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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
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3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: April 18, 2000, at 9:00 a.m.

WHERE: Conference Room, Suite 700
Office of the Federal Register
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Reader Aids

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 550 and 553

RIN 3206–AI92

Repeal of Dual Compensation Reductions for Military Retirees

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement the repeal of reductions in military retired or retainer pay required of some military retirees employed in civilian positions. Section 651 of the National Defense Authorization Act for Fiscal Year 2000 repeals section 5532 of title 5, United States Code, effective October 1, 1999. This Act repeals two reductions in military retired or retainer pay previously required of some retired members of the uniformed services when they became Federal employees.

DATES: These regulations are effective April 12, 2000. Comments must be received by June 12, 2000.

ADDRESSES: Send written comments to Mary Lou Lindholm, Associate Director for Employment, Office of Personnel Management, Room 6500, 1900 E Street, NW., Washington, DC 20415–9500.

FOR FURTHER INFORMATION CONTACT: Laurence T. Lorenz on (202) 606–0830, FAX (202) 606–0390, or e-mail ltlorenz@opm.gov.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1999, President Clinton signed S. 1059, the National Defense Authorization Act for Fiscal Year 2000, Public Law 106–65. Section 651 of this Act repeals section 5532 of title 5, United States Code, effective retroactively to October 1, 1999. This action ended two reductions in retired or retainer pay previously required of retired members of a uniformed service who are employed in civilian offices or positions of the U.S. Government. This repeal affects positions in the legislative, executive, and judicial branches of the Government of the United States (including Government corporations, nonappropriated fund instrumentalities under the jurisdiction of the armed forces, and the U.S. Postal Service).

Two Reductions Ended

This repeal ends the following two reductions in military retired pay that applied to some Federal employees who had retired from a uniformed service:

1. The pay cap that limited the combined total of Federal civilian basic pay plus military retired pay to $110,700 (Executive Level V) for all Federal employees who retired from a uniformed service; and
2. The partial reduction in retired pay required of retired officers of a regular component of a uniformed service.

As a consequence of the repeal, exceptions and waivers to the reductions for military retirees approved by OPM under criteria in 5 CFR 553, or by agencies under delegated authority, are no longer needed.

GPPA Revised

The Guide to Processing Personnel Actions (GPPA) prior to January 2, 2000 required sending a copy of the Notification of Personnel Action (SF–50) for retired members of a uniformed service to the appropriate uniformed service finance center for all covered personnel actions. OPM and the Department of Defense agreed that this Act eliminated the statutory basis for sending a copy of personnel actions effective on or after October 1, 1999. Accordingly, OPM eliminated this requirement in GPPA Update 33, dated January 2, 2000. Agencies should not send covered personnel actions for military retirees with effective dates on or after October 1, 1999.

Service Credit and Preference Limitations Unchanged

The repeal of 5 U.S.C. 5532 does not repeal two other parts of the Dual Compensation Act of 1964. This Act adopted a ‘‘fresh start’’ policy for military retirees and established limits on service credit and veterans' preference to ensure that military retirees did not receive unfair advantages in pay and tenure over civilian employees, including other veterans. As a result, unlike other former service members, retired members of a uniformed service generally cannot count their service time as creditable service for retention (RIF), annual leave accrual, and retirement purposes (see 5 U.S.C. 3501(a), 3502(a), 6303(a) and 8411(c)). On the other hand, retirement does not change a service member's entitlement to veterans' preference in the employment process.

Reductions for Civilian Retirees Unchanged

This repeal does not affect the reduction in salary required of reemployed civilian annuitants under the Civil Service Retirement System (CSRS) and Federal Employees' Retirement System (FERS). Agencies may continue to request waivers of these reductions when appropriate under criteria in 5 CFR 553 and 5 U.S.C. 8344 or 8468.

Employee Questions

The uniformed services finance centers are responsible for making all adjustments in military retired or retainer pay. Employee questions regarding restoration of retired pay should be directed to the appropriate uniformed service finance center. These finance centers are identified in Chapter 8, of the Guide to Processing Personnel Actions, page 8–19, issued February 26, 1999 *[http://www.opm.gov/feddata/GPPA/Gppa.htm].*

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking because it would be contrary to the public interest to delay access to benefits provided by law. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to waive the effective date and make this amendment effective in less than 30 days in order to implement immediately statutory language in Sec. 651 of the National Defense Authorization Act for Fiscal Year 2000, Public Law 106–65, that is effective retroactively to October 1, 1999.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because the regulations apply only to appointment procedures for certain employees in Federal agencies.

Executive Order 12866, Regulatory Review

This interim rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects

5 CFR Part 550

Administrative practice and procedure, Government employees, Claims, Wages.

5 CFR Part 553

Administrative practice and procedure, Government employees, Military Personnel, Retirement, Wages.

Office of Personnel Management.

Janice R. Lachance

Director.

Accordingly, OPM is amending parts 550 and 553 of title 5, Code of Federal Regulations, as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart F—[Removed and Reserved]

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

Authority: 5 U.S.C. 5532.

2. Subpart F consisting of §§ 550.601, 550.602 and 550.603 is removed and reserved.

PART 553—REEMPLOYMENT OF MILITARY AND CIVILIAN RETIREES TO MEET EXCEPTIONAL EMPLOYMENT NEEDS

3. The authority citation for part 553 is revised to read as follows:

Authority: 5 U.S.C. 8344, 8468, Sec. 651, Pub. L. 106–65 (113 STAT. 664).

4. Section 553.101 is revised to read as follows:

§ 553.101 Applicability.

This part applies to employment of civilian annuitants who would be subject to termination of annuity or annuity offset under 5 U.S.C. 8344 or 5 U.S.C. 8468. Agencies may request exceptions as provided in subpart B of this part from the reemployed annuitant provisions of 5 U.S.C. 8344 (for Civil Service Retirement System annuitants) or 8468 (for Federal Employees' Retirement System annuitants), as appropriate.

5. In § 553.102, paragraph (c) is revised to read as follows:

§ 553.102 Definitions.

* * * * *

(c) Retiree, as used in this part refers to an annuitant as defined in paragraph (b) of this section.

6. In § 553.103, paragraph (b) is revised to read as follows:

§ 553.103 General policy.

* * * * *

(b) Application of exceptions. An exception to the salary offset provisions of 5 U.S.C. 8344 or 8468 authorized by OPM or an agency under this part applies only to the particular individual for whom it was authorized and only while that individual continues to serve in the same or a successor position. The exception terminates upon the individual's assignment to a different position unless a new exception is authorized under the provisions of this part.

7. In § 553.201, paragraph (c)(2), is revised to read as follows:

§ 553.201 Requesting OPM approval for reemployment without reduction in individual cases.

* * * * *

(c) * * *

(2) *Need for the individual's services.* The agency must show either that the individual is uniquely qualified for the emergency response work to be done or that the number of positions to be filled and/or urgency of response justifies making the particular appointment without further delay. OPM will not approve reemployment without penalty under 5 U.S.C. 8344, or 8468 solely to meet normal seasonal workload fluctuations.

8. In § 553.203, paragraph (b) is revised to read as follows:

§ 553.203 Status of individuals serving without reduction.

* * * * *

(b) *Retired members of the uniformed services.* Except for individuals to whom paragraph (a) of this section is applicable, retired members of uniformed services are considered employees for the purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, subject to the same conditions as apply to any other employees.

[FR Doc. 00–8838 Filed 4–11–00; 8:45 am]

BILLING CODE 6325–01–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV00–932–1 FIR]

Olives Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which decreased the assessment rate established for the California Olive Committee (Committee) for the 2000 and subsequent fiscal years from $26.18 to $21.73 per ton of olives handled. The Committee is responsible for local administration of the marketing order which regulates the handling of olives grown in California. Authorization to assess olive handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal year began January 1 and ends December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: May 12, 2000.

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

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 148 and Order No. 932, both as amended (7 CFR part 932), regulating the handling of olives grown in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department is issuing this rule in conformance with Executive Order 12866. This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California olive handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessment olives beginning on January 1, 2000, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule continues the decrease in the assessment rate established for the Committee for the 2000 and subsequent fiscal years from $26,18 per ton to $21.73 per ton of olives handled.

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

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

The Committee met on December 9, 1999, and unanimously recommended fiscal year 2000 expenditures of $2,472,235 and an assessment rate of $21.73 per ton of olives. In comparison, last year's budgeted expenditures were $1,845,185. Recommended budget expenditures for research are significantly higher this year because of higher anticipated research expenses. The higher research budget of $868,550 is needed to fund: (1) Continued research and development of the mechanical olive harvester and (2) scientific studies to develop chemical or biological defenses to counteract a potential threat from the olive fruit fly in the California production area.

The following table compares major budget expenditure recommendations for the 2000 fiscal year with those from last year.

Budget Expenditure	1999	2000
Administration	$346,485	$356,190
Research	302,000	868,550
Market Development	1,190,500	1,212,495

The assessment rate recommended by the Committee was derived by considering anticipated expenses, an estimated assessable tonnage, and additional pertinent factors. The estimate of assessable olives for the 2000 fiscal year is 113,750 tons. This compares to an assemble tonnage of 67,990 for fiscal year 1999. The increase in fiscal year 2000, due in large part to the alternate-bearing nature of olives, allowed the Committee to lower the assessment rate from $26.18 to $21.73 per ton, a decrease of $4.45. Income derived from handler assessments, interest, and carryover of reserve funds will be adequate to cover budgeted expenses. Funds in the reserve at the end of fiscal year 2000 will be less than the maximum permitted by § 932.40 of the order (approximately one fiscal year's expenses).

