cahaba River, 19 km (12 mi), from its confluence with the Cahaba River, upstream to the confluence of Mahan and Shoal Creeks, Bibb County, Alabama. Scattered individuals of triangular kidneyshell, orange-nacre mucket, and fine-lined pocketbook continue to be collected from the Cahaba drainag (R. Haddock, Cahaba River Society, pers. comm. 2002; McGregor *et al.* 2000, Shepard *et al.* 1994). The river is historic habitat for the Alabama moccasinshell, southern clubshell, ovate clubshell, upland combshell, and southern acornshell.

Alabama River Drainage, Alabama

The Alabama River mollusc community has been reduced due to the effects of historic pollution events and impoundment for navigation. Historical records from this river include the Alabama moccasinshell, orange-nacre mucket, fine-lined pocketbook, triangular kidneyshell, and southern clubshell.

Unit 14. Alabama River, Autauga, Lowndes, Dallas Counties, Alabama

Unit 14 encompasses 73 km (45 mi) of the Alabama River channel, extending from the confluence of the Cahaba River, Dallas County, upstream to the confluence of Big Swamp Creek, Lowndes County, Alabama. The southern clubshell is known to occur within this reach (Hartfield and Garner 1998). This area may become suitable for reintroduction of the orange-nacre mucket.

Unit 15. Bogue Chitto Creek, Dallas County, Alabama

Unit 15 encompasses 52 km (32 mi) of the Bogue Chitto Creek channel in Alabama, extending from its confluence with the Alabama River, Dallas County, upstream to U.S. Highway 80, Dallas County, Alabama. This stream continues to support the southern clubshell and orange-nacre mucket (McGregor *et al.* 1996; P. Hartfield field notes, 1984; Pierson 1991a). The habitat offers potential for the Alabama moccasinshell.

Tallapoosa River Drainage, Alabama, Georgia

Historical and recent records indicate that the Tallapoosa River drainage supported a diverse mussel community, although numbers of all mussel species have apparently always been low in this system. This river drainage currently contains 2 extensive areas of contiguous habitat supporting three of the listed mussel species.

Unit 16. Tallapoosa River and Tributary, Cleburne County, Alabama and Haralson and Paulding Counties, Georgia

Unit 16 encompasses 161 km (100 mi) of river and stream channel in Alabama and Georgia, including: Tallapoosa River, 137 km (85 mi) extending from U.S. Highway 431, Cleburne County, Alabama, upstream to the confluence of McClendon and Mud Creeks, Paulding County, Georgia; and Cane Creek, 24 km (15 mi), from confluence with Tallapoosa River, upstream to Section 33/4 Line (T15S, R11E), Cleburne County, Alabama. This extensive area of main channel and tributary habitat supports scattered, small numbers of the fine-lined pocketbook (Devris 1997, Irwin *et al.* 1998, Irwin pers. comm. 2000). There have been site collections of fine-lined pocketbook in the extreme lowest reaches of several small tributaries to the Tallapoosa Unit, including Little Cane Creek, Big Creek, McClendon Creek, and Muscadine Creek, and there are likely to be others. We believe these small populations are dependent upon the main stem Tallapoosa River for recruitment.

Unit 17. Uphapee/Choctafaula/Chewacla Creeks, Macon, Lee Counties, Alabama

Unit 17 encompasses 74 km (46 mi) of stream channel in Alabama, including: Uphapee Creek, 18 km (11 mi) of river channel extending from Alabama Highway 199, upstream to confluence of Opintlocco and Chewacla Creeks, Macon County, Alabama; Choctafaula Creek, 11 km (7 mi), from confluence with Uphapee Creek, upstream to Macon County Road 54, Macon County, Alabama; Chewacla Creek, 29 km (18 mi), from confluence with Opintlocco Creek, Macon County, Alabama, upstream to Lee County Road 159, Lee County, Alabama; Opintlocco Creek, 16 km (10 mi), from confluence with Chewacla Creek, upstream to Macon County Road 79, Macon County, Alabama. This stream network supports small and localized populations of the

fine-lined pocketbook, ovate clubshell, and southern clubshell (M. Gangloff, Auburn University, *in litt.* 2001; Gangloff 2002, McGregor 1993, Pierson 1991a).

Coosa River Drainage, Alabama, Georgia, Tennessee

Extensive impoundment for hydropower during the 20th century along with episodic pollution events severely reduced one of the most diverse endemic freshwater molluscan communities in the world. Listed mussels in the drainage are now restricted to one small portion of the main channel Coosa River, one large tributary complex, and several small isolated tributaries.

Unit 18. Coosa River (Old River Channel) and tributary, Cherokee, Calhoun, Cleburne Counties, Alabama

Unit 18 encompasses 78 km (48 mi) of river channel in Alabama, including: Coosa River, 18 km (11 mi) extending from the powerline crossing southeast of Maple Grove, Alabama, upstream to Weiss Dam, Cherokee County, Alabama; Terrapin Creek, 53 km (33 mi) extending from its confluence with the Coosa River, Cherokee County, upstream to Cleburne County Road 49, Cleburne County, Alabama; South Fork Terrapin Creek, 7 km (4 mi) from its confluence with Terrapin Creek, upstream to Cleburne County Road 55, Cleburne County, Alabama. The short reach of the Coosa River continues to support a fairly robust population of the southern clubshell, and a few individuals of the ovate clubshell and fine-lined pocketbook (Herod *et al.* 2001). The fine-lined pocketbook and southern clubshell have also been recently collected from Terrapin Creek (Feminella and Gangloff 2000). This area is within the range of the Coosa moccasinshell, southern pigtoe, triangular kidneyshell, upland combshell, and southern acornshell.

Unit 19. Hatchet Creek, Coosa, Clay Counties, Alabama

Unit 19 encompasses 66 km (41 mi) of the Hatchet Creek channel in Alabama, extending from the confluence of Swamp Creek at Coosa County Road 29, Coosa County, Alabama, upstream to Clay County Road 4, Clay County, Alabama. The fine-lined pocketbook occurs within this reach (Feminella and Gangloff 2000, Pierson 1992b). Hatchet Creek is within the historic range of the Coosa moccasinshell, southern pigtoe, ovate clubshell, southern clubshell, triangular kidneyshell, upland combshell, and southern acornshell.

Unit 20. Shoal Creek, Calhoun, Cleburne Counties, Alabama

Unit 20 encompasses 26 km (16 mi) of stream channel in Alabama, extending from the headwater of Whitesides Mill Lake, Calhoun County, Alabama, upstream to the tailwater of Coleman Lake Dam, Cleburne County, Alabama. The fine-lined pocketbook, southern pigtoe, and triangular kidneyshell survive in Shoal Creek (Haag *et al.* 1999, Feminella and Gangloff 2000, Gangloff *in litt.* 2001, Pierson, 1992b). Shoal Creek is within historic range of the Coosa moccasinshell.

Unit 21. Kelly Creek and Tributary, Shelby, St. Clair Counties, Alabama

Unit 21 encompasses 34 km (21 mi) of stream channel in Alabama, including: Kelly Creek, 26 km (16 mi) extending from the confluence with the Coosa River, upstream to the confluence of Shoal Creek, St. Clair County, Alabama; Shoal Creek, 8 km (5 mi), from confluence with Kelly Creek, St. Clair County, Alabama, upstream to St. Clair/Shelby County Line, St. Clair County, Alabama. Kelly/Shoal Creeks continue to support scattered individuals of the fine-lined pocketbook, and the southern clubshell and triangular kidneyshell survive in Kelly Creek (Pierson pers comm. 1995, Feminella and Gangloff 2000, Gangloff in litt. 2001). This stream complex is historic habitat for the southern pigtoe, Coosa moccasinshell, ovate clubshell, upland combshell, and southern acornshell.

Unit 22. Cheaha Creek, Talladega, Clay Counties, Alabama

Unit 22 encompasses 27 km (17 mi) of the Cheaha Creek channel, extending from its confluence with Choccolocco Creek, Talladega County, Alabama, upstream to the tailwater of Chinnabee Lake, Clay County, Alabama. The fine-lined pocketbook and southern pigtoe survive within this reach (Feminella and Gangloff 2000, Gangloff *in litt.* 2001, Pierson 1992b, 1993). Cheaha Creek is in the historic range of the Coosa moccasinshell and triangular kidneyshell.

Unit 23. Yellowleaf Creek and Tributary, Shelby County, Alabama

Unit 23 encompasses 39 km (24 mi) of stream channel, including: Yellowleaf Creek, 32 km (20 mi), extending from Alabama Highway 25, upstream to Shelby County Road 49; Muddy Prong, 7 km (4 mi), extending from confluence with Yellowleaf Creek, upstream to U.S. Highway 280, Shelby County, Alabama. Yellowleaf and Muddy Prong Creeks are currently inhabited by the fine-lined pocketbook (Feminella and Gangloff 2000, Gangloff *in litt.*, 2001, Pierson *in litt.* 2000). Yellowleaf Creek is in the historic range of the Coosa moccasinshell, southern pigtoe, and triangular kidneyshell.

Unit 24. Big Canoe Creek, St. Clair County, Alabama

Unit 24 encompasses 29 km (18 mi) of the Big Canoe Creek channel, extending from its confluence with Little Canoe Creek at the St. Clair/Etowah County line, St. Clair County, upstream to the confluence of Fall Branch, St. Clair County, Alabama. The southern clubshell, southern pigtoe, and triangular kidneyshell are surviving in low numbers in Big Canoe Creek (Feminella and Gangloff 2000, Gangloff *in litt.* 2001). This stream is also historic habitat for the fine-lined pocketbook, ovate clubshell, Coosa moccasinshell, upland combshell, and southern acornshell.

Unit 25. Oostanaula River/Coosawattee River/Conasauga River/Holly Creek, Floyd, Gordon, Whitfield, Murray Counties, Georgia; Bradley, Polk Counties, Tennessee

Unit 25 encompasses 206 km (128 mi) of river and stream channel in Georgia and Tennessee, including: Oostanaula River, 77 km (48 mi) extending from its confluence with the Etowah River, Floyd County, upstream to the confluence of the Conasauga and Coosawattee River, Gordon County, Georgia; Coosawattee River, 15 km (9 mi), from confluence with the Conasauga River, upstream to Georgia State Highway 136, Gordon County, Georgia; Conasauga River, 98 km (61 mi), from confluence with the Coosawattee River, Gordon County, Georgia, upstream through Bradley and Polk Counties, Tennessee, to the Murray County Road 2, Murray County, Georgia; Holly Creek, 16 km (10 mi), from confluence with Conasauga River, upstream to the confluence of Rock Creek, Murray County, Georgia. This extensive riverine reach continues to support small and localized populations of fine-lined pocketbook, southern pigtoe, triangular kidneyshell, Alabama moccasinshell, and Coosa moccasinshell. The triangular kidneyshell survives throughout this unit, while the fine-lined pocketbook, southern pigtoe, and Coosa moccasinshell appear to be currently restricted to the Conasauga River and Holly Creek and the southern clubshell appears restricted to a small 15 km (9 mi) reach of the Conasauga River (Evans 2001, Johnson and Evans, 2000, Pierson *in litt.* 1993, Williams and Hughes

1998). The Alabama moccasinshell is currently known to survive only in the Holly Creek portion of this Unit (Evans 2001, Johnson and Evans 2000). The Oostanaula/Coosawattee/Conasauga Unit also contains historic habitat for the southern clubshell, ovate clubshell, upland combshell, and southern acornshell.

Unit 26. Lower Coosa River, Elmore County, Alabama

Unit 26 encompasses 13 km (8 mi) of the Lower Coosa River channel, extending from Alabama State Highway 111 bridge, upstream to Jordan Dam, Elmore County, Alabama. This river reach is within the historic range of fine-lined pocketbook, southern clubshell, Alabama moccasinshell, Coosa moccasinshell, ovate clubshell, southern pigtoe, triangular kidneyshell, upland combshell, and southern acornshell. (Johnson 2002, Pierson 1991a).

Land Ownership

States were granted ownership of lands beneath navigable waters up to the high water mark upon achieving statehood (Pollard v. Hagan, 44 U.S. (3 How.) 212 (1845)). Prior sovereigns or the States may have made grants to private parties which include lands below mean high waters of some navigable waters included in this proposal. However, we believe that most navigable waters included in this rule are owned by the States of Mississippi, Alabama, Georgia, and Tennessee. Most non-navigable streams and riparian lands bordering navigable streams are in private ownership. Table 2 summarizes primary riparian landowners in each of the proposed critical habitat units by private, State, or Federal ownership. Approximately 82 percent, 1447 km (897 mi), of stream channels proposed as critical habitat are bordered by private lands.

TABLE 2.—ADJACENT RIPARIAN LAND OWNERSHIP (KM/MI) IN PROPOSED CRITICAL HABITAT UNITS FOR THREATENED AND ENDANGERED MUSSELS IN THE MOBILE RIVER BASIN

Critical habitat unit	Private	State	Federal	Total
1. East Fork Tombigbee River	19/12		6/4	26/16
2. Bull Mountain Creek	34/21			34/21
3. Buttahatchee River	110/68			110/68
4. Luxapalila Creek	29/18			29/18
5. Coalfire Creek	32/20			32/20
6. Lubbub Creek	31/19			31/19
7. Sipsey River	74/46	16/10		90/56
8. Trussels Creek	21/13			21/13
9. Sucarnoochee River	90/56			90/56
10. Sipsey Fork	15/9		132/82	147/91
11. North River	47/29			47/29
12. Locust Fork	102/63			102/63
13. Cahaba River	92/57	26/16	6/4	124/77
14. Alabama River	73/45			73/45
15. Bogue Chitto	52/32			52/32
16. Tallapoosa River	161/100			161/100
17. Uphapee complex	56/35		18/11	74/46
18. Coosa River	63/39		15/9	78/48
19. Hatchet Creek	55/34		11/7	66/41
20. Shoal Creek			26/16	26/16
21. Kelly Creek	34/21			34/21
22. Cheaha Creek	16/10		11/7	27/17
23. Yellowleaf Creek	39/24			39/24
24. Big Canoe Creek	29/18			29/18
25. Oostanaula Complex	188/117		18/11	206/128
26. Lower Coosa River	13/8			13/8
Total	1,475/914	42/26	243/151	1,760/1,093

Public lands adjacent to proposed critical habitat units consist of approximately 288 km (179 mi) of riparian lands, including Canal Section Wildlife Management Area in Unit 1 (6 km (4 mi)); Sipsey River Natural Area in Unit 7 (16 km (10 mi)); William B. Bankhead National Forest in Unit 10 (134 km (83 mi)); Cahaba River National Wildlife Refuge (6 km (4 mi)) and Cahaba River Wildlife Management Area (28 km (17 mi)) in Unit 13; Tuskegee National Forest in Unit 17 (16 km (10 mi)); Talladega National Forest in Unit 18 (15 km (9 mi)), Unit 19 (11 km (7 mi)), Unit 20 (27 km (17mi)), and Unit 22 (11 km (7 mi)); and Chattahoochee National Forest in Unit 25 (18 km (11 mi)).

Effects of Critical Habitat Designation

Relationship to Section 7 of the Act

The regulatory effects of a critical habitat designation under the Act are triggered through the provisions of section 7 of the Act, which applies only to activities conducted, authorized, or funded by a Federal agency (Federal actions). Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Individuals, organizations, States, local governments, and other non-Federal entities are not affected by the designation of critical habitat unless their actions occur on Federal lands, require Federal authorization, or involve Federal funding.

Section 7(a)(2) of the Act requires Federal agencies, including us, to insure that their actions are not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. This requirement is met through a consultation under section 7 of the Act. Our regulations define ''jeopardize the continued existence'' as to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a

listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 CFR 402.02). ''Destruction or adverse modification of designated critical habitat'' is defined as a direct or indirect alteration that appreciably diminishes the value of the critical habitat for both the survival and recovery of the species (50 CFR 402.02). Such alterations include, but are not limited to, adverse changes to the physical or biological features, *i.e.*, the primary constituent elements, that were the basis for determining the habitat to be critical.

The relationship between a species' survival and its recovery has been a source of confusion to some in the past. We believe that a species' ability to recover depends on its ability to survive into the future when its recovery can be achieved; thus, the concepts of long-term survival and recovery are intricately linked. However, in a March 15, 2001, decision of the United States Court of Appeals for the Fifth Circuit (*Sierra Club* v. *U.S. Fish and Wildlife Service et al.*, 245 F.3d 434), the Court found our definition of destruction or adverse modification as currently contained in 50 CFR 402.02 to be invalid. In response to this decision, we are reviewing the regulatory definition of adverse modification in relation to the conservation of the species.

Conference for Proposed Critical Habitat

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to result in the destruction or adverse modification of proposed critical habitat. The regulations for interagency cooperation regarding proposed critical habitat are codified at 50 CFR 402.10. During a conference on the effects of a Federal action on proposed critical habitat, we make non-binding recommendations on ways to minimize or avoid adverse effects of the action. We document these recommendations and any conclusions reached in a conference report provided to the Federal agency and to any applicant involved.

If requested by the Federal agency and deemed appropriate by us, the conference may be conducted in accordance with the procedures for formal consultation under 50 CFR 402.14. We may adopt an opinion issued at the conclusion of the conference as our biological opinion when the critical habitat is designated by final rule, but only if new information or changes to the proposed Federal action would not significantly alter the content of the opinion.

Consultation for Designated Critical Habitat

If a Federal action may affect a listed species or its designated critical habitat, the action agency must initiate consultation with us (50 CFR 402.14). Through this consultation, we will advise the agency whether the action would likely jeopardize the continued existence of the species or adversely modify its critical habitat, or both. The Services' Consultation Handbook states that the destruction or adverse modification analysis focuses on the entire critical habitat area designated unless the critical habitat rule identifies another basis for the analysis, such as discrete units or groups of units necessary for different life cycle phases or units representing distinctive habitat characteristics or gene pools, or units fulfilling essential geographic distribution requirements. The extent of the 11 mussels' decline, the fragmentation and isolation of their habitats and continuing impacts upon their habitats, and the importance of every unit to the recovery of the species suggests that individual units or groups of units that are used by populations which fulfill essential geographic distribution requirements are the appropriate scale for the analysis. In accordance with the Mobile River Aquatic Ecosystem Recovery Plan (2000), protection of the habitat in these units and their surviving populations is essential to the conservation of these 11 mussel species. An action occurring only within one unit may appreciably reduce the value of the critical habitat for the recovery of the species and therefore trigger an adverse modification determination.

When we issue a biological opinion that concludes that a specific action is likely to result in the destruction or adverse modification of critical habitat, we must provide reasonable and prudent alternatives to the action, if any are identifiable. Reasonable and prudent alternatives are actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the originally proposed action, are consistent with the scope of the action agency's authority and jurisdiction, are economically and technologically feasible, and would likely avoid the destruction or adverse modification of critical habitat (50 CFR 402.02).

Reinitiation of Prior Consultations

A Federal agency may request a conference with us for any previously reviewed action that is likely to destroy or adversely modify proposed critical habitat and over which the agency retains discretionary involvement or control, as described above under ''Conference for Proposed Critical Habitat.'' Following designation of critical habitat, regulations at 50 CFR 402.16 require a Federal agency to reinitiate consultation for previously reviewed actions that may affect critical habitat and over which the agency has retained discretionary involvement or control.

Federal Actions That May Destroy or Adversely Modify 11 Mussels Critical Habitat

Section 4(b)(8) of the Act requires us, in any proposed or final rule designating critical habitat, to briefly describe and evaluate those activities that may adversely modify such habitat, or that may be affected by such designation.

Federal actions that, when carried out, funded or authorized by a Federal agency, may destroy or adversely modify critical habitat for the 11 mussels include, but are not limited to:

(1) Actions that would alter the minimum flow or the existing flow regime to a degree that appreciably reduces the value of the critical habitat for both the long-term survival and recovery of the species. Such activities could include, but are not limited to, impoundment, channelization, water diversion, and hydropower generation.

(2) Actions that would significantly alter water chemistry or temperature to a degree that appreciably reduces the value of the critical habitat for both the long-term survival and recovery of the species. Such activities could include, but are not limited to, release of chemicals, biological pollutants, or heated effluents into the surface water or connected groundwater at a point source or by dispersed release (non-point).

(3) Actions that would significantly increase sediment deposition within the stream channel to a degree that appreciably reduces the value of the critical habitat for both the longterm survival and recovery of the species. Such activities could include, but are not limited to, excessive sedimentation from livestock grazing, road construction, timber harvest, off-road vehicle use, and other watershed and floodplain disturbances.

(4) Actions that would significantly increase the filamentous algal community within the stream channel to a degree that appreciably reduces the value of the critical habitat for both the longterm survival and recovery of the species. Such activities could include, but are not limited to, release of

nutrients into the surface water or connected groundwater at a point source or by dispersed release (non-point).

(5) Actions that would significantly alter channel morphology or geometry to a degree that appreciably reduces the value of the critical habitat for both the longterm survival and recovery of the species. Such activities could include, but are not limited to, channelization, impoundment, road and bridge construction, mining, destruction of riparian vegetation.

(6) Actions that would introduce, spread, or augment nonnative aquatic species into critical habitat to a degree that appreciably reduces the value of the critical habitat for both the longterm survival and recovery of the species. Such activities could include, but are not limited to, stocking for sport, biological control, or other purposes; aquaculture; and construction and operation of canals.

Previous Section 7 Consultations

Federal actions that we have reviewed since these 11 mussel species received protection under the Act include Federal land management plans, Federal land acquisition and disposal, road and bridge maintenance and construction, water diversion, timber harvest on Federal land, channelization, flood control, channel maintenance, water quality standards, dam construction and operation, and issuance of permits under section 404 of the Clean Water Act. Federal agencies involved with these activities included the Army Corps of Engineers (COE), U.S. Forest Service, Natural Resources Conservation Service, Environmental Protection Agency, and Federal Highway Administration. Since the original listing of these 11 mussel species, seven formal consultations have been conducted. None of these resulted in a finding that the proposed action would jeopardize the continued existence of any of the 11 species.

In each of the biological opinions resulting from these consultations, we included discretionary conservation recommendations to the action agency. Conservation recommendations are activities that would avoid or minimize the adverse effects of a proposed action on a listed species or its critical habitat, help implement recovery plans, or develop information useful to the species' conservation.

Previous biological opinions also included nondiscretionary reasonable and prudent measures, with implementing terms and conditions, which are designed to minimize the proposed action's incidental take of these 11 mussels. Section 3(18) of the Act defines the term take as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct.'' Harm is further defined in our regulations (50 CFR 17.3) to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.

Conservation recommendations and reasonable and prudent measures provided in previous biological opinions for these mussels have included maintaining State water quality standards, maintaining adequate stream flow rates, minimizing work in the wetted channel, restricting riparian clearing, monitoring channel morphology and mussel populations, installing signage, protecting buffer zones, avoiding pollution, using cooperative planning efforts, minimizing ground disturbance, using sediment barriers, relocating recreational trails, using best management practices to minimize erosion, and funding research useful for mussel conservation. In reviewing past formal consultations, we find that only one may need to be reinitiated as a result of this proposed designation.

On October 3, 1994, we presented a Biological Opinion to the COE and Tennessee Valley Authority (TVA) concluding that the proposed construction and operation of the Tom Bevill Reservoir on the North River, Fayette County, Alabama, would not jeopardize the continued existence of the dark pigtoe and orange-nacre mucket (U.S. Fish and Wildlife Service 1994). The dam site lies within proposed critical habitat Unit 11. This dam has not been constructed. If the applicants determine to proceed with, construction plans, this dam may adversely modify critical habitat in the North River (Unit 11), and consultation should be reinitiated.

The designation of critical habitat will have no impact on private landowner activities that do not require Federal funding or permits. Designation of critical habitat is only applicable to activities approved, funded, or carried out by Federal agencies.

If you have questions regarding whether specific activities would constitute adverse modification of critical habitat, you may contact the following Service offices:

Alabama—Daphne, FWS Ecological Services Office (251/441–5181)
Georgia-Athens, FWS Ecological Services Office (706/613–9493)
Mississippi—Jackson, FWS Ecological Services Office (601/965–4900)
Tennessee-Cookeville, FWS Ecological Services Office (931/528–6481)

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 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 analysis of the economic impacts of designating these areas as critical habitat prior to a final determination. That economic analysis will be conducted in a manner that is consistent with the ruling of the 10th Circuit Court of Appeals in *N.M. Cattle Growers Ass'n* v. *USFWS*. When the draft economic analysis is completed, we will announce its availability with a notice in the **Federal Register**. With publication of the notice of availability, a comment period will be opened for a minimum of 30 days to allow for public comments on the draft economic analysis and proposed rule concurrently.

Public Comments Solicited

We intend for any final action resulting from this proposal to 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 and 50 CFR 424.12(a)(1), including whether the benefits of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of habitat for these 11 mussel species, population numbers, and what habitat is essential to their conservation and why;

(3) Whether areas within proposed critical habitat are currently being managed to address conservation needs of these mussel species;

(4) Current or planned activities in the subject areas and their possible impacts on proposed critical habitats;

(5) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in

particular, any impacts on small entities;

(6) Economic and other values associated with designating critical habitat for these mussels, such as those derived from nonconsumptive uses (*e.g.*, hiking, camping, wildlife-watching, enhanced watershed protection, improved air quality, increased soil retention, ''existence values,'' and reductions in administrative costs).

If you wish to comment on this proposed rule, you may submit your comments and materials concerning this proposal by any one of several methods (*see* **ADDRESSES** section). Electronic comments (e-mail) should avoid the use of special characters and encryption. Please also include ''Attn: [RIN 1018–AI73]'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Mississippi Fish and Wildlife Office (*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 addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold 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. 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 Service's Fish and Wildlife in Jackson, Mississippi (*see* **ADDRESSES** section).

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the comment period during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests must be filed within 45 days of the date of this proposal. Such requests must be made in writing and should be addressed to the Field Supervisor, Mississippi Fish and Wildlife Office (*see* **ADDRESSES** section). Written comments submitted during the comment period receive equal consideration with those comments presented at a public hearing. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations/notices that are easy to understand. We invite your comments on how to make proposed rules 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 (*e.g.*, grouping and order of sections, use of headings, paragraphing) aid or reduce its clarity? (4) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, D.C. 20240. You may e-mail your comments to this address: *Execsec@ios.doi.gov.*

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule and was reviewed by the Office of Management and Budget (OMB). The Service is preparing a draft economic analysis of this proposed action, and will use this analysis to meet the requirement of section 4(b)(2) of the Act to determine the economic consequences of designating the specific areas as critical habitat and excluding any area from critical habitat if it is determined that the benefits of such exclusion outweigh the benefits of specifying such areas as part of the critical habitat, unless failure to designate such area as critical habitat will lead to the extinction of any of these 11 mussel species. This analysis will be made available for public comment before finalizing this designation.

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 (*i.e.*, 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. We are hereby certifying that this proposed rule will not have a significant effect on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations, such as independent nonprofit 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 (13 CFR 121.201). 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.

SBREFA does not explicitly define either ''substantial number'' or ''significant economic impact.'' Consequently, to assess whether a ''substantial number'' of small entities is affected by this designation, this analysis considers the relative number of small entities likely to be impacted in the area. Similarly, this analysis considers the relative cost of compliance on the revenues/profit margins of small entities in determining whether or not entities incur a ''significant economic impact.'' Only small entities that are expected to be directly affected by the designation are considered in this portion of the analysis. This approach is consistent with several judicial opinions related to the scope of the RFA (*Mid-Tex Electric Co-Op, Inc.* v. *F.E.R.C.* and *America Trucking Associations, Inc.* v. *EPA*.).

To determine if the rule would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities (*e.g.*, housing development, grazing, oil and gas production, timber harvesting, *etc.*). We applied the ''substantial number'' test individually to each industry to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also considered 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 are not affected by the designation. Federal agencies are already required to consult with the Services under section 7 of the Act on activities that they fund, permit, or implement that may affect the federally listed mussels discussed herein.

If this critical habitat designation is finalized, Federal agencies must also consult with us if their activities may affect designated critical habitat. However, in areas where the mussel species are present, we believe this will result in only minimal additional regulatory burden on Federal agencies or their applicants because consultation would already be required due to the presence of the listed mussel species. Consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process and trigger only minimal additional regulatory impacts beyond the duty to avoid jeopardizing the species. In the area below Jordan Dam (lower Coosa River, Unit 26) where the mussel species are not present, we also believe designation of critical habitat will result in only minimal additional regulatory burden on Federal agencies or their applicants because consultations have been required, since 1991, due to the presence of the listed Tulotoma snail (56 FR 797, January 9, 1991).

Since the 11 mussels were listed (March 17, 1993, 58 FR 14330), we have conducted 7 formal consultations involving 1 or more of these 11 species. Four of the formal consultations involved Federal projects, including a flood control project by the COE, a horse trail system on the Talladega National Forest, programmatic activities by the Forest Service, and administration of the Clean Water Act in Alabama by the Environmental Protection Agency (EPA). Another formal consultation involved a COE permit to construct water withdrawal and discharge facilities for a gas powered electrical generating facility. These 5 consultations resulted in non-jeopardy opinions, and had no economic effects on small entities. The other 2 consultations involved COE permits to small entities to construct dams; one on a stream that was occupied habitat of the fine-lined pocketbook, and the other on a river that was occupied by the orange-nacre mucket and dark pigtoe. Biological Opinions prepared by us for these consultations concluded the actions were ''not likely to jeopardize'' the species, and identified reasonable and prudent measures to reduce take of the species affected by the projects. In reviewing these 2 consultations in light of proposed critical habitat, we recognize that with critical habitat present, our analysis would also include a determination of whether the action would destroy or adversely modify the critical habitat. One of these dams has not been constructed, and reinitiation of consultation may be necessary if construction plans proceed, after this designation is finalized (*see* ''Previous Section 7 Consultations'' above).

We also reviewed approximately 300 informal consultations that have been conducted since these 11 species were listed involving private businesses and industries, counties, cities, towns, or municipalities. At least 200 of these were with entities that likely met the definition of small entities. These informal consultations concerned activities such as excavation or fill, docking facilities, bridges, transmission lines, pipe lines, quarries, mines, housing developments, road and utility development, etc., authorized by COE, FERC, or EPA, or review of National Pollution Discharge Elimination System permit applications to State water quality agencies by developers, municipalities, mines, businesses, and others. Informal consultations on Federal activities also included campground improvements, burning programs, and southern pine beetle control by the Forest Service. Informal consultations regarding the mussels usually resulted in recommendations to employ Best Management Practices for sediment control, relied on current State water quality standards for protection of water quality, and resulted in little to no modification of the proposed activities. In reviewing these past informal consultations and the activities involved in light of proposed critical habitat, we do not believe the outcomes would have been different in areas designated as critical habitat.

In summary, we have considered whether this proposed designation would result in a significant economic impact on a substantial number of small entities and find that it would not. Informal consultations on approximately 300 activities in the Basin by businesses and governmental jurisdictions that might affect these species and their habitats resulted in little to no economic effect on small entities. In the decade since the 11 mussels were listed, there have been only 2 formal consultations regarding actions by small entities, both of which culminated in findings which allowed the projects to go forward. Our review indicates that even if the outcomes of these 2 formal consultations had been quite different, in light of critical habitat designation, less than 1 percent of small entities affected by a designation would have experienced a significant economic impact. This does not meet the definition of ''substantial.'' In addition, there is no indication that the types of activities we review under section 7 of the Act will change significantly in the future. There would be no additional section 7 consultations resulting from this rule as 25 of the proposed critical habitat units are currently occupied by 1 or more listed mussels, and the lower Coosa River (Unit 26) is currently occupied by the endangered tulotoma snail (*Tulotoma magnifica*), so the consultation requirement has already been triggered. Future consultations are not likely to affect a substantial number of small entities. This rule would result in major project modifications only when proposed activities with a Federal nexus would destroy or adversely modify critical habitat. While this may occur, it is not expected to occur frequently enough to affect a substantial

number of small entities. Therefore, we are certifying that the proposed designation of critical habitat for these 11 mussels will not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required. This determination will be revisited after the close of the comment period and revised, if necessary, in the final rule.

This discussion is based upon the information regarding potential economic impact that is available to us at this time. This assessment of economic effect may be modified prior to final rulemaking based upon development and review of the draft economic analysis prepared pursuant to section 4(b)(2) of the ESA and E.O. 12866. This analysis is for the purposes of compliance with the Regulatory Flexibility Act and does not reflect our position on the type of economic analysis required by *New Mexico Cattle Growers Assn.* v. *U.S. Fish and Wildlife Service* 248 F.3d 1277 (10th Cir. 2001).

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 802(2))

In the draft economic analysis, we will determine whether designation of critical habitat will cause (a) any effect on the economy of $100 million or more, (b) any increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

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 regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) the Service will use the economic analysis to further evaluate this situation.

Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), this rule does not have significant takings implications. A takings implication assessment is not required. As discussed above, the designation of critical habitat affects only Federal agency actions. Since the proposed critical habitat includes only aquatic areas that are generally held in public trust, we believe that little or no private property is included in the proposed designation. Based on current public knowledge of the species protection and the prohibition against take of the species both within and outside of the designated areas, we do not anticipate that property values will be affected by the critical habitat designation. Additionally, critical habitat designation does not preclude development of habitat conservation plans and issuance of incidental take permits.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, the Service requested information from, and coordinated development of this critical habitat proposal with, appropriate State resource agencies in Mississippi, Alabama, Tennessee, and Georgia, as well as during the listing process. The impact of the proposed designation on State and local governments and their activities is not believed to be significant, but this will be more fully examined in the economic analysis of the proposal, on which we will seek public comment. The designation may have some benefit to these governments in that the areas essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning, rather than waiting for case-by-case section 7 consultations to occur.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and does meet the requirements of sections 3(a) and 3(b)(2) of the Order. We are proposing to designate critical habitat in accordance with the provisions of the Endangered Species Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of these 11 mussels.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This proposed rule does not contain new or revised information collection for which Office of Management and Budget approval is required under the Paperwork Reduction Act. Information collections associated with certain permits pursuant to the Endangered Species Act are covered by an existing OMB approval, and are assigned clearance No. 1018–0094, with an expiration date of July 31, 2004. Detailed information for Act documentation appears at 50 CFR part 17. The Service 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.

National Environmental Policy Act (NEPA)

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

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no Tribal lands essential for the conservation of the 11 mussels. Therefore, designation of critical habitat for the 11 mussels has not been proposed on Tribal lands.

References Cited

A complete list of all references cited in this proposed rule is available upon

request from the Mississippi Fish and Wildlife Office (*see* **ADDRESSES** section).

Author

The primary author of this notice is Paul Hartfield (*see* **ADDRESSES** section), 601/321–1125.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

For the reasons outlined in the preamble, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

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 section 17.11(h), revise each of the entries here listed, in alphabetical order under ''CLAMS'', to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
CLAMS							
*	*	*	*	*	*	*	
Acornshell, southern ...	*Epioblasma othcaloogensis*.	U.S.A. (AL,GA,TN)	NA	E	495	17.95 (f)	NA
*	*	*	*	*	*	*	
Clubshell, ovate	*Pleurobema perovatum*.	U.S.A. (AL,TN,GA,MS)	NA	E	495	17.95 (f)	NA
*	*	*	*	*	*	*	
Clubshell, southern	*Pleurobema decisum*	U.S.A. (AL,TN,GA,MS)	NA	E	495	17.95 (f)	NA
*	*	*	*	*	*	*	
Combshell, upland	*Epioblasma metastriata*.	U.S.A. (AL,GA,TN)	NA	E	495	17.95 (f)	NA
*	*	*	*	*	*	*	
Kidneyshell, triangular	*Ptychobranchus greenii*.	U.S.A. (AL,GA,TN)	NA	E	495	17.95 (f)	NA
*	*	*	*	*	*	*	
Moccasinshell, Alabama.	*Medionidus acutissimus*.	U.S.A. (AL,GA,MS)	NA	T	495	17.95 (f)	NA
*	*	*	*	*	*	*	
Moccasinshell Coosa,	*Medionidus parvulus* ..	U.S.A. (AL,GA,TN)	NA	E	495	17.95 (f)	NA
*	*	*	*	*	*	*	
Mucket, orange-nacre	*Lampsilis perovalis*	U.S.A. (AL,MS)	NA	T	495	17.95 (f)	NA
*	*	*	*	*	*	*	
Pigtoe, dark	*Pleurobema furvum*	U.S.A. (AL)	NA	E	495	17.95 (f)	NA
*	*	*	*	*	*	*	
Pigtoe, southern	*Pleurobema georgianum*.	U.S.A. (AL,GA,TN)	NA	E	495	17.95 (f)	NA
*	*	*	*	*	*	*	
Pocketbook, fine-lined	*Lampsilis altilis*	U.S.A. (AL,GA)	NA	T	495	17.95 (f)	NA
*	*	*	*	*	*	*	

3. In § 17.95, at the end of paragraph (f), add an entry for 11 Mobile River Basin mussel species to read as follows:

§ 17.95 Critical habitat-fish and wildlife.

* * * * *

(f) *Clams and snails.* * * *

Eleven Mobile River Basin mussel species: southern acornshell (*Epioblasma othcaloogensis*), ovate clubshell (*Pleurobema perovatum*), southern clubshell (*Pleurobema decisum*), upland combshell (*Epioblasma metastriata*), triangular kidneyshell (*Ptychobranchus greeni*), Alabama moccasinshell (*Medionidus acutissimus*), Coosa moccasinshell (*Medionidus parvulus*), orange-nacre mucket (*Lampsilis perovalis*), dark pigtoe (*Pleurobema furvum*), southern pigtoe (*Pleurobema georgianum*), and fine-lined pocketbook (*Lampsilis altilis*)

(1) The primary constituent elements essential for the conservation of the southern acornshell (*Epioblasma*

othcaloogensis), ovate clubshell (*Pleurobema perovatum*), southern clubshell (*Pleurobema decisum*), upland combshell (*Epioblasma metastriata*); triangular kidneyshell (*Ptychobranchus greeni*), Alabama moccasinshell (*Medionidus acutissimus*), Coosa moccasinshell (*Medionidus parvulus*), orange-nacre mucket (*Lampsilis perovalis*), dark pigtoe (*Pleurobema furvum*), southern pigtoe (*Pleurobema georgianum*), and fine-lined pocketbook (*Lampsilis altilis*) are those habitat components that support feeding, sheltering, reproduction, and physical features for maintaining the natural processes that support these habitat components. The primary constituent elements include:

(i) Geomorphically stable stream and river channels and banks;

(ii) A flow regime (*i.e.*, the magnitude, frequency, duration, and seasonality of discharge over time) necessary for normal behavior, growth, and survival of all life stages of mussels and their fish hosts in the river environment;

(iii) Water quality, including temperature, pH, hardness, turbidity, oxygen content, and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages;

(iv) Sand, gravel, and/or cobble substrates with low to moderate amounts of fine sediment, low amounts of attached filamentous algae, and other physical and chemical characteristics necessary for normal behavior, growth, and viability of all life stages;

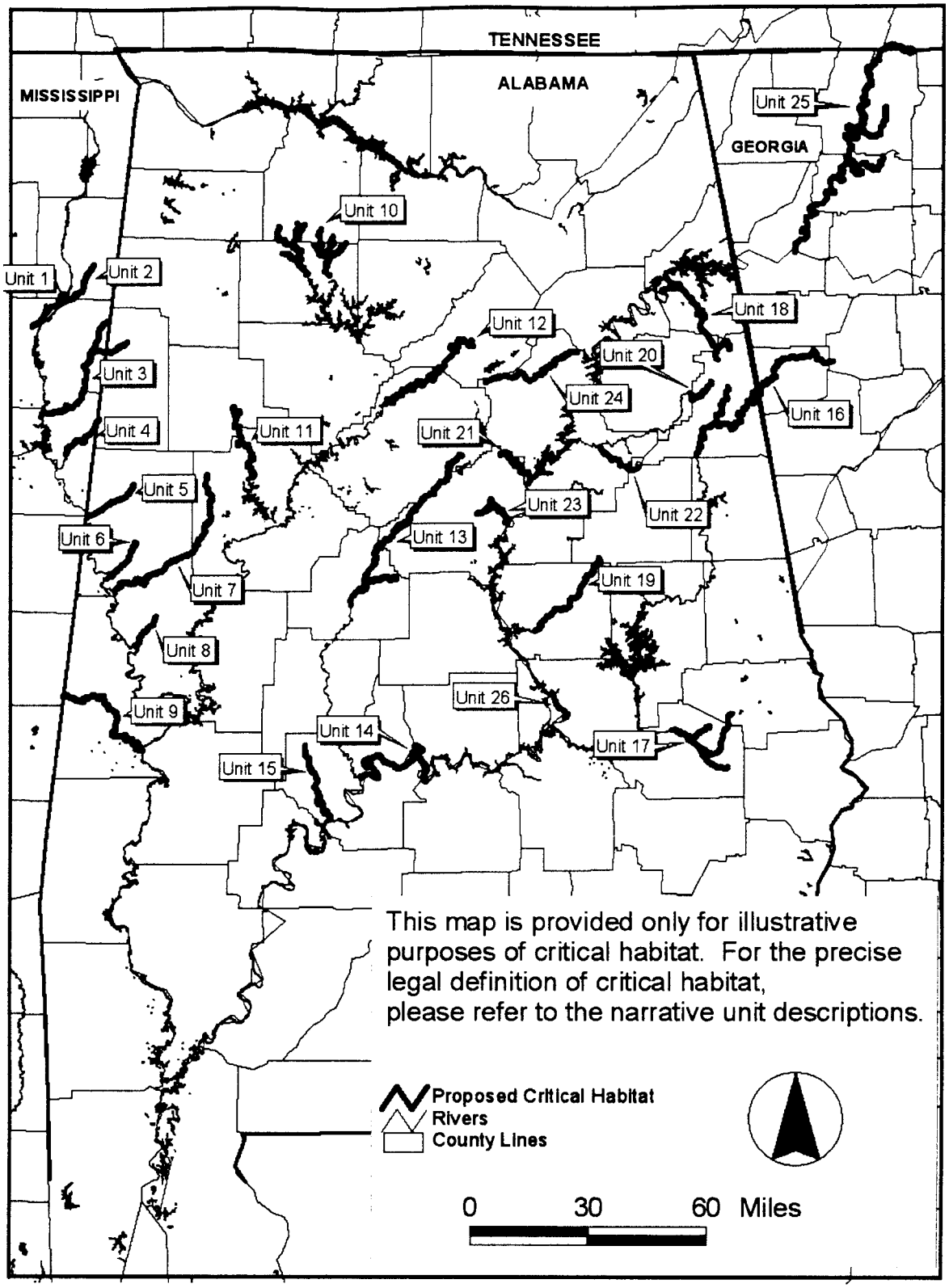
(v) Fish hosts, with adequate living, foraging, and spawning areas for them; and

(vi) Few or no competitive nonnative species present.