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

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

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

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

There are approximately 1,200 producers of olives in the production area and 3 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. None of the olive handlers may be classified as small entities, while the majority of olive producers may be classified as small entities.

This rule continues the decrease in the assessment rate established for the Committee and collected from handlers for the 2000 and subsequent fiscal years from $26.18 per ton to $21.73 per ton of olives. The Committee unanimously recommended fiscal year 2000 expenditures of $2,472,235 and an assessment rate of $21.73 per ton. The assessment rate of $21.73 is $4.45 lower than the 1999 rate. The estimated quantity of assessable olives for the 2000 fiscal year is 113,750 tons. Thus, the $21.73 rate should be adequate to meet this year's budgeted expenses, when combined with funds from the authorized reserve and interest income.

The following table compares major budget expenditure recommendations for the 2000 fiscal year with those from last year.

	Budget Expenditure	
	1999	2000
Administration	$346,485	$356,190
Research	302,000	868,550
Market Development	1,190,500	1,212,495

The higher research budget of $868,550 is needed to fund: (1) Continue research and development of the mechanical olive harvester and (2) scientific studies to develop chemical and scientific defenses to counteract a potential threat from the olive fruit fly in the California production area.

A lower assessment rate was recommended for fiscal year 2000 because the estimated 2000 fiscal year assessable tonnage is approximately 40 percent larger than last fiscal years tonnage, due in large part to the alternate bearing nature of the crop. A comparison of assessable tonnage for fiscal year 2000 with the two previous fiscal years is listed below:

1998	1999	2000
85,585	67,990	113,750

The Committee reviewed and unanimously recommended fiscal year 2000 expenditures of $2,472,235, which reflects increases in the research, market development, and administrative budgets. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive Subcommittee, the Research Subcommittee, and the Marketing Subcommittee. Alternate spending levels were discussed by these groups, based upon potential reductions in the funding of various research and marketing projects. The Committee determined it was not necessary to increase the assessment rate to cover these expenses because the increased estimated tonnage will provide sufficient funds to cover anticipated expenses. The assessment rate of $21.73 per ton of assessable olives was derived by considering anticipated expenses, as estimated assessable tonnage of olives, and additional pertinent factors.

A review of historical and preliminary information pertaining to the current fiscal year indicates that the grower revenue for the 1999–2000 crop year will approximate $64,126,725. With an assessment rate of 421.73 per ton and assessable tonnage totaling 113,750 tons, the Committee's assessment revenue for fiscal year 2000 will be $2,471,788, or approximately 3.9 percent of grower revenue.

This action continues to decrease in the assessment obligation imposed on handlers for fiscal year 2000 by $506,187. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the California olive industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 9, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on California olive handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

An interim final rule concerning this action was published in the **Federal Register** on January 19, 2000 (65 FR 2839). Copies of that rule were also mailed or sent via facsimile to all commodity handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on March 20, 2000, and no comments were received.

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

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

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

PART 932—OLIVES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 932 which was published at 65 FR 2839 on January 19, 2000, is adopted as a final rule without change.

Dated: April 4, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–9038 Filed 4–11–00; 8:45 am]

BILLING CODE 3410–02–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1206

RIN 2700–AC36

Availability of Agency Records to Members of the Public

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule; technical amendment.

SUMMARY: This amendment to NASA's regulations on availability of agency records to members of the public clarifies an inconsistency in the provisions relating to notice to submitters of commercial information.

DATES: Effective April 12, 2000.

ADDRESSES: Freedom of Information Act Officer, Code PO, NASA Headquarters, Washington, DC 20546

FOR FURTHER INFORMATION CONTACT: Kellie N. Robinson, 202/358–2265, or Sharon S. Seward, 202/358–2085.

SUPPLEMENTARY INFORMATION: The National Aeronautics and Space Administration published a Final Rule to revise its Freedom of Information Act (FOIA) regulations on July 22, 1999 (64 FR 39404), in accordance with the EFOIA of 1996 as amended by Public Law 104–231. This amendment provides clarification of an inconsistency in that Final Rule. This amendment removes § 1206.610(e)(4) so that § 1206.610(e) is consistent with the provisions of § 1206.610(d).

List of Subjects in 14 CFR Part 1206

Freedom of information.

Dated: March 23, 2000.

Daniel S. Goldin,

Administrator.

Accordingly as set forth above, NASA amends 14 CFR chapter V as follows:

PART 1206—AVAILABILITY OF AGENCY RECORDS TO MEMBERS OF THE PUBLIC

1. The authority citation for part 1206 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 42 U.S.C. 2473.

§ 1206.610 [Amended]

2. In § 1206.610, remove paragraph (e)(4).

[FR Doc. 00–8769 Filed 4–11–00; 8:45 am]

BILLING CODE 7510–01–P

RAILROAD RETIREMENT BOARD

20 CFR Parts 325, 330, 335, and 336

RIN 3220–AB39

Registration for Railroad Unemployment Benefits; Sickness Benefits; Determination of Daily Benefit Rates; Duration of Normal and Extended Benefits

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends its regulations to incorporate amendments made to the Railroad Unemployment Insurance Act, which shortened the waiting period for receipt of benefits under the RUIA, changed the method of computing the daily benefit rate, and eliminated certain extended benefits.

EFFECTIVE DATE: This rule will be effective May 12, 2000.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Senior Attorney, (312) 751–4945, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Public Law 104–251 (110 Stat. 3161), commonly known as the Railroad Unemployment Insurance Act Amendments of 1996, amended the Railroad Unemployment Insurance Act (RUIA) to shorten the waiting period for receipt of unemployment and sickness benefits payable under that statute, to change the method of computing the daily benefit rate, and to eliminate certain extended payments of benefits, and the Board amends its regulations under the RUIA to conform to those amendments.

Section 325.1 is amended to reflect the change in the waiting period for unemployment benefits from 14 days to seven days. As amended, § 325.1 would provide that unemployment benefits are payable to any qualified employee for each day of unemployment in excess of seven in his or her first two-week registration period, and then for up to ten days of unemployment in any subsequent registration period within the same period of continuing unemployment. However, if the unemployment is the result of a strike, no benefits are payable for the first day 14 days of unemployment. For purposes of applying the seven-day waiting period, a period of continuing unemployment would end when an employee exhausts his or her unemployment benefits for a benefit year. Section 325.1 would also be amended to incorporate a definition of ''period of continuing unemployment'', a concept added by the 1996 amendments. The concept of a period of continuing unemployment was added to the RUIA so as to permit the continued payment of benefits from one benefit year to the next without a new waiting period if the period of unemployment runs from one year to the next. Finally, § 325.1 is amended to provide that if an employee's earnings in a registration period exceed the monthly compensation base for the applicable base year, then no unemployment benefits are payable in that registration period. For example, for benefit year 2000 the base year is calendar year 1999 in which the monthly compensation base was $970. No benefits are payable for any days of unemployment in the benefit year beginning July 1, 2000, for any registration period in which the employee earns more than $970. An employee who declines suitable work during a registration period is treated as having earned the amount of earnings he would have received had he not declined employment.

Section 330.2 is amended to provide that the maximum daily benefit rate under the RUIA is the monthly compensation base, as computed under 20 CFR part 302, multiplied by 5%, rounded down to the nearest $1. This change is the result of a change in the RUIA enacted under the 1996 amendments. The Board will publish the maximum daily benefit rate for the upcoming benefit year by June 1 of each year.

Section 335.6 is revised to reflect the same changes with respect to the waiting period for sickness benefits that the amendments to § 325.1 make with respect to unemployment benefits.

Finally, § 336.13 is revised, and § 336.14 is amended to reflect a change in the payment of extended benefits made by the 1996 amendments. Under the RUIA, as amended, an employee with ten or more years of service will receive a maximum of 65 days of extended unemployment or sickness benefits after the employee has exhausted his or her normal 130 days of unemployment or sickness.

The Board published this rule as a proposed rule on December 3, 1999 (64 FR 67811), and invited comments by February 1, 2000. No comments were received.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866; therefore no regulatory impact analysis is required. There are no information collections associated with these rules.

List of Subjects in 20 CFR Parts 325, 330, 335, and 336

Railroad employees, Railroad unemployment and sickness benefits.

For the reasons set out in the preamble, the Railroad Retirement Board amends chapter II, title 20 of the Code of Federal Regulations as follows:

PART 325—REGISTRATION FOR RAILROAD UNEMPLOYMENT BENEFITS

1. The authority citation for part 325 continues to read as follows:

Authority: 45 U.S.C. 362(i) and 362(1).

2. Paragraphs (a) through (d) of § 325.1 are revised, paragraph (e) is redesignated as paragraph (h), and new paragraphs (e) through (g) are added as follows:

§ 325.1 General.

(a) *Day of unemployment.* A ''day of unemployment'' is a calendar day on which an employee, although ready and willing to work, is unemployed, and on which no remuneration is payable and for which the employee has registered, as required by this part. The amount of compensable days of unemployment shall be computed in accordance with this section.

(b) *Registration period.* Except for registration periods in extended unemployment benefit periods, a ''registration period'' means a period of 14 consecutive days beginning with the first day for which an employee registers following:

(1) His or her last day of work, or

(2) The last day of the employee's last preceding registration period, and with respect to which the employee properly files a claim for benefits on such form and in such manner as the Board prescribes.

(c) *General waiting period.* Benefits are payable to any qualified employee for each day of unemployment in excess of seven during his or her first registration period in a period of continuing unemployment if such period of continuing unemployment is his or her initial period of continuing unemployment beginning in the benefit year, and then for each day of unemployment in excess of four during any subsequent registration period within the same period of continuing unemployment. A strike waiting period, described in paragraph (d) of this section, will satisfy a general waiting period with respect to a benefit year.

(d) *Strike waiting period.* If a qualified employee has a period of continuing unemployment that includes days of unemployment due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he or she was last employed, no benefits are payable for his or her first 14 days of unemployment due to such stoppage of work. For subsequent days of unemployment due to the same stoppage of work, benefits are payable for days of unemployment in excess of four in each subsequent registration period within the period of continuing unemployment. If such period of continuing unemployment ends because the employee has exhausted his or her benefits as provided for under part 336 of this chapter, but the stoppage of work continues, benefits are payable for days of unemployment in excess of seven in the employee's first registration period in a new period of continuing unemployment based upon the same stoppage of work and for days of unemployment in excess of four in subsequent registration periods in the same period of continuing unemployment.

(e) *Period of continuing unemployment.* A ''period of continuing unemployment'' means a single registration period that includes more than four days of unemployment or a series of consecutive periods each of which includes more than four days of unemployment, or a series of successive registration periods, each of which includes more than four days of unemployment, if each succeeding registration period begins within 15 days after the last day of the immediately preceding registration period. An employee's period of continuing unemployment ends on the last day of a benefit year in which he or she exhausts rights to unemployment benefits as provided for in part 336 of this chapter.

(f) *Computation of compensable days.* (1) *Example 1.* An employee has an initial period of continuing unemployment from June 14 through July 25 and is unemployed on all days in that period. The employee's first registration period covers June 14 to June 27, and his subsequent registration periods cover June 28 to July 11 and July 12 to July 25. Under paragraph (c) of this section, a one-week waiting period applies to his first registration period and the employee is therefore paid benefits for days of unemployment in excess of seven in that period. The employee is then paid benefits for days of unemployment in excess of four in each of the two ensuing registration periods. [Note: if this employee's period of continuing unemployment had been the result of a strike in the establishment, premises, or enterprise at which the employee was last employed, then under paragraph (d) of this section, no benefits would be payable for the period June 14 to June 27, and benefits would then be payable for days of unemployment in excess of four in each of the ensuing registration periods.]

(2) *Example 2.* Same facts as in example 1, but the employee is unemployed again beginning August 18. Since August 18 is more than 15 days after July 25, the end of his last registration period, the employee begins a new period of continuing unemployment. The employee's first registration period in the new period of continuing unemployment covers August 18 to August 31. The employee is paid benefits for days of unemployment in excess of seven in that registration period because that period is the employee's first registration period in a new period of continuing unemployment commencing in the benefit year beginning July 1, and he or she did not previously have a waiting period in any registration period earlier in that benefit year. The employee's next registration period covers September 1 to September 14, and the employee returned to work on September 12. In that registration period, the employee has 11 days of unemployment and is therefore paid benefits for days of unemployment in excess of four.

(3) *Example 3.* Same facts as in examples 1 and 2, but the employee then has a new period of continuing unemployment beginning November 1 in the same benefit year. November 1 to November 14 is the employee's first registration period in that period of continuing unemployment. The employee is paid benefits for days of unemployment in excess of four in that registration period and for days of unemployment in excess of four in any subsequent registration period in the same benefit year because earlier in the benefit year the employee had a registration period, August 18 to August 31, in which he or she satisfied the waiting period.

(g) *Remuneration exceeds base year compensation.* (1) No benefits are payable to any otherwise eligible employee for any day of unemployment in a registration period where the total amount of remuneration, as defined in part 322 of this chapter, payable to the employee during a registration period exceeds the amount of the base year monthly compensation base. For this purpose an employee is considered to have received the amount he would have earned except for the fact that he declined suitable work available to him or her during the registration period.

(2) Days of unemployment which are not compensable by virtue of paragraph (g)(1) of this section shall nevertheless be counted as days of unemployment for purposes of determining whether the general waiting period, as described in paragraph (c) of this section, has been satisfied, and for purposes of determining a period of continuing unemployment.

PART 330—DETERMINATION OF DAILY BENEFIT RATES

3. The authority citation for part 330 continues to read as follows:

Authority: 45 U.S.C. 362(l).

4. Section 330.1 is revised to read as follows:

§ 330.1 Introduction.

The Railroad Unemployment Insurance Act provides for the payment of benefits, at a specified daily benefit rate, to any qualified employee for his or her days of unemployment or days of sickness, subject to a maximum amount per day. The ''daily benefit rate'' for an employee is the amount of benefits that he or she may receive for each compensable day of unemployment or sickness in any registration period in a period of continuing unemployment or sickness.

5. Paragraphs (b), (c), and (d) of § 330.2 are revised to read as follows:

§ 330.2 Computation of daily benefit rate.

* * * * *

(b) *Maximum daily benefit rate.* The maximum daily benefit rate is the product of the monthly compensation base, as computed under part 302 of this chapter, for the base year immediately preceding the beginning of the benefit year, multiplied by five percent. If the maximum daily benefit rate so computed is not a multiple of $1.00, the Board will round it down to the nearest multiple of $1.00.

(c) *When increase effective.* Whenever the annual application of the formula in paragraph (b) of this section triggers an increase in the maximum daily benefit rate, such increase will apply to days of unemployment or days of sickness in registration periods beginning after June 30 of the calendar year immediately following the base year referred to in paragraph (b) of this section.

(d) *Notice.* Whenever the annual application of the formula in paragraph (b) of this section triggers an increase in the maximum daily benefit rate, or if the annual application of the formula does not trigger an increase, the Board will publish a notice in the **Federal Register** explaining how it computed the maximum daily benefit rate for the year. The Board will also notify each employer of the maximum amount of the daily benefit rate. The Board will make the computation as soon as it has computed the amount of the monthly compensation base under part 302 of this chapter and will publish notice as soon as possible thereafter, but in no event later than June 1 of each year. Information as to the current amount of the maximum daily benefit rate will also be available in any Board district or regional office.

* * * * *

PART 335—SICKNESS BENEFITS

6. The authority citation for part 335 continues to read as follows:

Authority: 45 U.S.C 362(i) and 362(l).

7. Section 335.6 is revised to read as follows:

§ 335.6 Payment of sickness benefits.

(a) *General rule.* Except as provided in this section, benefits are payable to any qualified employee for each day of sickness after the fourth consecutive day of sickness in a period of continuing sickness, as defined in § 335.1(c), but excluding four days of sickness in any registration period in such period of continuing sickness.

(b) *Waiting period.* Benefits are payable to any qualified employee for each day of sickness in excess of seven during his or her first registration period in a period of continuing sickness if such period of continuing sickness is his or her initial period of continuing sickness beginning in the benefit year. For this purpose, the first registration period in a period of continuing sickness is the registration period that first begins with four consecutive days of sickness and includes more than four days of sickness. For the purpose of computing benefits under this section, a period of continuing sickness ends on the last day of a benefit year in which the employee exhausts rights to sickness benefits as provided for under part 336 of this chapter.

(c) *Computation of compensable days.* (1) *Example 1.* An employee has an initial period of continuing sickness from June 14 through July 25, and all days in that period are days of sickness. The employee's first registration period covers June 14 to June 27, and his or her subsequent registration period covers June 28 to July 11, and July 12 to July 25. In the one-week waiting period the employee is paid benefits for days of sickness in excess of seven. In each of the two ensuing registration periods the employee is paid benefits for days of sickness in excess of four.

(2) *Example 2.* Same facts as in Example 1, but the employee later has a new period of continuing sickness based upon a different illness or impairment beginning September 17. The employee's first registration period in his or her new period of continuing sickness covers September 17 to September 30. The employee is paid benefits for days of sickness in excess of seven in that 14-day period because that period is his or her first registration period in a new period of continuing sickness commencing in the benefit year beginning July 1, and he or she did not previously have a waiting period in any registration period earlier in the benefit year.

(3) *Example 3.* Same facts as in examples 1 and 2, but the employee then has a new period of continuing sickness beginning January 1 in the same benefit year. January 1 to January 14 is the employee's first registration period in that period of continuing sickness. The employee is paid benefits for days of sickness in excess of four in that registration period because earlier in the benefit year he or she had a registration period, September 17 to September 30, in which he or she satisfied the initial seven-day waiting period.

(d) *Amount payable.* The gross amount of sickness benefits for any registration period in a period of continuing sickness shall be computed by multiplying the number of compensable days of sickness in such registration period by the employee's daily benefit rate, as computed under part 330 of this chapter.

PART 336—DURATION OF NORMAL AND EXTENDED BENEFITS

8. The authority citation for part 336 continues to read as follows:

Authority: 45 U.S.C. 362(l).

9. Section 336.13 is revised to read as follows:

§ 336.13 Years of service requirement.

(a) *Eligibility.* For the purposes of this part, an employee is not eligible for extended unemployment or sickness benefits if he or she does not have at least 10 years of railroad service. An employee who has 120 service months, as defined in part 210 of this chapter, whether or not consecutive, is considered to have 10 years of railroad service.

(b) *Initial determination.* The Board will determine whether an employee has 10 years of railroad service on the basis of reports filed by employers pursuant to part 209 of this chapter. The number of years of service shown in the Board's records will be accepted as correct for the purposes of this part, unless the employee claims credit for more service than that shown in the Board's records and such additional service is verified, subject to part 211 of this chapter.

(c) *Effective date.* An employee acquires ten years of railroad service as of the first day with respect to which creditable compensation is attributable in his 120th month of service.

10. In § 336.14, paragraphs (a), (c), and (d) are revised to read as follows:

§ 336.14 Extended benefit period.

(a) *Defined.* An extended benefit period consists of seven consecutive 14-day registration periods.