(2) Critical habitat unit descriptions and maps.

(i) Index map. The index map showing critical habitat units in the States of Mississippi, Alabama, Georgia, and Tennessee for the 11 Mobile River Basin mussel species follows:

BILLING CODE 4310–55–P



General locations of proposed critical habitat in the Mobile River Basin

(ii) Table of protected species and critical habitat units. A table listing the protected species, their respective critical habitat units, and the States which contain those habitat units follows. Detailed critical habitat unit descriptions and maps appear below the table.

TABLE OF ELEVEN MOBILE RIVER BASIN MUSSEL SPECIES, THEIR CRITICAL HABITAT UNITS, AND STATES CONTAINING THOSE CRITICAL HABITAT UNITS

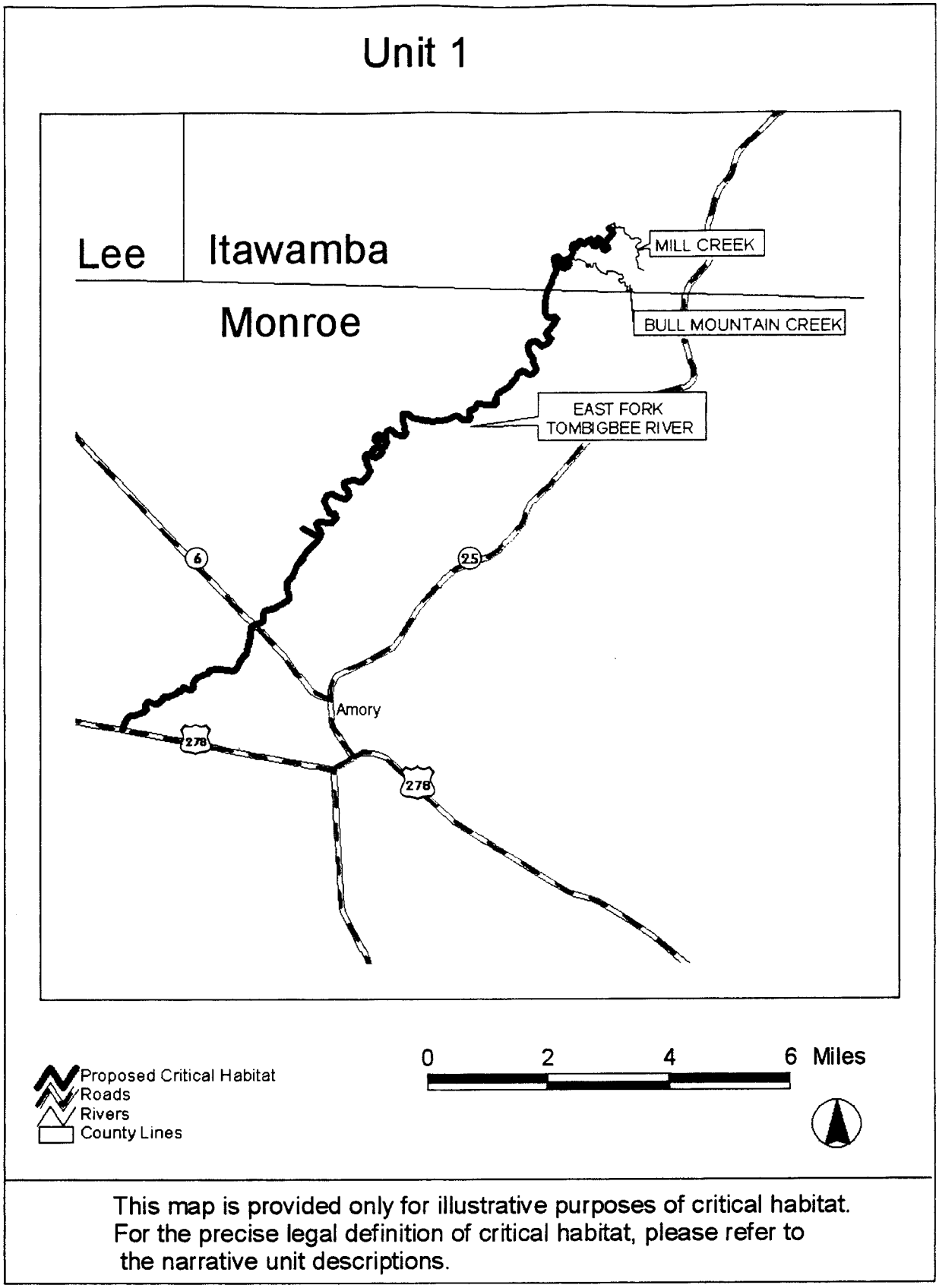
Species	Critical habitat units	States
Southern acornshell (*Epioblasma othcaloogensis*)	Units 13, 18, 19, 21, 24, 25, 26	AL, GA, TN.
Ovate clubshell (*Pleurobema perovatum*)	Units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 17, 18, 19, 21, 24, 25, 26.	AL, GA, MS, TN.
Southern clubshell (*Pleurobema decisum*)	Units 1, 2, 3, 4, 5, 6, 7, 8, 9, 13, 14, 15, 17, 18, 19, 21, 24, 25, 26	AL, GA, MS, TN.
Upland combshell (*Epioblasma metastriata*)	Units 12, 13, 18, 19, 21, 24, 25, 26	AL, GA, TN.
Triangular kidneyshell (*Ptychobranchus greeni*)	Units 10, 11, 12, 13, 18, 19, 20, 21, 22, 23, 24, 25, 26	AL, GA, TN.
Alabama moccasinshell (*Medionidus acutissimus*)	Units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 25, 26	AL, GA, MS, TN.
Coosa moccasinshell (*Medionidus parvulus*)	Units 18, 19, 20, 21, 22, 23, 24, 25, 26	AL, GA, TN.
Orangenacre mucket (*Lampsilis perovalis*)	Units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15	AL, MS
Dark pigtoe (*Pleurobema furvum*)	Units 10, 11, 12	AL
Southern pigtoe (*Pleurobema georgianum*)	Units 18, 19, 20, 21, 22, 23, 24, 25, 26	AL, GA, TN.
Fine-lined pocketbook (*Lampsilis altilis*)	Units 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26	AL, GA, TN.

(iii) Unit 1. East Fork Tombigbee River, Monroe, Itawamba County, Mississippi. This is a critical habitat unit for the ovate clubshell, southern clubshell, Alabama moccasinshell, and orangenacre mucket.

(A) Unit 1 includes the East Fork Tombigbee River main stem from Mississippi Highway 278 (T13S R7E S3), Monroe County, upstream to the confluence of Mill Creek (T11S R8E S24), Itawamba County, Mississippi.

(B) Map of Unit 1 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

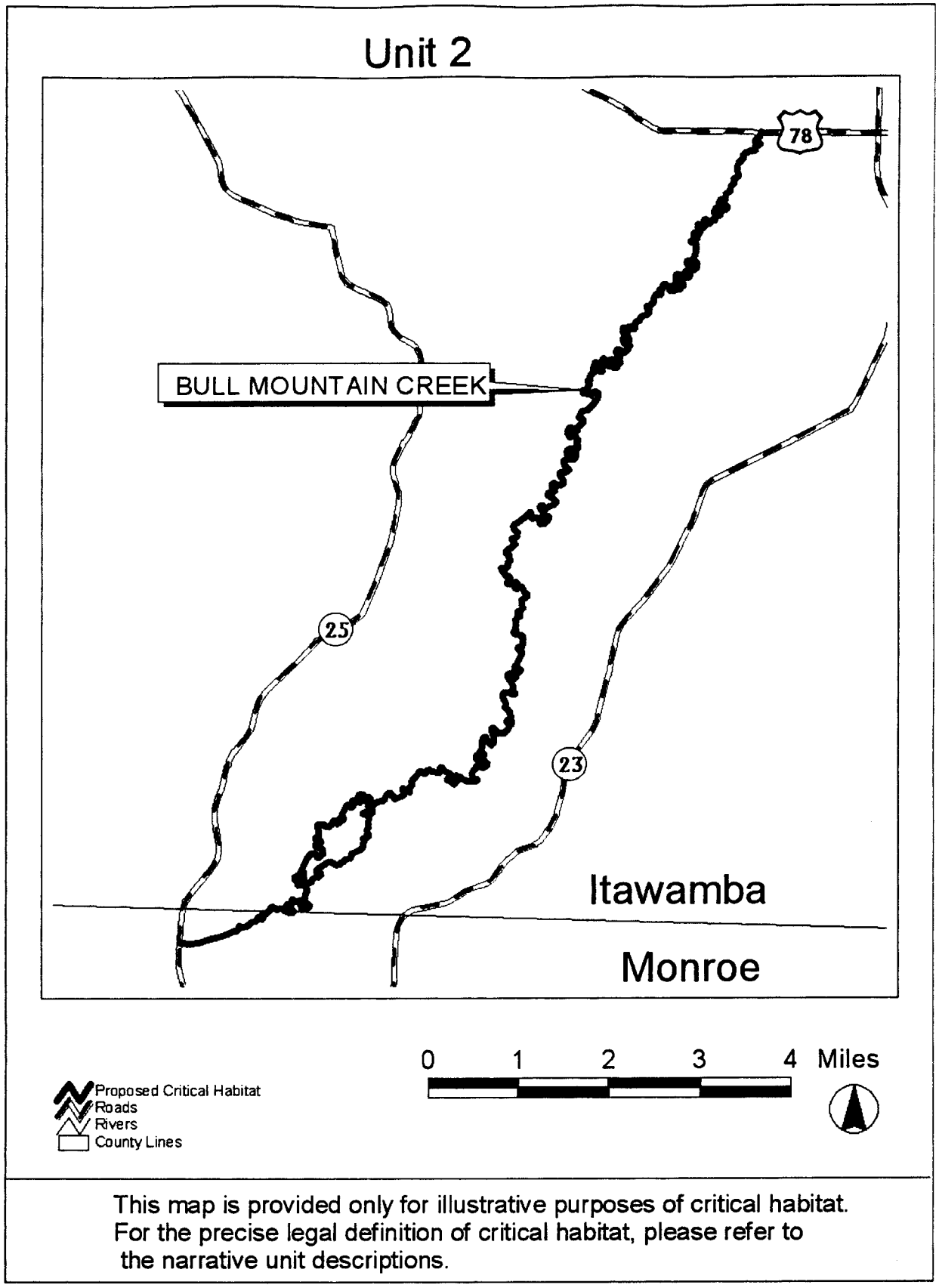
(iv) Unit 2. Bull Mountain Creek, Itawamba County, Mississippi. This is a critical habitat unit for the ovate

clubshell, southern clubshell, Alabama moccasinshell, and orangenacre mucket.

(A) Unit 2 includes the main stem of Bull Mountain Creek from Mississippi Highway 25 (T11S R9E S30), upstream to U.S. Highway 78 (T10S R10E S6), Itawamba County, Mississippi.

(B) Map of Unit 2 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

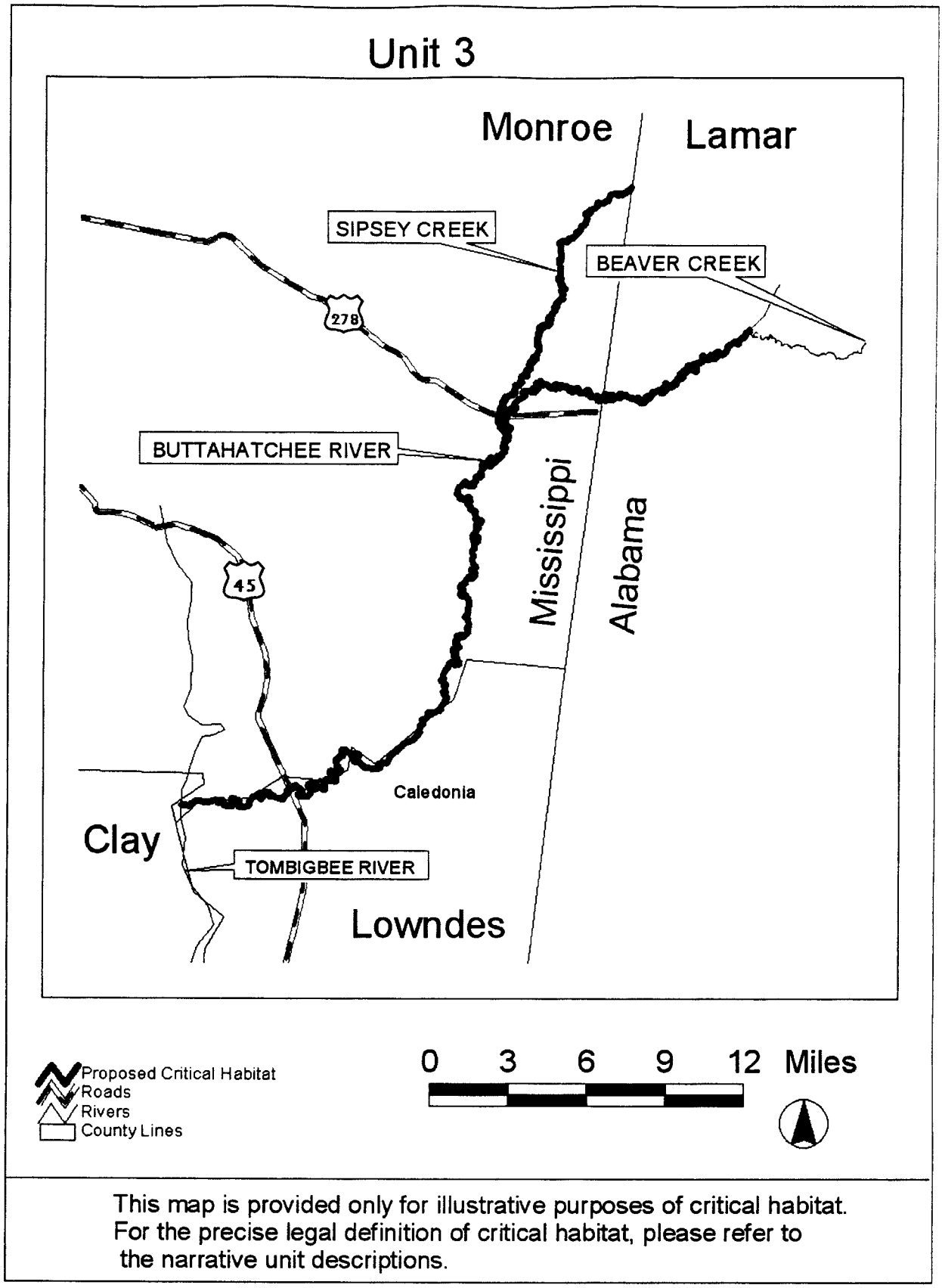
(v) Unit 3. Buttahatchee River and Sipsey Creek, Lowndes/Monroe County, Mississippi; Lamar County, Alabama. This is a critical habitat unit for the

ovate clubshell, southern clubshell, Alabama moccasinshell, and orangenacre mucket.

(A) Unit 3 includes the Buttahatchee River main stem from its confluence with the Tombigbee River (T16S R19W S23), Lowndes/Monroe County, Mississippi, upstream to the confluence of Beaver Creek (T13S R15W S17), Lamar County, Alabama; and Sipsey Creek, from its confluence with the Buttahatchee River (T14S R17W S2), upstream to the Mississippi/Alabama State Line (T12S R10E S21), Monroe County, Mississippi.

(B) Map of Unit 3 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

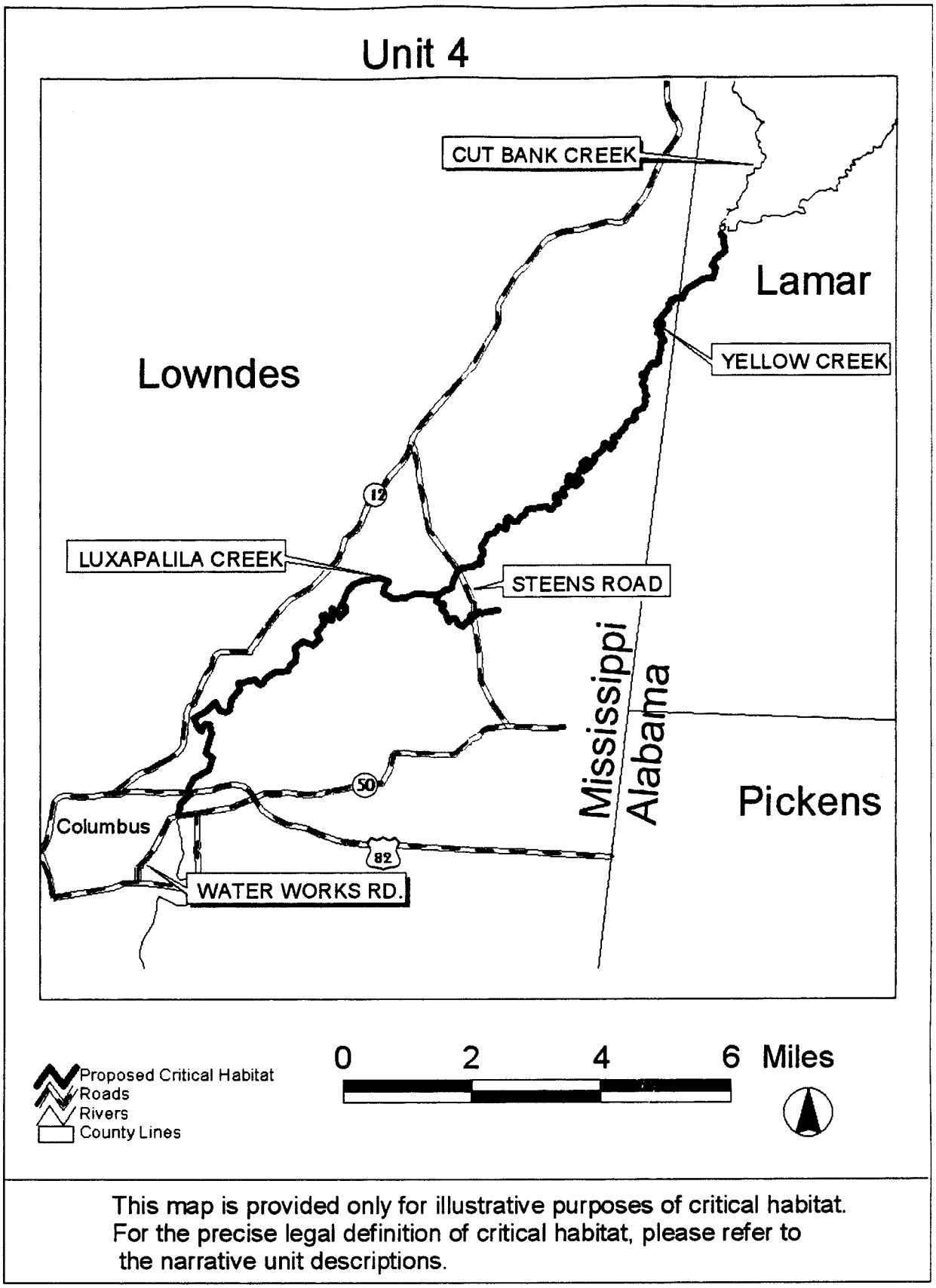
(vi) Unit 4. Luxapalila Creek and Yellow Creek, Lowndes County, Mississippi; Lamar County, Alabama. This is a critical habitat unit for the

ovate clubshell, southern clubshell, Alabama moccasinshell, and orangenacre mucket.

(A) Unit 4 includes the Luxapalila Creek main stem from Waterworks Road (T18S R18W S11), Columbus, Mississippi, upstream to approximately 1.0 km (0.6 mi) above Steens Road (T17S R17W S27), Lowndes County, Mississippi; and the Yellow Creek main stem from its confluence with Luxapalila Creek (T17S R17W S21), Lowndes County, Mississippi, upstream to the confluence of Cut Bank Creek (T16S R16W S30), Lamar County, Alabama.

(B) Map of Unit 4 follows:

BILLIING CODE 4310–55–P



BILLIING CODE 4310–55–C

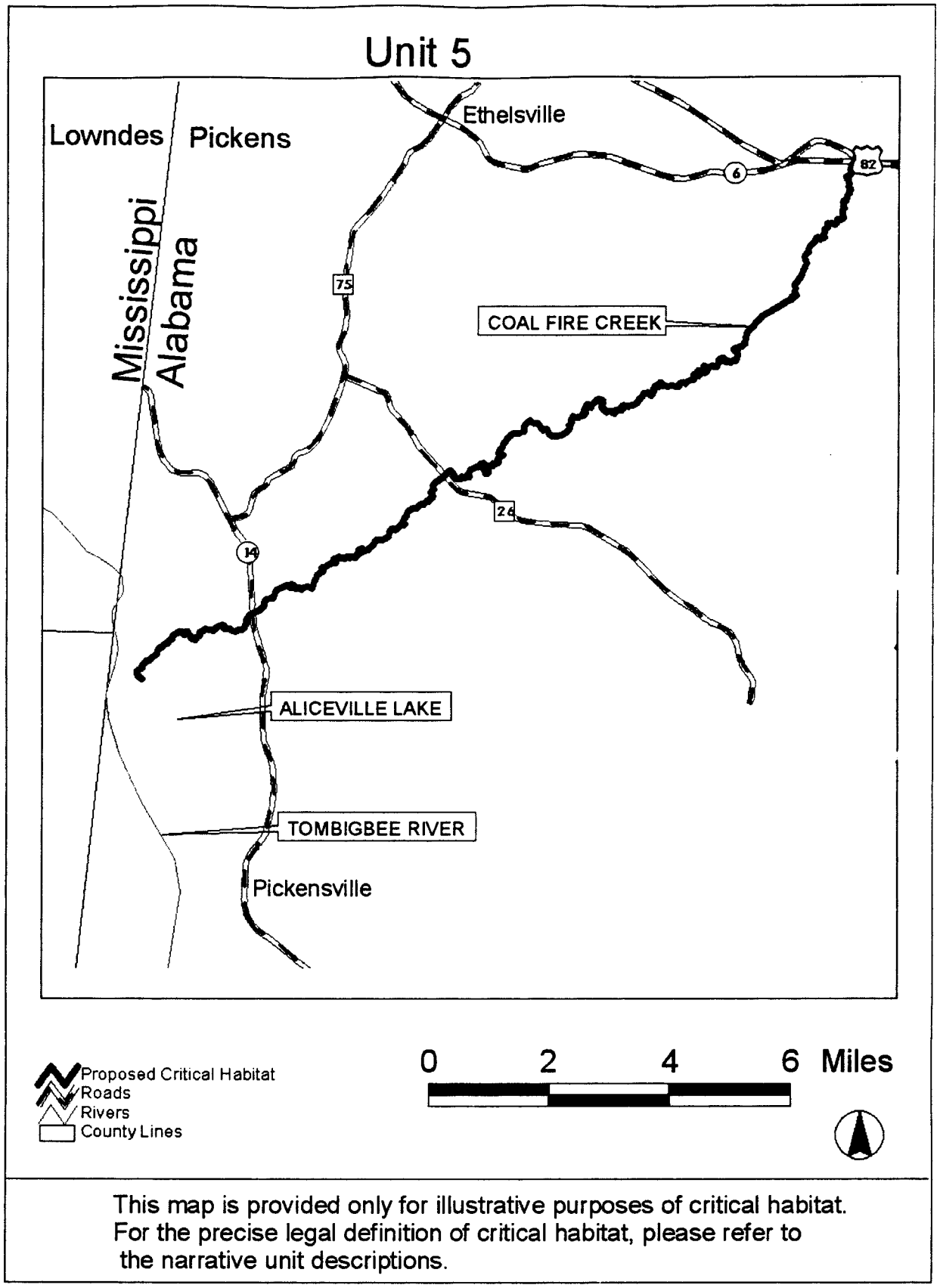
(vii) Unit 5. Coalfire Creek, Pickens County, Alabama. This is a critical habitat unit for the ovate clubshell,

southern clubshell, Alabama moccasinshell, and orangenacre mucket.

(A) Unit 5 includes the Coalfire Creek main stem from its confluence with Aliceville Lake (Tombigbee River, T20S R17W S26), upstream to U.S. Highway 82 (T19S R15W S15), Pickens County, Alabama.

(B) Map of Unit 5 follows:

BILLIING CODE 4310–55–P



BILLIING CODE 4310–55–C

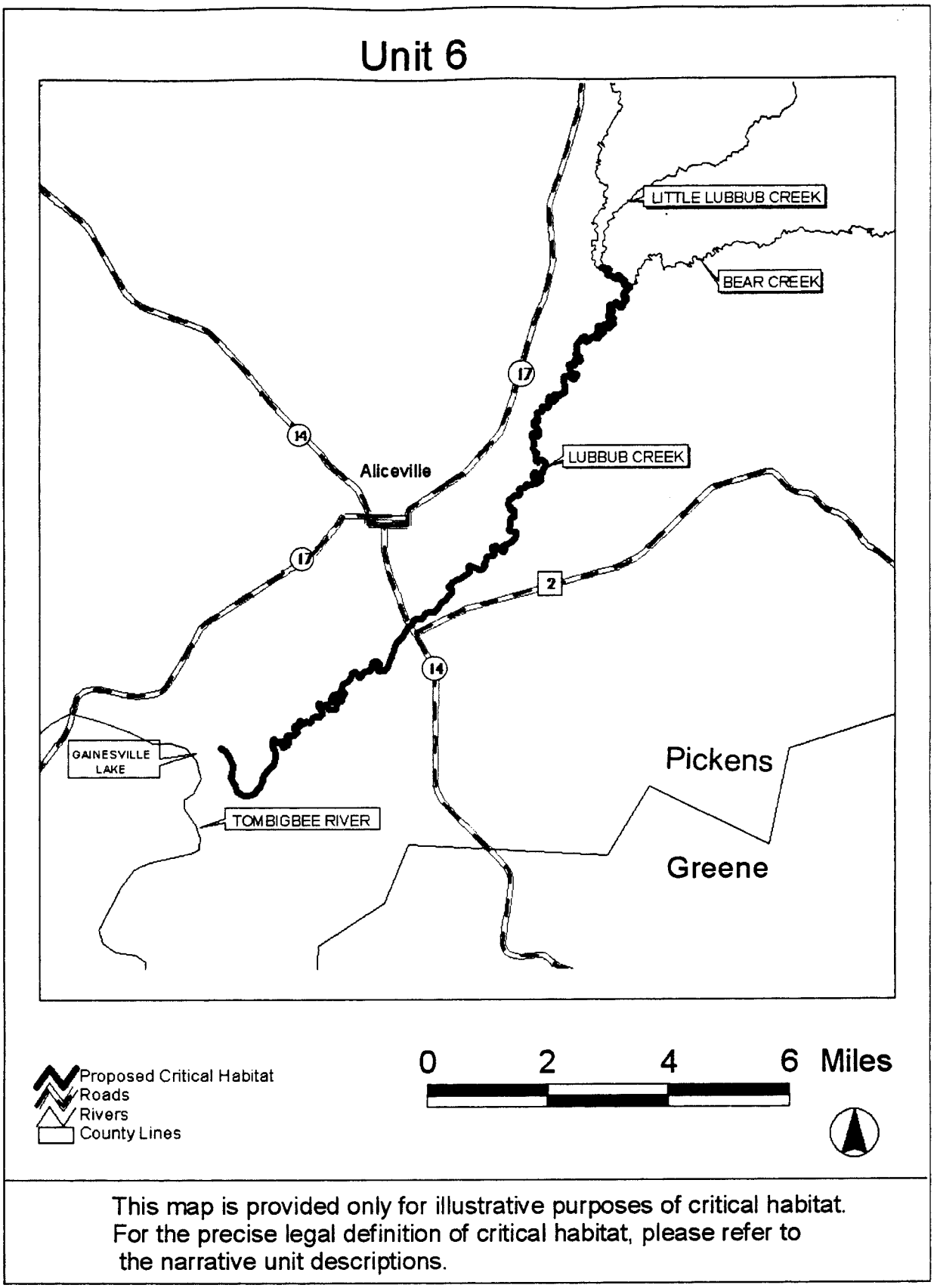
(viii) Unit 6. Lubbub Creek, Pickens County, Alabama. This is a critical habitat unit for the ovate clubshell,

southern clubshell, Alabama moccasinshell, and orangenacre mucket.

(A) Unit 6 includes the main stem of Lubbub Creek from its confluence with Gainesville Lake (Tombigbee River, T24N R2W S11), upstream to the confluence of Little Lubbub Creek (T21S R1W S34), Pickens County, Alabama.

(B) Map of Unit 6 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

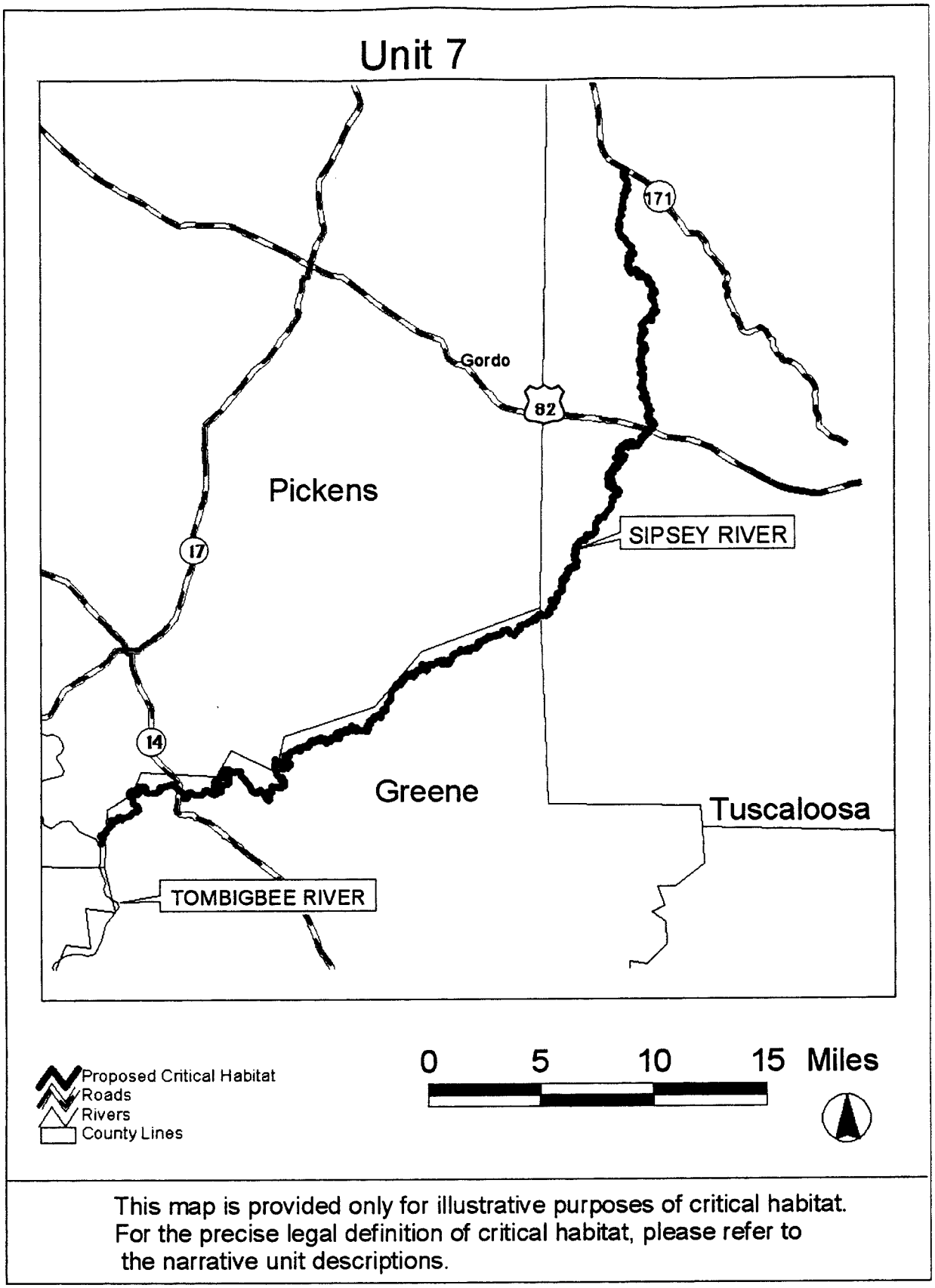
(ix) Unit 7. Sipsey River, Greene/Pickens, Tuscaloosa Counties, Alabama. This is a critical habitat unit for the ovate clubshell, southern clubshell,

Alabama moccasinshell, and orangenacre mucket.

(A) Unit 7 includes the Sipsey River main stem from its confluence with Gainesville Lake (Tombigbee River, T24N R1W S30), Greene/Pickens County, upstream to Alabama Highway 171 crossing (T18S R12W S34), Tuscaloosa County, Alabama.

(B) Map of Unit 7 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

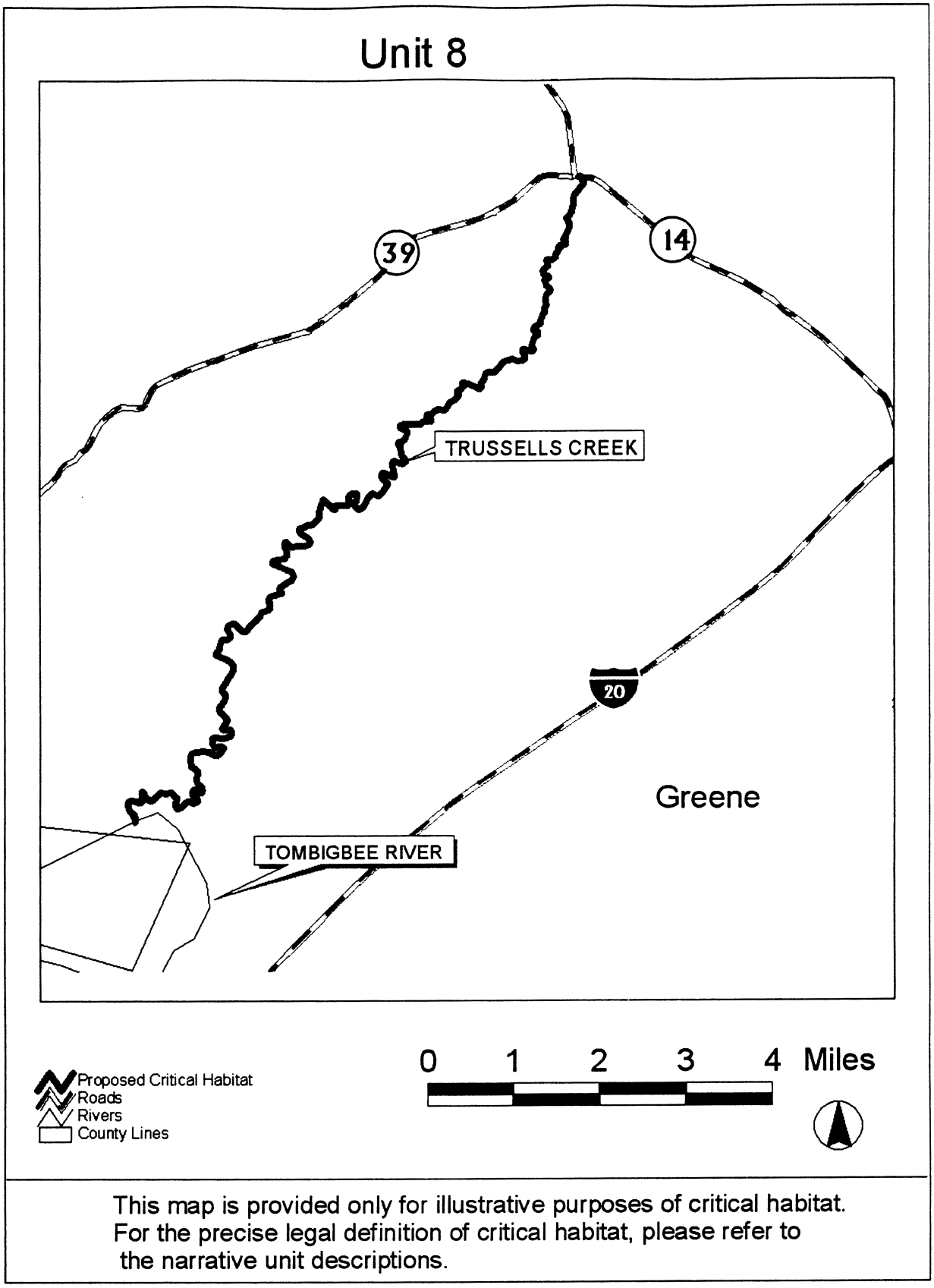
(x) Unit 8. Trussels Creek, Greene County, Alabama. This is a critical habitat unit for the ovate clubshell,

southern clubshell, Alabama moccasinshell, and orangenacre mucket.

(A) Unit 8 includes the Trussels Creek main stem from its confluence with the Tombigbee River (T21N R2W S15), upstream to Alabama Highway 14 (T22N R1E S4), Greene County, Alabama.