* * * * *

(c) *Ending date.* An employee's extended benefit period ends on the 97th day after it began. If an employee attains age 65 during an extended sickness benefit period, such extended benefit period will terminate on the day next preceding the date on which the employee attains age 65, except that it may continue for the purpose of paying benefits for his or her days of unemployment, if any, during such extended period. If an extended sickness benefit period terminates because the employee has attained age 65, and if at that point the employee has rights to normal sickness benefits, the employee will be paid normal sickness benefits if he or she is otherwise entitled to payment thereof.

(d) *Maximum number of compensable days.* Extended benefits may be paid for a maximum of 65 days of unemployment (or 65 days of sickness, as the case may be) within an employee's extended benefit period.

Dated: March 24, 2000.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 00–9025 Filed 4–11–00; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. 92N–0445]

Gastroenterology-Urology Devices; Effective Date of Requirement for Premarket Approval of the Penile Inflatable Implant

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the penile inflatable implant, a generic type of medical device intended for the treatment of erectile dysfunction. This regulation reflects FDA's exercise of its discretion to require PMA's or PDP's for preamendments devices and is consistent with FDA's stated priorities and Congress' requirement that class III devices are to be regulated by FDA's premarket review. This action is being taken under the Federal Food, Drug, and Cosmetic Act (the act), as amended by the Medical Device Amendments of 1976 (the amendments), the Safe Medical Devices Act of 1990, and the Food and Drug Administration Modernization Act of 1997.

DATES: This rule is effective April 12, 2000.

FOR FURTHER INFORMATION CONTACT: John H. Baxley, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2194.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of November 23, 1983 (48 FR 53023), FDA published a final rule classifying into class III (premarket approval) the penile inflatable implant, a medical device. Section 876.3350 (21 CFR 876.3350) of FDA's regulations setting forth the classification of the penile inflatable implant applies to: (1) Any penile inflatable implant that was in commercial distribution before May 28, 1976, and (2) any device that FDA has found to be substantially equivalent to a penile inflatable implant in commercial distribution before May 28, 1976.

In the **Federal Register** of April 28, 1993 (58 FR 25902), FDA published a proposed rule, under section 515(b) of the act (21 U.S.C. 360e(b)), to require the filing of PMA's or PDP's for the classified penile inflatable implant and all substantially equivalent devices (hereinafter referred to as the April 1993 proposed rule). In accordance with section 515(b)(2)(A) of the act, FDA included in the preamble, the agency's proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the premarket approval requirements of the act, and (2) the benefits to the public from use of the device.

The preamble also provided an opportunity for interested persons to submit comments on the proposed rule and the agency's proposed findings. Under section 515(b)(2)(B) of the act, it also provided an opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. Any petition requesting a change in the classification of the penile inflatable implant was required to be submitted by May 13, 1993. The comment period initially closed on June 28, 1993. In the **Federal Register** of July 1, 1993 (58 FR 35416), FDA extended the comment period for 60 days to August 27, 1993, to ensure that there was adequate time for preparation and submission of comments on the proposed rule.

The agency received 32 comments in response to the April 1993 proposed rule. These comments were from physicians and other health care providers, professional organizations, physician groups, manufacturers, and consumers and other individuals. Most of the comments supported the proposed rule.

This regulation is final upon publication and requires PMA's or notices of completion of a PDP for all penile inflatable implants classified under § 876.3350 and all devices that are substantially equivalent to them. PMA's or notices of completion of a PDP for these devices must be filed with FDA within 90 days of the effective date of this regulation. (See section 501(f)(1)(A) of the act (21 U.S.C. 351(f)(1)(A)).) This regulation does not include the penile rigidity implant (21 CFR 876.3630).

II. Summary and Analysis of Comments and FDA's Response

A. General Comments

(Comment 1) FDA received 23 comments from individual physicians and 2 comments from professional medical organizations. Although the majority of these comments did not object to the proposed call for PMA's or PDP's, they voiced the following common concerns: (1) Erectile dysfunction is a serious medical problem affecting tens of millions of American men and their partners, (2) removal of this device from the U.S. market would be detrimental to public health, and (3) citing the 25 years of use of the device, sufficient historical data exist to evaluate the safety and effectiveness of the penile inflatable implant. This last concern was also noted in two comments from penile inflatable implant manufacturers, which stated that the decades of medical literature regarding the risks and benefits of this device provide sufficient evidence of its safety and effectiveness. Several comments remarked that FDA has overstated the risks of the inflatable penile implant.

FDA agrees that erectile dysfunction is a significant medical problem that negatively affects the lives of more than 10 million men in the United States. Furthermore, since penile inflatable implants represent an important option in the treatment of erectile dysfunction, FDA agrees with these comments that removal of the penile inflatable implant from the market would negatively impact public health. As a result of this concern, FDA has taken the following steps to promote the continued availability of the penile inflatable implant during the call for PMA's or PDP's: (1) FDA issued the guidance document entitled "Draft Guidance for Preparation of PMA Applications for Penile Inflatable Implants" in March 1993 (the 1993 guidance document) to provide industry with detailed recommendations on the content of PMA's; (2) FDA has communicated closely with each penile inflatable implant manufacturer to address the concerns identified in the proposed rule using least burdensome methods, as well as provided recommendations on the design of preclinical and clinical studies; and (3) FDA intentionally postponed the call for PMA's or PDP's to allow manufacturers to collect sufficient data to support the filing of a PMA or PDP.

FDA agrees with the comments that there is a significant amount of information in the published and unpublished literature regarding the penile inflatable implant. However, to FDA's knowledge, these studies are neither sufficiently detailed nor properly designed to perform a statistically valid evaluation of the safety and effectiveness of any of the specific device models currently on the market. As recommended in the 1993 guidance document, PMA's or PDP's should contain safety and effectiveness information on the specific device model(s) proposed in the application. Although a large body of historical data exists regarding the clinical outcomes of models of penile inflatable implants that are no longer marketed, there is less information available regarding the safety and effectiveness of currently-marketed models. However, if sufficient historical information exists to document the safety and effectiveness of a particular penile inflatable implant model that a manufacturer desires to market, or if data about earlier models are directly relevant to a particular device, FDA encourages the use of these data in support of a PMA or PDP for that model.

While FDA agrees that the April 1993 proposed rule may have overstated the risks of some of the specific penile inflatable implant models that are currently on the market, we believe that the information in the proposed rule represents a reasonable estimate of the risks and benefits of the entire category of penile inflatable implants. As noted in many of these comments, manufacturers have made numerous design modifications to improve the reliability of the penile inflatable implant and the medical community continues to improve the patient selection criteria, patient counseling information, operative technique, and postoperative care to reduce the incidence of complications. Therefore, FDA expects the rates of complications reported in PMA's or PDP's for particular penile inflatable implants to be lower than estimated from a review of the literature on the entire device category. However, in writing the proposed call for PMA's or PDP's, FDA must consider the risks and benefits of all penile inflatable implants that currently have legally marketed status in the United States.

(Comment 2) FDA received one comment from a penile inflatable implant recipient, who is supportive of the proposed call for PMA's or PDP's. This consumer has received a total of four devices to date, and his most recent device has failed, requiring replacement. He states that the penile inflatable implant affects both his quality of life and manhood.

FDA agrees that the potential benefits of a penile inflatable implant include improvements in quality of life and self-image, and notes that these secondary benefits of penile inflatable implant implantation were cited in the proposed call for PMA's or PDP's. Furthermore, FDA believes that requiring the submission of PMA's or PDP's for the penile inflatable implant will allow FDA to assess the risks and benefits of specific devices in order to determine whether there is reasonable assurance of their safety and effectiveness.

(Comment 3) One comment stated that FDA's assessment of the risks of penile inflatable implants is inconsistent with FDA's assessment of the risks of class II silicone prostheses such as the bone cap (21 CFR 888.3000), chin prosthesis (21 CFR 878.3550), the ear prosthesis (21 CFR 878.3590), and the finger joint prosthesis (21 CFR 888.3230).

FDA is aware of the existence of information on silicone and silicone-containing prostheses, and expects that applicants may include such information in their submissions to support the safety and effectiveness of the penile inflatable implant. However, FDA does not believe that the existing information on silicone and silicone-containing prostheses can be used as the sole basis of establishing the safety and effectiveness of the penile inflatable implant, and believes that a determination of safety and effectiveness of the penile inflatable implant must be made, at least in part, on data collected on each particular device for which a PMA or PDP is submitted. FDA will consider all information contained in PMA's and PDP's in determining whether there is reasonable assurance of safety and effectiveness of this device.

(Comment 4) Many comments noted that FDA was incorrect in stating that some penile inflatable implant models contain silicone gel. These comments concluded, therefore, that the risks of silicone gel do not apply to the penile inflatable implant.

FDA disagrees with the comments that no penile inflatable implant contains silicone gel. Although silicone gel has never been used as a penile inflatable implant inflation medium, FDA is aware of at least one device model, no longer marketed in the United States, that contained silicone gel within its cylinder tip. FDA agrees with the comments that the potential risks of silicone gel are not applicable to penile inflatable implants that do not contain silicone gel.

The agency would not expect PMA's or PDP's for those devices to address the risks related to silicone gel.

(Comment 5) One comment objected that Congress never intended ''old'' preamendments medical devices to undergo the same scrutiny as ''new'' postamendments medical devices.

FDA does not believe that Congress intended to differentiate between ''old'' preamendments devices and ''new'' postamendments device with respect to the requirement that valid scientific evidence is needed to support PMA approval. Neither section 513(a)(3) (21 U.S.C. 360c(a)(3)) nor section 515(d) of the act makes any distinction between ''old'' and ''new'' devices with regard to any aspect of the requirement for PMA approval.