(B) Map of Unit 8 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

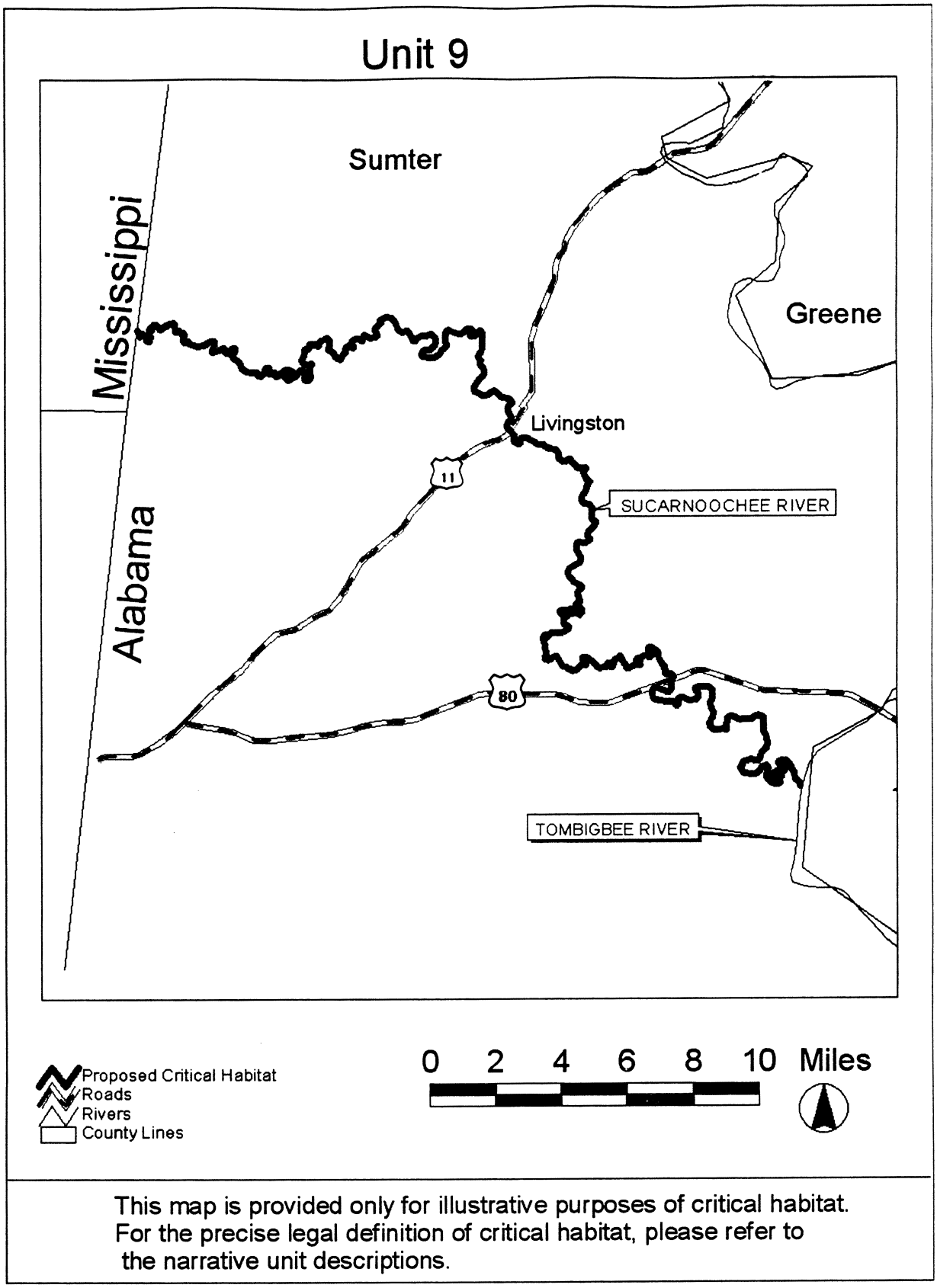
(xi) Unit 9. Sucarnoochee River, Sumter County, Alabama. This is a critical habitat unit for the ovate

clubshell, southern clubshell, Alabama moccasinshell, and orangenacre mucket.

(A) Unit 9 includes the Sucarnoochee River main stem from its confluence with the Tombigbee River (T17N R1W S26), upstream to the Mississippi/Alabama State Line (T19N R4W S15), Sumter County, Alabama.

(B) Map of Unit 9 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

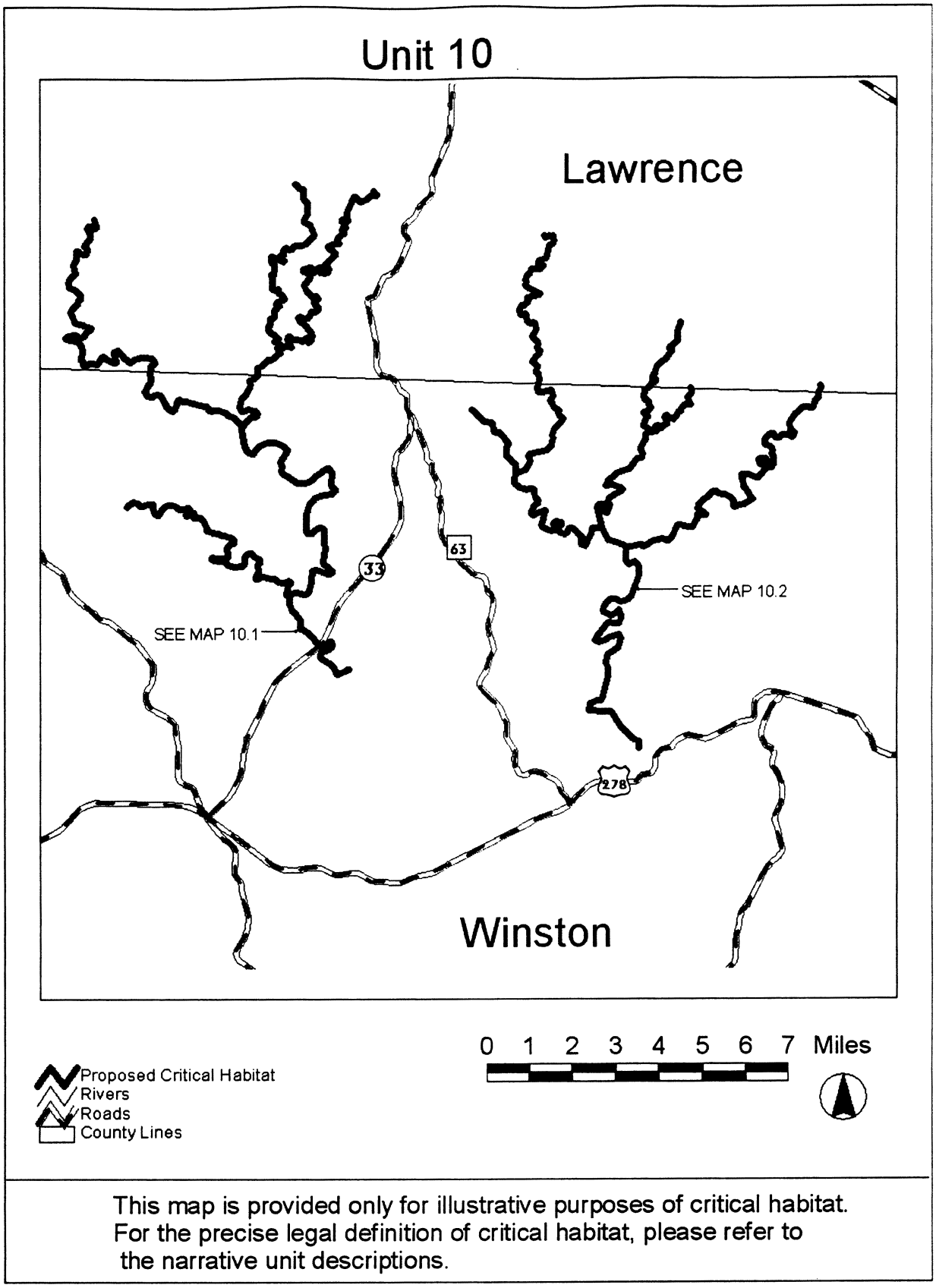
(xii) Unit 10. Sipsey Fork and tributaries, Winston, Lawrence Counties, Alabama. This is a critical habitat unit for the ovate clubshell,

triangular kidneyshell, Alabama moccasinshell, orangenacre mucket, and dark pigtoe.

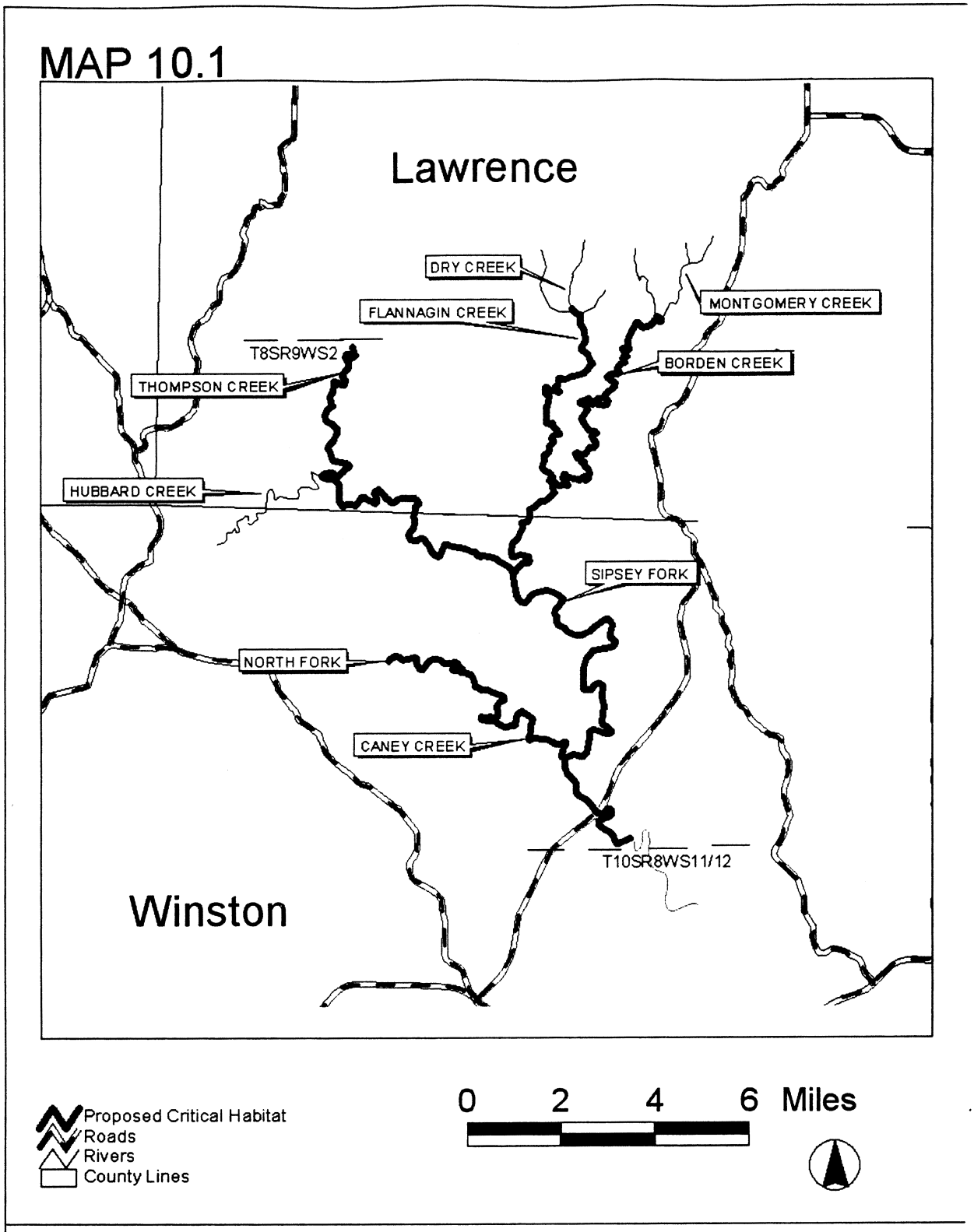
(A) Unit 10 includes the Sipsey Fork main stem from the section 11/12 line (T10S R8W), Winston County, Alabama, upstream to the confluence of Hubbard Creek (T8S R9W S27), Lawrence County, Alabama; Thompson Creek, from its confluence with Hubbard Creek (T8S R9W S27), upstream to section 2 line (T8S R9W) Lawrence County; Brushy Creek, from the confluence of Glover Creek (T10S R7W S11), Winston County, upstream to section 9 (T8S R7W), Lawrence County; Capsey Creek, from confluence with Brushy Creek (T9S R7W S23), Winston County, upstream to the confluence of Turkey Creek (T8S R6W S33), Lawrence County; Rush Creek, from confluence with Brushy Creek (T9S R7W S15), upstream to Winston/Lawrence County Line (T9S R7W S1), Winston County; Brown Creek, from confluence with Rush Creek (T9S R7W S2), Winston County, upstream to section 24 line (T8S R7W), Lawrence County; Beech Creek, from confluence with Brushy Creek (T9S R7W S8), to confluence of East and West Forks (T9S R7W S6), Winston County; Caney Creek and North Fork Caney Creek, from confluence with Sipsey Fork (T9S R8W S28), upstream to section 14 line (T9S R9W), Winston County; Borden Creek, from confluence with Sipsey Fork (T8S R8W S5), Winston County, upstream to the confluence of Montgomery Creek (T8S R8W S10), Lawrence County; and Flannagin Creek, from confluence with Borden Creek (T8S R8W S28), upstream to confluence of Dry Creek (T8S R8W S4), Lawrence County.

(B) Maps of Unit 10 follows:

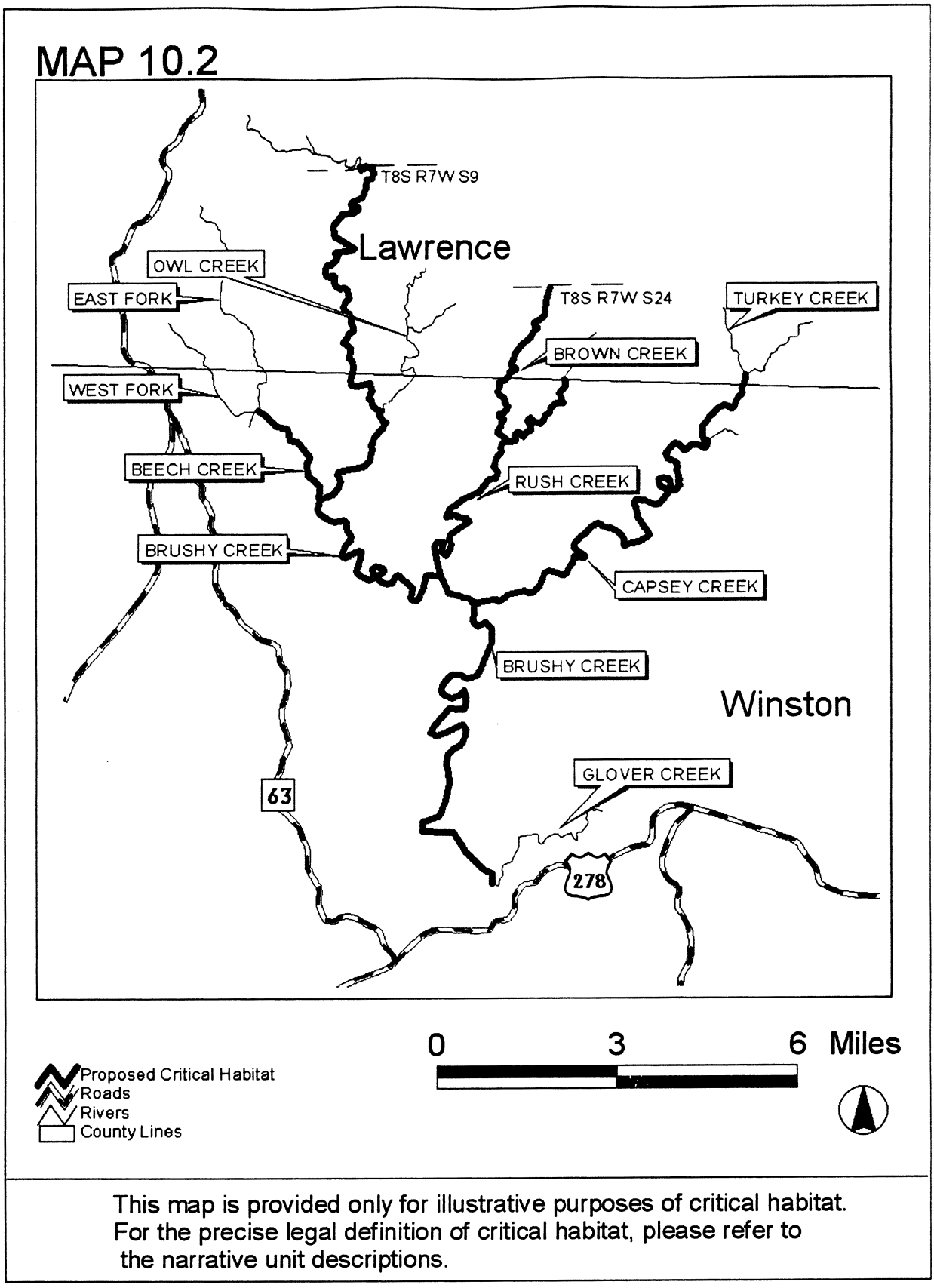
BILLING CODE 4310–55–P



This map is provided only for illustrative purposes of critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



This map is provided only for illustrative purposes of critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.



BILLING CODE 4310–55–C

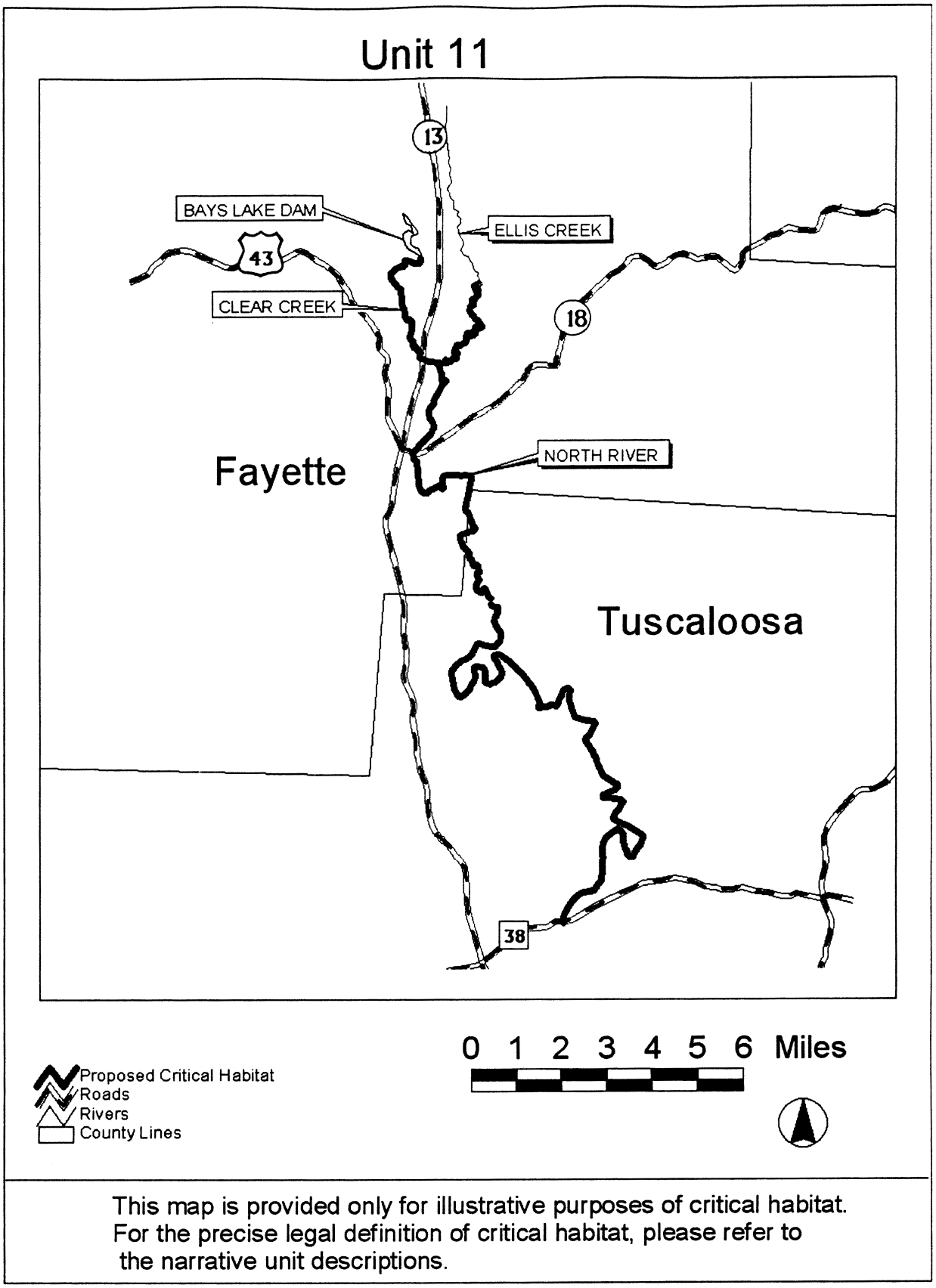
(xiii) Unit 11. North River and Clear Creek, Tuscaloosa, Fayette Counties, Alabama. This is a critical habitat unit for the ovate clubshell, triangular

kidneyshell, Alabama moccasinshell, orangenacre mucket, and dark pigtoe.

(A) Unit 11 includes the main stem of the North River from Tuscaloosa County Road 38 (T18S R10W S16), Tuscaloosa County, upstream to confluence of Ellis Creek (T16S R10W S6), Fayette County, Alabama; and Clear Creek from its confluence with North River (T16S R11W S13) to Bays Lake Dam (T16S R11W S2), Fayette County, Alabama.

(B) Map of Unit 11 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

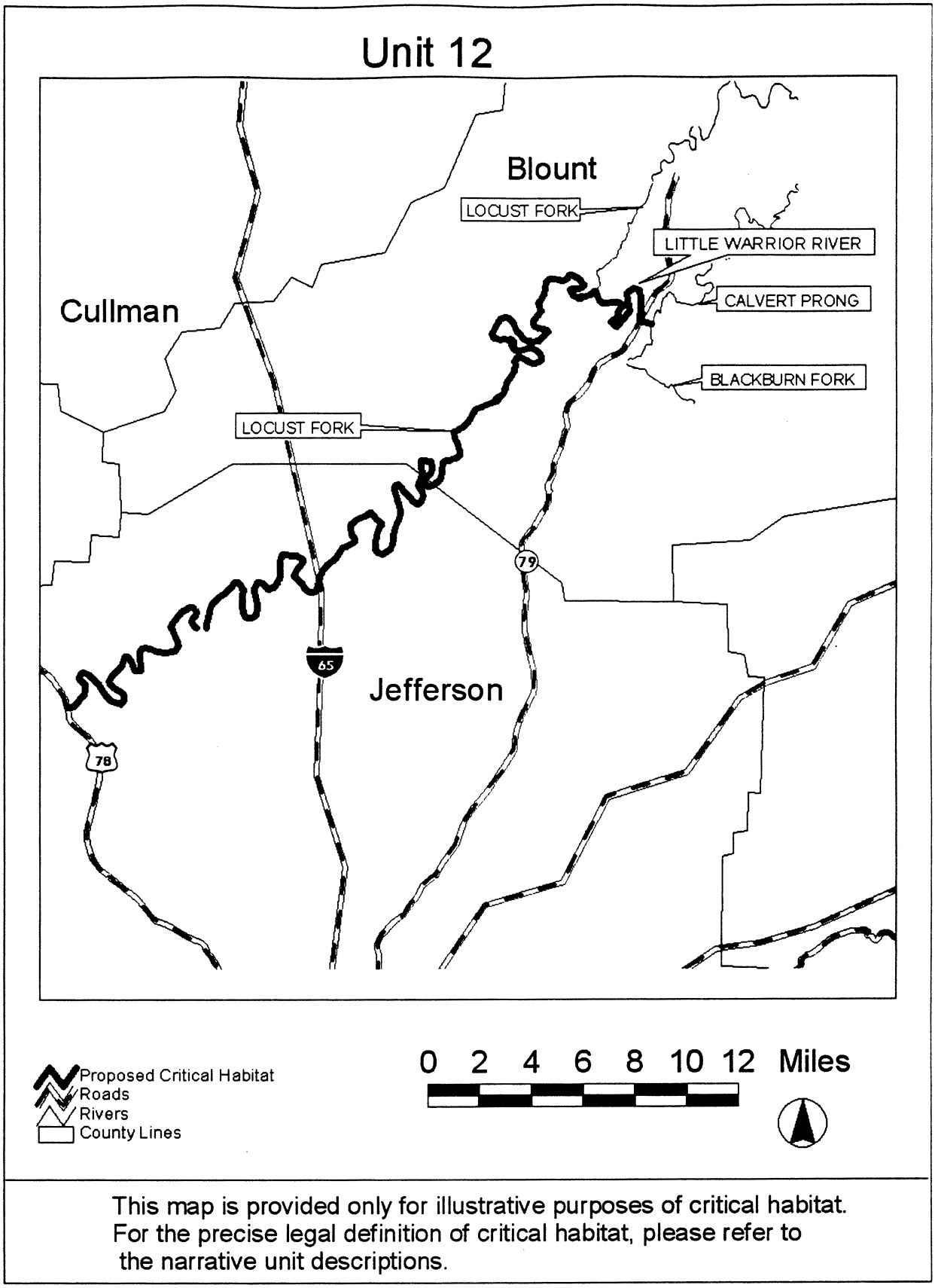
(xiv) Unit 12. Locust Fork and Little Warrior Rivers, Jefferson, Blount Counties, Alabama. This is a critical habitat unit for the ovate clubshell,

upland combshell, triangular kidneyshell, Alabama moccasinshell, orangenacre mucket, and dark pigtoe.

(A) Unit 12 includes the Locust Fork main stem from U.S. Highway 78 (T15S R4W S30), Jefferson County, upstream to the confluence of Little Warrior River (T13S R1W S3), Blount County, Alabama; and Little Warrior River from its confluence with the Locust Fork (T13S R1W S3), upstream to the confluence of Calvert Prong and Blackburn Fork (T13S R1W S12), Blount County, Alabama.

(B) Map of Unit 12 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

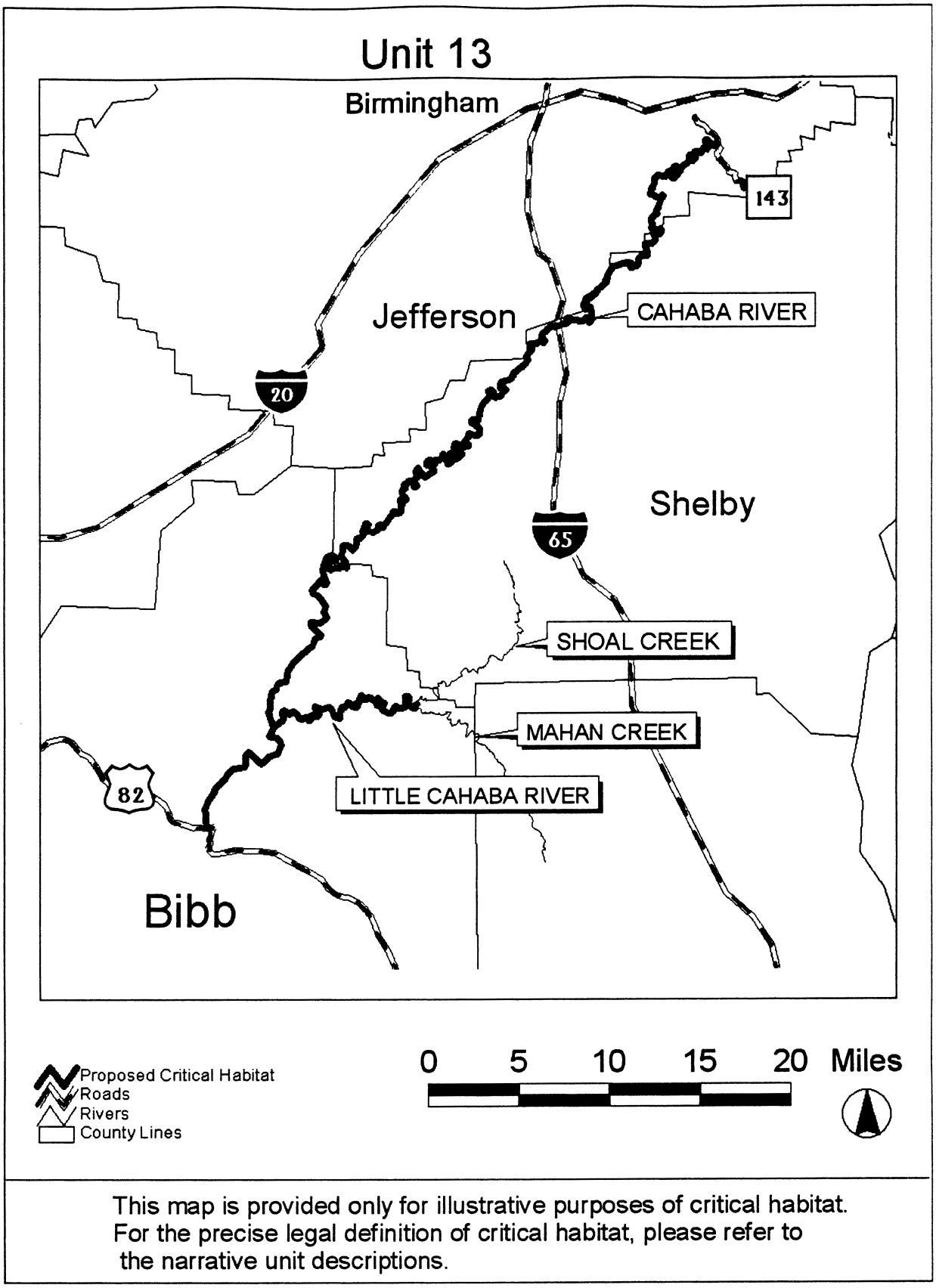
(xv) Unit 13. Cahaba River and Little Cahaba River, Jefferson, Shelby, Bibb Counties, Alabama. This is a critical habitat unit for the southern acornshell,

ovate clubshell, southern clubshell, upland combshell, triangular kidneyshell, Alabama moccasinshell, orangenacre mucket, and fine-lined pocketbook.

(A) Unit 13 includes the Cahaba River from U.S. Highway 82 (T23N R9E S26), Centerville, Bibb County, upstream to Jefferson County Road 143 (T18S R1E S33), Jefferson County, Alabama; and the Little Cahaba River from its confluence with the Cahaba River (T24N R10E S21), upstream to the confluence of Mahan and Shoal Creeks (T24N R11E S14), Bibb County, Alabama.

(B) Map of Unit 13 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

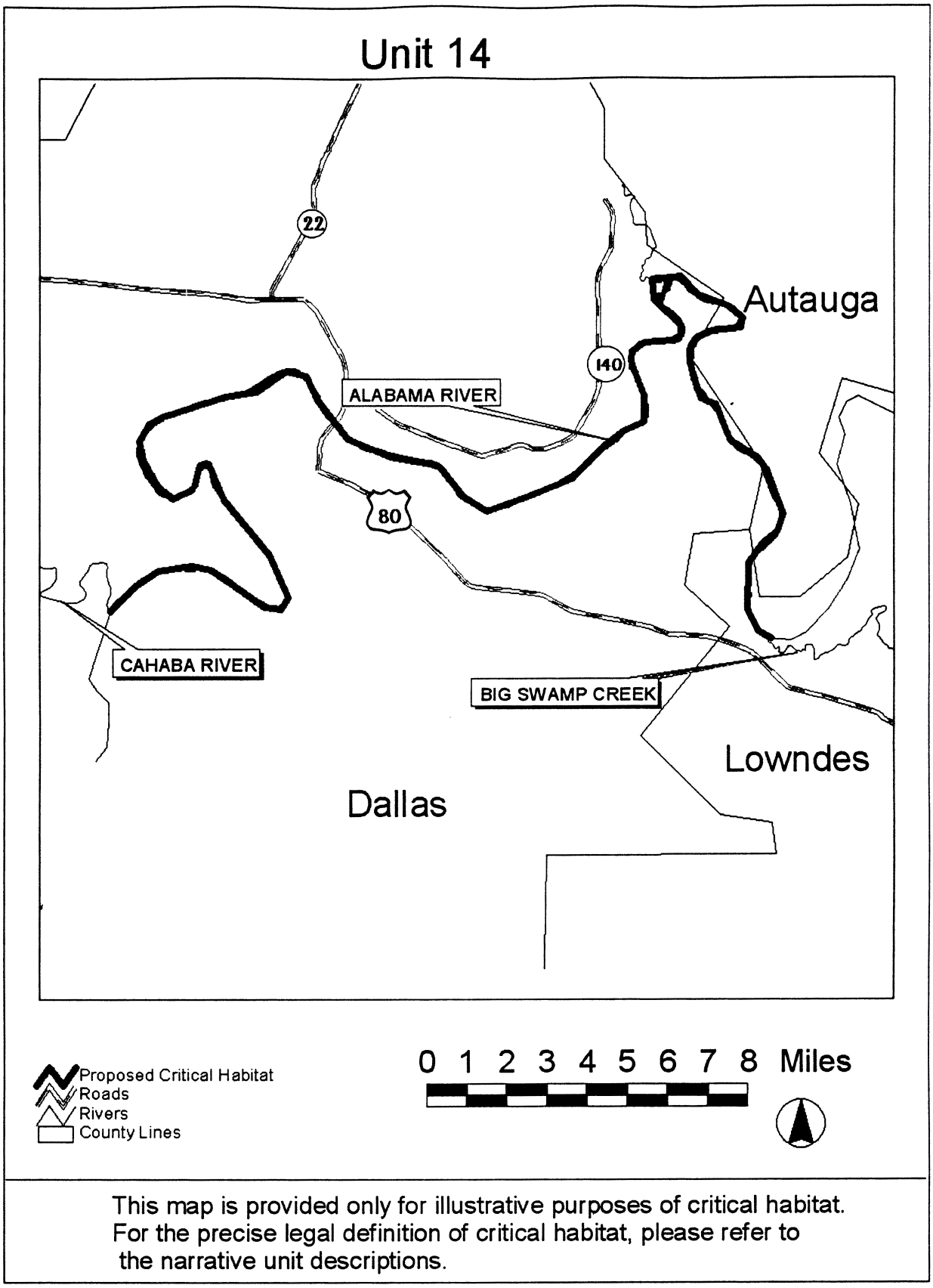
(xvi) Unit 14. Alabama River, Autauga, Lowndes, Dallas Counties, Alabama. This is a critical habitat unit

for the southern clubshell and orangenacre mucket.

(A) Unit 14 includes the Alabama River from the confluence of the Cahaba River (T16N R10E S32), Dallas County, upstream to the confluence of Big Swamp Creek (T15N R12E S1), Lowndes County, Alabama.

(B) Map of Unit 14 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

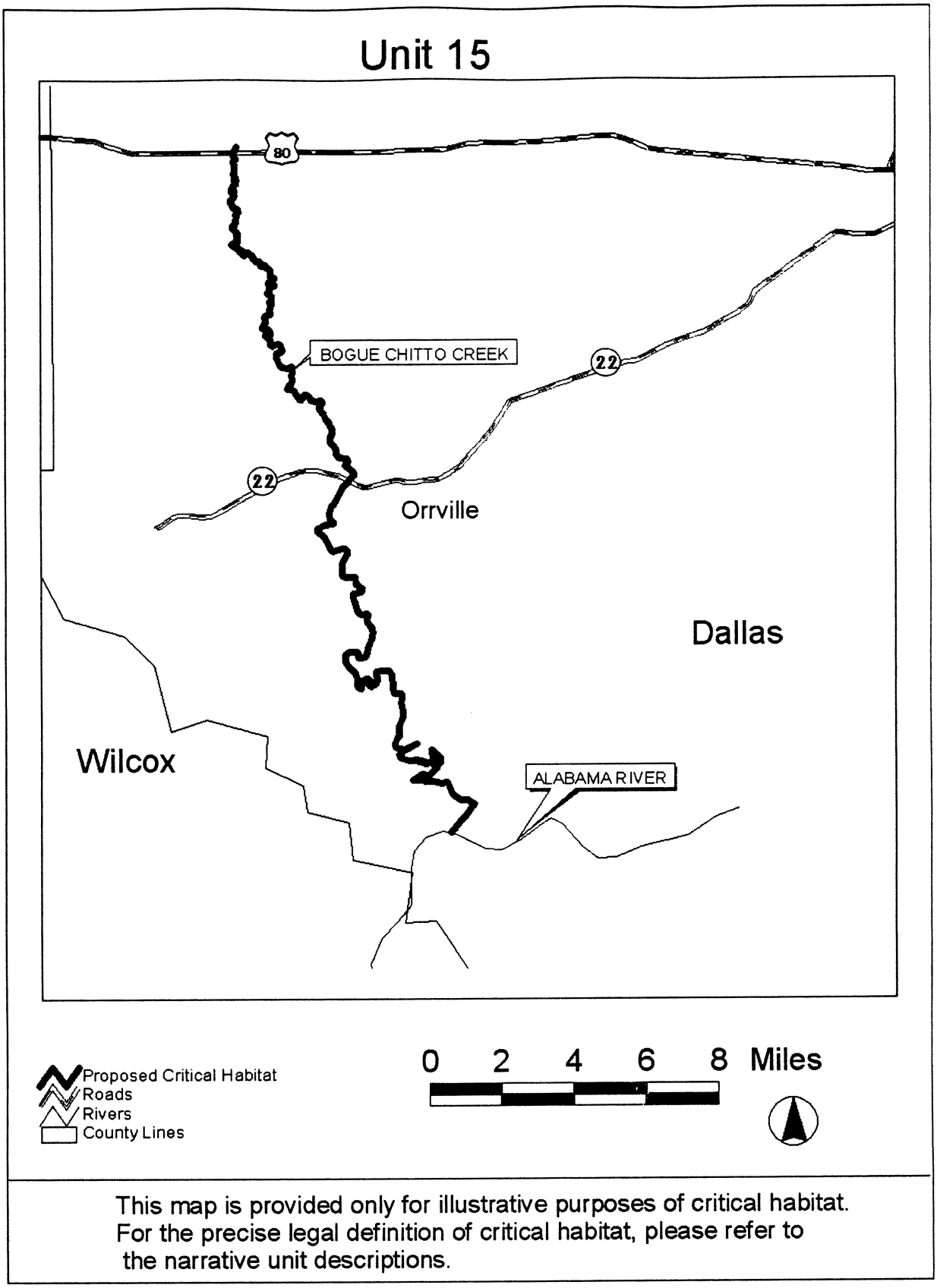
(xvii) Unit 15. Bogue Chitto Creek, Dallas County, Alabama. This is a critical habitat unit for the southern

clubshell, Alabama moccasinshell, and orangenacre mucket.

(A) Unit 15 includes the Bogue Chitto Creek main stem from its confluence with the Alabama River (T14N R8E S24), Dallas County, upstream to U.S. Highway 80 (T17N R7E S24), Dallas County, Alabama.

(B) Map of Unit 15 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

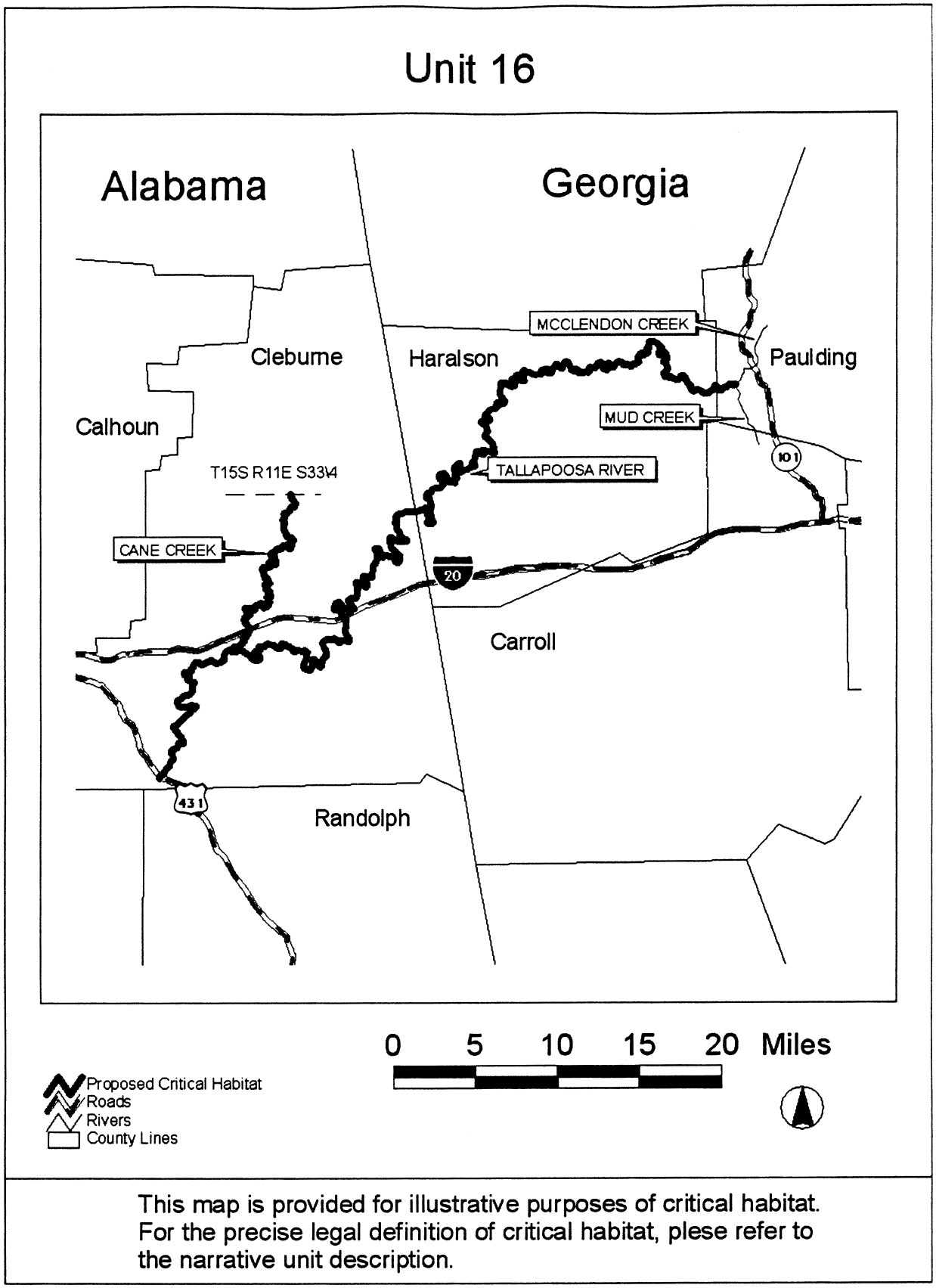
(xviii) Unit 16. Tallapoosa River, Cleburne County, Alabama, and Paulding, Haralson Counties, Georgia; Cane Creek, Cleburne County, Alabama.