(Comment 6) One comment stated that FDA should allow an appropriate timeframe prior to issuance of the call for PMA's or PDP's for the following reasons: (1) FDA needs sufficient time to develop additional guidance on the data requirements for PMA's and PDP's; (2) since several of the main suppliers of silicone and polyurethane raw materials have announced a planned withdrawal of these products from the market, penile inflatable implant manufacturers need sufficient time to qualify and test new materials; and (3) device manufacturers need sufficient time to collect the preclinical and clinical data recommended by FDA.

FDA believes there has been sufficient time for PMA and PDP sponsors to develop data and address the issues identified as potential risks. Section 515(b) of the act does not require the agency to provide guidance on the contents of specific PMA's. However, FDA issued the 1993 guidance document to provide industry with detailed recommendations on the appropriate data to be included in PMA's and PDP's for penile inflatable implants. The 1993 guidance document is available from the Internet at www.fda.gov/cdrh/ode/oderp810.html. In order to receive the 1993 guidance document via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system and then enter the document number (810) followed by the pound sign (#). Follow the remaining voice prompts to complete your request. While the 1993 guidance document continues to remain in effect, FDA plans to revise this document in the near future to incorporate many of the comments subsequently received from the industry and public. Furthermore, the agency encourages penile inflatable implant manufacturers to meet with FDA before submitting a PMA or PDP to obtain additional guidance regarding the recommended data to submit to demonstrate the safety and effectiveness of each specific device model proposed for market approval.

In addition, the period of time between the classification of the device in 1983 and the date by which PMA's must be filed is more than 16 years. Thus, FDA believes that sufficient time and guidance have been provided to allow sponsors to develop the data for a PMA submission.

FDA agrees that dialogue with industry and with the scientific community and medical community is important. To elicit early public discussion on the 1993 guidance document and the agency's plans to call for PMA's or PDP's for the penile inflatable implant, FDA called a meeting of the Gastroenterology and Urology Devices Advisory Panel on April 15, 1993, to discuss these topics. Following publication of the proposed call for PMA's or PDP's, FDA communicated closely with each penile inflatable implant manufacturer to address the concerns identified by FDA in the April 1993 proposed rule, as well as provide recommendations on the design of preclinical and clinical studies for their particular device models. Furthermore, FDA staff have been and continue to be accessible to discuss PMA and PDP content information with industry and the scientific and medical community.

(Comment 7) One comment stated that FDA was incorrect in its determination that the penile inflatable implant has a high priority for initiating a proceeding to require premarket approval due to inappropriate comparison to potential adverse effects of silicone gel breast implants and due to the volume of Medical Device Reports (MDR's) received to date for penile inflatable implants. The comment further noted that an early call for PMA's or PDP's is unwarranted since the penile inflatable implant was not included in the January 6, 1989 (54 FR 550), list of 31 ''high priority'' preamendments class III devices.

FDA believes the call for PMA's or PDP's for this device cannot be considered an ''early'' call in light of its classification in 1983 and the proposed call for PMA's in 1993.

By adding section 515(i) to the act in the Safe Medical Devices Act of 1990 (Public Law 101–629), Congress made it clear that it expected FDA to move forward expeditiously to either require premarket approval or notices of completion of PDP for all preamendments class III devices or to reclassify them into class I or class II. Therefore, FDA believes that it is appropriate to issue this final rule at this time.

B. Infection

(Comment 8) There were 19 comments on the risk of infection. Several comments stated that the incidence of infection associated with the implantation of penile inflatable implants is not any higher than it is for other implantation surgeries. Many of these comments further stated that the risk of infection is minimized by proper patient selection, meticulous attention to sterile technique during device implantation, and adherence to appropriate postoperative precautions. Several comments stated that infection, if it occurs, often can be successfully controlled without the need for device removal if it is recognized early and treated with appropriate aggressive antibiotic therapy with or without drainage and wound irrigation. One comment added that infections of penile inflatable implants only rarely result in an inability to replace the device due to corporeal fibrosis and cavernositis.

FDA agrees that the risk of infection can be minimized by proper patient selection, surgical precautions, and postoperative care. However, FDA believes that it is important for studies submitted in a PMA or PDP to provide accurate information on the incidence and consequences of infection associated with the implantation of the penile inflatable implant. As noted in the 1993 guidance document, FDA is requesting information on the incidence of infection for this device.

C. Migration and Extrusion

(Comment 9) There were 13 comments regarding the risks of migration and extrusion. These comments stated that migration and extrusion of penile inflatable implants occur infrequently, are directly related to infection or excessive pressure of the prosthesis on surrounding tissues, and are minimized by properly placing an appropriately sized device using appropriate surgical techniques. For these reasons, several comments stated that migration and extrusion should not be labeled as ''significant risks'' of implantation of the device.

While FDA agrees that migration and extrusion can be minimized by proper device sizing and placement, insufficient information is available to determine the frequency of this event or its effects. Therefore, FDA believes that it is important for studies submitted in a PMA or PDP to provide accurate information on the incidences of migration and extrusion associated with the implantation of the penile inflatable implant.

FDA disagrees with the comment that migration and extrusion are not significant risks. Migration and extrusion of the penile inflatable implant can lead to surgical intervention, making them serious risks to health. As noted in the 1993 guidance document, FDA is requesting information to address the incidences of migration and extrusion for this device.

D. Erosion

(Comment 10) There were 13 comments regarding the risk of erosion. These comments stated that, similar to migration and extrusion, erosion of penile inflatable implants occurs infrequently, is directly related to infection or excessive pressure of the prosthesis on surrounding tissues, and is minimized by properly placing an appropriately sized device using appropriate surgical techniques. For these reasons, several comments stated that erosion should not be labeled as a ''significant risk'' of implantation of the device.

While FDA agrees that the risk of erosion can be minimized by proper device sizing and placement, insufficient information is available to determine the frequency of this event or its consequences. Therefore, FDA believes that it is important for studies submitted in a PMA or PDP to provide accurate information on the incidence of erosion associated with the implantation of the penile inflatable implant.

FDA disagrees with the comment that erosion is not a significant risk. Erosion of the penile inflatable implant can require surgical intervention, making it a serious risk to health. As noted in the 1993 guidance document, FDA is requesting information to address the incidence of erosion for this device.

E. Fibrous Capsule Formation

(Comment 11) FDA received 15 comments regarding the risk of fibrous capsule formation. Most of these comments stated that fibrous capsule formation is part of the body's normal reaction to an implanted device, and is not harmful to the patient. One comment stated that fibrous capsule formation does not adversely affect the function of the penile inflatable implant, while several others acknowledged that the fibrotic capsule can keep the reservoir or other device components from completely filling, thus hindering the ability of the device to fully inflate or deflate. Many of the comments regarding the effect of fibrous capsule formation upon inflation and deflation of the penile inflatable implant further stated that this risk can be minimized by leaving the device deflated during the healing period so that the capsule formed around the reservoir minimally impedes refilling. One comment further stated that FDA was wrong to refer to fibrous capsule formation as a ''foreign body reaction,'' since fibrotic reactions are not only related to the material of the implant but also to other factors such as loading forces on the implant and the patient's biological tendency to form a scar. Two comments stated that fibrous capsule formation is only problematic with static prostheses, such as breast implants, and, therefore, is not a concern with penile inflatable implants.

FDA agrees that fibrous capsule formation is part of the body's normal reaction to all implanted devices including penile inflatable implants, and is usually not life-threatening. Also, FDA recognizes that the severity of this risk to health is dependent upon multiple factors other than foreign body reaction. Furthermore, FDA agrees that the risk of inflation/deflation difficulties secondary to fibrous capsule formation around the reservoir can be minimized by proper postoperative care. However, FDA believes that fibrous capsule formation can affect the function of the penile inflatable implant and is potentially serious. Severe fibrous capsule formation has been reported to impede the ability of the penile inflatable implant to operate as it is designed, which reduces or eliminates the benefit of the device. In addition, the recipient may then elect to have his implant surgically explanted and have a second device implanted. This additional surgery makes fibrous capsule formation a potentially serious adverse event. As noted in the 1993 guidance document, FDA is requesting information to address the incidence of fibrous capsule formation for this device.

F. Mechanical Malfunctions

(Comment 12) There were 14 comments regarding the risk of mechanical malfunction. All of these comments stated that while early models of penile inflatable implants were associated with high rates of mechanical malfunction, improvements in device design and implantation technique have steadily decreased the failure rate. Several of these comments added that the mechanical malfunction rate of current device designs ranges from ''rare'' to 1 to 3 percent. One comment added that FDA's statement that a penile inflatable implant ''should not be considered a lifetime implant'' is inaccurate, since prostheses may be expected to endure indefinitely with the proviso that there is a risk of mechanical failure.

FDA agrees that the mechanical malfunction rate of the penile inflatable implant has significantly decreased as compared to early models. Despite this observed trend, however, insufficient information is available to determine the frequency of this event for each of the particular device models that manufacturers intend to market following the effective date of this regulation. Therefore, FDA believes that it is important for studies submitted in a PMA or PDP to provide accurate information on the incidence of mechanical malfunction associated with the implantation of the penile inflatable implant.

FDA disagrees with the comment that the penile inflatable implant can be considered a lifetime implant. As complex mechanical devices, penile inflatable implants are subject to wear over time and, therefore, have finite lifetimes. The fact that each device carries the risk of mechanical failure, as acknowledged in the comment, underscores the need to inform patients that the device should not be expected to function indefinitely.

G. Iatrogenic Disorders

(Comment 13) FDA received 11 comments regarding the risk of iatrogenic disorders. These comments stated that iatrogenic disorders occur infrequently, are minimized with proper operative technique and surgeon experience, are not directly related to the device, and are medical issues outside the domains of clinical testing and premarket review.

FDA agrees that iatrogenic disorders are infrequent events which are reduced through adherence to proper surgical technique. FDA also agrees that the medical community has had a major role in defining these surgical practices in an effort to minimize the incidence of iatrogenic disorders. However, FDA believes that iatrogenic disorders are, in part, device related, since issues of sizing, device assembly, and implantation technique are influenced by the specific device design being implanted. As a result, FDA believes that iatrogenic disorders should be evaluated in the clinical testing and premarket review of penile inflatable implants so that the product-specific information obtained from such testing is appropriately incorporated into the labeling of that device model. As noted in the 1993 guidance document, FDA is requesting information to address the incidence of iatrogenic disorders for this device.

H. Patient Dissatisfaction

(Comment 14) There were 14 comments regarding the risk of patient dissatisfaction. These comments stated that patient dissatisfaction is infrequent and is only rarely the primary cause for reoperation. Additionally, many comments stated that patient dissatisfaction is the result of the patient having unrealistic expectations regarding the postimplantation appearance and function of his penis, and that this situation can be minimized by requiring thorough preoperative counseling regarding the realistic outcomes of device implantation. One physician comment stated that none of his patients had ever asked him to have a penile inflatable implant removed due to dissatisfaction.

FDA agrees that the majority of patients who receive penile inflatable implants report satisfaction with their device. Additionally, FDA concurs with the comments that patient dissatisfaction is typically the result of the patient having unrealistic expectations regarding the implant, and can be minimized by patient educational measures such as patient labeling and physician counseling. However, since patient dissatisfaction can ultimately require surgical intervention, FDA considers patient dissatisfaction a risk that should be addressed by manufacturers. Furthermore, since implantation of a penile inflatable implant may destroy any latent erectile capability the patient may have had, as well as make other, more conservative forms of treatment for erectile dysfunction difficult or impossible, dissatisfied patients are left with few recourses. To assess and optimize the adequacy of information materials available to potential implant recipients, FDA believes it is essential to evaluate the frequency of this event and its consequences. Therefore, FDA believes it is important for studies submitted in a PMA or PDP to provide accurate information on the incidence of patient dissatisfaction associated with the implantation of the penile inflatable implant.

I. Human Carcinogenicity

(Comment 15) Sixteen comments were received regarding the risk of human carcinogenicity. These comments stated that there is no evidence in the medical literature that the penile inflatable implant is associated with the development of cancer. Furthermore, nine of these comments were from physicians, who stated that they had not observed carcinogenicity in their personal experiences with these devices. One physician comment added that while carcinogenicity has not been proven to occur with the penile inflatable implant, further research is necessary to rule out this potential complication. Several comments stated that silicone causes solid state tumors in rodents, a phenomenon thought to be restricted to rodents and not applicable to humans. These comments also stated that epidemiological studies have not found that women with silicone breast implants, which contain silicone elastomers similar or identical to those used in the penile inflatable implant, are at an increased risk for cancer. Several comments stated that human carcinogenicity should be removed from the list of significant risks associated with the penile inflatable implant.

FDA believes that the potential carcinogenicity for this device remains unknown. The agency continues to believe that carcinogenicity is a potential risk that must be assessed in a PMA or PDP.

J. Human Reproductive and Teratogenic Effects

(Comment 16) There were 16 comments related to human reproductive and teratogenic effects. These comments stated that there is no evidence that the penile inflatable implant is teratogenic. Nine comments from physicians stated that they had not observed reproductive and teratogenic effects in their personal experiences with these devices, one of whom added that further research is necessary to rule out this potential complication. Two comments stated that since most implant patients are beyond the age of fathering children, the risks of reproductive problems and teratogenic effects are not significant concerns. Furthermore, the small numbers of patients who do receive a device during their reproductive ages would not warrant a prospective study. Several comments stated that human reproductive and teratogenic effects should be removed from the list of significant risks associated with the penile inflatable implant.

FDA agrees that there are no published studies showing that penile inflatable implants are associated with toxic reproductive effects or teratogenic effects. However, FDA believes that the reproductive and/or teratogenic effects of these products remain potential risks that should be assessed in a PMA or PDP.

K. Immune Related Connective Tissue Disorders—Immunological Sensitization

(Comment 17) There were 16 comments regarding the risks of immune related connective tissue disorders and immunological sensitization. These comments stated that there is no evidence that the penile inflatable implant causes either immune related connective tissue disorders or immunological sensitization. Nine comments from physicians stated that they had not observed connective tissue disorders and other immunological effects in their personal experiences with these devices. Two comments stated that further research is necessary to rule out this potential complication. Several comments stated that no definitive link between silicone and autoimmune diseases has been established. Furthermore, several comments stated that since the diseases most frequently associated with autoimmune responses occur at a lower frequency in men than women, it may be impossible to extrapolate the findings from any study of silicone breast implants to the penile inflatable implant. Several comments stated that immune related connective tissue disorders and immunological sensitization should be removed from the list of significant risks associated with the penile inflatable implant.

FDA agrees that no definitive causal relationship has been established between immunological effects and/or connective tissue disorders and the penile inflatable implant. Epidemiological data published within the last several years (Refs. 3, 4, and 5) addressing the relationship between silicone breast prostheses and autoimmune diseases or connective tissue diseases indicate that silicone breast prostheses have not caused a large increase in the incidence of connective tissue disease in women with breast implants. However, the possibility of a smaller, increased risk of immunological effects among men with penile inflatable implants, or of an atypical, as yet undefined, syndrome or disease, cannot be eliminated based on these data. FDA is aware that differences in the incidence of such disorders between men and women make extrapolation of the results of breast implant studies to the outcome of the penile inflatable implant difficult. In the 1993 guidance document, FDA recommends that a cohort of penile inflatable implant recipients be regularly monitored for the occurrence of such adverse events as part of an active surveillance program for a minimum of 5 years postimplantation. FDA continues to believe that adverse immune related connective tissue disorders and immunological sensitization remain potential risks that must be assessed in a PMA or PDP, but FDA does not believe that 5 years of prospective data collection on a specific product will be necessary before PMA approval or PDP completion.

L. Biological Effects of Silica

(Comment 18) Five comments stated that fumed amorphous silica is so tightly bound in the silicone elastomer components of the penile inflatable implant that the fumed amorphous silica is biologically inactive. For that reason, these comments believed that the presence of fumed amorphous silica is not a risk to health of the penile inflatable implant. Two other comments stated that complications related to the release of silica from the penile inflatable implant have not been observed, although one of these comments added that further research is necessary to rule out this potential complication.

FDA does not believe there is sufficient information to eliminate fumed amorphous silica as a potential risk to health associated with the penile inflatable implant, particularly since the amount of fumed amorphous silica is varied in order to achieve the desired physical characteristics of the device's components. Consequently, the agency believes that this potential risk to health should be addressed in a PMA or PDP.

M. Silicone Particle Shedding, Silicone Gel Leakage, and Associated Migration

(Comment 19) There were seven comments regarding the risk of silicone particle shedding. Four of these comments stated that small, but clinically insignificant, quantities of silicone particles have been noted in the periprosthetic tissues and inguinal lymph nodes of some penile inflatable implant recipients. Two comments stated that there is no evidence of silicone particle shedding from the penile inflatable implant. One comment stated that minimal, if any, silicone particle shedding occurs with this device. Several of these comments concluded that silicone particle shedding is not a risk of the penile inflatable implant.

Based upon information presented in the comments, FDA agrees that silicone particle shedding is not a risk to health of the penile inflatable implant. Although silicone particle shedding and subsequent migration have been reported with penile inflatable implants (Ref. 1), the quantity of such particles was minimal and no deleterious effects were associated with this finding. Furthermore, subsequent research published after the proposed call for PMA's and PDP's was unable to document evidence of silicone particle migration (Ref. 2). FDA, therefore, does not believe silicone particle shedding is a risk that needs to be addressed in PMA's or PDP's for these devices.

(Comment 20) Several comments stated that silicone gel leakage and migration are not risks to health of this device since there are no penile inflatable implants that contain silicone gel.

FDA disagrees with the comments that no penile inflatable implant contains silicone gel. As stated in response to comment 4 of this document, FDA is aware of at least one device model, no longer marketed in the United States, that contained silicone gel within its cylinder tip. FDA agrees with the comments that the potential risks of silicone gel leakage and migration are not applicable to penile inflatable implants that do not contain silicone gel.

N. Degradation of Polyurethane Elastomer

(Comment 21) There were three comments regarding the risk of polyurethane elastomer degradation. These comments stated that: (1) Currently marketed penile inflatable implants do not use polyurethane as a surface material, (2) in vitro testing regarding the degradation of polyurethane may not be predictive of degradation in vivo, and (3) there is no evidence in the literature of the release of either methylene diamine or toluene diamine in vivo from polyurethane.

FDA is aware of at least two penile inflatable implant models that have polyurethane elastomer as one of their surface materials; therefore, the agency does not agree with the comment that this material is not used. Furthermore, since the available information regarding the degradation of polyurethane elastomer is inconclusive, FDA does not believe there is sufficient information to eliminate it as a potential risk to health associated with the penile inflatable implant. Consequently, the agency believes that this potential risk to health should be addressed in a PMA or PDP. FDA believes that this potential risk is only applicable to penile inflatable implants that employ polyurethane elastomer as a surface, patient-contacting material.

O. Other Reported Complications

(Comment 22) Several comments were received regarding the ''other reported complications'' of the penile inflatable implant (i.e., hematoma, chronic pain, erythema, edema, ulceration, necrosis, scarring, and urinary retention). These comments stated that these complications either occur infrequently, are transient, or are not judged by patients or physicians to be severe.

FDA believes that insufficient information is available to determine the frequency of these events or their consequences. Therefore, FDA believes that it is important for studies submitted in a PMA or PDP to provide accurate information on the incidence of all complications associated with the implantation of the penile inflatable implant.