This is a critical habitat unit for the fine-lined pocketbook.

(A) Unit 16 includes the main stem Tallapoosa River from U.S. Highway 431 (T17S R10E S31), Cleburne County, Alabama, upstream to the confluence of McClendon and Mud Creeks (33 °50′ 43″N 85 °00′45″ W), Paulding County, Georgia; and Cane Creek from its confluence with Tallapoosa River (T16S R10E S24), upstream to section 33/4 Line (T15S, R11E), Cleburne County, Alabama.

(B) Map of Unit 16 follows:

BILLING CODE 4310–55–P



This map is provided for illustrative purposes of critical habitat. For the precise legal definition of critical habitat, plese refer to the narrative unit description.

BILLING CODE 4310–55–C

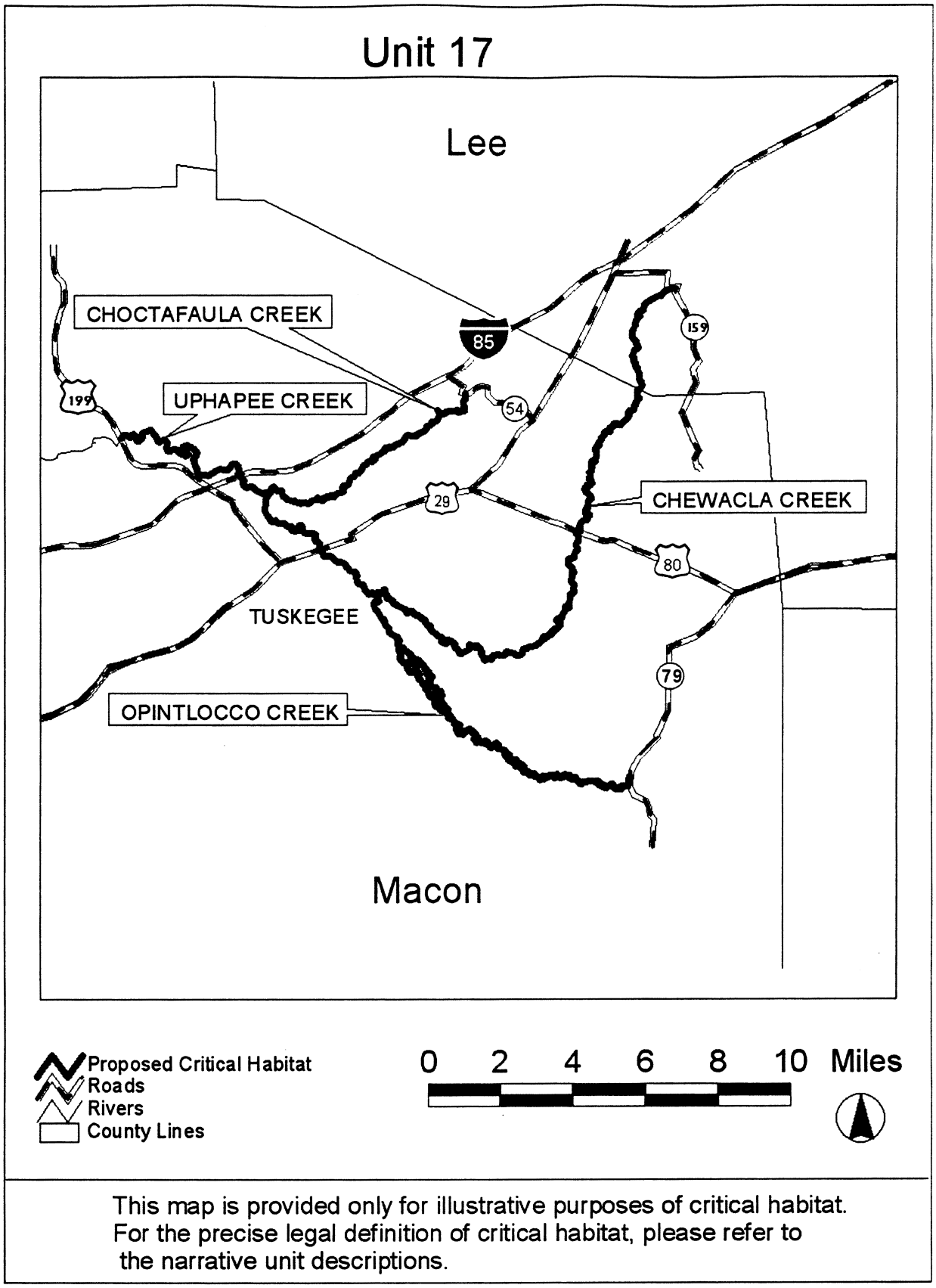
(xix) Unit 17. Uphapee, Choctafaula, and Chewacla Creeks, Macon, Lee Counties, Alabama. This is a critical habitat unit for the ovate clubshell,

southern clubshell, and fine-lined pocketbook.

(A) Unit 17 includes the mainstem of Uphapee Creek from Alabama Highway 199 (T17N R23E S3), upstream to the confluence of Opintlocco and Chewacla Creeks (T17N R24E S26), Macon County, Alabama; Choctafaula Creek, from confluence with Uphapee Creek (T17N R24E S8), upstream to Macon County Road 54 (T18N R 25E S31), Macon County, Alabama; Chewacla Creek, from confluence with Opintlocco Creek (T17N R24E S26), Macon County, Alabama, upstream to Lee County Road 159 (T18N R26E S18), Lee County, Alabama; Opintlocco Creek, from confluence with Chewacla Creek (T17N R24E S26), upstream to Macon County Road 79 (T16N R25E S25) Macon County, Alabama.

(B) Map of Unit 17 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

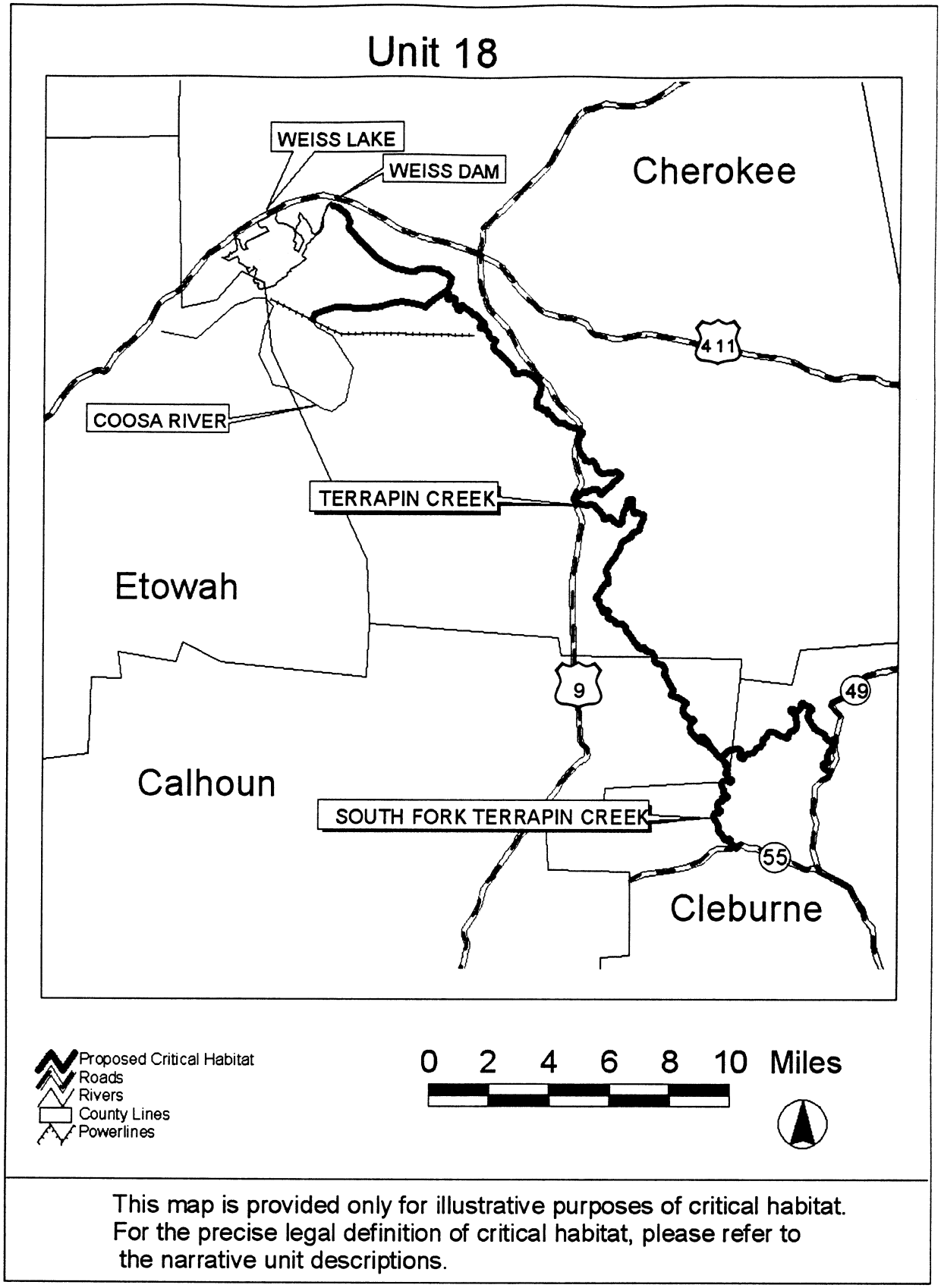
(xx) Unit 18. Coosa River (Old River Channel) and Terrapin Creek, Cherokee, Calhoun, Cleburne Counties, Alabama. This is a critical habitat unit for the

southern acornshell, ovate clubshell, southern clubshell, upland combshell, triangular kidneyshell, Coosa moccasinshell, southern pigtoe, and fine-lined pocketbook.

(A) Unit 18 includes the Coosa River main stem from the power line crossing southeast of Maple Grove, Alabama (T10S R8E S35), upstream to Weiss Dam (T10S R8E S13), Cherokee County, Alabama; Terrapin Creek, 53 km (33 mi) extending from its confluence with the Old Coosa River channel (T10S R9E S28), Cherokee County, upstream to Cleburne County Road 49 (T13S R11E S15), Cleburne County, Alabama; South Fork Terrapin Creek, 7 km (4 mi), from its confluence with Terrapin Creek (T13S R11E S18), upstream to Cleburne County Road 55 (T13S R11E S30), Cleburne County, Alabama.

(B) Map of Unit 18 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

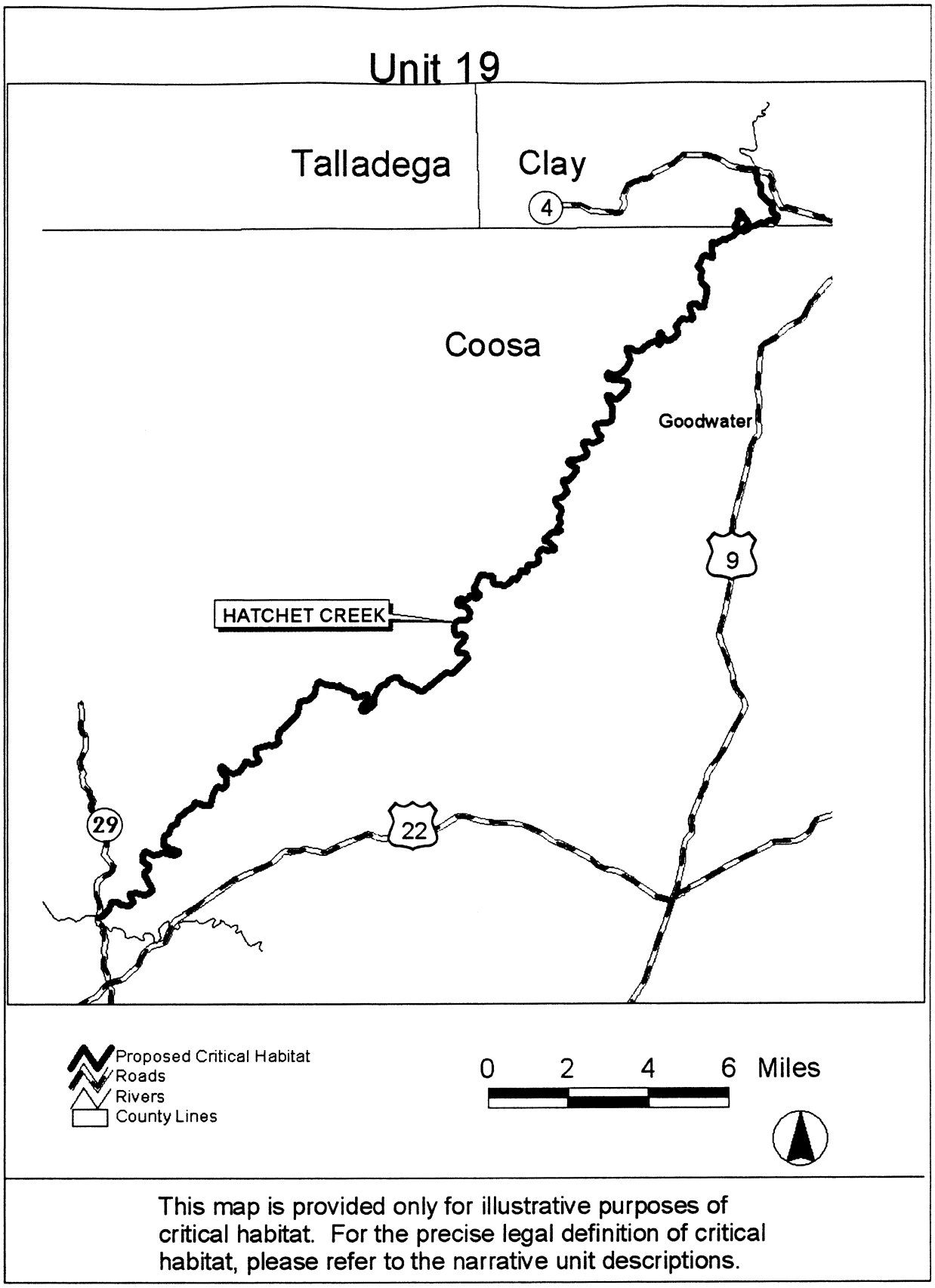
(xxi) Unit 19. Hatchet Creek, Coosa, Clay Counties, Alabama. This is a critical habitat unit for the southern acornshell, ovate clubshell, southern

clubshell, upland combshell, triangular kidneyshell, Coosa moccasinshell, southern pigtoe, and fine-lined pocketbook.

(A) Unit 19 includes the main stem of Hatchet Creek from the confluence of Swamp Creek at Coosa County Road 29 (T22N R17E S26), Coosa County, Alabama, upstream to Clay County Road 4 (T22S R6E S17) Clay County, Alabama.

(B) Map of Unit 19 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

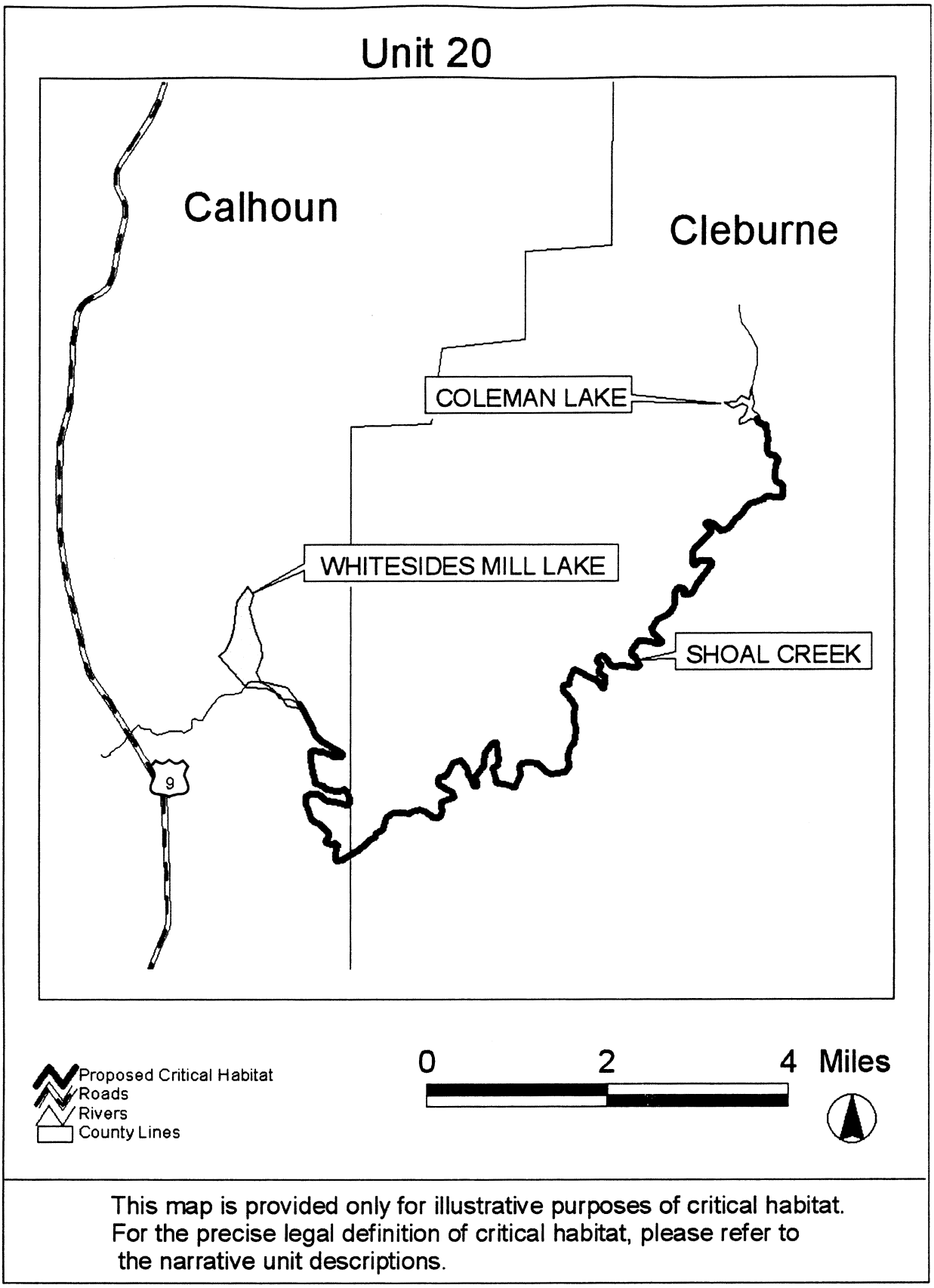
(xxii) Unit 20. Shoal Creek, Calhoun, Cleburne Counties, Alabama. This is a critical habitat unit for the triangular kidneyshell, Coosa moccasinshell,

southern pigtoe, and fine-lined pocketbook.

(A) Unit 20 includes the main stem of Shoal Creek from the headwater of Whitesides Mill Lake (T15S R9E S12), Calhoun County, Alabama, upstream to the tailwater of Coleman Lake Dam (T14S R10E S26), Cleburne County, Alabama.

(B) Map of Unit 20 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310XC

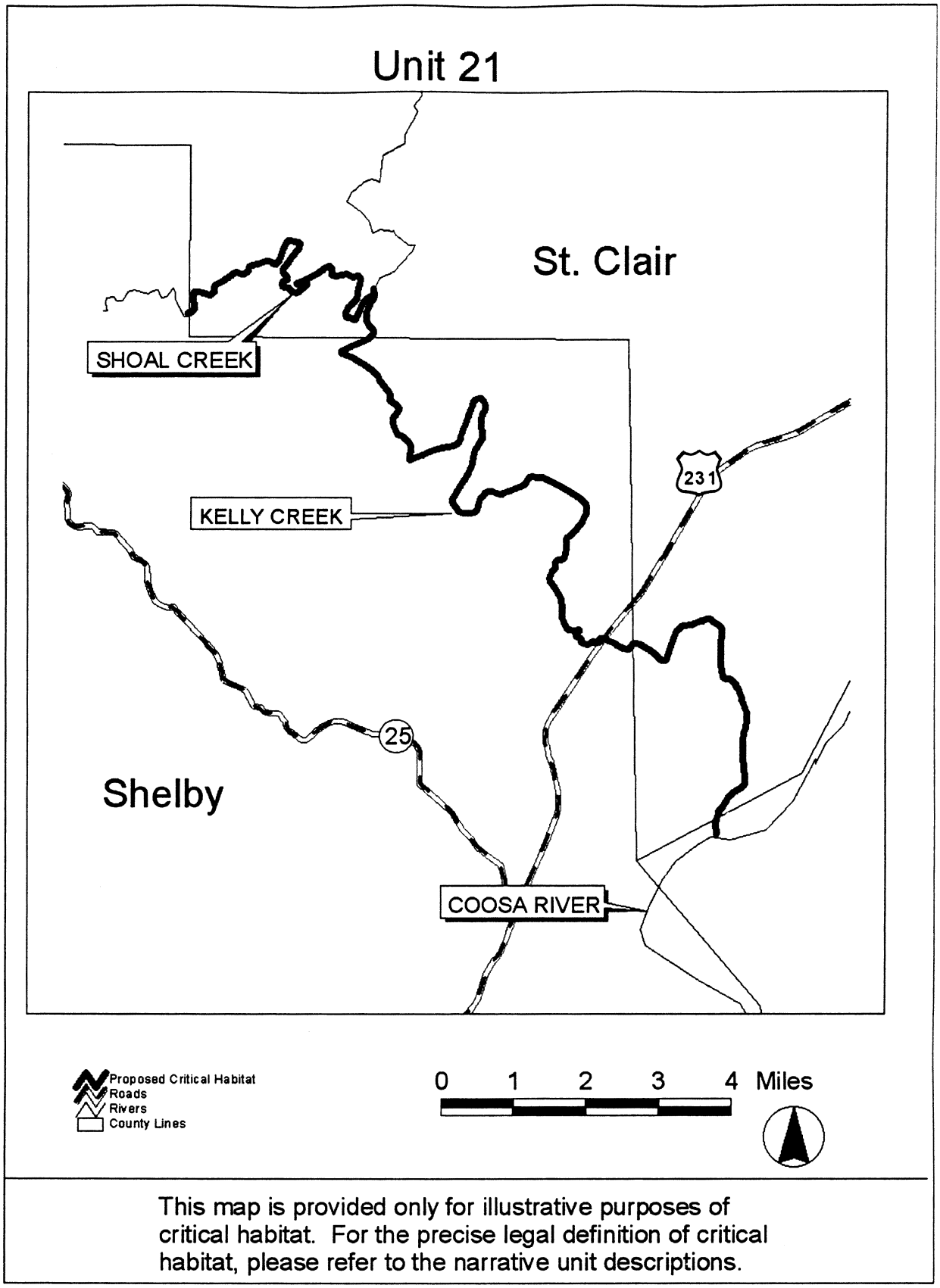
(xxiii) Unit 21. Kelly Creek and Shoal Creek, Shelby, St. Clair Counties, Alabama. This is a critical habitat unit for the southern acornshell, ovate

clubshell, southern clubshell, upland combshell, triangular kidneyshell, Coosa moccasinshell, southern pigtoe, and fine-lined pocketbook.

(A) Unit 21 includes the Kelly Creek main stem extending from the confluence with the Coosa River (T19S R3E S5), upstream to the confluence of Shoal Creek (T17S R2E S28), St. Clair County, Alabama; and the main stem of Shoal Creek from the confluence with Kelly Creek (T17S R2E S28), St. Clair County, Alabama, upstream to the St. Clair/Shelby County Line (T17S R2E S30), St. Clair County, Alabama.

(B) Map of Unit 21 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

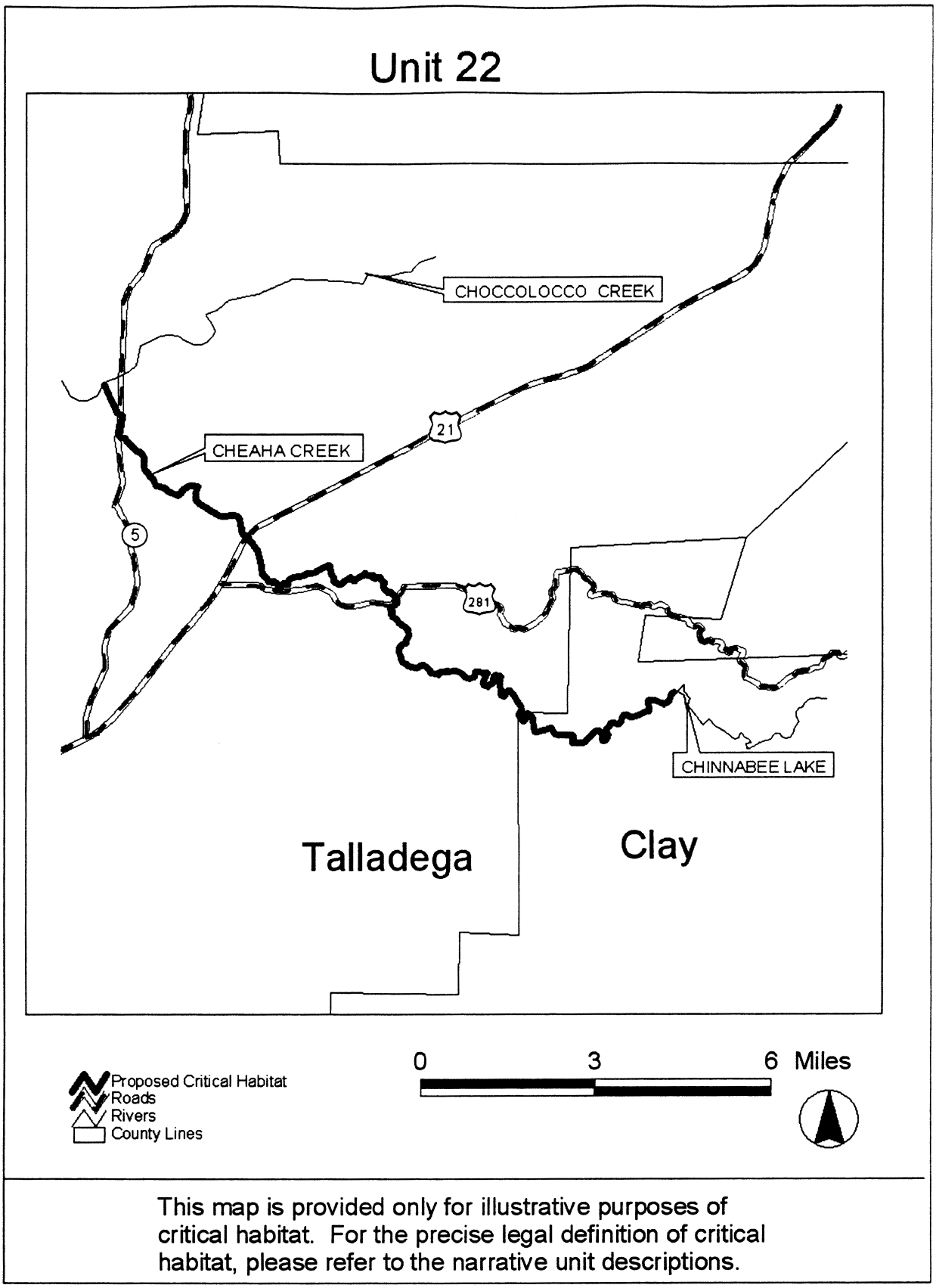
(xxiv) Unit 22. Cheaha Creek, Talladega, Clay Counties, Alabama. This is a critical habitat unit for the triangular kidneyshell, Coosa

moccasinshell, southern pigtoe, and fine-lined pocketbook.

(A) Unit 22 includes the main stem of Cheaha Creek from its confluence with Choccolocco Creek (T17S R6E S19), Talladega County, Alabama, upstream to the tailwater of Chinnabee Lake Dam (T18S R7E S14), Clay County, Alabama.

(B) Map of Unit 22 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

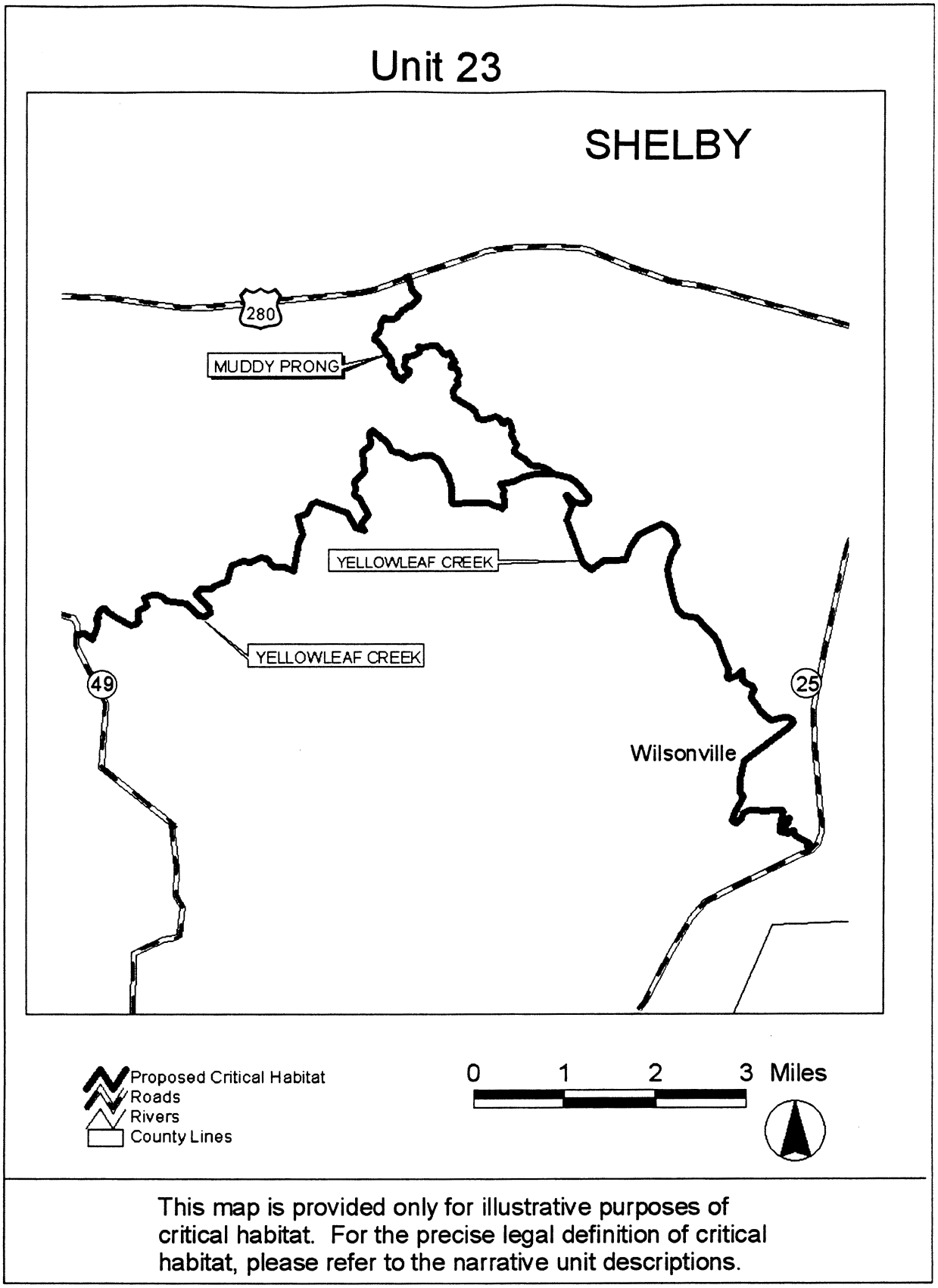
(xxv) Unit 23. Yellowleaf Creek and Mud Creek, Shelby County, Alabama. This is a critical habitat unit for the triangular kidneyshell, Coosa

moccasinshell, southern pigtoe, and fine-lined pocketbook.

(A) Unit 23 includes the Yellowleaf Creek main stem from Alabama Highway 25 (T20S R2E S29), upstream to Shelby County Road 49 (T20S R1W S13); and the Muddy Prong main stem extending from its confluence with Yellowleaf Creek (T20S R1E S1), upstream to U.S. Highway 280 (T19S R1E S28), Shelby County, Alabama.

(B) Map of Unit 23 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

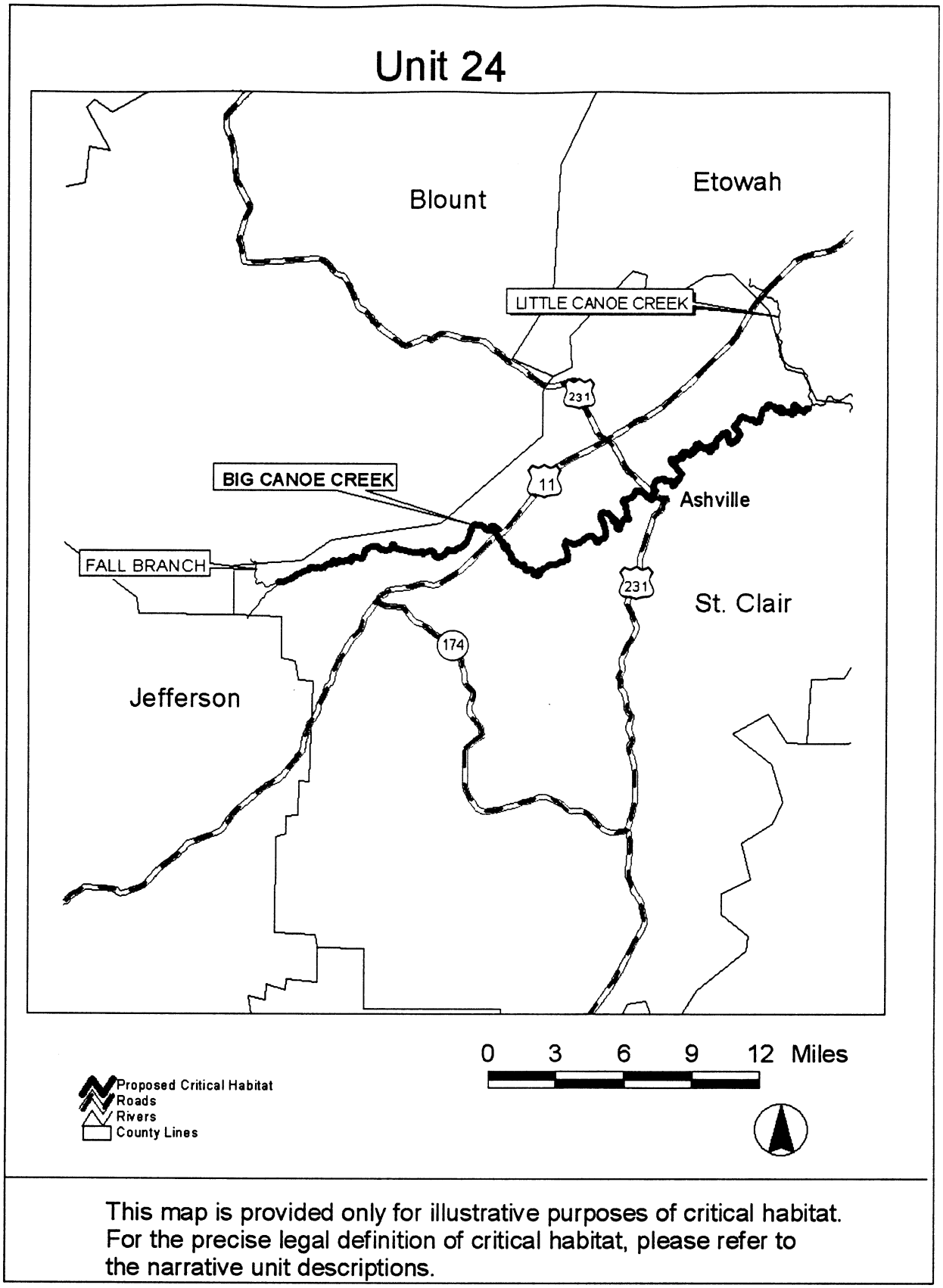
(xxvi) Unit 24. Big Canoe Creek, St. Clair County, Alabama. This is a critical habitat unit for the southern acornshell, ovate clubshell, southern clubshell,

upland combshell, triangular kidneyshell, Coosa moccasinshell, southern pigtoe, and fine-lined pocketbook.

(A) Unit 24 includes the main stem of Big Canoe Creek from its confluence with Little Canoe Creek at the St. Clair/Etowah County line (T13S R5E S17), St. Clair County, upstream to the confluence of Fall Branch (T14S R1E S28) St. Clair County, Alabama.

(B) Map of Unit 24 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

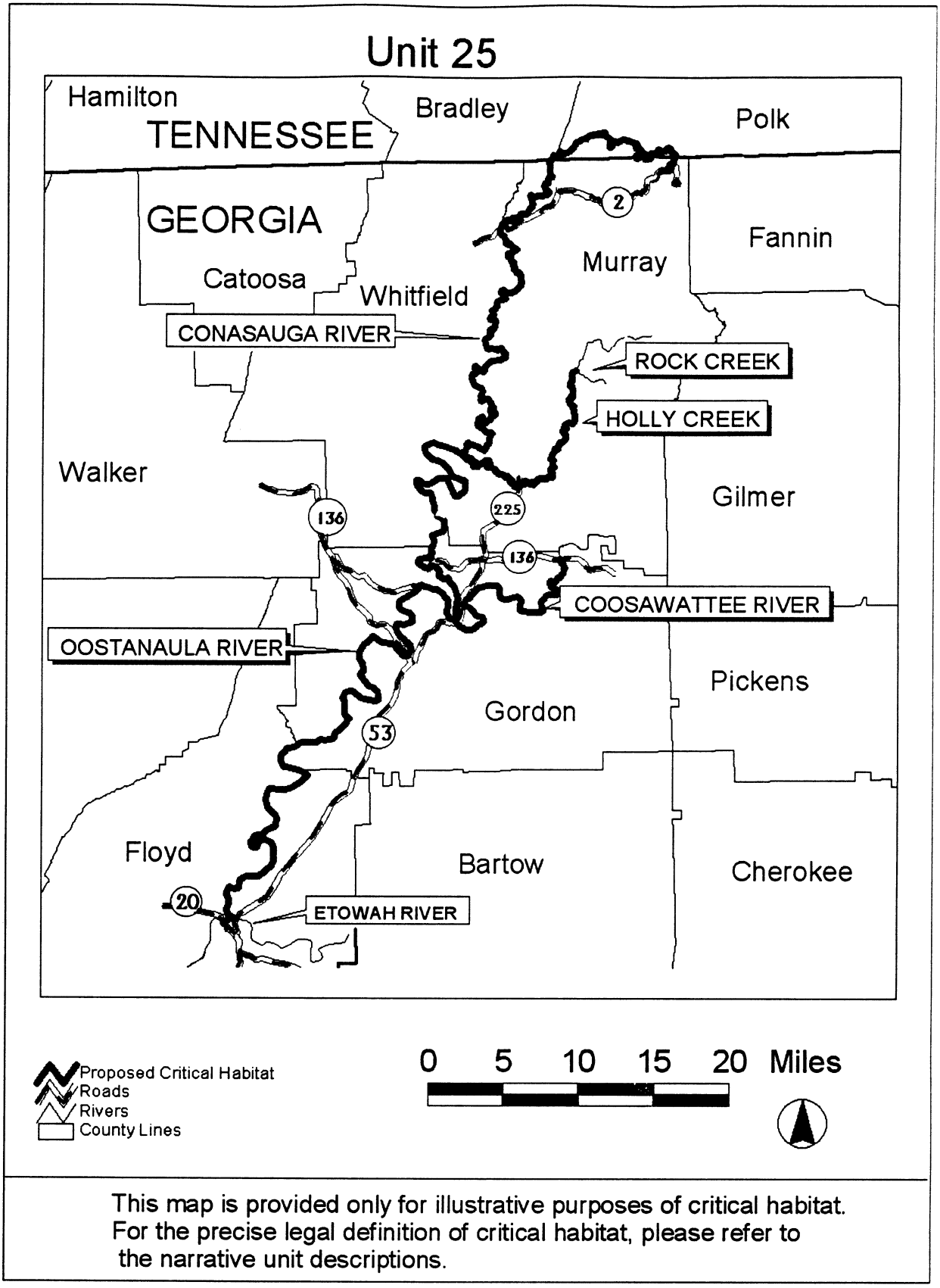
(xxvii) Unit 25. Oostanaula, Coosawattee, and Conasauga Rivers, and Holly Creek, Floyd, Gordon, Whitfield, Murray Counties, Georgia; Bradley, Polk

Counties, Tennessee. This is a critical habitat unit for the southern acornshell, ovate clubshell, southern clubshell, upland combshell, triangular kidneyshell, Alabama moccasinshell, Coosa moccasinshell, southern pigtoe, and fine-lined pocketbook.