P. Benefits of the Device

(Comment 23) Many comments were received regarding FDA's description of the benefit of the penile inflatable implant. Several comments objected to FDA's statement that ''device implantation is a discretionary surgical procedure performed for reasons related to quality of life, rather than medical reasons.'' One comment stated that the benefits of the penile inflatable implant include penile reconstruction, in addition to quality of life improvement. This comment added that while many patients benefit with an improved quality of life, medical necessity and need are important indications for the use of penile inflatable implants. Another comment noted that the penile inflatable implant is, in fact, used to correct a medical problem—erectile dysfunction. A third comment argued that restoration of erectile function is analogous to surgical procedures to restore vision or hearing, or to salvage a limb, all of which could potentially be regarded as discretionary surgical procedures to improve quality of life.

Lastly, several comments stated that the benefits of the penile inflatable implant include improvement of quality of life, and the psychological benefits of the device should not be underestimated or undervalued. Furthermore, a comment from a penile inflatable implant recipient stated that the device impacts his ''quality of life and manhood.''

As stated in the proposed call for PMA's or PDP's, FDA believes that the penile inflatable implant is designed to provide sufficient penile rigidity to permit sexual intercourse. The proposed rule further states that this device is intended for the treatment of erectile dysfunction resulting from many medical conditions, such as diabetes mellitus, spinal cord injury, Peyronie's disease, and pelvic surgery. FDA continues to believe that device implantation is usually elective in nature, and the agency agrees with the comments that the primary benefit of the penile inflatable implant is restoration of erectile function. As noted by these comments, however, many implant recipients also benefit with an improved quality of life and FDA does not intend to underestimate or undervalue this benefit.

(Comment 24) Three comments objected to FDA's reference to improved fertility as being an intended benefit of the penile inflatable implant. One comment agreed with the April 1993 proposed rule, noting that a benefit of the device is the restoration of the ability for young men with erectile dysfunction to father children naturally.

FDA agrees that restoration of male fertility should not be listed as a benefit of the penile inflatable implant. Although this device may have provided an opportunity for a small number of patients to father children naturally, the agency acknowledges that this consequence of the device should not be listed as a benefit of the penile inflatable implant for the following reasons: (1) The primary reason for device implantation is the treatment of erectile dysfunction; (2) no penile inflatable implant manufacturer promotes their device with the claim of restoration of fertility; and (3) the majority of penile inflatable implant candidates are beyond the age of which they desire to father children. The agency's response to these comments is consistent with the recommendations provided at an April 15, 1993, meeting of the Gastroenterology and Urology Devices Advisory Panel.

Q. Need for Risk/Benefit Information

(Comment 25) Two comments objected to FDA's proposal that PMA's and PDP's analyze the prior treatment history and presurgical workup of penile inflatable implant recipients. They stated that it is physicians, in consultation with patients, who should decide the choice of treatment for erectile dysfunction, and that devices should not be treated any differently in this respect than pharmaceuticals where a physician has many different drugs available to treat a disorder and chooses the appropriate one based on the patient's needs.

FDA agrees that it should not interfere with the practice of medicine. However, the agency believes that manufacturers have a responsibility to report the circumstances of use of their device in the product's labeling, especially due to the potential for irreversible effects following implantation of a penile inflatable implant. Consequently, FDA believes that information regarding the prior treatment history and presurgical workup of penile inflatable implant recipients should be reported in a PMA or PDP to ensure that labeling for the product will provide reasonable assurance of safe and effective use.

(Comment 26) Three comments stated that quality of life and psychological evaluations are not useful to judge the effectiveness of the penile inflatable implant since the primary goal of device implantation is restoration of erectile function. Two of these comments added that: (1) Manufacturers do not make claims regarding psychological benefit, (2) it is inappropriate for FDA to require a manufacturer to demonstrate this benefit, (3) there are no accepted tests for measuring the psychological impact of the penile inflatable implant, and (4) existing tests for psychological well-being and self-esteem are confounded by multiple life variables, including the patient's and partner's general health, sexual functioning, and understanding of the potential complications when making the decision to have a penile inflatable implant. One comment stated that assessment of psychological benefit would likely require large clinical studies.

FDA agrees that the primary benefit derived from implantation of a penile inflatable implant is restoration of erectile function. However, FDA continues to believe that the potential quality of life and psychological benefits offered by the device are important, albeit secondary, components of the device's effectiveness. Although FDA agrees that designing studies to assess the psychological benefit of implantation with a penile inflatable implant may be difficult, FDA believes the psychological impact of the device can and should be assessed in a PMA or PDP as a secondary effectiveness measure. The agency will accept a variety of types of scientific evidence in support of a PMA or PDP, as long as the data constitute valid scientific evidence within the meaning of 21 CFR 860.7(c)(2) (e.g., a validated quality of life patient questionnaire can provide data to address this issue).

R. PMA Contents

(Comment 27) FDA received two extensive comments on the types of manufacturing information, preclinical testing, and clinical data that should be required in a PMA for a penile inflatable implant, as well as several general comments on the appropriate contents of a PMA. Additionally, FDA received one comment proposing detailed modifications to the quality of life, satisfaction, and psychological evaluation recommendations stated in the proposed call for PMA's and PDP's.

FDA agrees with many of the points raised in these comments. Although the 1993 guidance document describes the general types of manufacturing, preclinical, and clinical data that FDA believes can support approval of a PMA for a penile inflatable implant, the agency realizes that other, scientifically sound methods exist for addressing the identified risks and benefits of the device and encourages manufacturers to document the safety and effectiveness of their device using the least burdensome approaches. In fact, FDA has agreed to the use of many of these alternative approaches for the collection and analysis of data in its past interactions with penile inflatable implant manufacturers. Furthermore, FDA intends to revise the 1993 guidance document to incorporate many of these comments.

III. Findings With Respect to Risks and Benefits

A. Degree of Risk

1. Infection

Infection is a risk associated with any surgical implant procedure, including the penile inflatable implant. Compromised device sterility and surgical techniques may be a major contributing factor to this risk. Infection may result in the removal of the implant and may result in an inability to replace the device due to corporeal fibrosis and scarring.

2. Migration and Extrusion

Migration refers to the movement of the components of the penile inflatable implant within the body. In some cases, a portion of the implant migrates externally (''extrusion''). The cylinders and pump can migrate either proximally or distally, leading to inadequate support of the glans penis, difficulty in manipulating the pump, or pressure necrosis with subsequent erosion. Extrusion is usually associated with wound dehiscence at the site of incision, but can also occur secondary to erosion. Factors contributing to migration and extrusion include implantation of a device that is too large, iatrogenic injury to the surrounding tissues, and infection. Migration and extrusion of the penile inflatable implant can lead to surgical intervention.

3. Erosion

Erosion is the breakdown of tissue adjacent to the device. The cylinders can erode through the distal urethra, the pump can erode through the scrotal wall, and, rarely, the reservoir can erode through the bladder or bowel. Factors contributing to erosion include implantation of a device that is too large, iatrogenic injury to the surrounding tissues, and infection. Erosion may lead to device extrusion, and can require surgical intervention.

4. Fibrous Capsular Formation

The formation of a fibrous capsule around the components of the penile inflatable implant is a risk associated with this device. Fibrous capsule formation around the reservoir and/or pump may either cause spontaneous inflation of the cylinders or prevent the cylinders from completely deflating. Significant fibrous capsular formation may be corrected by device manipulation, corrective surgery, or surgical removal of the device and adjacent tissues. The effects of fibrous capsule formation vary from reduced satisfaction with the implant to explantation.

5. Mechanical Malfunctions

As with other prosthetic devices intended to restore a physiologic function, penile inflatable implants may mechanically malfunction. Reported types of mechanical malfunctions include leakage, cylinder rupture, cylinder aneurysm, spontaneous inflation/deflation, tubing kinks, and pump valve failure. Mechanical malfunctions may be caused by improper device handling or improper surgical technique, or problems with the device's design or manufacturing process. Surgical intervention to remove or replace the device is required if the patient desires a functional prosthesis.

6. Iatrogenic Disorders

Improper device handling, inadequate or vigorous dilatation, aggressive dissection, malpositioning of the device, cylinder suturing, and cylinder missizing are among the preventable complications caused as a result of surgical technique. Iatrogenic disorders may be responsible for various adverse conditions necessitating device removal and/or replacement.

7. Patient Dissatisfaction

If patients are not provided information and counseling regarding the risks and benefits of the penile inflatable implant prior to implantation, they may not have realistic expectations of the physical, psychological, and functional outcomes of the device. Uninformed patients may be dissatisfied with the device due to complications such as unresolved pain, as well as disappointment in cosmetic appearance, concealability, rigidity/firmness, and penile sensation. Some dissatisfied patients have elected to have the device surgically removed because the implant did not meet their expectations.

8. Human Carcinogenicity

The potential for developing cancer as a result of the long-term implantation of the penile inflatable implant cannot be eliminated as a potential risk associated with this device.

9. Human Reproductive and Teratogenic Effects

Although FDA is not aware of data indicating that the penile inflatable implant is associated with reproductive and teratogenic effects, the potential for teratogenicity and other reproductive adverse effects as a result of long-term implantation of the device cannot be eliminated as a possible risk to health.

10. Immune Related Connective Tissue Disorders—Immunological Sensitization

The potential for developing immunological effects and/or connective tissue disorders as a result of long-term exposure to the penile inflatable implant remains uncertain. Since the publication of the proposed rule 6 years ago, new epidemiological data (Refs. 3, 4, and 5) addressing the relationship between silicone breast prostheses and autoimmune diseases or connective tissue diseases indicate that silicone breast prostheses have not caused a large increase in the incidence of connective tissue disease in women with breast implants. However, the possibility of a smaller, increased risk of immunological effects among men with penile inflatable implants, or of an atypical, as yet undefined, syndrome or disease, cannot be eliminated based on these data.