(A) Unit 25 includes the Oostanaula River main stem from its confluence with the Etowah River, Floyd County, Georgia (34°15′13″N, 85°10′35″W), upstream to the confluence of the Conasauga and Coosawattee River, Gordon County, Georgia (34°32′32″N, 84°54′12″W); the Coosawattee River main stem from its confluence with the Conasauga River (34°32′32″N, 84°54′12″W), upstream to Georgia State Highway 136, Gordon County, Georgia (34°36′49″N, 84°46′43″W); the Conasauga River main stem from confluence with the Coosawattee River (34°32′32″N, 84°54′13″W), Gordon County, Georgia, upstream through Bradley and Polk Counties, Tennessee, to Murray County Road 2 (34°58′27″N, 84°38′43″W), Murray County, Georgia; and the main stem of Holly Creek from its confluence with the Conasauga River (34°42′12″N, 84°53′29″W), upstream to its confluence with Rock Creek, Murray County, Georgia (34°46′59″N, 84°45′25″W).

(B) Map of Unit 25 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

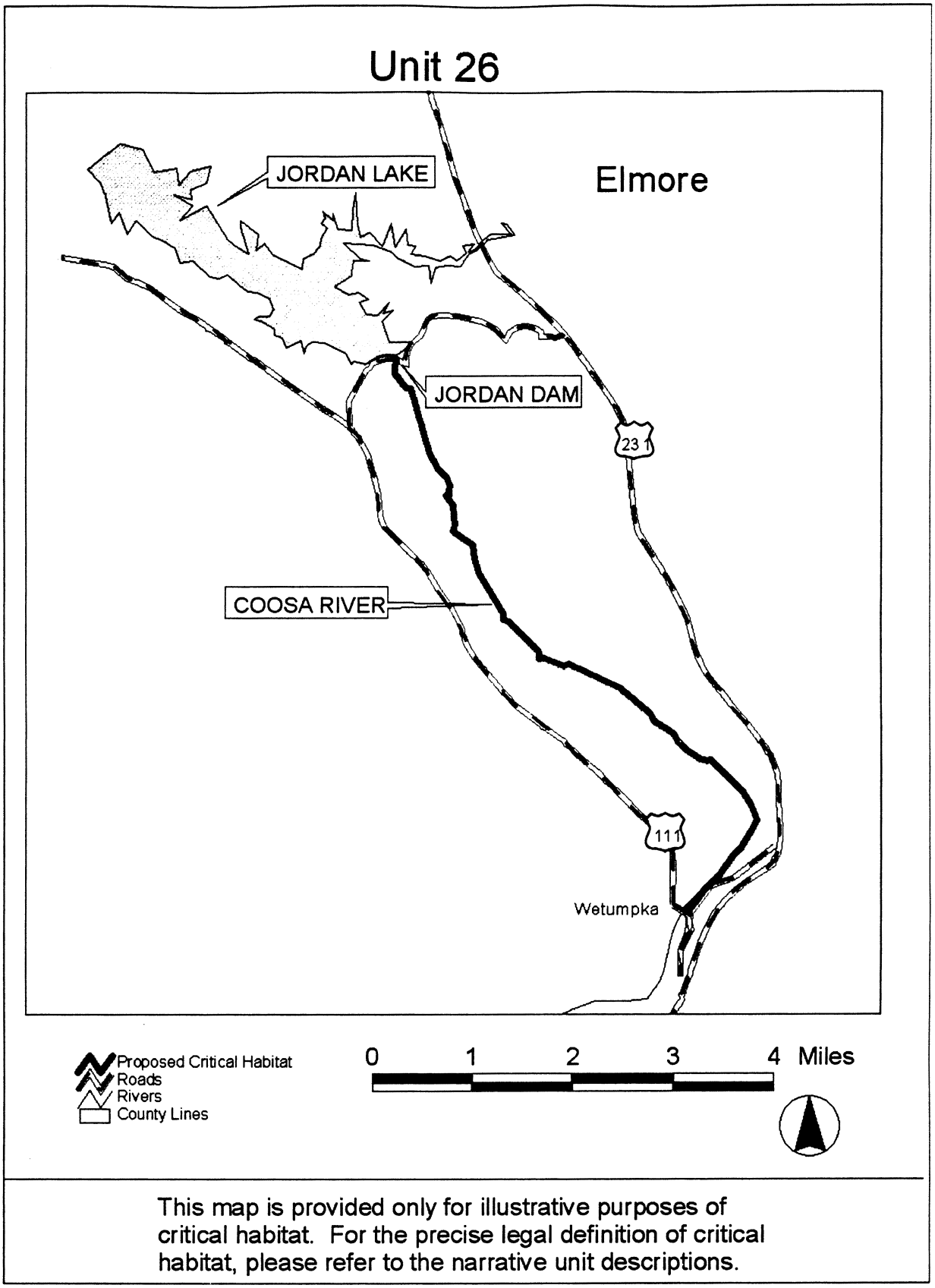
(xxviii) Unit 26. Lower Coosa River, Elmore County, Alabama. This is a critical habitat unit for the southern acornshell, ovate clubshell, southern

clubshell, upland combshell, triangular kidneyshell, Alabama moccasinshell, Coosa moccasinshell, southern pigtoe, and fine-lined pocketbook.

(A) Unit 26 includes the Coosa River main stem from Alabama State Highway 111 bridge (T18N R18/19E S24/19), upstream to Jordan Dam (T19N R18E S22), Elmore County, Alabama.

(B) Map of Unit 26 follows:

BILLING CODE 4310–55–P



This map is provided only for illustrative purposes of critical habitat. For the precise legal definition of critical habitat, please refer to the narrative unit descriptions.

* * * * *

Dated: March 17, 2003.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 03–6903 Filed 3–25–03; 8:45 am]

BILLING CODE 4310–55–C

Federal Register

Wednesday,
March 26, 2003

Part III

Department of Housing and Urban Development

Notice of Funding Availability (NOFA) for the Research on the Socio-Economic Change in Cities, Fiscal Year 2002; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4780–N–01]

Notice of Funding Availability (NOFA) for the Research on the Socio-Economic Change in Cities, Fiscal Year 2002

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice of funding availability

SUMMARY: *Purpose of the Program.* To fund empirical research projects on trends in urban areas, that is, social, economic, demographic, and fiscal change in cities. Research grants of up to $40,000 each would allow HUD to commission a variety of in-depth and high-quality research projects. For example, the release of the Census 2000 long-form data presents an excellent opportunity to inform us on the long-run dynamics of population, housing, income, and transportation in urban areas. Research using other current data sets, such as the County Business Patterns Special Extracts, FBI Crime Statistics, or Building Permits Data found in the State of the Cities Data Systems [1], or concerning other topics such as the fiscal condition of cities, crime, poverty, or economic development would also be encouraged. These research projects would provide HUD with a basic understanding of how cities are changing, what factors are driving change, and the impact of public policy on change.

Available Funds. $300,000 from HUD's FY 2002 research and technology appropriation. HUD anticipates funding seven to ten studies on these topics; studies will be funded through cooperative agreements, up to a maximum of $40,000.

Eligible Applicants. Academic and not-for-profit institutions located in the U.S., state and local governments, and federally recognized Indian tribes are eligible to apply. For-profit businesses also are eligible; however, they are not allowed to earn a fee (*i.e.*, no profit can be made from the project).

Application Deadline. May 27, 2003.

Match. None required.

[1] This site (*http://socds.huduser.org//index.html*) specializes in data about cities and metropolitan areas. Some of the data is available at other sites, but here it is in a particularly useful interface. The available data include: population data from the 1970, 1980, 1990, and 2000 Censuses; data on employed residents from the Current Employment Statistics; data on jobs from and business establishments from special extracts of the County Business Patterns; data from the FBI's Uniform Crime Report; and data on permits for residential construction from the Census Bureau's Building Permits Survey.

Additional Information:

I. Application Due Date, Further Information, and Technical Assistance

Application Due Date. Your completed application is due May 27, 2003.

Address for Submitting Applications. All applications must be either mailed or sent via overnight/express mail delivery, addressed to: Department of Housing and Urban Development, Economic Development and Public Finance Division, Office of Policy Development and Research, 451 Seventh Street, SW., Room 8234, Washington, DC 20410.

Application Submission Requirements. New Security Procedures. HUD has implemented new security procedures that affect application submission procedures. Please read the following instructions carefully and completely. HUD will not accept hand-delivered applications. Applications may be mailed using the United States Postal Service (USPS) or may be shipped via one of the following delivery services: DHL, Falcon Carrier, FedEx, United Parcel Service (UPS), or United States Postal Service Express Mail. *No other delivery services are permitted into HUD Headquarters without escort. You must, therefore, use one of these carriers.*

Mailed Applications. Your application will be considered timely filed if your application is postmarked on or before 12 midnight of the application due date and received by the designated HUD office on or within fifteen (15) calendar days of the application due date. *All applicants must obtain and save* a Certificate of Mailing showing the date when the application was submitted to the USPS. The Certificate of Mailing (USPS Form 3817) will be your documentary evidence that your application was timely filed.

Applications Sent by Overnight/Express Mail Delivery. If your application is sent by overnight delivery or express mail, your application will be timely filed if it is received before or on the application due date, or when you submit documentary evidence that your application was placed in transit with the overnight delivery/express mail service by no later than the application due date. Due to new security measures, you must use either USPS express mail or one of four carrier services that do business with HUD Headquarters regularly. These services are DHL, Falcon Carrier, FedEx, and UPS. Delivery by these services must be made during HUD Headquarters business hours, between 8:30 AM and 5:30 PM Eastern time, Monday through Friday.

Other Transmission Methods. Only applications submitted via mail or one of the express carrier services identified above will be accepted. Facsimile, email, or other types of transmission are not acceptable.

FOR FURTHER INFORMATION CONTACT: You may contact: Dr. Alastair McFarlane, Department of Housing and Urban Development, Economic Development and Public Finance Division, Office of Policy Development and Research, 451 Seventh Street, SW., Room 8234, Washington, DC 20410, telephone (202) 708–0426, extension 5901, or Mr. Patrick Tewey, Grants Officer, (202) 708–1796, extension 4098 (these are not toll-free numbers). Hearing- and speech-impaired persons may access the above telephone number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

II. Amount Allocated

Approximately $ 300,000 from HUD's FY 2002 Research and Technology appropriation will be available to fund research study proposals in FY 2002. Cooperative agreements will be awarded on a competitive basis according to the Rating Factors described in Section VII (D). HUD anticipates awarding seven to ten cooperative agreements ranging up to $40,000 each. Applications exceeding this amount (unless the excess is provided through cost-sharing) will be deemed to be non-responsive.

III. Program Description and Eligible Activities

(A) Program Description: Background

Identifying the extent and dimension of change occurring in American cities is an important part of HUD's mission. A better understanding of urban dynamics would support the pursuit of all of HUD's Strategic Goals (see Fiscal Year 2002 Annual Performance Plan, U.S. Department of Housing and Urban Development, May 2001), including Goal 1, ''Increase the availability of decent, safe, and affordable housing in American communities,'' and Goal 4, ''Improve community quality of life and economic vitality.'' Fundamental social science research on urban dynamics is relevant to housing and urban policy for at least three major reasons. First, an understanding of urban socio-economic factors, such as immigration, is critical in the evaluation of the impact of existing urban policy. Second, such research would allow HUD more accurately to predict the impact of a proposed rule or program. Third, innovative research may reveal issues,

about which little is known currently, that merit the attention of the Department. To accomplish these objectives, studies that utilize recently released data, such as the Census 2000 long-form data or other Census products such as County Business Patterns, are needed.

(B) Eligible Activities: Topics in Urban Research

This part lists major topics and questions on which HUD seeks information. HUD is interested in high-quality research that offers a unique contribution to the literature on urban economic and social change. The proposals may include descriptive studies, analytical studies, or both. These studies may identify or measure the factors associated with particular outcomes and the underlying causes of particular outcomes. The impact of existing policies may be described and analyzed. The proposals should highlight the policy implications of the potential findings of the proposed research, particularly with respect to policies that have been successful in urban areas. The methodology to be applied to the studies may include statistical techniques, econometric estimation, application of geographic information systems (GIS) techniques, case studies, a critical review of the present state of knowledge, and meta-analysis of existing studies. In each case, the methodology must reflect the state-of-the-art in the respective discipline. The final report for each empirical study will include a succinct discussion of the scholarly literature related to the issue being analyzed; this literature review will provide background for the methodology of the proposed study and a useful context for identifying the analytical and policy contributions of the study. The Department is interested in a wide variety of research topics. These topics are:

(1) Urban Economy

HUD is interested in research that would help explain the necessary conditions for a thriving urban economy as well as which local and federal policies encourage balanced or sustainable growth. Such research could support, for example, Strategic Objective 4.1, ''The number, quality, and accessibility of jobs increase in urban * * * communities,'' and Strategic Objective 4.2, ''Economic conditions in distressed communities improve.'' Possible topics include but are not limited to the following questions:

- *Economic development:* Are there any particular industries that are key to economic development? What are the implications of different types of agglomeration economies (*i.e.*, scale economies, economies of localization) for urban growth? What is the role of tax incentives in economic development? Are there geographic spillovers of economic development? To what extent does growth in the suburbs lead to growth in center cities? What is the impact of economic development on poverty? What role have faith-based institutions played in effective community development initiatives?
- *Economic change:* What have been the trends in employment, income, and wealth in center cities?
- *Labor markets:* What does recent data tell us about the significance of spatial mismatch between jobs and residents? What are the trends in unemployment among youth in cities? What is the impact of job growth on unemployment in cities? What has been the impact of welfare reform, urban development, and other fiscal policies on urban labor markets?
- *Housing and mortgage markets:* What is the impact of economic growth and other urban trends on the supply of affordable housing? What is the impact of gentrification on the economic welfare of the pre-existing residents of a neighborhood? What is the relationship between housing tenure and other variables such as employment status? What have been the dynamics (construction, rehabilitation, and transformation) of the rental housing stock of cities? What are the long- and short-run relationships between income growth and rents? What is the recent evidence on the causes and consequences of homelessness? What has been the impact on urban economies of the substantial increase in affordable lending during the 1990's? What problems do inner-city residents face in obtaining financing? What role do mainstream lenders play in inner cities?
- *Urban Public Finance:* What is the extent of the fiscal disparities among urban and suburban local governments? What is the impact of fiscal conditions on economic growth and vice-versa? What are some of the determinants of fiscal health? How have some of the fiscal innovations of the last decades affected the public finances of cities?

(2) Urban Demographics

HUD would be interested in research that reveals both the characteristics of cities' populations as well as the spatial patterns of real estate development.

- *Population characteristics:* How has the proportion of elderly, immigrants, minorities, and female-headed households changed over the last ten years and why? What are the demographics of population growth, or decline, in cities? What would be the projections of population growth in cities based on observed trends?
- *Urban growth:* What is the role of migration (both foreign and domestic) in the growth of urban centers? What are the most recent causes and consequences of suburbanization? To what extent are minorities relocating to suburban areas and why? What is the degree of interdependence between suburbs and cities?
- *Patterns of population density:* What has been the change in the spatial distribution of population and why? Is there a significant relationship between the density of population and other variables such as housing affordability, economic growth, or fiscal health? What is the role of subcenters in the urban economy?

(3) Urban Issues

HUD is interested in research concerning social and economic issues that are unique to urban areas as well as social problems that are particularly concentrated in urban areas.

- *Education:* Which policies have been successful in improving inner-city schools? What is the extent of spending inequalities in education? What has been the trend in education levels required for employment in cities? What is the impact of education on poverty? What role do colleges and universities play in the economic development of cities?
- *Crime:* What are some of the social and economic variables that appear to influence crime in cities? What is the cost of crime in terms of metropolitan and urban growth? What are the relative impacts of different social and criminal justice policies on crime rates? How are property crime and violent crime different with respect to all of the above questions? How is crime in cities different from crime in the suburbs?
- *Poverty:* How has the income distribution of urban centers changed? What have been the recent trends in urban poverty, especially in the concentration of poverty in cities? What are the explanations for these changes in urban poverty? What is the trend of gaps between inner city-suburban social indicators?
- *Transportation and commuting patterns:* What have been the recent trends in commuting times and distances in cities? How are these trends related to mode of transport and

automobile ownership? How are trends in transportation affected by characteristics of the urban area? What is the impact of traffic congestion on decentralization?

Many of these research topics could be addressed using the 1990 and 2000 Census data (short- and long-forms).[2] Longer-term comparisons may be made using census data from before 1990 or other socioeconomic databases such as the Panel Study of Income Dynamics. The Census of Population and Housing data may be supplemented with other databases from the Census such as County Business Patterns data, the American Housing Survey data (including the geocoded version of that database), or other national or local databases.

IV. Program Threshold Requirements

(A) Eligible Applicants

Academic and not-for-profit institutions located in the U.S., state and local governments, and federally recognized Indian tribes are eligible to apply under this NOFA. For-profit firms also are eligible; however, they are not allowed to earn a fee (*i.e.*, no profit can be made from the project). Federal agencies and federal employees are not eligible to submit applications.

A particular author or group of co-authors may submit separate research proposals on more than one topic, but no more than one award will be made to any one such author or group of co-authors.

You may address more than one of the technical study topic areas within your proposal or submit separate applications for different topic areas. Projects need not address all of the objectives within a given topic area. While you will not be penalized for not addressing all of the specific objectives for a given topic area, if two applications for technical study in a given topic have equal scores, HUD will select the applicant whose project addresses the most objectives.

(B) Period of Performance

The period of performance may not exceed 18 months from the time of award.

(C) Existing Resources

HUD technical studies funds may not replace existing resources dedicated to any ongoing project.

(D) Protection of Human Subjects

Human research subjects must be protected from research risks in conformance with Federal Policy for the Protection of Human Subjects, codified by HUD at 24 CFR part 60.

(E) Compliance With Fair Housing and Civil Rights Laws

(1) With the exception of federally recognized Indian tribes and their instrumentalities, all applicants and their sub-recipients must comply with all Fair Housing and Civil Rights laws, statutes, regulations, and Executive Orders as enumerated in 24 CFR 5.105(a). If you are a federally recognized Indian tribe, you must comply with the non-discrimination provisions enumerated at 24 CFR 1003.601, as applicable.

(2) If you, the applicant:

- Have been charged with a systemic violation of the Fair Housing Act alleging ongoing discrimination;
- Are a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an on-going pattern or practice of discrimination; or
- Have received a letter of non-compliance findings under Title VI, Section 504, or Section 109, and if the charge, lawsuit, or letter of findings has not been resolved to HUD's satisfaction before the application deadline stated in this NOFA, you may not apply for assistance under this NOFA. HUD will not rate and rank your application. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken to address allegations of on-going discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(F) Conducting Business In Accordance With Core Values and Ethical Standards

Entities subject to 24 CFR Parts 84 and 85 (most non-profit organizations and state, local and tribal governments or government agencies or instrumentalities who receive federal awards of financial assistance) are required to develop and maintain a written code of conduct (see Sections 84.42 and 85.36(b)(3)). Consistent with regulations governing specific programs, your code of conduct must: Prohibit real and apparent conflicts of interest that may arise among officers, employees, or agents; prohibit the solicitation and acceptance of gifts or gratuities by your officers, employees, and agents for their personal benefit in excess of minimal value; and, outline administrative and disciplinary actions available to remedy violations of such standards. If awarded assistance under this NOFA, you will be required, prior to entering into a cooperative agreement with HUD, to submit a copy of your code of conduct and describe the methods you will use to ensure that all officers, employees, and agents of your organization are aware of your code of conduct.

(G) Ensuring the Participation of Small Businesses, Small Disadvantaged Businesses, and Women-Owned Businesses

HUD is committed to ensuring that small businesses, small disadvantaged businesses, and women-owned businesses participate fully in HUD's direct contracting and in contracting opportunities generated by HUD cooperative agreement funds. Too often, these businesses still experience difficulty accessing information and successfully bidding on federal contracts. State, local, and tribal governments are required by 24 CFR 85.36(e) and non-profit recipients of assistance by 24 CFR 84.44(b), to take all necessary affirmative steps in contracting for purchase of goods or services to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(H) Additional Non-Discrimination Requirements

You, the applicant, and your sub-recipients must comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 1201 *et seq.*) and title IX of the Education Amendments Act of 1972 (20 U.S.C. 1681 *et seq.*)

V. Application Submission Requirements

(A) Applicant Information

Your application must contain the items listed in this Section V, as follows:

(1) A transmittal letter (limited to one page) which identifies the purpose for which the technical study program funds are requested, the dollar amount requested, and the applicant or applicants submitting the application. If two or more organizations are working together on the project, a primary applicant must be designated;

(2) Checklist and Submission Table of Contents (see Appendix);

(3) Name of primary applicant and any sub-recipients (such as consortium associates, partners, subcontractors, joint venture participants, or others contributing resources to your project), with contact information (*i.e.*, name, mailing address, and telephone number of principal contact person) for each;

(4) An abstract (limited to two pages) containing the following information: The project title, the names and

[2] Applicants should take note of changes in minority categorization, metropolitan area specification, etc. that became effective with the 2000 Census.

affiliations of all investigators, and a summary of the research problem and study design as described in the project narrative;

(5) A project narrative (limited to a total of 25 pages) which discusses your qualifications and your study plan and addresses the following topics, which correspond to the Rating Factors for award of funding as stated in Section VI (D), below. The narrative statement must be organized in sections numbered in accordance with this outline.

a. Applicant and organizational qualifications, including qualifications of the principal investigator and key personnel, experience in managing similar projects, and past performance in managing project funds. See the discussion of Rating Factor 1 in Section VI (D).

b. The problem to be addressed. See Rating Factor 2.

c. Technical study plan, including study design, quality assurance mechanisms, and project management plan. See Rating Factor 3. Also see discussion of management plan in Section VI (b).

d. Statement of non-HUD resources to be applied, if any. See Rating Factor 4.

e. Statement on coordination, self-sufficiency, and sustainability of your work. See Rating Factor 5. Any pages in excess of the 25-page limit will not be read;

(6) Discussion of desired HUD resources, if applicable. See Section IV (C).

(7) You may provide attachments, appendices, bibliography, or other relevant materials that support your project narrative, but these must not exceed 20 pages in the aggregate. Any pages in excess of the 20 page limit will not be read;

(8) The resumes of the principal investigator and other key personnel. Resumes shall not exceed three pages each and are limited to information that is relevant in assessing the qualifications of key personnel to conduct and/or manage the proposed technical studies; and

(9) Indirect Cost Rate Agreement, if available. Applicants that have established indirect cost rate agreements shall provide a copy of the agreement from their cognizant federal agency. The cognizant agency is the federal agency responsible for negotiating and approving indirect cost rates for the grantee. A grantee that has not previously established an indirect cost rate with a federal agency shall submit its initial indirect cost proposal immediately after the grantee is advised that an award will be made.

(B) Standard Forms, Certifications and Assurances

You, the applicant, are required to submit signed copies of the following forms, certifications, and assurances:

- Application for Federal Assistance (HUD–424);
- Applicant Assurances and Certifications (HUD–424–B);
- Detailed Budget (SF–424–CB);
- Detailed Budget Worksheet (SF–424–CBW); Note that the thoroughness, clarity, and coherence of the budget information that you provide on the Detailed Budget Worksheet will be evaluated under Rating Factor 4. You must thoroughly document and justify all budget categories and costs and all major tasks, for yourself and any sub-recipients contributing resources to the project. Your budget should include the cost of travel to Washington for at least one member of the project team to meet with HUD representatives or participate in a research seminar or symposium;
- If required, the Disclosure Form Regarding Lobbying (SF–LLL). See the first paragraph under ''certifications'' on page 2 of form HUD–424;
- Disclosure/Update Report (HUD–2880);
- Acknowledgment of Application Receipt (HUD–2993); and
- Client Comments and Suggestions (HUD 2994).

Copies of these standard forms, with instructions as applicable, are appended to this NOFA.

VI. Application Selection Process

(A) Program Threshold Requirements

HUD will review your application to determine whether it meets all of the program threshold requirements described in Section V above. Only applications that meet all of the threshold requirements will be eligible to be rated and ranked.

(B) Rating

Applications that meet all of the threshold requirements will be eligible to be scored and ranked, based on the total number of points allocated for each of the Rating Factors described below. Your application must receive a total score of at least 70 points to remain in consideration for funding.

(C) Ranking and Selection

Selection of award recipients will be based on the ranking of aggregate scores, within the limits of funding availability. In selecting award recipients, HUD will award the highest ranked application in each of the research topics listed in paragraph III (B) above. HUD will then select the second highest ranked application in each research topic and continue this process as long as funding remains available. Awards may be made to two or more recipients proposing work on a particular topic. In order to be funded, applicants must receive a minimum score of 70 points.

(D) Rating Factors

The factors for rating and ranking applicants, and maximum points for each factor, are provided below. The maximum number of points to be awarded is 100.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (30 Points)

Points will be awarded under the following three sub-factors, based on the extent to which your proposal indicates that you have the ability and organizational resources necessary to implement successfully your proposed activities in a timely manner. The rating of you, the ''applicant,'' will include any sub-recipients that will contribute resources to the project. In rating this factor HUD will consider and award points based on the extent to which your application demonstrates:

(a) *That the principal investigator and key personnel are capable and qualified to accomplish the proposed research, based on their education/training and previous completed research* (15 points). Qualifications to carry out the proposed study will be evaluated based on the academic background of personnel, relevant publications, and recent (within the past 10 years) research experience relevant to the type of work proposed. Publications and research experience are considered relevant if they required the acquisition and use of knowledge and skills that can be applied in the planning and execution of the technical study that is proposed.

(b) *That the project manager(s) has demonstrated ability to manage this research, based on past performance in managing similar projects* (10 points). Points will be awarded based on demonstrated ability to successfully manage your study in such areas as personnel management, project management, data management, quality control, community study involvement (if applicable), and report writing, as well as overall success in project completion (*i.e.*, projects completed on time and within budget). You should also demonstrate that your project would have adequate administrative support, including clerical and specialized support in areas such as accounting and equipment maintenance, as relevant.

(c) *That the primary applicant and any sub-recipients are capable of managing project funds, based on past performance* (5 points). Points will be awarded based on the extent of demonstrated ability to account for funds appropriately and timely use of funds received either from HUD or other federal, state, or local programs, or private programs. HUD may include information at hand or available from public sources such as, but not limited to, newspapers, Inspector General or Government Accounting Office Reports or Findings, and/or hotline complaints that have been proven to have merit.

Rating Factor 2: Need/Extent of the Problem (10 Points)

Points will be awarded based on the extent to which your proposal establishes that your proposed research will address documented problems, target areas or target groups. In responding to this factor, you should document in detail how your project would make a significant contribution toward achieving some or all of HUD's stated goals and objectives for one or more of the topic areas described in Section III (B).

Rating Factor 3: Soundness of Technical Study Approach (50 Points)

Points will be awarded based on the quality of your proposed study plan, under the following four sub-factors, as described in your proposal. Specific components that will be evaluated include the following:

(a) *Soundness of the study design* (30 points). Describe the thoroughness and feasibility of your project and study design, and the extent to which it reflects a comprehensive understanding of the relevant technical literature. It should clearly describe how your study builds upon the current state of knowledge for your focus area. If possible, your study should be designed to address testable hypotheses, which are clearly stated. Your study design should be statistically based, with sufficient data to provide an adequate test of your stated hypotheses. The study design should be presented as a logical sequence of steps or phases, with individual tasks described for each phase. You should identify any important ''decision points'' in your study plan, and you should discuss plans for data management, analysis and archiving.

(b) *Quality assurance mechanisms* (10 points). Describe the adequacy of quality assurance mechanisms that will be integrated into your project design to ensure the validity and quality of the results. Areas to be addressed include acceptance criteria for data quality, procedures for selection of samples/sample sites, sample handling, measurement and analysis, and any standard/nonstandard quality assurance/control procedures to be followed. Documents (*e.g.*, government reports, peer-reviewed academic literature) that provide the basis for your quality assurance mechanisms should be cited.

(c) *Project management plan* (8 points). The extent to which your schedule for the completion of major activities, tasks and deliverables, and your budget, confirm that there will be adequate resources (*e.g.*, personnel, financial) to carry out your study design successfully within the proposed time frame, taking into account timing requirements stated in section IV, above.

(d) *Budget Proposal* (2 Points). Two points will be awarded if your budget proposal thoroughly estimates all applicable direct and indirect costs and is presented in a clear and coherent format. One point, or no points, will be awarded if your budget proposal is deficient in this regard, based on the degree of deficiency.

Rating Factor 4: Leveraging of Resources (5 Points)

You are encouraged to demonstrate that the effectiveness of HUD's funds will be increased by securing other public and/or private resources or by structuring the project in a cost-effective manner, such as integrating the project into an existing study. Resources may include funding or in-kind contributions (such as services, facilities, or equipment) allocated to the purpose(s) of your project. Staff and in-kind contributions should be given a monetary value. Larger such commitments will be awarded more points under this Rating Factor.

You should provide evidence of leveraging/partnerships by attaching to your application letters of firm commitment, memoranda of understanding, or agreements to participate from those entities identified as partners in the project efforts. Each letter of commitment, memorandum of understanding, or agreement to participate must include the organization's name, proposed level of commitment (with monetary value), and responsibilities as they relate to specific activities or tasks of your proposed program. The commitment must also be signed by an official of the organization legally able to make commitments on behalf of the organization.

Rating Factor 5: Coordination, Self-Sufficiency and Sustainability (5 Points)

(a) The extent to which you have coordinated your activities with other organizations that have or are in the process of conducting similar or related work;

(b) Evidence that your proposed study builds upon the existing body of related work and it does not significantly duplicate work that is currently being conducted, or has been conducted, by other organizations (to the extent that this can be ascertained); and

(c) The extent to which your project will help generate practical solutions that can be implemented on the local or national level for improving the economic vitality and the quality of life in cities.

(E) Negotiations; Amount To Be Awarded

After HUD has rated and ranked all applications and made selections, HUD may require, depending upon the program, that all winners participate in negotiations to determine the specific terms of the cooperative agreement and budget. HUD is not required to approve or fund all proposal activities. In cases where HUD cannot successfully conclude negotiations with a selected applicant or a selected applicant fails to provide HUD with requested information, an award will not be made to that applicant. In this instance, HUD may offer an award, and proceed with negotiations with the next-highest ranking applicant.

(F) Adjustments to Funding

(1) HUD reserves the right to fund less than the full amount requested in your application to ensure the fair distribution of the funds and that the purposes of this program are met.

(2) HUD will not fund any portion of your application that: is not eligible for funding under specific program statutory or regulatory requirements; does not meet the requirements of this NOFA; or may be duplicative of other funded programs or activities from previous years' awards or other selected applicants. Only the eligible portions of your application (including non-duplicative portions) may be funded.

(3) Purchase or lease of equipment having a per unit cost in excess of $5,000 will not be funded unless prior written approval is obtained from HUD.

(4) If funds remain after funding the highest-ranking applications, HUD may fund all or part of the next highest-ranking application in a given program. If you, the applicant, turn down an award offer, HUD will make an offer of

funding to the next-highest ranking application.

(5) In the event HUD commits an error that, when corrected, would result in selection of an otherwise eligible applicant during the funding round of this NOFA, HUD may select that applicant when sufficient funds become available.

(G) Audit

Grantees/applicants that expend $300,000 or more in a year in federal awards shall have a single or program-specific audit conducted for that year in accordance with OMB Circular A–133. Grantees/applicants shall ensure that their most recent completed audit has been submitted to the federal Audit Clearinghouse for review by HUD (refer to *www.harvester.census.gov/sac/*). Grantees/applicants that do not have such an audit or are not subject to OMB Circular A–133 will be asked to provide a copy of their organization's most recent audit or other evidence that financial controls are in place before an award can be finalized.

VII. Cooperative Agreement Structure; Publication of Studies

The awards will be structured as cooperative agreements, in order to provide latitude to researchers to proceed independently, but with opportunity for HUD to provide comments at appropriate points in work. HUD's participation will include review and comment on the study design and draft final report and participation in a seminar on the research. If you believe that a greater extent of substantive involvement by HUD personnel in your project would be advantageous for the successful accomplishment of your research objectives, please include in your project description/narrative a discussion of the desired HUD resources and the rationale (this is item 6 in the list of application items provided in Section V (A) above). Formal commitments regarding this aspect of the cooperative agreement would then become a matter for negotiation prior to award (see Section VI (E), above).

Your management plan must provide for the following work steps to be performed by you and by HUD:

- You will submit a detailed study design, comprising identified research issue(s), a technical proposal, and methodological approach. This will be due no later than six weeks from the date of award, unless you indicate a specific rationale for a different schedule. HUD will provide comments to you on the study design;
- You will submit a draft report to HUD no later than twenty (20) weeks prior to the scheduled ending date of the project. HUD will provide comments on the draft report, which may include comments of peer reviewers engaged by HUD;
- At least one investigator will travel to Washington (or another location, as mutually agreed) to present the study, at a time to be arranged with HUD representatives, subsequent to submission of the draft final report; and
- You will submit a final report taking account of the comments.

A cost-reimbursement award based on the negotiated budget is anticipated.

A payment schedule based on the completion of project milestones will be established in negotiation. An amount equal to 20 percent of the total amount of the cooperative agreement will be withheld and paid by HUD only after the final project report has been received and accepted by HUD.

The terms and conditions of the cooperative agreement will include restrictions against the applicant's release of work products, quotation or paraphrasing from work products or disclosures of interim findings prior to 60 days after HUD acceptance of your final report except with HUD approval. Thereafter, recipients are free to publish without HUD approval. The present provisions of OMB-Circular A–110, Subpart C, and HUD regulations at 24 CFR Part 84, Subpart C shall govern the right to intellectual or intangible property developed as a result of a recipient's performance under a cooperative agreement.

VIII. Findings and Certifications

(A) Environmental Impact

This NOFA does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition leasing, rehabilitation, alteration, demolition or new construction, or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

(B) Federalism Impact

Executive Order 13132 (captioned ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the Executive Order are met. This NOFA does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

(C) Executive Order 12372, Intergovernmental Review of Federal Programs

Executive Order 12372 was issued to foster intergovernmental partnership and strengthen federalism by relying on state and local processes for the coordination and review of federal financial assistance and direct federal development. The Order allows each state to designate an entity to perform a state review function. The official listing of State Points of Contact (SPOC) for this review process can be found at *http://www.whitehouse.gov/omb/grants/spoc.html.* States not listed on the website have chosen not to participate in the intergovernmental review process and, therefore, do not have a SPOC. If your state has a SPOC, you should contact them to see if they are interested in reviewing your application prior to submission to HUD. Please make sure that you allow ample time for this review process when developing and submitting your applications. If your state does not have a SPOC, or your SPOC declines to review or is unable to review your application in a timely manner, you may send applications directly to HUD.

(D) Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for federal contracts and grants from using appropriated funds to attempt to influence federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will

not make any prohibited payments and, if any payments or agreement to make payments of non-appropriated funds for these purposes have been made, a form SF–LLL disclosing such payments must be submitted.

The Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995), which repealed section 112 of the HUD Reform Act, requires all persons and entities who lobby covered executive or legislative branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

(E) Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the regulations in 24 CFR part 4, subpart A contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. HUD will comply with the documentation, public access, and disclosure requirements of section 102 with regard to the assistance awarded under this NOFA, as follows:

(1) *Documentation and Public Access Requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15;

(2) *Disclosures.* HUD will make available for public inspection for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also reported on HUD Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports, both applicant disclosures and updates, will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15; and

(3) *Publication of Recipients of HUD Funding.* HUD's regulations at 24 CFR part 4 provide that HUD will publish a Notice in the **Federal Register** to notify the public of all decisions made by the Department to provide:

(i) Assistance subject to section 1092(a) of the HUD Reform Act; and/or

(ii) Assistance provided through grants or cooperative agreements on a discretionary (non-formula, non-demand) basis, but that is not provided on the basis of a competition.

(F) Applicant Debriefing

Beginning not less than 30 days after the awards for assistance are announced in the **Federal Register**, and for at least 120 days after awards for assistance are announced, HUD will provide any requesting applicant with a debriefing on their application. All requests for debriefing must be made by the principal investigator for the proposed study or by the authorized official whose signature appears on the SF–424 or his or her successor in office. Submit your request to Mr. Patrick Tewey at (202) 702–1796, extension 4098. Information provided during your debriefing will include, at a minimum, the final score you received for each Rating Factor, final evaluator comments for each Rating Factor, and the final assessment indicating the basis upon which assistance was provided or denied.

(G) Section 103 HUD Reform Act

HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708–3815. (This is not a toll-free number.)

(H) Paperwork Reduction Act Statement

The information collection requirements in this NOFA have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB number is 2528–0227. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

(I) Catalog of Federal Domestic Assistance Numbers

The Federal Domestic Assistance number for this program is 14.506.

IX. Corrections to Deficient Applications

After the application due date, HUD may not, consistent with its regulations in 24 CFR part 4, subpart B, consider any unsolicited information you, the applicant, may want to provide. HUD may contact you to clarify an item in your application or to correct technical deficiencies. HUD may not seek clarification of items or responses that improve the substantive quality of your response to any Rating Factors. In order not to unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. Examples of curable (correctable) technical deficiencies include failure to submit the proper certifications or failure to submit an application that contains an original signature by an authorized official. In each case, HUD will notify you in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by USPS, return receipt requested. Clarifications or corrections of technical deficiencies in accordance with the information provided by HUD must be submitted within 14 calendar days of the date of receipt of the HUD notification. (If the due date falls on a Saturday, Sunday, or federal holiday, your correction must be received by HUD on the next day that is not a Saturday, Sunday, or federal holiday.) If the deficiency is not corrected within this time period, HUD will reject the application as incomplete and it will not be considered for funding.

X. Authority

These cooperative agreements are authorized under sections 501 and 502 of the Housing and Urban Development Act of 1970.

Dated: December 5, 2002.

Harold Bunce,

Deputy Assistant Secretary for Economic Affairs.

Appendix

Checklist and Submission Table of Contents; Research on the Socioeconomic Change in Cities

The following checklist is provided to ensure you have submitted all required items to receive consideration for funding. You must assemble the application in the order shown below and note the corresponding page number where the response is located. You must include this checklist and submission table of contents with the proposal.

	page number
☐ Transmittal Letter (limited to one page)	cover page
☐ Checklist and submission table of contents (*i.e.*, this page)	_____
	page number
☐ Name of primary applicant and any sub-recipients, with contact information for each	_____
☐ Abstract (limited to two pages)	_____
Project narrative (limited to 25 pages total)	
☐ 1. Applicant and organizational qualifications	_____
☐ 2. The problem to be addressed	_____
☐ 3. Technical study plan (study design, quality assurance mechanisms, and project management plan	_____
☐ 4. Non-HUD resources to be applied (if any)	_____
☐ 5. Statement on coordination, self-sufficiency, and sustainability	_____
☐ Discussion of desired HUD resources, if applicable	_____
☐ Conflict of interest disclosure	_____
☐ Attachments, appendices, bibliography, or other relevant materials, if any (limited to 20 pages)	_____
☐ Resumes (limited to three pages per individual)	_____
	page number
☐ Indirect cost rate agreement, if available	_____
☐ Application for Federal Assistance (Form HUD–424)	_____
☐ Applicant Assurances and Certifications (Form HUD 424–B)	_____
☐ Detailed Budget (Form HUD–424–CB)	_____
☐ Detailed Budget Worksheet (Form HUD–424–CBW)	_____
☐ Disclosure of Lobbying Activities, if required (Standard Form LLL)	_____
☐ Disclosure/Update Report (Form HUD–2880)	_____
☐ Acknowledgment of Application Receipt (Form HUD–2993)	_____
☐ Client Comments and Suggestions (Form HUD–2994) Forms	_____

Forms

Copies of required forms are attached. Instructions are included where applicable.

BILLING CODE 4210–62–P

Application for Federal Assistance

OMB Approval No. 0348-0043

	2. Date Submitted (mm/dd/yyyy)	Applicant Identifier
1. Type of Submission Application: ☐ Construction ☐ Non-Construction Pre-application: ☐ Construction ☐ Non-Construction	3. Date Received by State (mm/dd/yyyy)	State Application Identifier
	4. Date Received by Federal Agency (mm/dd/yyyy)	Federal Identifier

5. Applicant Information

Legal Name	Organizational Unit
Address (give city, county, State, and zip code)	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. Employer Identification Number (EIN) (xx-yyyyyyy)

☐ — ☐

7. Type of Applicant (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Inter-municipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N Nonprofit
O Public Housing Agency
P. Other (Specify)

8. Type of Application:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify)

9. Name of Federal Agency

10. Catalog of Federal Domestic Assistance Number (xx-yyy)

☐ — ☐

Title:

11. Descriptive Title of Applicant's Project

12. Areas Affected by Project (cities, counties, States, etc.)

13. Proposed Project		14. Congressional Districts of	
Start Date (mm/dd/yyyy)	Ending Date (mm/dd/yyyy)	a. Applicant	b. Project

15. Estimated Funding

Complete form HUD-424-M, Funding Matrix

16. Is Application Subject to Review by State Executive Order 12372 Process?

a. **Yes** This pre-application/application was made available to the State Executive Order 12372 Process for review on:

Date (mm/dd/yyyy)_____

b. **No** ☐ Program is not covered by E.O. 12372

or ☐ Program has not been selected by State for review.

17. Is the Applicant Delinquent on Any Federal Debt?

☐ Yes If "Yes," attach an explanation ☐ No

18. To the best of my knowledge and belief, all data in this application/pre-application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative	b. Title	c. Telephone Number (Include Area Code)
d. Signature of Authorized Representative		e. Date Signed (mm/dd/yyyy)

Previous Edition Usable
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form **SF-424** (7/97)
Prescribed by OMB Circular A-102

Instructions for the SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043, Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency .

This is a standard form used by applicants as a required face sheet for pre-applications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For pre-applications, use a separate sheet to provide a summary description of this project.

Item Entry

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. **Use form HUD-4243-M, Funding Matrix.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

Instructions for the HUD-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

This form must be used by applicants requesting funding from the Department of Housing and Urban Development. This application form HUD-424 incorporates the Assurances and Certifications (HUD-424-B). You may either (1) attach the Assurances and Certifications to the application or (2) renew the certifications that you previously made on behalf of your organization and submitted to HUD if the legal name of your organization has not changed and you were the authorized representative who signed the Assurances and Certifications.

Item Number Instructions

1. Please indicate whether your application is for a formal application submission or a preliminary application (pre-application). HUD does not accept pre-applications for programs funded through the SuperNOFA.
2. Enter the date you are submitting your application to HUD.
3. This box will be completed by HUD. When received by HUD, your application will be stamped:
   (a) with a date; and
   (b) with the time received.
4. Leave Blank. This will be completed by the HUD program office receiving your application. When HUD accepts electronic applications for the grant program you are applying for, this number will be computer generated.
5. If your application is to renew or continue an existing grant, provide the existing grant number. If a new award, please leave blank.
6. Leave blank if you have not been provided a HUD ID number or user number. If you are a Public Housing Authority, enter your HUD issued Public Housing Authority ID number.
7. Enter the legal name of your organization applying for HUD funding.
8. Enter the name of the primary unit in your organization, if applicable, which will be responsible for the program.
9. Enter the complete address of your organization.
10. Enter the name, title, telephone number, fax number, and E-mail of the person to contact on matters related to your application.
11. Enter your organization's Employer Identification Number (EIN) as assigned by the Internal Revenue Service or if you are applying as an individual, your Social Security Number.
12. Choose from the list and enter the appropriate letter in the space provided. You must be an eligible applicant to apply for assistance. You must read the program information requirements to determine if you are a type of applicant that is eligible to apply for assistance under the program.
13. Enter the type of application you are submitting for funding consideration.

Check the appropriate box.

"New" means you are applying for a new grant award.

"Continuation" means you are requesting an extension of an existing award.

"Renewal" means you are requesting funding for renewal of an existing grant. e.g. Supportive Housing Program (SHP) or Shelter + Care grant.

"Revision" means you are submitting a revision prior to the application due date in response to HUD's request for clarification or modification to your initial submission.

14. Pre-filled.
15. Enter the Catalog of Federal Domestic Assistance (CFDA) number and title and, if applicable, component title of the program.
16. Enter a brief description of your program and key activities.
17. Identify the location(s) where your activities will take place. If this is the entire state, enter "Entire State".

18a. Enter the proposed start date.

18b. Enter the proposed end date.

19a. List the Congressional District(s) where your organization is located.

19b. List any Congressional District(s) where your program of activities or project sites will be located.

20. You must complete the funding matrix on page 2 of this form. Enter the following information:

Grant Program: The HUD funding program under which you are applying.

HUD Share: Please check the program requirements. Enter the amount of HUD funds you are requesting in your application.

Applicant Match: Enter the amount of funds or cash equivalent of in-kind contributions you are contributing to your project or program of activities.

Other Federal Share: Enter the amount of other Federal funds for your program of activities.

Instructions for the HUD-424 (Continued)

State Share: Enter the amount of funds or cash equivalent of in-kind services the State is providing to your project or program of activities.
Local/Tribal Share: Enter the amount of funds or cash equivalent of in-kind services your local/tribal government is providing to your project or program of activities.
Other: Enter the amount of other sources of private, non-profit, or other funds or cash equivalent of in-kind services being provided to your project or program of activities.
Program Income: Enter the amount of program income you expect to generate over the life of your award.
Total: Please total all columns and fill in the amounts.

21. You should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 or check your application kit to determine whether the State Intergovernmental Review Process is required.
22. This question applies to your applicant organization, not the person signing as your organization's authorized representative. Categories of debt include disallowed costs that requires repayment to HUD.
23. To be signed by the authorized representative of your organization. A copy of your governing body's authorization for you to sign this application must be available in your organization's office.

Applicant Assurances and Certifications	U.S. Department of Housing and Urban Development	OMB Approval No. 2501-0017 (exp. 03/31/2005)

Instructions for the HUD-424-B Assurances and Certifications

As part of your application for HUD funding, you, as the official authorized to sign on behalf of your organization or an an individual must provide the following assurances and certifications. By signing this form, you are stating that to the best of your knowledge and belief, all assertions are true and correct.

As the duly authorized representative of the applicant, I certify that the applicant [Insert below the Name and title of the Authorized Representative, name of Organization and the date of signature]:

Name:_____, Title:_____.

Organization:_____, Date:_____.

1. Has the legal authority to apply for Federal assistance, has the institutional, managerial and financial capability (including funds to pay the non-Federal share of program costs) to plan, manage and complete the program as described in the application and the governing body has duly authorized the submission of the application, including these assurances and certifications, and authorized me as the official representative of the applicant to act in connection with the application and to provide any additional information as may be required.

2. Will administer the grant in compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)) and implementing regulations (24 CFR Part 1), which provide that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance **OR** if the applicant is a Federally recognized Indian tribe or its tribally designated housing entity, is subject to the Indian Civil Rights Act (25 U.S.C. 1301-1303).

3. Will administer the grant in compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, and implementing regulations at 24 CFR Part 8, and the Age Discrimination Act of 1975 (42 U.S.C. 6101-07), as amended, and implementing regulations at 24 CFR Part 146 which together provide that no person in the United States shall, on the grounds of disability or age, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance; except if the grant program authorizes or limits participation to designated populations, then the applicant will comply with the nondiscrimination requirements within the designated population.

4. Will comply with the Fair Housing Act (42 U.S.C. 3601-19), as amended, and the implementing regulations at 24 CFR Part 100, which prohibit discrimination in housing on the basis of race, color, religion, sex, disability, familial status, or national origin; except an applicant which is an Indian tribe or its instrumentality which is excluded by statue from coverage does not make this certification; and further except if the grant program authorizes or limits participation to designated populations, then the applicant will comply with the nondiscrimination requirements within the designated population.

5. Will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601) and implementing regulations at 49 CFR Part 24 and 24 CFR 42, Subpart A.

6. Will comply with the environmental requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and related Federal authorities prior to the commitment or expenditure of funds for property acquisition and physical development activities subject to implementing regulations at 24 CFR parts 50 or 58.

7. Will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about --

(1) The dangers of drug abuse in the workplace;

(2) The applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required in Paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statue occurring in the workplace no later than five calendar days after such conviction;

Applicant Assurances and Certifications (Continued)	U.S. Department of Housing and Urban Development	OMB Approval No. 2501-0017 (exp. 03/31/2005)

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee has worked, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

(h). The applicant may insert in the space provided below the site(s) for the performance of work or may provide this information in connection with each application.

(i). Place of Performance (street address, city, county, state, zip code)

8. In accordance with 24 CFR Part 24, and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three year period preceding this proposal, been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in the preceding paragraph of this certification; and

(d) Where the applicant is unable to certify to any of the statements in this certification, an explanation shall be attached.

(e) Will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transaction, " provided by the HUD without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

These certifications and assurances are material representations of the fact upon which HUD can rely when awarding a grant. If it is later determined that I, the applicant, knowingly made an erroneous certifications or assurance, I may be subject to criminal prosecution. HUD may also terminate the grant and take other available remedies.

Grant Application Detailed Budget

(Applicant should duplicate this first page as necessary)

U.S. Department of Housing and Urban Development

OMB Approval No. 2501-0017 (exp. 03/31/2005)

Name of Project/Activity:	Functional Categories (Year 1)								Total
	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income	
a. Personnel (Direct Labor)	$	$	$	$	$	$	$	$	$
b. Fringe Benefits									
c. Travel									
d. Equipment (Only Items Over $5,000 Depreciated Value)									
e. Supplies (Only Items Over $5,000 Depreciated Value)									
f. Contractual									
g. Other (Direct Costs)									
h. Indirect Costs (% Approved Indirect Cost Rate:___%)									
Subtotal:									
Name of Project/Activity:									
a. Personnel (Direct Labor)	$	$	$	$	$	$	$	$	$
b. Fringe Benefits									
c. Travel									
d. Equipment									
e. Supplies									
f. Contractual									
g. Other (Direct Costs)									
h. Indirect Costs (% Approved Indirect Cost Rate:___%)									
Subtotal:									
Name of Project/Activity:									
a. Personnel (Direct Labor)	$	$	$	$	$	$	$	$	$
b. Fringe Benefits									
c. Travel									
d. Equipment									
e. Supplies									
f. Contractual									
g. Other (Direct Costs)									
h. Indirect Costs (% Approved Indirect Cost Rate:___%)									
Subtotal:									
Grand Total (Year 1):									

form **HUD-424-CB** (03/2002)

Grant Application Detailed Budget

(Applicant should duplicate this first page as necessary)

U.S. Department of Housing and Urban Development

OMB Approval No. 2501-0017 (exp. 03/31/2005)

Name of Project/Activity:	Functional Categories (Year 2)								Total
	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income	
a. Personnel (Direct Labor)	$	$	$	$	$	$	$	$	$
b. Fringe Benefits									
c. Travel									
d. Equipment (Only Items Over $5,000 Depreciated Value)									
e. Supplies (Only Items Over $5,000 Depreciated Value)									
f. Contractual									
g. Other (Direct Costs)									
h. Indirect Costs (% Approved Indirect Cost Rate:___%)									
Subtotal:									
Name of Project/Activity:									
a. Personnel (Direct Labor)	$	$	$	$	$	$	$	$	$
b. Fringe Benefits									
c. Travel									
d. Equipment									
e. Supplies									
f. Contractual									
g. Other (Direct Costs)									
h. Indirect Costs (% Approved Indirect Cost Rate:___%)									
Subtotal:									
Name of Project/Activity:									
a. Personnel (Direct Labor)	$	$	$	$	$	$	$	$	$
b. Fringe Benefits									
c. Travel									
d. Equipment									
e. Supplies									
f. Contractual									
g. Other (Direct Costs)									
h. Indirect Costs (% Approved Indirect Cost Rate:___%)									
Subtotal:									
Grand Total (Year 2):									

form **HUD-424-CB** (03/2002)

Grant Application Detailed Budget

(Applicant should duplicate this first page as necessary)

U.S. Department of Housing and Urban Development

OMB Approval No. 2501-0017 (exp. 03/31/2005)

Name of Project/Activity:	Functional Categories (Year 3)								Total
	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income	
a. Personnel (Direct Labor)	$	$	$	$	$	$	$	$	$
b. Fringe Benefits									
c. Travel									
d. Equipment (Only Items Over $5,000 Depreciated Value)									
e. Supplies (Only Items Over $5,000 Depreciated Value)									
f. Contractual									
g. Other (Direct Costs)									
h. Indirect Costs (% Approved Indirect Cost Rate:___%)									
Subtotal:									
Name of Project/Activity:									
a. Personnel (Direct Labor)	$	$	$	$	$	$	$	$	$
b. Fringe Benefits									
c. Travel									
d. Equipment									
e. Supplies									
f. Contractual									
g. Other (Direct Costs)									
h. Indirect Costs (% Approved Indirect Cost Rate:___%)									
Subtotal:									
Name of Project/Activity:									
a. Personnel (Direct Labor)	$	$	$	$	$	$	$	$	$
b. Fringe Benefits									
c. Travel									
d. Equipment									
e. Supplies									
f. Contractual									
g. Other (Direct Costs)									
h. Indirect Costs (% Approved Indirect Cost Rate:___%)									
Subtotal:									
Grand Total (Year 3):									

form **HUD-424-CB** (03/2002)

Instructions for the HUD Grant Application Detailed Budget Form

Public reporting Burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB Control Number.

General Instructions

This form is designed so that an application can be made for any of HUD's grant programs. Space is provided for 3 separate programs on each sheet per program year. In preparing the budget, adhere to any existing HUD requirements which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, HUD may require budgets to be shown separately by function or activity.

Your budget information should show the entire cost of your proposed program of activities per year. If you are not using funds in any of the line item categories, you should leave the item blank.

NOTE: Not all budget categories on this form are eligible for funding under all programs. Please see eligible activities under the specific program for which you are seeking funding.

Budget Categories

The budget categories identifies how your program funds will be allocated by type of use, e.g., funds going for salaries, travel, contracts, etc. Each of these line items should be broken out under each column.

Lines a-f--Show the totals of Lines a to f in each column.

Line g.--Enter any other direct costs not already addressed above.

Line h.--Show the amount of indirect costs, and indicate the approved indirect rate, if applicable.

Subtotal--Total all the budget categories and place the amounts under each column on this line.

Grand Total (by Year)-- Total all the subtotals for each year and place the amounts under each column on this line.

For each budget category (personnel, fringe benefits, travel, etc) you should identify the amount of funding you plan on using in your grant program. You should complete each column as follows:

Column 1 - Identify the amount of funds that you will need from the HUD grant program for which you are seeking funding.

Column 2 - Identify any matching funds that you are required to include in your proposed program in order to be eligible for assistance.

Column 3 - Identify any other HUD funds that you will be adding to this program either through your formula or competitive grant programs.

Column 4 - Identify any other Federal funds that you will be adding to this program either through your formula or competitive grant programs.

Budget Categories (Continued)

Column 5 - Identify any State funds that you will be adding to this program.

Column 6 - Identify any Local or Tribal Government funds that you will be adding to this program.

Column 7 - Identify any additional funds not previously identified in Columns 1 - 6, that you intend to use for your proposed program.

Column 8 - Identify any program income that you expect to generate under this program.

Column 9 - Add columns 1 - 8 across and place the total in Column 9.

OMB Approval No. 2501-0017

Grant Application Detailed Budget Worksheet

(Exp. 03/31/2005)

Name and Address of Applicant:

Category — **Detailed Description of Budget (for full grant period)**

1. Personnel (Direct Labor)	Estimated Hours	Rate per Hour	Estimated Cost	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income
Position or Individual											
Total Direct Labor Cost											

2. Fringe Benefits	Rate (%)	Base	Estimated Cost	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income
Total Fringe Benefits Cost											

3. Travel

3a. Transportation - Local Private Vehicle	Mileage	Rate per Mile	Estimated Cost	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income
Subtotal - Trans - Local Private Vehicle											

form **HUD-424-CBW** (02/12/2002)

Grant Application Detailed Budget Worksheet

Detailed Description of Budget

3b. Transportation - Airfare (show destination)	Trips	Fare	Estimated Cost	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income
Subtotal - Transportation - Airfare											

3c. Transportation - Other	Quantity	Unit Cost	Estimated Cost	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income
Subtotal - Transportation - Other											

3d. Per Diem or Subsistence (indicate location)	Days	Rate per Day	Estimated Cost	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income
Subtotal - Per Diem or Subsistence											
Total Travel Cost											

4. Equipment (Only items over $5,000 Depreciated value)	Quantity	Unit Cost	Estimated Cost	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income
Total Equipment Cost											

form **HUD-424-CBW** (03/2002)

Grant Application Detailed Budget Worksheet

Detailed Description of Budget

5. Supplies and Materials (Items under $5,000 Depreciated Value)

5a. Consumable Supplies	Quantity	Unit Cost	Estimated Cost	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income
Subtotal - Consumable Supplies											

5b. Non-Consumable Materials	Quantity	Unit Cost	Estimated Cost	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income
Subtotal - Non-Consumable Materials											
Total Supplies and Materials Cost											

6. Consultants (Type)	Days	Rate per Day	Estimated Cost	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income
Total Consultants Cost											

7. Contracts and Sub-Grantees (List individually)	Quantity	Unit Cost	Estimated Cost	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income
Total Subcontracts Cost											

form **HUD-424-CBW** (03/2002)

Grant Application Detailed Budget Worksheet

Detailed Description of Budget

8. Other Direct Costs	Quantity	Unit Cost	Estimated Cost	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income
Item											
Total Other Direct Costs											

9. Indirect	Rate	Base	Estimated Cost	HUD Share	Applicant Match	Other HUD Funds	Other Federal Share	State Share	Local/Tribal Share	Other	Program Income
Type											
Total Indirect Costs											
Total Estimated Costs											
Total of Federal Share and Match:											

form **HUD-424-CBW** (03/2002)

OMB Approval No. 2501-0017

(Exp. 03/31/2005)

Grant Application Detailed Budget Worksheet

Detailed Description of Budget			
Analysis of Total Estimated Costs		Estimated Cost	Percent of Total
1	Personnel (Direct Labor)		
2	Fringe Benefits		
3	Travel		
4	Equipment		
5	Supplies and Materials		
6	Consultants		
7	Contracts and Sub-Grantees		
8	Other Direct Costs		
9	Indirect Costs		
	Total:		
	Federal Share:		
	Match (Expressed as a percentage of the Federal Share):		

form **HUD-424-CBW** (02/2002)

Instructions for Completing the Grant Application Detailed Budget Worksheet

Item	Discussion
1 - Personnel (Direct Labor)	This section should show the labor costs for all individuals supporting the grant effort (regardless of the source of their salaries). The hours and costs are for the full life of the grant. If an individual is employed by a contractor or sub-grantee, their labor costs should not be shown here. Please include all labor costs which are associated with the proposed grant program, including those costs which will be paid for with in-kind or matching funds. Do not show fringe or other indirect costs in this section. Please use the hourly labor cost for salaried employees (use 2080 hours per year or the value your organization uses to perform this calculation). An employee working less than full time on the grant should show the numbers of hours they will work on the grant.
2 - Fringe Benefits	Use the standard fringe rates used by your organization. You may use a single fringe rate (a percentage of the total direct labor) or list each of the individual fringe charges. The spreadsheet is set up to use the Total Direct Labor Cost as the base for the fringe calculation. If your organization calculates fringe benefits differently, please use a different base and discuss how you calculate fringe as a comment.
3 - Travel	
3a - Transportation - Local Private Vehicle	If you plan on reimbursing staff for the use of privately owned vehicles or if you are required to reimburse your organization for mileage charges, show your mileage and cost estimates in this section.
3b - Transportation - Airfare	Show the estimated cost of airfare required to support the grant program effort. Show the destination and the purpose of the travel as well as the estimated cost of the tickets. Each program NOFA discusses the travel requirements which should be listed here.
3c - Transportation - Other	If you or are charged monthly by your organization for a vehicle for use by the grant program, indicate those costs in this section. Provide estimates for other transportation costs which may be incurred (metro, etc.).

3d - Per Diem or Subsistence	For travel which will require the payment of subsistence or per diem in accordance with your organization's policies. Indicate the location of the travel. Each program NOFA discusses the travel requirements which should be listed here.
4 – Equipment	Equipment is defined by HUD regulations as tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. Each program NOFA describes what equipment may be purchased using grant funding.
5 - Supplies and Materials	Supplies and materials are consumable and non-consumable items which have a depreciated unit value of less than $5,000. Please list the proposed supplies and materials as either Consumable Supplies or as Non-Consumable Materials.
5a - Consumable Supplies	List the consumable supplies you propose to purchase. General office or other common supplies may be estimated using an anticipated consumption rate.
5b - Non-consumable materials	List furniture, computers, printers, and other items which will not be consumed in use. Please list the quantity and unit cost.
6 – Consultants	Please indicate the consultants you will use. Indicate the type of consultant (skills), the number of days you expect to use them, and their daily rate.
7 - Contracts and Sub-Grantees	List the contractors and sub-grantees which will help accomplish the grant effort. Examples of contracts which should be shown here include contracts with Community Based Organizations; liability insurance; and training and certification for contractors and workers. If any contractor, sub-contractor, or sub-grantee is expected to receive over 10% of the total Federal amount requested, a separate Grant Application Detailed Budget (Worksheet) should be developed for that contractor or sub-grantee and the total amount of their proposed effort should be shown as a single entry in this section. Unless your proposed program will perform the primary grant effort with in-house employees (which should be listed in section 1), the costs of performing the primary grant activities should be shown in this section. Types of activities which should be shown in this section: • Contracts for all services • Training for individuals not on staff • Contracts with Community Based Organizations or Other Governmental Organizations (note the 10% requirement discussed above) • Insurance if your program will procure it separately Please provide a short description of the activity the contractor or subgrantee will perform, if not evident.

8 - Other Direct Costs	Other Direct Costs include a number of items that are not appropriate for other sections. Other Direct Costs may include: • Staff training • Telecommunications • Printing and postage • Relocation, if costs are paid directly by your organization (if relocation costs are paid by a subgrantee, it should be reflected in Section 7)
9 - Indirect Costs	OMB Circular A87 defines indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs. The spreadsheet is set up to use the Total Direct Labor plus the Fringe Benefits costs as the base for the indirect cost calculation. If your organization calculates indirect costs differently, please use a different base and discuss how you calculate fringe as a comment.

The eight rightmost columns allow you to identify how the costs will be spread between the HUD Share and other contributors (including Match funds and Program Income). This information will help the reviewers better understand your program and priorities

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ **Prime** ☐ **Subawardee**
Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity
(*if individual, last name, first name, MI*):

b. Individuals Performing Services (*including address if different from No. 10a*)
(*last name, first name, MI*):

(attach Continuation Sheet(s) SF-LLLA, if necessary)

11. Amount of Payment (*check all that apply*):
$ _____ ☐ **actual** ☐ **planned**

12. Form of Payment (*check all that apply*):
☐ **a. cash**
☐ **b. in-kind; specify:** nature _____
value _____

13. Type of Payment (*check all that apply*):
☐ **a. retainer**
☐ **b. one-time fee**
☐ **c. commission**
☐ **d. contingent fee**
☐ **e. deferred**
☐ **f. other; specify:** _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLLA, if necessary)

15. Continuation Sheet(s) SF-LLLA attached: ☐ **Yes** ☐ **No**

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLLA Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLLA Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing and Urban Development

OMB Approval No. 2510-0011 (exp. 3/31/2003)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

Applicant/Recipient Information

Indicate whether this is an Initial Report ☐ **or an Update Report** ☐

1. Applicant/Recipient Name, Address, and Phone (include area code): ( ) -	2. Social Security Number or Employer ID Number: - -
3. HUD Program Name	4. Amount of HUD Assistance Requested/Received

5. State the name and location (street address, City and State) of the project or activity:

Part I Threshold Determinations

1. Are you applying for assistance for a specific project or activity? These terms do not include formula grants, such as public housing operating subsidy or CDBG block grants. (For further information see 24 CFR Sec. 4.3).
   ☐ **Yes** ☐ **No**

2. Have you received or do you expect to receive assistance within the jurisdiction of the Department (HUD), involving the project or activity in this application, in excess of $200,000 during this fiscal year (Oct. 1 - Sep. 30)? For further information, see 24 CFR Sec. 4.9
   ☐ **Yes** ☐ **No.**

If you answered "**No**" to either question 1 or 2, **Stop**! You do not need to complete the remainder of this form. ***However***, you must sign the certification at the end of the report.

Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(**Note**: Use Additional pages if necessary.)

Part III Interested Parties. You must disclose:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity ($ and %)

(**Note**: Use Additional pages if necessary.)

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

I certify that this information is true and complete.

Signature: X	Date: (mm/dd/yyyy)

Public reporting burden for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is optional. The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §4.38.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions

Overview.

A. Coverage. You must complete this report if:
   (1) You are applying for assistance from HUD for a specific project or activity **and** you have received, or expect to receive, assistance from HUD in excess of $200,000 during the during the fiscal year;
   (2) You are updating a prior report as discussed below; or
   (3) You are submitting an application for assistance to an entity other than HUD, a State or local government if the application is required by statute or regulation to be submitted to HUD for approval or for any other purpose.

B. **Update reports (filed by "Recipients" of HUD Assistance): General.** All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

Line-by-Line Instructions.

Applicant/Recipient Information.
All applicants for HUD competitive assistance, must complete the information required in blocks 1-5 of form HUD-2880:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.
2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.
5. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

Part I. Threshold Determinations - Applicants Only

Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to ***either*** questions 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

Part II. Other Government Assistance and Expected Sources and Uses of Funds.

A. Other Government Assistance. This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Applicants and recipients must report any other government assistance involved in the project or activity. Other government assistance is defined in note 4 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

   Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

   The following information must be provided:

   1. Enter the name and address, city, State, and zip code of the government agency making the assistance available.
   2. State the type of other government assistance (e.g., loan, grant, loan insurance).
   3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
   4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

B. Non-Government Assistance. Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD ***and any other source*** - that have been or are to be, made available for the project or activity. Non-government sources of

funds typically include (but are not limited to) foundations and private contributors.

Part III. Interested Parties.

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).
   Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

Notes:

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.
4. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
5. For the purpose of this form and 24 CFR Part 4, "person" means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

Acknowledgment of Application Receipt

U.S. Department of Housing and Urban Development

Type or clearly print the Applicant's name and full address in the space below.

(fold line)

Type or clearly print the following information:

Name of the Federal Program to which the applicant is applying: _____

To Be Completed by HUD

☐ HUD received your application by the deadline and will consider it for funding. In accordance with Section 103 of the Department of Housing and Urban Development Reform Act of 1989, no information will be released by HUD regarding the relative standing of any applicant until funding announcements are made. However, you may be contacted by HUD after initial screening to permit you to correct certain application deficiencies.

☐ HUD did not receive your application by the deadline; therefore, your application will not receive further consideration. Your application is:

- ☐ Enclosed
- ☐ Being sent under separate cover

Processor's Name _____

Date of Receipt _____

form **HUD-2993** (2/99)

Client Comments and Suggestions

U.S. Department of Housing and Urban Development

You are our Client! Your comments and suggestions, please!

The Department of Housing and Urban Development in preparing this Notice of Funding Availability and application forms, has tried to produce a more user friendly, customer driven funding process. Please let us have your comments and recommendations for improvements to this document. You may leave this form attached to your application, or feel free to detach the form and return it to:

The Department of Housing and Urban Development
Office of Grants Management and Compliance
Room 2182
451 7th Street, SW
Washington, DC 20410

Please Provide Comments on HUD's Efforts:

The NOFA (insert title) _____

is: (please check one)

(a) ☐ is clear and easily understandable

(b) ☐ better than before, but still needs improvement (please specify)

(c) other (please specify)

The application form (insert title) _____

is: (please check one)

(a) ☐ is acceptable given the volume of information required by statute and the volume of information required for accountability in selecting and funding projects.

(b) ☐ is simpler and more user-friendly than before, but still needs work (please specify).

(c) other comments (please specify)

Name & Organization (Optional):

Are additional pages attached? ☐ Yes ☐ No

form **HUD-2994** (2/2001)

[FR Doc. 03–7277 Filed 3–25–03; 8:45 am]
BILLING CODE 4210–62–C

Federal Register

Wednesday,
March 26, 2003

Part IV

Department of the Interior

Minerals Management Service

30 CFR Part 203

Relief or Reduction in Royalty Rates—Deep Gas Provisions; Proposed Rule

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 203

RIN 1010–AD01

Relief or Reduction in Royalty Rates—Deep Gas Provisions

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: We (MMS) propose provisions for suspension of royalties for leases in shallow water on production associated with deep gas drilling. For a lease in the Gulf of Mexico (GOM), the proposed rule specifies the location, timing and depth of exploration and production that qualifies the lease for royalty suspension in connection with drilling for gas in deep reservoirs. Also, we propose price thresholds above which royalties must be paid even though production may otherwise qualify for royalty suspension.

DATES: MMS will consider all comments we receive by May 27, 2003. We will begin reviewing comments then and may not fully consider comments we receive after May 27, 2003.

ADDRESSES: If you wish to comment, you may mail or hand-carry comments (three copies) to the Department of the Interior, Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team (Comments). If you wish to e-mail your comments, the address is *rules.comments@MMS.gov.* Reference ''AD01—Deep Gas Provisions'' in your subject line. Include your name and return address in the message and mark it for return receipt.

Mail or hand-carry comments with respect to the information collection burden of the proposed rule to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Desk Officer for the Department of the Interior (OMB control number 1010–NEW); 725 17th Street, NW.; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Marshall Rose, Chief, Economics Division, at (703) 787–1536. In addition, MMS will hold a workshop in Houston, Texas within the comment period of the rulemaking, to explain various aspects of the rule described in the next several sections. We will announce the workshop location and date on the MMS Web site *http://www.mms.gov.*

SUPPLEMENTARY INFORMATION: Title 30 CFR part 203 regulates the reduction of oil and gas royalty under 42 U.S.C. 1337(a)(3). Under § 1337 (a)(3)(B), we may reduce, modify, or eliminate royalties on certain producing or non-producing leases or categories of leases to promote development or increased production or to encourage production of marginal resources, in the GOM west of 87 degrees, 30 minutes west longitude.

Background

This royalty suspension initiative strives to accelerate natural gas exploration, development, and production from wells drilled to deep depths on existing shallow water (less than 200 meters) leases. We define deep depths either as 15,000 feet or deeper, true vertical depth, below the datum at mean sea level (TVD SS) when a well is completed and produces from a reservoir entirely below that depth, or as 18,000 feet TVD SS when a well without completions penetrates a reservoir target entirely below that deeper depth. To date, less than 5 percent of all wells ever drilled in the 50-year history of OCS production have been to depths 15,000 feet TVD SS or deeper. The historical trend shows a relatively constant rate of recent deep drilling activity:

Number of boreholes drilled TVD SS>15,000 ft in water depths between 0–200 m

Year	1985	1986	1987	1988	1989	1990	1991	1992	1993
Number Wells Drilled	76	32	47	50	41	41	40	34	57
Year	1994	1995	1996	1997	1998	1999	2000	2001	2002
Number Wells Drilled	70	63	67	75	60	59	94	94	74

Natural gas provides about one-fourth of the annual United States energy consumption. Approximately one-fourth of domestic natural gas is produced in Federal waters of the GOM. The National Petroleum Council forecasts that demand for natural gas will increase by 30 percent in the United States over the next 10 years. Yet, since the mid-1980's annual gas production from the OCS has exceeded additions to proven reserves each year. (Four-fifths of OCS production is currently derived from leases located in shallow water). As a result, total proven natural gas reserves on the GOM OCS have declined dramatically from nearly 46 trillion cubic feet (TCF) in 1986 to approximately 24 TCF in 1999. [Estimated Oil & Gas Reserves, Gulf of Mexico Dec. 31, 1999, OCS Report MMS 2002–007].

While the Energy Information Administration (EIA) natural gas price forecast falls below recent levels, supply may be overestimated because EIA assumptions may not fully reflect current projections regarding gas production from deepwater fields and the decline in conventional shelf gas from currently producing leases. Higher prices reflecting market concern in part have already been evident, spiking over $8 per million British thermal units (Btu) on the NYMEX Henry-Hub during the winter of 2000–2001. Such price volatility can result in higher consumer gas expenditures, while uncertain prices could contribute to under-investment in technologies for deep gas development. Although sustained high gas prices could encourage an increase in deep gas investment, the price fluctuations experienced over the last few years (ranging from $2.00-$8.00/mmbtu) contributes to a climate of uncertainty, thereby inhibiting continuing, stable investment in deep gas development. By providing royalty relief, we could dampen these effects through encouraging timely and profitable deep gas production.

Over the past 6 years, we implemented several royalty incentive programs in deep water. However, because of the long lead times associated with deepwater activity, it could be many years until deepwater production becomes a major contributor, resulting in a significant decline in OCS production of natural gas over the next 5 to 10 years. Additionally, deep drilling incentives for shallow water leases issued after 2000 cover only a small portion of the deep gas potential. Production from deep wells on existing leases in shallow water, where significant infrastructure

already exists, is the most attractive source on the OCS of additional natural gas to meet the near and mid-term energy needs of the nation.

Summary of the Deep Gas Royalty Relief Program

This summary integrates the various components of our proposed royalty relief provisions for deep gas production in shallow water. On designated leases, we would suspend royalty payments after certain deep drilling activities and outcomes occur. A lease would be eligible to receive this royalty relief if it:

(1) Was issued in a lease sale held before January 1, 2001;

(2) Is located in the GOM entirely in water depths less than 200 meters on a block wholly west of 87 degrees, 30 minutes west longitude; and

(3) Has not produced gas or oil from a well that commenced drilling before the publication date of this proposed rule in the **Federal Register** with a completion 15,000 feet TVD SS or deeper.

A lease could qualify for a royalty suspension volume that may be applied to subsequent deep gas production from the lease, or allocated from other deep wells drilled after the date of this proposed rule in the **Federal Register**, if it:

(1) Has completed a successful well 15,000 feet TVD SS or deeper that commenced drilling after the publication date of this proposed rule in the **Federal Register**; and

(2) Has production of gas from that completed deep well before five years after the effective date of the final rule.

A lease could qualify for a royalty suspension supplement that may be applied to any subsequent gas and oil production from or allocated to the lease if it:

(1) Has an unsuccessful well that targets a reservoir on the lease at a depth of at least 18,000 feet TVD SS, and the drilling commenced after the publication date of this proposed rule in the **Federal Register** but no later than five years after the effective date of the final rule;

(2) Has started drilling that unsuccessful sub-18,000 foot well before producing from a deep well on the lease; and

(3) Receives subsequent confirmation from MMS that the drilling effort was deep enough but unsuccessful. We rely on data that the lessee provides within 60 days after the well reaches its total depth.

The following table shows the royalty suspensions, in BCF, we propose for various categories of leases that have not produced from wells deeper than 15,000 feet TVD SS.

ROYALTY SUSPENSION VOLUMES AND ROYALTY SUSPENSION SUPPLEMENTS FOR DEEP GAS

[0–200 meters water depth]

Reservoir depth (TVD SS)	For a successful qualified deep well, a lease receives	For an unsuccessful certified well, a lease receives
From 15,000 to less than 18,000 feet	15 BCF	None.
18,000 feet or deeper	25 BCF	5 BCF.

In addition, MMS is also soliciting comments on two other RSV levels. Option B would provide 10 BCF for wells 15,000–18,000 ft deep, and 25 BCF for wells >18,000 ft. Option C would provide 10 BCF for wells 15,000–18,000 ft deep, and 20 BCF for wells >18,000 ft. Both options B and C would result in less incremental production and a reduction in lost royalties. For a fuller discussion of the relative merits of these alternatives, please see the section addressing Executive Order 12866.

A lease could obtain up to two royalty suspension supplements plus the royalty suspension volume associated with the first successful qualified deep well to start production. Thus, a lease could earn the right to produce up to as much as 35 BCF of natural gas royalty free, that is, 10 BCF because of two unsuccessful wells and then 25 BCF from a successful well.

A lessee or successor lessee may apply any remaining royalty suspension volume from the lease's successful qualified deep well to any natural gas production from subsequent deep wells drilled and completed on the lease. However, the suspension amount allocated to deep gas wells less than 18,000 feet TVD SS cannot exceed 15 BCF.

Accordingly, a successful qualified deep well must be located on the lease before it may use any royalty suspension volume. Therefore, if a lease is in a unit and is allocated production from a deep well on another lease in the unit, the first lease will receive no royalty suspension volume unless it also has a successful qualified deep well. Further, once production begins from a successful qualified deep well on a lease, the lessee must use the applicable royalty suspension volume for all production from deep wells on or allocated to that lease and drilled after this rule is published in the **Federal Register**. In other words, the lessee cannot delay applying the royalty suspension volume to applicable production.

The royalty suspension supplement would be used against any gas and oil produced from the lease targeted by the unsuccessful certified well, however, the lessee first must file the information we need to confirm the supplement. A lessee would not obtain both a full royalty suspension volume and a full royalty suspension supplement from the same wellbore. If an unsuccessful certified well later produces, then any portion of the royalty suspension supplement taken (plus gas and oil produced during periods when gas prices exceed the price threshold) would have to be subtracted from any royalty suspension volume earned. Also, the lessee could not use any remaining royalty suspension supplement earned from that wellbore.

The deep gas relief provisions for active leases would be subject to a natural gas threshold price of $5 per million Btu, adjusted from year 2000 for inflation. If the average annual NYMEX natural gas price exceeds this adjusted level for that full calendar year, the lessee would have to pay full royalties on any production of natural gas or oil that would otherwise have royalties suspended due to royalty relief from a successful qualified deep well or royalty suspension supplements. Moreover, the volume produced during such a calendar year would count against the eligible royalty suspension volumes and royalty suspension supplements.

A shallow water lease issued in a sale held after January 1, 2001, but before the effective date of this final rule, may substitute the provisions proposed here for the deep gas incentive terms in the lease. If a lease is eligible and the lessee chooses to substitute, then the lessee would have to do so within 180 days of the final rule's effective date.

Details of Proposed Royalty Relief for Deep Gas Production

The Deep Water Royalty Relief Act of 1995 (DWRRA) (Title III of Pub. L. 104–58) provides authority to grant royalty relief to non-producing leases to encourage industry to lease, explore, develop, and produce oil and gas resources west of 87 degrees, 30 minutes west longitude in the GOM. Until now, we have not exercised that royalty relief authority for existing shallow water leases, *i.e.*, those located in water less than 200 meters deep. There have been few financial and technical obstacles on shallow water leases to drilling and initiating production, the large majority of which is from reservoirs less than 15,000 feet TVD SS.

In contrast, reservoirs deeper than 15,000 feet TVD SS are relatively unexplored in the potentially prospective and otherwise extensively explored shallow waters of the GOM. Some 10 TCF of gas have already been discovered in these reservoirs, mostly in drilling depths between 15,000 and 18,000 feet TVD SS. We estimate that another 5 to 20 TCF of gas are technically recoverable in undiscovered deep reservoirs, with the majority being located at depths below 18,000 feet TVD SS. Focused economic incentives can encourage exploration for and recovery of this huge resource potential.

Over 5,000 exploration wells were drilled in shallow water during the past 10 years, but only seven percent reached drilling depths between 15,000 and 18,000 feet TVD SS, and just two percent were deeper than 18,000 feet TVD SS. Less than two percent of all currently active leases in shallow water have had a gas well drilled 18,000 feet TVD SS or deeper. Relatively few deep wells have been drilled, in part because they are expensive due to unconventional rig specifications, the potential for high pressure and temperature conditions, and the presence of corrosive gas, all of which increase the costs of support facilities. Further, deep wells face a high risk of failure and require the discovery of large resource accumulations, with the potential for high flow rates, to be economic.

To accelerate the discovery and production of natural gas to meet the nation's growing energy needs, we propose to suspend some royalty obligations for certain existing GOM leases in shallow water that drill new deep wells and produce natural gas. In case of a directional well, the lease block on which the completion of the new deep well occurs qualifies for the royalty suspension volume. A new well does not utilize an existing wellbore. We chose the royalty suspension volume as our mechanism for royalty relief because of several advantages it has over other systems of relief, such as providing a fixed dollar amount incentive or a reduction in the royalty rate. Royalty volume suspensions have been used extensively in the GOM (deepwater relief and deep gas relief for new leases). Both MMS and industry have experience and practical knowledge with this form of royalty relief. Royalty suspension for a volume rather than a value of production avoids a number of accounting problems and resulting conflict. The royalty suspension volume, rather than a reduction of royalty rate, provides more certainty to the lessee because, to the extent the royalty suspension volume is produced, it is more difficult for the agency to try to take away the royalty relief. In contrast, a decision to reduce the royalty rate might be reversed anytime over the life of production, and hence provides less certainty about receipt of a potentially large part of remaining royalty relief. Additionally, revenues received in the future are generally worth less to industry (i.e., higher private discount rate) than to government (i.e., lower social discount rate). Thus, providing upfront relief can be structured to be more valuable to the lessee and no more costly to the government than would a drawn out system of relief. For these reasons of practicality and efficiency, a royalty suspension volume is our mechanism of choice.

A lease must meet three criteria to be eligible for a royalty suspension under proposed § 203.40.

- The lease must predate the year 2001, when we began issuing new leases with deep gas production incentives, or the lessee must have exercised the option offered under § 203.48.
- The lease must be located in an area for which we have authority to offer royalty relief for new development.
- The lease must not have produced from a well with a perforated interval the top of which is 15,000 feet TVD SS or deeper, if that well commenced drilling before the publication date of this proposed rule in the **Federal Register**.

When deep gas production has previously occurred on the lease, or if drilling of a well that subsequently results in deep gas production began prior to publication of this proposed rule, then there is no reason to provide royalty relief, i.e., a financial incentive to drill and extract deep gas resources. Yet, if deep gas production does not occur before the existing infrastructure is abandoned, then the deep gas resources are less likely to be produced later.

We propose to make the royalty relief available as of the date of this proposed rule so lessees will not delay drilling new deep gas wells between the date we announce the incentives in the proposed rule and the date they would normally become effective with publication of the final rule. Of course, there is no guarantee that we will adopt a final rule for deep gas royalty relief. Moreover, though a lease could qualify for the incentive with a new deep gas well with drilling activity after the date of the proposed rule, the lessee could apply the royalty relief only to production occurring after the effective date of any final rule.

We also propose volume suspension levels that vary according to the drilling depth of the well. The incentive levels we propose for pre-2001 leases differ from the single, deep gas volume suspension with which we have recently offered new leases in shallow water. The variation in incentives across well depth categories for pre-2001 leases reflects the differing costs, risks, and resources that exist at selected well depth levels. Though this feature makes the rule more complicated, we feel it is necessary to adjust incentives to the differing needs for different drilling depths. Also, no bonus bid that reflects the value of the incentive on an individual lease is involved. It is more important to fine-tune incentive levels for these pre-2001 leases than it is for new leases.

Royalty Suspension Volumes for Successful Qualified Deep Wells

In proposed § 203.41, we specify a royalty suspension volume per lease of 25 billion cubic feet (BCF) for natural gas production from new wells on a lease block with completions that are entirely 18,000 feet TVD SS or deeper. This proposed relief level is based on estimates of the minimum reservoir size necessary for exploration and development to be economic at an expected landed price of about $3.50/thousand cubic feet (Mcf), accounting for various costs and risk factors. Our price assumption is based on the recent natural gas price level and in-house forecasts rather than EIA wellhead gas projections. A suspension of the typical 1/6th royalty obligation increases the set of potential drilling targets by reducing the minimum size of an economically recoverable reservoir. To determine the suspension volume amounts, a combination of factors, including minimum economic field sizes, costs, and risks, were balanced to encourage

deep gas production at the present time. We estimate that a 25 BCF royalty suspension volume reduces the size of a reservoir worth exploring immediately at these depths by 15 to 20 percent (in a typical case, from 48 to 40 BCF), and an additional 15 to 20 percent when combined with the royalty suspension supplement portion of the program discussed later. Also, this same program of relief would tend to accelerate the search for natural gas by making projects planned for future drilling economic sooner. Therefore, it would encourage earlier exploration of many additional reservoirs. This acceleration effect will make it profitable to drill and produce immediately some reservoirs with relief, rather than to defer these activities for 5–10 years without relief. We expect this incentive will spur earlier exploration activity for reservoirs that are smaller than 90 BCF, which is the level at which prompt exploration is currently optimal without any incentives. Our latest assessments indicate that about 75 percent of all the undiscovered, but technically recoverable deep gas reservoirs are smaller than 90 BCF. Thus, we expect our program to substantially increase the number of wells that will be drilled earlier than they otherwise would be.

We propose a royalty suspension volume per lease of 15 BCF on natural gas production from new wells on a lease block with completions in the interval from 15,000 to less than 18,000 feet TVD SS. The smaller proposed royalty suspension volume for natural gas production from wells drilled in this depth interval is appropriate because the costs of drilling are significantly lower and the chances of success higher than for wells deeper than 18,000 feet TVD SS.

Recent American Petroleum Institute (API) surveys (Joint Association Survey on 1999 and 2000 Drilling Costs, API, Independent Petroleum Association of America, and Mid-Continent Oil & Gas Association) show that typical costs to drill prospects in the 15,000 to 18,000 foot depth interval on the OCS run a little more than one-half as much as drilling deeper than 18,000 feet TVD SS. Moreover, we estimate success rates for future wells drilled in the 15,000 to 18,000 foot depth interval to be two-thirds higher than the success rate for wells drilled deeper than 18,000 feet TVD SS. Thus, the 15 BCF royalty suspension volume is determined to accelerate drilling for reservoirs between 15 and 50 BCF. We estimate reservoirs of the 35 to 50 BCF size can be drilled profitably in the near future with relief, but would be delayed considerably under current conditions without relief. Thus, reservoirs larger than 50 BCF are the current target size that adequately accommodates the economic risks and costs of drilling gas wells in the better-known geologic formations in the 15,000 to 18,000 foot depth interval.

Administratively, production from the first successful qualified deep well would establish the royalty suspension volume for the lease. To qualify, the lessee must notify the MMS Regional Supervisor for Production and Development of intent to commence drilling the deep well and production would have to begin from the deep well no later than five years after the effective date of the final rule, so that the program benefits can be realized sooner rather than later. We require notification of intent to drill deep wells partly because if the lease is participating in the Royalty-in-Kind (RIK) program, we need to be alerted in advance of any activities that could affect the placement of RIK production by the Minerals Revenue Management (MRM) organization of MMS. Under the RIK program, the government accepts royalties in product rather than in cash and sells it under contract as described at *www.mrm.mms.gov/rikweb.*

The royalty suspension volume is applied to deep gas production beginning the day that the lessee notifies MMS that deep gas production has begun. Also, if production begins from a well in the 15,000 to 18,000 foot depth interval, the royalty suspension volume for the lease would not increase above the level applicable to that well, even if the lessee later completes a well deeper than 18,000 feet TVD SS. We propose this stipulation because the initial success of a deep well reduces the risks associated with subsequent deep wells sufficiently to eliminate the need for an added incentive to drill even deeper wells. The incentive is to promote drilling of the primary target, not subsequent secondary ones. We rely on the drilling of a new well (subsequent to the date of the proposed rule), that is completed to a reservoir of certain depth as the indicator of response to the incentive, as opposed to conditioning relief on drilling into a new reservoir. This way we avoid the potential complications associated with delineating the boundaries of the reservoir across multiple leases. These royalty suspension volumes for deep gas production would not override the minimum royalty or rental obligations of the lease and unused portions would be transferable to a successor lessee.

Proposed § 203.42 authorizes application of the royalty suspension volume to gas production from other deep wells on, or allocated under an approved unit agreement to, the lease, subject to several conditions designed to increase deep drilling. The lease to which the production is allocated must have its own successful qualified deep well. Also, drilling of other deep wells from which production is allocated to your lease has to begin after the publication date of this proposed rule in the **Federal Register**. But this allocated production may come from a lease on the unit that does not have or is ineligible for a royalty suspension volume. For example, your neighboring lease within the unit may have drilled a deep well before the qualifying date and therefore disqualifying that lease for relief. Yet, a subsequent well drilled after the qualifying date on that lease does allow royalty-free production to be allocated to your lease. While production from deep wells on the unit can be allocated across leases, the royalty suspension volume from other leases on the unit may not be allocated across leases. Under these conditions, the production to which your royalty suspension would apply includes allocated production from other deep wells within the unit.

The royalty relief, in the form of a royalty suspension volume, may not be applied to production from shallow wells or to hydrocarbons other than gas. The royalty suspension volume applies to the gas production volume as reported on the Oil and Gas Operations Report, Part A (OGOR–A). Note that if the gas is transferred to a gas plant for processing prior to sale, the gas production volume reported on the OGOR–A will be higher than the residue gas volume attributable to the deep gas well.

Notwithstanding a unit agreement, we propose generally to maintain a simple lease-based relief structure by restricting a royalty suspension volume to the lease on which a deep well is completed and the royalty suspension supplement (as described later in this preamble) to the lease on which a deep well is targeted. This approach is consistent with existing administrative designations relating wells to leases. It also avoids the need to regulate decisions about the participating area and the allocation of a royalty suspension volume across a joint operation. We believe that lessees on a unit contemplating drilling a deep well jointly can work out financial arrangements to cover a broad variety of circumstances, e.g., a situation where those unitized leases without a deep well would have to pay royalty on any production allocated to them from the deep well. To help us assess the validity of this inference, we would like

responses to the following question: In comparison to the proposed approach, under what conditions would a royalty suspension volume or supplement allocated among several leases within a unit result in either more deep drilling or less administrative burden?

The royalty relief would end as soon as cumulative qualified production from or allocated to the lease with the successful qualifying deep well reaches the royalty suspension volume. This differs from royalty suspensions in deep water, where the relief lasts through the end of the month when production reaches the royalty suspension volume. We propose this difference because the time duration over which suspension volumes are taken is much shorter for deep gas than for deepwater royalty relief. Taking into account the expected production rates and volume suspension levels, we believe that leases with the proposed deep gas relief would use four times the portion of the applicable royalty suspension volume that a deepwater field would use in a month. This means that in cases where the relief volume for deep gas is reached early in the month, extension of relief throughout the month would provide a much larger proportional increase in that part of a lease's total production that is royalty-free in comparison to the deepwater paradigm. Continuing royalty suspension through the end of the month typically would add over two percent to total deep gas relief, versus only 0.5 percent to total deep water relief, on a lease whose cumulative qualified production reached the prescribed suspension volume on the first day of the month.

Once production commences from a successful qualified deep well, the lessee is to notify us within 30 days to confirm the royalty suspension volume. The confirmation promotes understanding and agreement of royalty terms and helps avoid confusion when a lease has both royalty-bearing and royalty-free production. *See* proposed § 203.43.

Royalty Suspension Supplements

The probability of future drilling success is anticipated to be relatively low in the case of drilling 18,000 feet TVD SS or deeper. To offset this high risk, we propose an incentive for drilling even unsuccessful exploration wells to at least 18,000 feet TVD SS (hereafter sub-18,000 foot well). A small supplemental royalty suspension volume for an unsuccessful well along with a larger royalty suspension volume for a successful well is a more cost-effective incentive than a royalty suspension volume alone. As with the royalty suspension volume, the lease block with the reservoir targeted by the new sub-18,000 foot well qualifies for the royalty suspension volume.

This supplemental royalty suspension is important because providing larger royalty suspension volumes only for successful wells becomes progressively less effective in encouraging new development as the suspension size increases. First, each extra unit of relief is captured later in the production profile and, hence, is less valuable to the operator. Second, the potential to use all the suspension volume declines when it exceeds the expected size of the initially discovered deep reservoir. Less than 10 percent of the leases having a deep-well discovery found more than a single reservoir in the deep depths. Third, it is also possible that some operators value the opportunity to minimize the costs of failure more than enhancing the benefits of success. In proposing to set the royalty suspension volume and royalty suspension supplement levels, our analysis takes into consideration the inter-relationship between royalty relief for successful and unsuccessful drilling efforts on expected lease profitability. Consequently, we would be able to reduce the suspension volume amounts for successful deep well drilling as a result of adding the royalty suspension supplement option, while generating at least as much incremental effect on future drilling activity.

A royalty suspension supplement offers other program benefits by reducing the magnitude of the royalty suspension volumes for successful drilling. Large suspension volumes only for successful wells provide more of the relief to reservoirs that would have been drilled promptly and profitably without any royalty relief. Also, with rapid improvements in technology, smaller suspension volumes for successful drilling could become appropriate. Because we set program parameters years before the program expires, we need to be careful not to promulgate incentives at levels that could become higher than necessary. Accordingly, it is fiscally prudent to accelerate deep gas production with different types of drilling incentives for selected kinds of leases that recognize the variations in drilling costs and risks across drilling depth categories.

Along with volume suspensions on successful deep wells, § 203.44 proposes relief for unsuccessful certified wells, 18,000 feet TVD SS or deeper, in the form of a five BCF royalty suspension supplement. To avoid incentives that would distort reasonable drilling efforts, we propose to share only part of the cost. Thus, we set the value of the royalty suspension supplement for drilling an unsuccessful certified well below the full cost of exploration and below the magnitude of the royalty suspension volume for drilling a successful well. Because of the significantly greater cost and risk for drilling 18,000 feet TVD SS or deeper, we would offer the royalty suspension supplement only for drilling to these very deep reservoir targets.

An unsuccessful certified well is defined in proposed § 203.0 as a well that is:

- Drilled but not completed to a depth of at least 18,000 feet TVD SS;
- Targeting a reservoir identified from seismic and related data, that does not produce or that MMS agrees is not commercially producible (by computing minimum developable reservoir sizes for that drilling depth using geological and geophysical data, resource magnitudes and timing of production, price forecasts, and industry required rates of return); and
- On which drilling begins:

(1) After the publication date of this proposed rule,

(2) Before five years after the effective date of the final rule, and

(3) Before there is any production from a successful qualified deep well on that lease.

Under this proposed provision, MMS would not allow any royalty suspension supplement if the lessee starts drilling the unsuccessful sub-18,000 foot well after gas or oil has been produced from any deep well on the lease. Also, the lessee is to notify the MMS Regional Supervisor for Production and Development of the intent to commence drilling a sub-18,000 foot well. Then, after drilling the well, the lessee is to provide the data necessary to confirm an unsuccessful well within 60 days after the well reaches its Total Depth (TD) deeper than 18,000 feet TVD SS. Such data may include well test data, seismic and economic data that prove the well met the standard of an unsuccessful certified well. We seek notification of intent to drill sub-18,000 foot wells in part because the lease may be participating in the RIK program and MMS will need to have advance notification to manage the RIK oil and gas workload. We would set the 60-day deadline so that our review and concurrence in the non-commerciality of the well occur close to the same time and, thus, with about the same market conditions as when the lessee drilled the well. Shortly after receiving the necessary data, we intend to send a notice confirming or denying that the

lease has earned the royalty suspension supplement.

For a well that falls below specified producibility standards or that we agree is non-commercial and which satisfies the post-drilling administrative requirements, we would then grant the lease a royalty suspension supplement. The supplement takes the form of a specified royalty suspension for use against gas or oil production on, or allocated under an approved unit agreement to, the same lease that occurs on or after the date the lessee files the data confirming failure. A lease-specific process for applying the royalty suspension supplement is the broadest we have legal authority to offer. Proposed § 203.44(b) specifies that we would allow royalty suspension supplements for up to two unsuccessful certified wells per lease (so as not to reduce the incentive to try again after an initial failure). Of the 61 leases in our data base that have been drilled to very deep depths, only one lease had more than two failed wells without having a success. We also would not allow more than one royalty suspension supplement from a single wellbore. For these and other reasons explained below, we are confident that the provision for up to two modest size supplements would not create incentives for incurring costs with only remote possibilities of success.

In § 203.45, we propose prompt use of this royalty suspension supplement, beginning the first day of the month the lessee files data with MMS confirming lack of success. We will allow the lease to retain the supplement if the lease has no other production against which to apply it at the time of this filing. In these cases the royalty suspension supplement is to be used beginning on the first day of the month that lease production starts.

Any royalty suspension supplements earned during the qualifying period up to five years after this rule becomes effective would remain available until used, until forfeited under proposed § 203.44(c), or until the lease expires. As is the case with royalty suspension volumes for deep gas production, these royalty suspension supplements would not override the minimum royalty or rental obligations of the lease and unused portions would be transferable to a successor lessee.

Also, the royalty relief would end as soon as the cumulative qualified production reaches the royalty suspension supplement. This procedure is even more critical in the case of an unsuccessful well than for successful drilling. This is because the royalty suspension supplement is applied to all of a lease's production. In cases where the cumulative production reaches the royalty suspension supplement early in the month, most of that month's production should pay royalties. Without this timing provision, the cumulative amount of these smaller royalty suspension supplements may be reached early in a month, and all lease production for the remainder of the month would generate an unintended yet relatively large royalty-free windfall to the lessee.

Bounds on Royalty Suspension Supplements

A lessee could earn the royalty suspension supplement only by starting to drill a sub-18,000 foot well on the lease *before* any deep well on the lease produces. We don't propose to offer the royalty suspension supplements after a successful well because following a deep well discovery, the risk associated with further drilling is reduced substantially. We propose to reserve the combined incentive of royalty relief for both successful and unsuccessful wells to lessees that attempt to deepen significantly their productive horizon. For example, drilling a new well to 19,000 feet involves substantially more uncertainty on a lease that only experienced production from a 12,000-foot well than on a lease that already generated production from a 17,000-foot well. Hence, we believe only the former lease requires additional encouragement to drill deeper than 18,000 feet TVD SS, which we would provide in the form of a royalty suspension supplement.

As proposed in § 203.41(c), any royalty suspension volume a lease earns adds to any royalty suspension supplement the lease already has. However, if drilling on a well that ultimately reaches 18,000 feet TVD SS or deeper starts after the lease produces gas or oil from a deep well 15,000 feet TVD SS or deeper, then the lease would not earn any royalty suspension supplement.

Also, a lease could not obtain both a full royalty suspension volume and a full royalty suspension supplement within a single wellbore, as proposed in § 203.41(c). In this situation, the aggregate royalty suspension is unnecessary because another entire well cost is not involved.

Nevertheless, after a well earns a royalty suspension supplement for unsuccessful drilling, economic conditions may improve resulting in deep gas production from the same wellbore. In this case, the lease would receive a royalty suspension volume if the well meets the criteria for a successful qualified deep well. That means production must begin before five years after the date of the final rule, and the well must be the first deep well to produce gas from the lease. Proposed § 203.44(c)(1) addresses this situation. It is designed to prevent a lessee from ''double dipping'' in royalty relief. Thus, a lessee would have to subtract any royalty suspension supplement used on other lease production from the royalty suspension volume applied to successful qualified deep gas production from the same wellbore (15 BCF from a 15,000—18,000 feet TVD SS well, and 25 BCF from a well more than 18,000 feet TVD SS). Further, the lessee would forfeit any unused royalty suspension supplement earned from that wellbore.

For example, suppose the lease has used three BCF of a royalty suspension supplement and then produces gas from the same wellbore used to qualify for the royalty suspension supplement under circumstances that qualify the well as a successful qualified deep well. Then, the used three BCF royalty suspension supplement must be subtracted from the royalty suspension volume allowed for the successful qualified deep well and the lease qualifies for a royalty suspension volume of 12 BCF or 22 BCF, depending on the depth of the deep producing well. The remaining unused two BCF of the original royalty suspension supplement is forfeited.

Proposed § 203.44(c)(2) addresses the unusual, though possible, situation in which the following sequence of events occurs:

(1) An unsuccessful certified well earns a royalty suspension supplement,

(2) Production from shallower reservoirs on the lease use the royalty suspension supplement,

(3) A successful qualified deep well through a different wellbore earns a royalty suspension volume,

(4) The royalty suspension volume exceeds the volume produced from that well, and

(5) The wellbore originally used to qualify as an unsuccessful certified well later produces.

In that case, the unused royalty suspension volume from the successful qualified deep well could be applied to production from the originally unsuccessful deep wellbore under proposed §§ 203.41 and 203.42. But in some circumstances, that could result in ''double dipping'' from the originally unsuccessful wellbore.

For example, assume the lessee drills an unsuccessful certified well, and earns the five BCF royalty suspension supplement. Further assume that the entire royalty suspension supplement is

applied to production from shallower wells. Then assume that the lessee drills a successful qualified deep well to a depth of 19,000 feet TVD SS and thereby earns a royalty suspension volume of 25 BCF. Finally, assume that the successful qualified deep well produces only three BCF of gas. In this situation, the lessee still has 22 BCF of royalty suspension that may be applied to other deep gas production from the lease. Then assume that economic conditions change, resulting in deep gas production through the originally unsuccessful wellbore-the same wellbore originally used to qualify for the royalty suspension supplement. If enough production emerges from that wellbore it could be responsible for the five BCF of royalty suspension supplement already used, plus the 22 BCF of royalty suspension volume remaining from the successful qualified deep well. The total relief of 27 BCF exceeds the amount we allow from a single wellbore drilled to this depth.

Proposed § 203.44(c)(2) is designed to avoid this result. Under this provision, the lessee could use only 20 BCF of the royalty suspension volume remaining from the successful qualified deep well, resulting in a total of 25 BCF of royalty relief derived from that wellbore. This stipulation applies the same principle reflected in proposed § 203.44(c)(1). If the originally unsuccessful wellbore shares the incentive earned by a successful qualified deep well, the lessee subtracts whatever portion of the royalty suspension supplement has been applied to other production from the royalty suspension volume used by the originally unsuccessful well that later produces.

Price Thresholds

Another component of the proposed deep gas provisions is the stipulation of a $5.00 per million Btu price threshold, adjusted from year 2000 for inflation, as described in proposed § 203.47. When average market gas prices remain above this threshold amount for an extended time, which we define as one calendar year, deep gas projects will benefit significantly more from favorable market conditions than generally expected. No royalty relief will typically be necessary during such periods, because market price alone offsets the need for royalty relief and should be sufficient reward for attaining the desired increase in exploration and development activities related to deep depth drilling. In times of prices above the threshold, relief in the form of royalty suspension supplements or volumes would no longer be needed. Lessees would then pay appropriate royalties and that same production would count against the royalty suspension supplements and volumes. If this production were not to count against the royalty suspension volume or supplement, the only offset would be a delay in benefits from royalty relief—hardly enough to justify using a price threshold mechanism.

If the market price of natural gas later falls below the prevailing price threshold, royalty relief would be reinstated, up to the remaining suspension volume. That feature serves to keep marginal fields profitable and to accelerate production of additional gas supplies.

We employ the price threshold specified as a dollar value, escalated for inflation. Other types of price thresholds, such as a sliding scale or a continuous function, were considered but not chosen, primarily to be consistent with past practices. Our relief programs in the GOM region have used the same price threshold approach. When this type of threshold is exceeded, relief is lost only for that year and the lessee more than offsets the loss of relief by the gain in revenues received from the higher market price.

The proposed $5.00 per million Btu price threshold is higher than natural gas thresholds set in other royalty relief programs because the focus of this program is to accelerate deep gas drilling and production. This short-term focus contrasts with inducing investment in new infrastructure such as platforms and pipelines and developing marginal properties, which is the longer-term goal of our deepwater program. The greater volatility of recent gas prices has raised uncertainty about price expectations over the next several years. In light of this increased price uncertainty, we believe it prudent to elevate the price level that would interrupt this royalty relief. Thus, raising the threshold price level would provide greater assurance that royalty relief will be realized and so would encourage timely exploration and earlier production from discoveries.

We found that the anticipated increase and acceleration of drilling induced by the relief program is similar to the effect that would occur without relief if gas prices rose from $3.50 to $5.00 per million Btu. So, during periods when market gas prices reach $5.00 per million Btu, adjusted for inflation, we can safely eliminate royalty relief without adversely affecting the attainment of program goals. In contrast, our deepwater program targets long-term development and infrastructure incentives for which short-term price fluctuations are less likely to affect decisions. The deep gas program is short term—thus economically justifying a higher natural gas price threshold before royalty relief

Transition Option for New Leases Issued in Sales Held after January 1, 2001

In § 203.48, we propose to allow leases issued in sales held after January 1, 2001 (post-2000 leases), but before the effective date of the final rule, to exercise a one-time transition option. The transition option would be the opportunity to replace the royalty relief provided for in the original lease instrument, if any, relating to deep depth drilling with the alternative terms that would be offered to all pre-2001 leases in shallow water under this proposed rule. The leases must be located in the GOM wholly west of 87 degrees, 30 minutes west longitude. This one-time option would have to be exercised within 180 days after the effective date of the final rule. Note that some elements of the deep gas royalty relief, such as the volume suspensions for the 15,000- to 18,000-foot TVD SS wells, are more favorable for at least some post-2000 leases than for pre-2001 leases. Yet other elements, such as price threshold levels and the royalty suspension supplements, are more favorable to pre-2001 leases than to at least some post-2000 leases. Each individual lessee could determine the most favorable set of terms for its particular post-2000 lease. Nevertheless, the option would be irrevocable, and once exercised, the lease would be subject to all the requirements for royalty suspension applicable to a pre-2001 lease. In particular, if the lease produced oil or gas from a well that commenced drilling in deep depths before the publication date of this proposed rule, then no suspension volumes or supplements would be available upon conversion.

While the option to change deep gas incentive terms may give some of the post-2000 leases a benefit for which the lessees did not fully bid, the leases issued before 2001 will receive the full deep gas benefit for which the lessees did not bid at all. Therefore, we feel that, in fairness, those lessees of post-2000 leases who may have paid some premium for the deep gas incentive in their lease terms should have the opportunity to get at least as favorable terms as those lessees who paid nothing for the incentive. Thus, allowing lessees of post-2000 leases with some deep drilling royalty relief to substitute in their lease terms the alternative terms for pre-2001 leases under this proposal would ensure consistency and fairness.

Additionally, if more lessees choose the transition option, the program would benefit through increased deep gas development.

The following table displays the various deep gas lease terms depending upon whether § 203.48 is exercised. Note that lessees of post-2000 leases could replace their royalty relief and deep gas drilling terms with those available to pre-2001 leases, but could not substitute different post-2000 lease terms (that is, lessees of Sale 178 leases cannot choose those terms applicable to Sale 182 leases). Moreover, if a post-2000 lease was issued without any royalty relief for deep drilling in shallow water, the lease could not claim the benefit of the terms for deep drilling associated with pre-2001 leases as described in this proposed rule. If a post-2000 lease already has used some royalty suspension volume and requests this transition option, then we would deduct the used royalty suspension volume from the substituted royalty suspension volume. The supplement is not affected as long as the criteria for royalty relief from drilling an unsuccessful well are met (e.g., drilling starts on the unsuccessful well deeper than 18,000 feet TVD SS after the publication date of this proposed rule). Finally, we do not allow a reverse conversion: lessees cannot replace the terms offered in this proposed regulation to leases in existence on January 1, 2001 with those terms we already made available to post-2000 leases when they were sold.

In summary, if we issued a shallow water lease in a sale held after January 1, 2001, but before the effective date of this final rule, the lessee may substitute the provisions proposed here for the deep gas incentive terms in the lease. If a lease is eligible and the lessee chooses to substitute, then the lessee would have to do so within 180 days of the final rule's effective date. Once this option is selected, the post-2000 lease is treated administratively like a pre-2001 lease for royalty suspension purposes. Accordingly, to obtain the full drilling and production benefits derived from activities undertaken before exercising this option, lessees of post-2000 leases must satisfy the same timing milestones required of pre-2001 leases, including activities undertaken during the period before the effective date of the final rule.

ROYALTY RELIEF FOR EXISTING AND NEW LEASES

Program element	Proposed relief terms for existing leases	Sale 178 lease terms	Sales 180, 182, 184, 185 lease terms
A Successful Qualified Deep Well from 15,000 to less than 18,000 feet TVD SS.	15 BCF	20 BCF	20 BCF
A Successful Qualified Deep Well 18,000 feet TVD SS or deeper	25 BCF	20 BCF	20 BCF
An Unsuccessful certified well 18,000 feet TVD SS or deeper	*5 BCF	0 BCF	0 BCF
Maximum royalty suspension per lease	35 BCF	20 BCF	20 BCF
Price Threshold Above Which Royalties Are Due	$5/MMBTU	$3.50/MMBTU	$5/MMBTU

*5 BCF per unsuccessful certified well may be earned for up to 2 unsuccessful certified wells with a maximum of 10 BCF per lease.

Sidetracks

The royalty suspension volumes we propose apply to deep gas production from new wells. A new well is one that does not use an existing wellbore. Drilling efforts that use a new wellbore to bypass lost tools, etc., or straighten crooked holes would qualify as a new well. We propose to require a new wellbore because inclusion of sidetracks would be complicated to administer and most sidetracks are substantially less costly than a new wellbore. Therefore, we chose the proposed royalty suspension volumes based on the cost of a completely new well.

The complication with sidetracks arises primarily due to the fact that the offset distance (kick off point to total depth) of drilling a sidetrack, and thus the cost, of a sidetrack is generally more variable than for a new well drilled to a given depth interval. While the sidetrack from near the top of an existing well may cost almost as much as a new well, a sidetrack from, for example, 14,000 feet down to a 16,000 foot reservoir should be less costly. Recent API surveys show average drilling costs of a sidetrack are from one-half to two-thirds those of a new well, largely because the average length drilled is half or less.

Though it may appear conceptually desirable to do so, we have not proposed a royalty relief instrument for new deep sidetracks for several reasons. One, providing the same amount of royalty suspension volume for all new deep sidetracks as compared to new deep wells is neither fair nor cost-effective since it would result in a windfall for those fortunate enough to have sidetrack opportunities. Two, the cost data we currently have available on sidetrack drilling are not sufficiently exhaustive on length and drilling depth to allow us to conduct the same in-depth analysis that we undertook for determining the appropriately-sized royalty suspension volumes for new deep wells. With the exception of the prolific Norphlet trend, so little side-track drilling has taken place at deep depths that historical evidence alone may not offer a sufficiently reliable guide about these relationships to allow us to determine the proper level of incentives for deep sidetracks. Three, based on the cost data and drilling observations we do have, the expected net cost of a new deep well under the proposed royalty relief is still higher than the expected net cost of a deep sidetrack with no royalty relief in over 90 percent of the reservoir targets drilled to deep depths. For the remaining cases, the differences between the full costs of sidetracks and costs net of royalty relief for new wells is small. So royalty relief only for a new well is generally not large enough to distort investment decisions by reversing the relative economics of a new deep well versus a new deep sidetrack.

To help us evaluate the possible significance of deep sidetracks, we would like responses to the following questions included in comments:

- When and how often is drilling a sidetrack used to explore a new reservoir rather than to supplement an original development or delineation well, and is the situation different by drilling depth?
- How important is sidetracking to a deeper depth in comparison to sidetracking in shallower pay zones, and why?
- Would the proposed relief program distort decisions in favor of more costly new deep wells instead of less expensive deep sidetracks? If so, how serious and/or extensive would this effect be?

If we decide to provide royalty relief for deep sidetracks, we have a range of options for doing so. For example, we could offer the proposed royalty suspension volumes to new deep wells and to a subset of new deep sidetracks that meet certain timing or offset distance considerations. We could offer a lower royalty suspension volume than proposed here to all new wells drilled to a given depth. We could offer one royalty suspension volume for new deep wells and another lower or variable (e.g., based on offset distances) for deep sidetracks.

To help us evaluate these and other options, we would like responses to the following questions included in comments:

• To what extent does the absence of royalty relief for sidetracks adversely affect deep depth drilling and distort the choice between the types of wells drilled?

• If a subset of deep sidetracks were to receive a royalty suspension volume:

—Should we limit the incentive to sidetracks that achieve a minimum offset distance? If so, what is the proper minimum offset distance and why is this offset distance appropriate?

—Should we limit the incentive to a sidetrack from a new well that is drilled after the publication date of this proposed rule? Why?

—Should we limit the incentive to a sidetrack from a deep well as opposed to a shallow well? Why?

—Should a single royalty suspension volume be set based on the relative average costs of sidetracked deep wells in comparison to new deep wells?

• What other elements should we consider in determining the royalty suspension volume if we decide to employ different ones for new deep sidetracks and for new deep wells?

—Should the size of the royalty suspension volume vary with the offset distance of a sidetrack or should there be a single volume for deep sidetracks? Why?

—Does the cost of a sidetrack increase per extra foot drilled relative to that of a straight hole?

—Should the royalty suspension volume for sidetracks apply to only the very deep total depths (18,000 feet TVD SS or deeper)? Why?

• Should sidetracks receive the same, different, or no royalty suspension supplement as new wellbores drilled to very deep total depths (18,000 feet TVD SS or deeper)?

• What size supplement would be effective and efficient in the program for drilling unsuccessful sidetrack wells?

• In addition to the API survey, are there any other publicly available sources that offer data on deep sidetrack drilling costs?

Auction Mechanism Discussion

MMS would like to solicit comments on an alternative mechanism to allocate royalty relief for existing leases. This approach will not be pursued for this rulemaking, but may be pursued for future allocations. MMS would like to solicit comments on the feasibility of this approach, as well as solicit inputs on alternative approaches to make the allocation of royalty relief more efficient. This approach would seek to allocate approximately the same total royalty relief, but would differ in that not all lessees would receive the same relief, with the objective of encouraging greater levels of overall drilling at lower or comparable Federal cost.

Under this alternative, MMS would allocate royalty relief suspension volumes and supplements as soon as practicable after publishing the final rule. Authorized leaseholders, those with leases awarded prior to 2001, would submit to MMS an offer of the volume of royalty relief they would require to undertake deep well drilling. MMS would rank the offers from the least amount of royalty relief to the greatest, taking into consideration the depth of the wells (15,000–18,000 ft or >18,000 ft). MMS would select the best ranked offers according to a process described below. MMS would then renegotiate the terms of existing leases of the selected leaseholders to provide the royalty relief per their individual offers. The remaining offers—those requiring the largest royalty relief—would not be accepted. For any royalty relief awarded, the leaseholder must begin drilling a deep well within a designated time period.

The cutoff for accepting the ranked offers in this approach would be based on the incremental production MMS estimates the relief will produce and the total Federal cost expended. This would include, for example, the total number of wells MMS expects to produce, the volume of royalty relief provided to each well, the expected number of wells that would not be drilled without royalty relief, the number of bids judged to have been offered by authorized lessees who can claim relief from new drilling activities and who actually intend to drill to deep depths, and the likelihood of drilling success. In using those estimates to determine the pool of accepted offers, MMS would seek to allocate approximately the same total royalty relief as the preferred alternative.

The eligibility requirements that MMS would apply to the preferred alternative would also apply under this approach. For example, leaseholders that have already drilled successful deep wells before the proposed rule is published would not be eligible for this program. However, leaseholders who first drill a successful deep well after the proposed rule is published would be eligible to receive royalty relief if their bid for royalty relief was accepted. MMS would ask leaseholders to specify in their offers the depth of wells they would drill, and the volume of royalty relief suspension volume they seek on a successful well. Leaseholders would specify separate royalty relief suspension volumes in their submission, one for 15,000–18,000 ft depth and the other for >18,000 ft depth. Leaseholders can also specify a royalty relief supplement for up to two unsuccessful wells in the >18,000 ft depth. The magnitude of the royalty relief supplement per well should not exceed 5 BCF.

This alternative approach may result in added drilling activity and production for lower or the same Federal forgone royalties compared to the preferred alternative, because it encourages lessees who would drill without relief to accept lower relief amounts than they would receive under a fixed allocation system.

There are some unresolved issues with this approach. MMS would like to specifically solicit comments on the following issues:

(1) What is the risk to the integrity of the auction approach if successful bidders choose not to drill within the specified period and thus inadvertently penalize unsuccessful bidders? What can or should MMS do to minimize this outcome?

(2) What is a reasonable period of time in which to expect operators to commence drilling after their offer is accepted? Is three years too short of a period?

(3) Should MMS accept offers in a single sale at the outset of the program, or allocate the relief in a series of sales held over several years?

(4) How does this approach compare with the preferred alternative in its likelihood of granting relief to those who really need it and those who do not?

(5) What technical considerations arise in ranking the offers and determining the cutoff for the accepted ones?

(6) How much is MMS likely to save and at what cost in terms of drilling delayed or forgone as a result of employing this alternative allocation mechanism?

Procedural Matters

Public Comments Procedures

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their name and home address from the rulemaking record, 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 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.

Regulatory Planning and Review (Executive Order 12866)

According to the criteria in Executive Order 12866, this rule is a significant regulatory action for which a Regulatory Analysis has been prepared. The Office of Management and Budget (OMB) has made that determination under Executive Order 12866.

(1) This preferred alternative proposed in this rule will have an economic effect of $100 million or more by reducing consumer expenditures on natural gas by about $280 million each year and may have a slightly adverse effect on other units of government. An economic analysis of this regulatory action was prepared and will be available at *http://www.mms.gov/econ*. This proposed rule reduces royalties for lessees that drill and produce natural gas from deep wells in shallow water areas of the GOM. The royalty suspension volumes offered should increase deep drilling activity on existing leases over the period of the program and make additional resources economic. The royalty suspensions will reduce net Federal royalty collections by about $270 million in net present value.

The royalty relief program for deep gas drilling will have two distinct effects, recovery of some otherwise uneconomic gas resources and accelerated recovery of some marginally economic gas resources. Our data indicate that about 10 to 20 percent of the undiscovered gas resources in the most prospective depths, *i.e.*, 18,000 TVD SS or deeper, could be converted from an unprofitable to profitable state by the incentives provided in this rule. We estimate that those resources are located in approximately 20 to 30 percent of undiscovered gas reservoirs.

We estimate that about one-fourth of the economically explorable gas reservoirs at drilling depths 18,000 feet TVD SS or deeper, would be drilled one to five years sooner if we implement the proposed royalty suspension volumes and royalty suspension supplements. These reservoirs are associated with less than 10 percent of the undiscovered resource. We estimate that the aggregate amount of undiscovered gas resources possibly affected at depths 18,000 feet TVD SS or deeper alone amount to over two TCF. Application of our proposed program to reservoirs in the 15,000 to less than 18,000-foot TVD SS range of drilling depth could affect another one to two TCF of gas. The deep drilling program will affect only a part of these resources in any one year.

(2) This rule will not create any inconsistencies with actions by other agencies because royalty relief is confined to leasing in Federal offshore waters that lie outside the coastal jurisdiction of State and other local agencies. Careful review of the lease sale notices along with stringent leasing policies now in force, ensure that the Federal OCS leasing program, of which royalty relief is only a component, does not conflict with the work of other Federal agencies.

(3) This rule may have a small effect on entitlements, grants, user fees, loan programs, or their recipients. The main effect will be to postpone royalty distributions. MMS distributes about one percent ($40 million) of the OCS revenue it collects annually in the GOM to neighboring States under section 8(g) of the OCSLA. Royalty suspensions from the deep gas program could affect up to five percent of the total production from the GOM in any one year. If deep gas production occurs in the 8(g) zone at the same proportion as elsewhere in the GOM, these State grants could be reduced by $1 to $2 million per year for five to ten years. However, extra production that occurs because of the incentive will also provide extra royalties, mostly after the royalty suspension volumes have been produced. Ultimately, the extra royalties could fully offset the initial drop in both Federal and State royalties. This would occur if our program generates 25 percent more incremental gas resources than we estimated would occur in the most likely scenario.

(4) This rule raises a novel legal or policy issue. The royalty suspension supplement for an unsuccessful deep gas well expands the scope of royalty relief to reward efforts for exploration in frontier well depths whether or not they eventually produce. As explained earlier, we believe this creates a more cost-effective royalty relief program in this very risky environment.

In addition, royalty suspension volumes have been used for several years as an incentive to accelerate exploration and production in deep water. Application to deep gas is a logical extension of that policy. A well-defined program for deep-gas drilling is more administratively efficient than the elaborate case-by-case requirements of the application process for deepwater royalty relief. The focus here is on a very straightforward definition of well depth and circumstances to qualify for royalty relief.

An economic analysis of this regulatory action was developed in accordance with requirements associated with a major rule under executive order and statutory criteria. This analysis describes why market forces alone will not increase deep gas development in the short term, considers a range of possible royalty relief alternatives to serve that need, and analyzes the social benefits and costs and related transfer payments associated with several royalty suspension alternatives. Three options provide the highest level of added production and net social benefits. One, option A, is the level of royalty suspension proposed in this rule—15 BCF for successful wells to 15,000—18,000 feet TVD and 25 BCF of successful wells or 5 BCF for unsuccessful wells to 18,000 feet TVD or deeper. The two others provide a reduced level of royalty suspension. The second, option B, offers 10 BCF for successful wells to 15,000—18,000 feet TVD and 25 BCF of successful wells or 5 BCF for unsuccessful wells to 18,000 feet TVD or deeper. The third, option C, offers 10 BCF for successful wells to 15,000—18,000 feet TVD and 20 BCF of successful wells or 5 BCF for unsuccessful wells to 18,000 feet TVD or deeper. These three options performed much better on several criteria than alternatives which include higher suspension levels as a substitute for royalty relief for unsuccessful drilling.

We ranked alternatives based on estimates of their net social benefits. Net social benefits are the sum of the net gains to producers and consumers associated with the additional production attributable to this rule. These gains are measured as changes in

consumer and producer surplus relative to a status quo or baseline amount that would occur in the absence of the incentive. Consumer surplus is the difference between the value consumers place on the additional production and its market value. Producer surplus is the difference between the market price and the cost of additional production (including the cost of drilling unsuccessful wells). Transfer payments, on the other hand, consist primarily of changes resulting from the rule in the amount of Federal royalty payments and domestic expenditures to purchase status quo quantities of gas. This summary reviews the performance of the superior options based on several criteria—added production, forgone royalty, and net social benefits from production that would not have occurred without an incentive for deep gas drilling.

We estimate that option A, the proposed royalty suspension level, would generate a cumulative added production of 2.36 TCF of gas and 0.51 TCFE of condensate over the next 15 years. In contrast, option B would generate added production of 2.15 TCF of gas and 0.46 TCFE of condensate over the same time frame, while option C will generate 1.94 TCF of gas and 0.42 TCFE. Added production consists of production from reservoirs unlikely to be drilled under normal conditions and from a portion of reservoirs only likely to be drilled in the future after information, technology, and costs improve, *i.e.*, accelerated production.

Using assumptions about prices, discount rates, and well flow rates, we estimated the net social benefits to society from increased deep gas production. As discussed above, this primary measure of social welfare effects eliminates the sizeable transfers from producers to consumers associated with reduced prices, and from government to producers in the form of reduced royalty payments. The incremental supply added to domestic stocks as a result of the incentive generates a net gain to society. Under option A, the proposal, we estimate a net social gain of $153 million in present value versus $139 million under option B and $121 million under option C.

Another perspective on the effects of the rule is provided by comparing increased production to forgone royalty-bearing production. We estimate that royalty would be forgone under option A, the proposal, on 2.1 TCF of gas production that would have occurred anyway. That implies a ratio of extra production to foregone royalty bearing production of 1.36 [(2.36 TCF + 0.51 TCFE)/2.1 TCF]. For option B this ratio is 1.50 [(2.15 TCF + 0.46 TCFE)/1.74 TCF], and for option C it is 1.49 [(1.94 TCF + 0.42 TCFE)/1.59 TCF]. Hence, any of the three deep gas incentive options is preferable to no such incentive.

Some of the forgone royalty would be offset by royalty collections on the condensate and on added gas production after the royalty suspensions have been used. Taking those into account and distributing the production over the next 15 years, we estimate a net reduction in present value of royalty receipts of $267 million under the proposal versus $124 million for the second alternative and $114 million for the third alternative. These results suggest that options B and C provide slightly less production effects and somewhat lower net social benefits at more than proportionately lower forgone royalty revenues.

Regulatory Flexibility (RF) Act

Several factors make promulgation of this rule at this time important. U.S. demand for natural gas is expected to rise strongly over the next decade while domestic supplies are dwindling. Imported gas provides only a small share of domestic supplies because of the inherent difficulty and danger of transporting gas. A large and promising source of domestic gas, deep reservoirs on existing OCS leases in the shallow water part of the GOM, has been little explored. This is because the costs and risks of drilling deep reservoirs are high relative to drilling shallow reservoirs on these same leases. Further, these higher costs would rise if much of the extensive infrastructure (platforms and pipelines) developed to support the production of shallow reservoirs gets removed as the shallow reservoirs deplete. That means there is a significant chance these deep resources would never be produced if not encouraged now.

Objectives of, and Legal Basis for, the Proposed Rule

To accelerate and increase drilling into deep reservoirs, this rule proposes to:

(1) Suspend royalty payments for specified volumes of deep production that begins in the 5 years after the rule becomes effective; and

(2) Allow producers to apply designated amounts of royalty suspension supplements to other lease production for deep drilling that fails to encounter producible reserves.

Together, these measures will reduce the royalty costs associated with deep drilling and production below the royalty costs of other production on the same lease.

Title 30 CFR part 203 regulates the reduction of oil and gas royalty under 42 U.S.C. 1337(a)(3). Under section 1337 (a)(3)(B), we may reduce, modify, or eliminate royalties on certain producing or non-producing leases or categories of leases to promote development or increased production or to encourage production of marginal resources, in the GOM west of 87 degrees, 30 minutes west longitude.

Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

Companies that extract oil, gas, or natural gas liquids, or are otherwise in oil and gas exploration and development activities and operate leases on the OCS, will be most affected by this rule. The Small Business Administration (SBA) defines a small business as having:

- Annual revenues of $6 million or less for exploration service and field service companies.
- Fewer than 500 employees for drilling companies and for companies that extract oil, gas, or natural gas liquids.

Under the North American Industry Classification System Code 211111, Crude Petroleum and Natural Gas Extraction, MMS estimates that a total of 1,380 firms drill oil and gas wells onshore and offshore. Of these, approximately 130 companies are active offshore in the GOM. Merger and acquisition activity is constantly adjusting the exact number of operators. Publicly available data (from Compustat, Standard and Poor's, McGraw-Hill, and from Dunn & Bradstreet via Hoovers' sites on the internet) indicate that 39 (30 percent) of these companies active in offshore activities qualify as large firms according to SBA criteria, leaving up to 91 (70 percent) companies that qualify as small firms with fewer than 500 employees. Further breakdown of the small entity operators indicate that 28 percent have between 100 and 500 employees, 53 percent have between 1 and 100 employees, and the rest have no employees as they are fully staffed by contractors. As explained in the next section, compliance costs are minimal for small as well as large entities.

Reporting, Recordkeeping and Other Compliance Requirements

The proposed rule requires reporting within the meaning of the Paperwork Reduction Act in four situations. These situations are:

(1) Notify the Production and Development Division of MMS in the GOM region (MMS–PD) of intent to commence drilling a deep well;

(2) Notify MMS–PD that production has commenced from the deep well and request confirmation of the size of royalty suspension volume;

(3) Provide MMS–PD with data from the deep well to confirm that the well drilled was an unsuccessful certified well and request supplement; and

(4) Notify MMS–PD of a decision to exercise an option to replace the deep gas royalty suspension terms in the lease document with the terms in the proposed rule.

The frequency of reporting is on occasion. Responses are voluntary but are required to obtain or retain a benefit. We will protect information considered proprietary according to 30 CFR 203.63(b) and 30 CFR 250.196.

Because this program is administered on a categorical rather than a lease-by-lease basis, minimal administrative time and cost is needed to qualify for royalty relief. The notifications in items (1) and (2) above only entail sending a letter affirming that an action which is a normal part of business operations has occurred. Item (3) involves sharing data from well logs and seismic surveys that the company would develop even in the absence of this rule as a normal part of its exploration business. The notification in item (4) involves making a business decision about which of two alternative incentives best fit the prospects faced by the individual lease. The professional skills involved include those normally used in the operation of all OCS leases—geologists, geophysicists, engineers, and economists. Since no special analysis or independent review would be necessary to accomplish these compliance activities, we see very little burden on normal operations of either small or large companies. Beyond the paperwork notifications, there are no other compliance costs associated with this proposed rule.

The following passages and table are derived from our Paperwork Reduction Analysis. The proposed rule would increase the total paperwork hour burden of the 30 CFR part 203 regulations by 361 hours annually, spread across the entire industry. Based on a cost factor of $50 per hour, the burden of the new paperwork requirements would be $18,050 for the entire industry. This cost pales in comparison to the $10 to $20 million that it costs to drill a single well on the OCS to the deep depths covered by this proposed rule. As explained in the detailed economic analysis of this regulation, we estimate profits to both large and small entities will increase an average of over $33 million per year. The small business proportional share would be $23 million. So, even if small businesses were to bear 100 percent of this compliance costs, it would represent less than 1/10th of one percent of the average annual gross benefits obtained by small business in the form of their proportional share of added industry profits. The last sub-section of this Regulatory Flexibility section mentions two reasons, *i.e.*, risk sharing and location advantages, to think that small OCS entities could get a disproportionate share of the large benefits of this rule, so small entities could get significant positive net benefits from this rule as well. Furthermore, choosing to engage in this program, and hence incurring the nominal compliance cost, is voluntary. Non-participation is not detrimental, since companies that choose not to participate are no worse off than they would be in the absence of the rule.

Except for the row associated with § 48(b), these annual measures of burden costs cover the 5 to 6 years in which the incentive would be effective. The switch option of § 48(b) is only available for 6 months after the rule becomes effective. We assume the small business share of compliance costs is proportional to the maximum small business presence in offshore activities, *i.e.*, 70 percent. This means that small business would incur up to 253 burden hours in year 1 and 204 burden hours in years 2 through 6.

INDUSTRY BURDEN BREAKDOWN

30 CFR 203 section	Reporting requirement	Hour burden	Annual number	Annual burden hours
43(a), 46(a)	Notify MMS of intent to commence drilling	1	[1] 89	89
43(b)(1)(2)	Notify MMS that production has commenced and request confirmation of the size of royalty suspension volume.	2	[1] 25	50
46(b)(1)(2)	Provide data from well to confirm and attest well drilled was an unsuccessful certified well and request supplement.	8	[2] 19	152
48(b)	Notify MMS of decision to exercise option to replace one set of deep gas royalty suspension terms for another set of such terms.	2	[1] 35	70
Total reporting burden—1 year			[3] 168	361
Total reporting burden—2–6 years			[3] 133	291

[1] Notices.
[2] Submissions
[3] Responses.

Federal Rules That May Duplicate, Overlap or Conflict With the Proposed Rule

We are not aware of any Federal rules that conflict with the proposed rule. Two other kinds of royalty relief apply to OCS leases, but do not overlap this proposed rule. Deep water royalty relief has been granted to leases in water at least 200 meters deep in the GOM since 1996, but no leases covered by this proposed rule are eligible for deep water royalty relief. Also, any OCS lease may apply for royalty reduction when it nears the end of its economic life, but this form of relief is only relevant to mature production on a lease, not to development of new reservoirs covered by this proposed rule.

A different royalty relief incentive for deep gas drilling has been included for newly issued leases in the five OCS lease sales held since the beginning of 2001. This incentive is not available to older leases issued before 2001, so they do not overlap the main set of leases targeted by this rule. However, a provision of this proposed rule allows newly issued leases a one-time option to switch to the incentives in this proposed rule. This switching provision is included to be fair and is voluntary. Lessees paid a premium in their bid for

the new leases because their lease terms included deep gas royalty relief. Lessees of older leases had no expectation of royalty relief so their lease bids included no such premium. Allowing new lessees to switch lets those who paid for deep gas royalty relief in their bonus bid choose the more favorable of the two incentives. This switching provision also optimizes the incentive effects of the proposed rule because it will promote more deep gas development by those lessees that choose to switch. Finally, switching enables administrative simplifications when lessees on the same unit choose the same incentive terms. We estimate the aggregate small entity share of the one-time paperwork cost to be proportional to their presence in offshore activity, *i.e.*, 70 percent of $3500, or about $2500.

The proposed rule slightly overlaps two regulations applicable to OCS leases. OCS lessees must submit an application for permit to drill (30 CFR 250.414) to the local MMS district office for review, processing, and eventual entry into an agency-wide data base. This application is a more involved submission than the letter required in the proposed rule notifying MMS-PD of intent to commence drilling. We propose to require the simplified but duplicate version of this application because it is a minimal action that provides important lead time for coordinating other MMS actions that may concern the lease. For example, a potential royalty suspension requires adjustment if the subject lease participates in our royalty-in-kind program. OCS lessees must also notify the local MMS district office when production begins on the lease (30 CFR 250.180). If the deep well is not the first production on the lease, the notice required under this rule would not be duplicative. It, also, would be vital to help avoid confusion when a lease has both royalty-bearing and now royalty-free production. Most of the older leases in shallow water have to be in production already as a condition of holding their lease. The proposed notification would be redundant only when the deep well is the first production on the lease. We believe it is simply easier to set this minimal notice burden on the start of all deep production than to create separate notice rules depending on whether a lease has prior production or not. Even when redundant, the notice serves as a useful check on a long-standing routine report.

Significant Alternatives to the Proposed Rule

The Regulatory Flexibility Act requires the agency to consider alternatives to the proposed rule. The paperwork costs are only 1/10th of 1 percent of these benefits and are the minimal necessary to allow the monitoring essential to a consistent administration of a categorical relief program across all participants. The alternative of a case-by-case relief program, where each operator would apply to participate would enormously increase the paperwork burden and associated costs for all participating lessees, both small and large entities. While case-by-case review might reduce forgone royalty, it would add uncertainty about approval and thus discourage new drilling relative to the categorical program. Also, an application process would discourage participation especially by small operators who are unlikely to have the staff needed to assemble and defend an appropriate application.

Alternative forms of the categorical deep gas incentive we considered included: (1) Reduction of royalty rates for production emerging from new deep wells, (2) suspending royalty for a fixed value rather than a volume of new deep production, (3) a royalty suspension volume only for successful deep wells, (4) different royalty suspension volumes, and (5) no incentives. These alternatives are fully discussed in the detailed economic analysis of this regulation and will be available at www.mms.gov/econ. The administrative costs are the same for all the categorical incentive alternatives. Only the benefits are different. The alternative we chose results in the largest benefit to producers and to the small entity share of producers.

A summary discussion of the alternatives is included in the section titled ''Details of Proposed Royalty Relief for Deep Gas Production'' of this preamble. We chose the incentive form that combines a royalty suspension volume for successful deep gas wells and a royalty suspension supplement for unsuccessful deep wells for three reasons:

(1) It is large enough to generate substantial deep drilling activity;

(2) It is the most cost-effective incentive structure for the Government because it does not waste as much relief as alternatives on prospects that will be drilled anyway; and

(3) It concentrates most of the incentive on the very deep (18,000 feet or deeper subsurface) zones where we believe most of the undiscovered potential is to be found.

A more detailed explanation of these findings is contained in the economic analysis of this regulatory action. Additionally, this proposed incentive structure also may especially benefit small operators more than the alternative categorical incentive structures mentioned above.

The royalty suspension supplement feature improves the ability of small companies with limited drilling programs to spread their risk. Success on one or two of many deep wells that a large operator drills in a given period can pay the costs incurred for the unsuccessful wells. Small operators may be able to drill only one or two deep wells in a given period. The royalty suspension supplement can reduce the net cost of unsuccessful deep wells immediately, so the small operator does not necessarily have to wait for a deep well success in a later period to offset at least some unsuccessful exploration costs. This is a feature not found in any of the alternative categorical incentive structures which confer royalty relief only on successful wells.

Because of the risk, high cost, and technical complexity, we expect most lessees/operators involved in exploration and development in deep drilling depths of the GOM to be large companies. However, the location eligible for deep gas royalty relief is in shallow water, where we find relatively more small operators compared to those found in deep water. Thus, relatively more of those OCS operators who will benefit from the deep gas incentive in this rule may be in the small business category than those who benefit from deep water royalty relief.

For these reasons we believe this proposed rule is likely to provide at least a proportionate share of its benefits to small businesses. Nevertheless, MMS seeks to understand and address unforeseen impacts of this proposed rule on small businesses. Please provide comment on any or all provision in the proposed rule with respect to its effect on small entities. In particular, pay specific attention to the following sections of the proposed rule and assumptions discussed above:

- The overlapping notice of intent to commence drilling, §§ 203.43(a) and 203.46(a);
- The possibly overlapping notice that deep production has commenced § 203.43(b);
- The requirement to provide seismic and well test information to confirm drilling an unsuccessful well § 203.46(b);

• The one-time notice of a switch to the proposed deep gas incentive terms § 203.48(b); and

• Our assumptions that:

(1) Small entities are more prevalent in the shallow water than the deep water GOM;

(2) The risk, cost, and technical complexity of deep drilling is more like that found in deep water development than in traditional shallow water development; and

(3) The royalty suspension supplement tends to be more valuable to small entities with fewer deep drilling opportunities than large entities that have more deep drilling opportunities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

(1) Does have an annual effect on the economy of $100 million or more. This rule introduces a royalty relief program for deep gas that will save consumers $200 million annually for about a decade. Based on the EIA price projections, the reduction in royalty collected by the Federal government under the revised rulemaking would exceed the $100 million per year threshold in five out of 16 years in which meaningful amounts of program related production are generated. The benefits of the rule on the economy more than offset the royalty losses. A comparison of two types of production provides a proxy measure of this net social benefit. We estimate the magnitude of new gas production that ultimately occurs because of the incentive in the rule is about 1.4 times the size of gas production on which the government forgoes royalty. The government only forgoes royalty on production that would have occurred anyway without the incentive. Moreover, consumers of natural gas will benefit from additional domestic gas supplies and have lower market prices.

More lessees may take advantage of the proposed new deep gas royalty relief provisions over the next few years than have ever applied for end-of-life or deepwater royalty relief. However, the incremental drilling and production induced by this royalty relief will be small relative to total gas drilling and production in the GOM. The main thrust of the initiative is to increase and help accelerate new gas production to promote timely production otherwise inhibited. Even a small moderation of prices due to added deep gas production would result in a significant savings in gas expenditures and dampen natural gas prices in the market. Further, the proposed rule would impose no costs on any local or private entity, but may initially impose some small costs ($1 to $2 million per year) on Gulf coast States in the form of reduced payments under Section 8(g) of the OCSLA. However, production that otherwise would not occur will result from these incentives. That production will produce extra royalty payments, mostly after the royalty suspension volumes have been produced. Participation in the program by lessees is voluntary.

We consider the key adverse economic effect of this program with regard to the $100 million dollar annual benchmark to be forgone Federal royalties on deep gas production that would have been generated without this program. Since lower royalties mean more taxable income to companies, we measure the effect on forgone Federal revenues net of tax increases, assuming a 25 percent tax rate. Note that this is a transfer payment so that the government loss is also an operator gain from pursuing a socially desirable activity—deep gas production.

We forecast that without the proposed deep gas royalty relief program, 37 wells would be drilled annually to depths of 15,000 to 18,000 feet TVD SS and 11 wells to drilling depths below 18,000 feet TVD SS. Based on trends in drilling deep depths during the past 10 years in shallow water, we expect 12 successful wells in the 15,000 to 18,000 feet TVD SS drilling depth and 3 successful wells at deep drilling depths below 18,000 feet TVD SS without the incentive. We assume all these new successful deep wells are on different leases. With the incentive, we estimate there would be 35 wells drilled to depths below 18,000 feet TVD SS, of which 28 would be unsuccessful, and 19 of them on leases having other production to which the royalty suspension supplement could be used.

Annually over the 2003 through 2009 period, the absence of our deep gas royalty relief program could thereby save the government about 350 BCF in new royalty suspension volumes (12 * 15 + 3 * 25 + 19 * 5) awarded for drilling activities that would have occurred anyway. These savings may decline before the program ends in about 2009 because of the availability of less prospective reservoirs in later years of the program. Further, in any one year, only about 20 to 25 percent of the accrued amount of royalty suspension volumes could actually be used.

Offsetting most of these initial royalty losses are the extra royalties in later years on production beyond the royalty suspension volume from additional reserves discovered because of the incentive. Along with the incremental 24 wells (35–11) annually to drilling depths below 18,000 feet TVD SS, we expect 17 incremental wells (54–37) would be drilled annually to depths of 15,000 to 18,000 feet TVD SS. We estimate these incremental wells ultimately will lead to production of about 2.3 TCF, of which 0.7 would be royalty-free and 1.6 TCF would be royalty-bearing. We anticipate that the royalties on this 1.6 TCF of production will begin in about 2010 and continue until about 2025. Further offsetting benefit also comes from extra profits from production that would otherwise not occur.

A detailed economic analysis of this regulatory action was prepared and will be available at *http://www.mms.gov/econ*. This economic analysis explains our monetary calculations.

(2) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The deep gas incentive should materially moderate expected gas prices by adding to the overall supply.

(3) Does not have significant adverse effects on competition, employment, investment, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. Companies eligible for the proposed deep gas royalty relief should produce more natural gas and earn more income, while encountering no negative effects.

Paperwork Reduction Act (PRA) of 1995

The proposed rule requires information collection (IC), and an IC request (form OMB 83–I) has been submitted to OMB for review and approval under section 3507(d) of the PRA. The title of the collection of information is ''Proposed Rulemaking-30 CFR 203, Deep Gas Provisions.'' Respondents include approximately 130 Federal OCS oil and gas lessees. The frequency of reporting is on occasion. Responses are required to obtain or retain a benefit. The IC does not include questions of a sensitive nature. We will protect information considered proprietary according to 30 CFR 203.63(b) and 30 CFR 250.196.

OMB approved the information collection requirements in the current 30 CFR 203 regulations under control number 1010–0071, with a current expiration date of September 30, 2003. The following table lists the proposed new IC requirements and respective burdens. The proposed rule would increase the total paperwork hour burden of the 30 CFR part 203 regulations by 361 hours. Based on a

cost factor of $50 per hour, the hour burden of the new paperwork requirements would be $18,050.

BURDEN BREAKDOWN

30 CFR 203 section	Reporting requirement	Hour burden	Annual number	Annual burden hours
43(a), 46(a)	Notify MMS of intent to commence drilling	1	[1] 89	89
43(b)(1)(2)	Notify MMS that production has commenced and request confirmation of the size of royalty suspension volume.	2	25	50
46(b)(1)(2)	Provide data from well to confirm and attest well drilled was an unsuccessful certified well and request supplement.	8	[2] 19	152
48(b)	Notify MMS of decision to exercise option to replace one set of deep gas royalty suspension terms for another set of such terms.	2	35	70
Total reporting burden			[3] 168	361

[1] Notices. [2] Submissions. [3] Responses.

MMS would use the information collected to determine whether a lessee is qualified to receive the relief offered in this proposed program.

As part of our continuing effort to reduce paperwork and respondent burdens, MMS invites the public and other Federal agencies to comment on any aspect of the reporting burden in the proposed rule.

(1) We specifically solicit comments on the following questions:

(a) Is the proposed collection of information necessary for MMS to properly perform its functions, and will it be useful?

(b) Are the estimates of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology?

(2) In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping ''non-hour'' cost burden resulting from the collection of information. We have not identified any and solicit your comments on this item. For reporting and recordkeeping only, your response should split the cost estimate into two components: (a) The total capital and startup cost component, and (b) annual operation, maintenance, and purchase of services component. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Generally, your estimates should not include equipment or services purchased: before October 1, 1995; to comply with requirements not associated with the information collection; for reasons other than to provide information or keep records for the Government; or as part of customary and usual business or private practice.

You may submit your comments directly to the Office of Information and Regulatory Affairs, OMB. Please send a copy of your comments to MMS so that we can summarize all written comments and address them in the final rule preamble. Refer to the ''Addresses'' section for mailing instructions. OMB is required to make its decision on the information collection aspects of this proposed rule between 30 to 60 days after publication in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it by April 25, 2003. This does not affect the deadline for the public to comment to MMS on the proposed regulations.

The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves the collection of information and assigns an OMB control number, you are not obligated to respond.

Federalism (Executive Order 13132)

According to Executive Order 13132, this rule does not have meaningful Federalism implications. As noted above it may initially impose some small costs ($1 to $2 million a year) on Gulf coast States in the form of reduced payments under Section 8g of the OCSLA. However, additional resources discovered under this incentive will make up for these initial reductions from production that otherwise would not occur. Largely after the royalty suspension volumes have been produced, extra royalties for Federal and Gulf coast States will result from this extra production. Also, the added economic activity in those States associated with new deep drilling will generate new tax revenues. Therefore, a Federalism assessment is not required because the proposed rule would not have a direct or substantive effect on the relationship between the Federal and State Governments, nor does it impose responsibilities or costs on States or localities.

Takings Implication Assessment (Executive Order 12630)

According to Executive Order 12630, the rule does not have significant Takings implications. A Takings Implication Assessment is not required. This rule has no Takings effect, because it only specifies circumstances under which royalty payments to the Federal Government by OCS lessees might be reduced. The lessee of such a lease would be better off financially under this rule.

Energy Supply, Distribution, or Use (Executive Order 13211)

This rule is a significant rule and is subject to review by OMB under Executive Order 12866. This rule does not have a significant adverse effect on energy supply, distribution, or use. This rule increases and accelerates the production of gas from deep wells on the OCS shelf by providing for a royalty suspension volume for successful deep production and a royalty suspension supplement for unsuccessful deep drilling efforts, so it has a positive effect on energy supply based on our regulatory analysis.

Unfunded Mandates Reform Act (UMRA) of 1995

This proposed rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The proposed rule does not have any Federal mandates nor does the proposed rule have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Civil Justice Reform (Executive Order 12988)

According to Executive Order 12988, the Office of the Solicitor has determined that the proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA) of 1969

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required.

Government-to-Government Relationship with Tribes

According to the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951) and 512 DM 2, we have determined that there are no effects on federally recognized Indian tribes.

Clarity of this Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Is the description of the rule in the ''Supplementary Information'' section of this preamble helpful in understanding the rule? What else can we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule 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 the comments to this address: *Exsec@ios.doi.gov.*

List of Subjects in 30 CFR Parts 203

Continental shelf, Government contracts, Indian lands, Minerals royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements, Sulphur.

Dated: March 20, 2003.

Rebecca W. Watson,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 30 CFR part 203 as follows:

PART 203—RELIEF OR REDUCTION IN ROYALTY RATES

1. The authority citation for part 203 continues to read as follows:

Authority: 25 U.S.C. 396 *et seq.*; 25 U.S.C. 396a *et seq.*; 25 U.S.C. 2101 *et seq.*; 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq;* 30 U.S.C. 1001 *et seq;* 30 U.S.C. 1701 *et seq;* 31 U.S.C. 9701 *et seq;* 43 U.S.C. 1301 *et seq;* 43 U.S.C. 1331 *et seq;* and 43 U.S.C. 1801 *et seq.*

2. Section 203.0 is amended by adding definitions for ''deep well'', ''new well,'' ''participating area'', ''reservoir'', ''royalty suspension supplement,'' ''successful qualified deep well,'' and ''unsuccessful certified well'' in alphabetical order to read as follows:

§ 203.0 What definitions apply to this part?

* * * * *

Deep well means either a well drilled and completed with a perforated interval, the top of which is at least 15,000 feet true vertical depth below the datum at mean sea level (TVD SS), or a well drilled but not completed to a target reservoir deeper than 18,000 feet TVD SS.

* * * * *

New well means a well that results from drilling that does not utilize an existing wellbore.

* * * * *

Participating area means that part of the unit area that is reasonably proven by drilling and completion of producible wells, geological and geophysical information, and engineering data to be capable of producing hydrocarbons in paying quantities.

* * * * *

Reservoir means an underground accumulation of oil or natural gas or both characterized by a single pressure system and segregated from other such accumulations.

* * * * *

Royalty suspension supplement means a royalty suspension volume generated from drilling an unsuccessful certified well and applied to royalties due on future royalty-bearing natural gas and oil production on, or allocated to, the same lease.

* * * * *

Successful qualified deep well means a new deep well completed on your lease:

(1) That begins drilling after March 26, 2003, and

(2) That begins producing natural gas, including gas associated with oil production before [DATE THAT IS FIVE YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE].

* * * * *

Unsuccessful certified well means a new well drilled on your lease:

(1) Beginning after March 26, 2003;

(2) Beginning before [DATE THAT IS FIVE YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE];

(3) Beginning before your lease produces from a successful qualified deep well;

(4) To a depth of at least 18,000 feet true vertical depth below the datum at mean sea level (TVD SS);

(5) That targeted a reservoir identified from seismic and related data deeper than 18,000 feet TVD SS; and

(6) That fails to meet the producibility requirements of 30 CFR Part 250, subpart A, and does not produce, or that MMS agrees is not commercially producible. (Any well producing from a reservoir 15,000 feet TVD SS or deeper is deemed a successful well, though not necessarily a successful qualified deep well).

* * * * *

3. A new undesignated heading and new §§ 203.40 through 203.48 are added to Subpart B to read as follows:

Royalty Relief for Drilling Deep Gas Wells

§ 203.40 Which leases are eligible for royalty relief as a result of drilling deep wells?

Your lease may receive a royalty suspension volume under §§ 203.41 through 203.43 and may receive a royalty suspension supplement under §§ 203.44 through 203.46 if it:

(a) Was issued in an OCS lease sale held before January 1, 2001, or in a lease sale held on or after that date and the lessee has exercised the option under § 203.48;

(b) Is located in the Gulf of Mexico, wholly west of 87 degrees, 30 minutes West longitude entirely in water less than 200 meters deep; and

(c) Has not produced gas or oil from a deep well that commenced drilling before March 26, 2003. Production

before that date from a deep well on another lease on your unit does not make your lease ineligible for royalty relief.

§ 203.41 If I drill a successful qualified deep well, what royalty relief could I receive?

(a) Subject to the administrative requirements of § 203.43 and the price conditions in § 203.47, we will suspend royalties for the produced gas volumes, as reported in accordance with 30 CFR 216.53 (Oil and Gas Operations Report, Part A or OGOR–A), shown in the following table (in billions of cubic feet or BCF):

If you have a successful qualified deep well . . .	Then, we suspend royalties on this volume of deep gas production from or allocated to your lease as prescribed in this section and § 203.42:
(1) From 15,000 to less than 18,000 feet TVD SS.	15 BCF
(2) 18,000 feet TVD SS or deeper.	25 BCF

(b)(1) The royalty suspension volume determined under paragraph (a) for the first successful qualified deep well on your lease establishes the total royalty suspension volume available for that lease. You will not receive an additional royalty suspension volume if you drill more successful qualified deep wells on your lease or if you later drill and complete a deeper well that would have qualified for a higher royalty suspension volume. For example, if you drill a successful qualified deep well to 16,000 feet TVD SS and later drill a second successful qualified deep well on the lease to 19,000 feet TVD SS, your total royalty suspension volume is limited to 15 BCF. If your lease is within an MMS-approved unit, *see* subparagraph (b)(3) of this section.

(2) After you receive a royalty suspension volume for your first successful qualified deep well, if you later begin production from another successful qualified deep well on the lease, you must notify MMS of that production under § 203.43.

(3) This paragraph applies if your lease is within an MMS-approved unit.

(i) If the first successful qualified deep well on your lease is a well within a unit participating area, 100 percent of the royalty suspension volume available for that well under paragraph (b)(1) of this section applies only to your allocated share of production from that well. No other lease in the unit is entitled to any of the royalty suspension volume under this section or § 203.42, even though another lessee may be entitled to a share of the production from the successful qualified deep well on your lease. Your royalty suspension volume for the lease will not increase if your lease is entitled to an allocated share of production under the unit agreement from another deep well either on your lease or another lease in the unit.

(ii) If the first successful qualified deep well located on your lease was not a unit well, and if your lease is entitled to an allocated share of production under an MMS-approved unit agreement from another deep well within the unit participating area either on your lease or on another lease, that allocated share of production will not increase the volume of royalty suspension you qualify for under this section based on the first successful qualified deep well on your lease.

(iii) If you do not have a successful qualified deep well located on your lease, then you are not entitled to any royalty suspension volume for production allocated to your lease under the unit agreement from a successful qualified deep well on another lease in the unit.

(c) Any royalty relief allowed under paragraph (a) of this section is in addition to any royalty suspension supplement for your lease under § 203.44 that results from a different wellbore.

(d) You must pay minimum royalties in accordance with your lease terms notwithstanding any royalty suspension volumes allowed under paragraph (a) of this section.

§ 203.42 To which production do I apply the royalty suspension volume from drilling a successful qualified deep well on my lease?

(a) This paragraph applies to any lease that is not within an MMS-approved unit. Subject to the requirements of §§ 203.40, 203.41, 203.43, 203.44, and 203.47, beginning the day that you provide MMS the notice required under § 203.43, you must apply the royalty suspension volume to production from all successful qualified deep wells on your lease for which you have given notice. Apply the royalty suspension volume applicable to your lease to that production each month until you use all of your royalty suspension volume.

(b) This paragraph applies to any lease all or part of which is within an MMS-approved unit and that has at least one successful qualified deep well located on the lease. Subject to the requirements of §§ 203.40, 203.41, 203.43, 203.44, and 203.47, beginning the day that you provide MMS the notice required under § 203.43, you must apply the royalty suspension volume to your share of production from all successful qualified deep wells on your lease for which you have given notice, and to production volumes allocated to your lease from deep wells on other unit leases drilled after March 26 2003. Apply the royalty suspension volume applicable to your lease to that production each month until you use all of your royalty suspension volume.

(c) Unused royalty suspension volume transfers to a successor lessee and expires with the lease.

(d) You may not apply the royalty suspension volume allowed under § 203.41;

(1) To production from a deep well drilled before March 26 2003;

(2) To production from wells less than 15,000 feet TVD SS;

(3) To deep production from any other lease, except as provided in paragraph (b) of this section.

(e) You must begin paying royalties when the cumulative royalty-free production of gas from or allocated to your lease reaches the applicable royalty suspension volume allowed under § 203.41. For the month in which cumulative production reaches this royalty suspension volume, you owe royalties on the portion of gas production that exceeds the royalty suspension volume remaining at the beginning of that month.

(f) All liquid hydrocarbon volumes are subject to royalty. This includes condensate recovered at separation facilities without processing. If you sell your gas before it is processed, the royalty suspension volumes apply to the gas production reported on the OGOR–A. If your gas is processed before you sell it, the royalty suspension volumes apply only to residue gas generated after processing and not to any natural gas liquids.

§ 203.43 What administrative steps must I take to use the royalty suspension volume?

(a) You must provide written notification to the MMS Regional Supervisor for Production and Development of your intent to commence drilling operations on deep wells; and

(b) Within 30 days of commencement of production that qualifies for royalty suspension, you must:

(1) Notify the MMS Regional Supervisor for Production and Development that production has commenced; and

(2) Request confirmation of the size of the royalty suspension volume that applies to your lease.

(c) You must meet any special production measuring requirements that

the Regional Supervisor for Production and Development has determined are necessary under 30 CFR 250, subpart L.

(d) If you commenced drilling a successful qualified deep well after March 26, 2003, and produced it before [EFFECTIVE DATE OF THE FINAL RULE], you must provide the information required by paragraph (b) of this section on or after [EFFECTIVE DATE OF THE FINAL RULE] and no later than [DATE 30 DAYS AFTER THE EFECTIVE DATE OF THE FINAL RULE].

§ 203.44 If I drill an unsuccessful certified well, what royalty relief could I receive?

(a) If you drill an unsuccessful certified well, and satisfy the administrative requirements of § 203.46, you will receive a royalty suspension supplement of five BCF for your lease, to be applied to subsequent production of gas and oil, as reported in accordance with 30 CFR 216.53 (OGOR–A), on or allocated to your lease as provided in § 203.45. The conversion from oil to gas for using the royalty suspension supplement is specified in § 203.73.

(b) You may receive royalty suspension supplements for up to two unsuccessful certified wells per lease. You may not receive more than one royalty suspension supplement from a single wellbore.

(c)(1) If the same wellbore used to qualify for a royalty suspension supplement later produces from a perforated interval the top of which is 15,000 feet TVD SS or deeper no later than [DATE FIVE YEARS AFTER THE EFECTIVE DATE OF THE FINAL RULE], it will become a successful qualified deep well. If the completion of this successful qualified deep well is on your lease, then you must subtract that portion of the royalty suspension supplement that has been applied to other production from the lease from the royalty suspension volume remaining for the lease. The difference represents the maximum royalty suspension volume for which you are eligible on the lease. If the completion of this successful qualified deep well is on another lease, then the royalty suspension volume earned by this other lease must be reduced by the full amount of the royalty suspension supplement applied on your lease. You may not use any remaining unused portion of the royalty suspension supplement earned for that wellbore.

(2) Notwithstanding any other provision of this part, the total amount of royalty relief earned from or applied to production from a single wellbore that originally qualified as an unsuccessful certified well, but that later produces, cannot exceed 25 BCF.

(d) You must pay minimum royalties in accordance with your lease terms notwithstanding any royalty suspension supplements under this section.

§ 203.45 To which production do I apply the royalty suspension supplements from drilling one or two unsuccessful certified wells on my lease?

(a) Subject to the requirements of §§ 203.40, 203.42, 203.44, and 203.47 and beginning the first day of the month that you file the data and request under § 203.46, you must apply royalty suspension supplements stipulated in § 203.44 to production from, or allocated under an approved unit agreement to, the lease that was the target of your drilling, without restriction on the drilling depth of the well producing the gas or oil.

(b) If you have a royalty suspension volume for the lease under § 203.41, you must exhaust the royalty suspension volume before applying any unused royalty suspension supplement to deep gas production.

(c) If you have no production on which to apply the royalty suspension supplement allowed under § 203.44 when it is earned, your royalty suspension supplement applies to the earliest subsequent production on your lease. Unused royalty suspension supplements transfer to a successor lessee and expire with the lease.

(d) You may not apply the royalty suspension supplement allowed under § 203.44 to production from any other lease, except for production allocated to your lease from an approved unit agreement. If the unsuccessful certified well is on a lease subject to an MMS-approved unit agreement, the lessees of other leases in the unit may not use any portion of your royalty suspension supplement.

(e) You must begin or resume paying royalties when cumulative oil and gas production from or allocated to your lease (excluding any deep gas produced subject to a royalty suspension volume allowed under § 203.41) reaches the applicable royalty suspension supplement. For the month in which the cumulative production reaches this royalty suspension supplement, you owe royalties on the portion of gas or oil production that exceeds the amount of the royalty suspension supplement remaining at the beginning of that month.

§ 203.46 What administrative steps must I take to obtain and use the royalty suspension supplement?

(a) Before a deep well targeted to a reservoir on your lease commences drilling, you must notify, in writing, the MMS Regional Supervisor for Production and Development of your intent to begin drilling operations; and

(b) After drilling the well you must:

(1) Provide MMS with data, including any well test data, that allows MMS to confirm that you drilled an unsuccessful certified well as defined under § 203.0. You must submit this data within 60 days after reaching the Total Depth (TD) in your well to be eligible for the royalty suspension supplement under § 203.45; and

(2) Request confirmation that the royalty suspension supplement applies to your lease.

(c) If you commenced drilling an unsuccessful certified well after March 26, 2003, and finished it before [EFFECTIVE DATE OF THE FINAL RULE], you must provide the information required by paragraph (b) on or after [EFFECTIVE DATE OF THE FINAL RULE] and no later than [DATE 60 DAYS AFTER THE EFECTIVE DATE OF THE FINAL RULE].

§ 203.47 Do I keep royalty relief if prices rise significantly?

(a) You must pay royalties on all gas and oil production for which royalty suspension otherwise would be allowed under §§ 203.40 through 203.46 in any calendar year when the average NYMEX natural gas price exceeds the threshold of $5 per million British thermal units (Btu), adjusted annually from year 2000 for inflation. The threshold price is adjusted by the percentage that the implicit price deflator for the gross domestic product changed during the preceding calendar year.

(b) You must pay any royalty due under this section, plus late payment interest under 30 CFR 218.54, no later than 90 days after the end of the calendar year for which you owe royalty.

(c) Production volumes on which you must pay royalty under this section count as part of your royalty suspension volume and royalty suspension supplements.

§ 203.48 May I substitute the deep gas drilling provisions in § 203.0 and §§ 203.40 through 203.47 for the deep gas royalty relief provided in my lease terms?

(a) You may exercise an option to replace the applicable lease terms for relief related to deep gas drilling with those in § 203.0 and §§ 203.40 through 203.47 if you have a lease issued:

(1) From a lease sale held after January 1, 2001, and before [EFFECTIVE DATE OF THE FINAL RULE]; and

(2) Wholly west of 87 degrees, 30 minutes West longitude in the Gulf of

Mexico entirely in water less than 200 meters deep, with royalty relief provisions for deep gas drilling.

(b) You may exercise this option by notifying the MMS Regional Supervisor for Production and Development of your decision before [DATE 180 DAYS AFTER THE EFFECTIVE DATE OF THE FINAL RULE] and specifying the lease and block number.

(c) Once the option is exercised, you must meet all the activity and administrative requirements pertaining to royalty relief for leases eligible for deep gas royalty relief that were issued in an OCS lease sale held before January 1, 2001.

(d) Exercising the option under paragraph (a) of this section is irrevocable. If you do not exercise this option, your original lease terms apply.

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