11. Biological Effects of Silica

Amorphous fumed silica is bound to the silicone in the elastomer of the penile inflatable implant. Silica presents a potential risk which should be addressed in a PMA or PDP.

12. Silicone Gel Leakage and Associated Migration

Small quantities of silicone gel are present in at least one model of penile inflatable implant. Silicone gel leakage and associated migration are potential risks which should be addressed in a PMA or PDP for any device that contains this material.

13. Degradation of Polyurethane Elastomer

Polyurethane elastomer materials, which have been used as surface materials in some penile inflatable implants, may degrade over time and release degradation products which are potential carcinogens in animals. When present, polyurethane elastomer degradation is a potential risk that should be addressed in a PMA or PDP.

14. Other Reported Complications

Other reported complications associated with implantation of the penile inflatable implant include hematoma, chronic pain, erythema, edema, ulceration, necrosis, scarring, and urinary retention, which should be addressed in a PMA or PDP.

B. Benefits of the Device

The penile inflatable implant is intended to restore the ability to have an erection in men with erectile dysfunction. It has the potential to be an effective treatment for erectile dysfunction. Implant recipients may also benefit from an improved quality of life.

IV. Final Rule

Under section 515(b)(3) of the act, FDA is adopting the findings as published in the preamble to the April 1993 proposed rule and is issuing this final rule to require premarket approval of the generic type of device, the penile inflatable implant, by revising § 876.3350(c).

Under the final rule, a PMA or a notice of completion of a PDP is required to be filed on or before July 11, 2000, for any penile inflatable implant that was in commercial distribution before May 28, 1976, or that has been found by FDA to be substantially equivalent to such a device on or before July 11, 2000. An approved PMA or a declared completed PDP is required to be in effect for any such device on or before 180 days after FDA files the application.

Any other penile inflatable implant that was not in commercial distribution before May 28, 1976, or that has not been found by FDA to be substantially equivalent to such a device on or before July 11, 2000, is required to have an approved PMA or a declared completed PDP in effect before it may be marketed.

If a PMA or a notice of completion of a PDP for a penile inflatable implant is not filed on or before the 90th day past the effective date of this regulation, that device will be deemed adulterated under section 501(f)(1)(A) of the act (21 U.S.C. 351(f)(1)(A)), and commercial distribution of the device will be required to cease immediately. The device may, however, be distributed for investigational use, if the requirements of the investigational device exemption (IDE) regulations (part 812) (21 CFR part 812) are met.

Under § 812.2(d) of the IDE regulations, FDA hereby stipulates that, on the effective date of this rule, the exemptions from the IDE requirements in § 812.2(c)(1) and (c)(2) will no longer apply to clinical investigations of the penile inflatable implant. Further, FDA concludes that investigational penile inflatable implants are significant risk devices as defined in § 812.3(m) and advises that, as of the effective date of this rule, the requirements of the IDE regulations regarding significant risk devices will apply to any clinical investigation of a penile inflatable implant. For any penile inflatable implant that is not the subject of a timely filed PMA or PDP, an IDE must be in effect under § 812.20 on or before 90 days after the effective date of this regulation or distribution of the device must cease. FDA advises all persons presently sponsoring a clinical investigation involving the penile inflatable implant to submit an IDE application to FDA no later than 60 days after the effective date of this final rule to avoid the interruption of ongoing investigations.

V. Environmental Impact

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

VI. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. The Office of Management and Budget (OMB) has determined that this final rule is a significant regulatory action subject to review under the Executive Order.

FDA expects that only two manufacturers will submit a PMA or PDP for the penile inflatable implant. FDA does not believe that two companies are a significant number of small entities. FDA estimates that it costs up to $1 million to develop and submit a PMA or PDP for this type of device. As noted previously, the penile inflatable implant was classified into class III on November 23, 1983, and FDA published a proposed rule to require a PMA or PDP for this device on April 28, 1993. Thus, manufacturers have long been aware of the need to develop information in support of a PMA or a PDP. The cost of developing the data, therefore, has been spread over the past several years. Moreover, since the publication of the proposed rule, FDA has been working closely with both manufacturers to assist them in preparing for the submission of a PMA or a PDP, and one has successfully completed a PDP for two device models. FDA estimates based on such information as is publicly available, that these two companies have annual revenues in excess of several hundred million dollars. FDA, therefore, believes that this final rule will not be an undue burden on these manufacturers. The agency therefore certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

VII. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3530). The burden hours required for § 876.3350(c) are reported and approved under OMB Control No. 0910–0231.

VIII. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. These references may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

1. Barrett, D. M., D. C. O'Sullivan, A. A. Maliza, H. M. Reiman, and P. C. Abell-Aleff, ''Particle Shedding and Migration From Silicone Genitourinary Prosthetic Devices,'' *The Journal of Urology*, 146:319–322, 1991.

2. Fishman, I. J. and F. N. Flores, ''Retrospective Review of Pelvic Lymph Nodes in Patients with Previously Implanted Silicone Penile Prosthesis,'' *The Journal of Urology*, 149:355A, 1993.

3. Hennekens, C. H., I. Lee, N. Cook, P. R. Hebert, E. W. Karlson, F. LaMotte, J. E. Manson, and J. E. Buring, ''Self-reported Breast Implants and Connective-Tissue Diseases in Female Health Professionals,'' *Journal of the American Medical Association*, 275:616–621, 1996.

4. Silverman, B. G., S. L. Brown, R. A. Bright, R. G. Kaczmarek, J. B. Arrowsmith-Lowe, and D. A. Kessler, ''Reported Complications of Silicone Gel Breast Implants: An Epidemiologic Review,'' *Annals of Internal Medicine*, 124:744–756, 1996.

5. Institute of Medicine, ''Safety of Silicone Breast Implants,'' National Academy Press, Washington, DC, 1999.

List of Subjects in 21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 876 is amended as follows:

PART 876—GASTROENTEROLOGY–UROLOGY DEVICES

1. The authority citation for 21 CFR part 876 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

2. Section 876.3350 is amended by revising paragraph (c) to read as follows:

§ 876.3350 Penile inflatable implant.

* * * * *

(c) *Date premarket approval application (PMA) or notice of completion of a product development protocol (PDP) is required.* A PMA or a notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before July 11, 2000, for any penile inflatable implant that was in commercial distribution before May 28, 1976, or that has, on or before July 11, 2000, been found to be substantially equivalent to a penile inflatable implant that was in commercial distribution before May 28, 1976. Any other penile inflatable implant shall have an approved PMA or a declared completed PDP in effect before being placed in commercial distribution.

Dated: March 24, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00–9002 Filed 4–11–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 8

RIN 2900–AJ78

National Service Life Insurance

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; technical amendment.

SUMMARY: This document amends the Department of Veterans Affairs regulations regarding payments of premiums for National Service Life Insurance by correcting cross-references.

DATES: *Effective date:* April 12, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanne Derrick, Attorney-Advisor, Department of Veterans Affairs Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, Pennsylvania 19101, telephone number (215) 842–2000, ext. 4277, fax number (215) 381–3504.

SUPPLEMENTARY INFORMATION: In a final rule published in the **Federal Register** on February 15, 2000 (65 FR 7437), VA redesignated certain sections in 38 CFR part 8. This document makes changes regarding cross-references to reflect these redesignations.

Since this document makes only non-substantive changes, we are dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

The Catalog of Federal Domestic Assistance Program number for this regulation is 64.103.

List of Subjects in 38 CFR Part 8

Disability benefits, Life insurance, Loan programs-veterans, Military personnel, Veterans.

Approved: April 6, 2000.

Thomas O. Gessel,

Director, Office of Regulations Management.

Accordingly, 38 CFR part 8 is corrected by making the following correcting amendments:

PART 8—NATONAL SERVICE LIFE INSURANCE

1. The authority citation for part 8 continues to read as follows:

Authority: 38 U.S.C. 501, 1901–1929, 1981–1988, unless otherwise noted.

§ 8.3 [Amended]

2. In § 8.3(a)(5), remove ''(§ 8.9)'' and add, in its place, ''(§ 8.2(d))''.

3. In § 8.3(a)(7), remove ''(§ 8.17)'' and add, in its place, ''(§ 8.14)''.

4. In § 8.3(b)(3), remove ''(§ 8.17)'' and add, in its place, ''(§ 8.14)''.

§ 8.6 [Amended]

5. In § 8.6, remove ''§§ 8.3, 8.4 or 8.5'' and add, in its place, ''§§ 8.2 or 8.3''.

§ 8.7 [Amended]

6. In § 8.7(a), remove ''§ 8.11'' and add, in its place, ''§ 8.8''.

§ 8.9 [Amended]

7. In § 8.9, remove ''§ 8.11'' and add, in its place, ''§ 8.8''; and, in both places it appears, remove ''§ 8.11(a)'' and add, in its place, ''§ 8.8(a)''.

§ 8.10 [Amended]

8. In § 8.10(g), remove ''§§ 8.17 and 8.18'' and add, in its place, ''§§ 8.14 and 8.15''.

§ 8.11 [Amended]

9. In § 8.11(a), remove ''§ 8.17(b)'' and add, in its place, ''§ 8.14(b)''.

§ 8.24 [Amended]

10. In § 8.24, remove ''§ 8.25'' and add, in its place, ''§ 8.22''.

[FR Doc. 00–9035 Filed 4–11–00; 8:45 am]
BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL–6576–2]

Withdrawal of Certain Federal Human Health and Aquatic Life Water Quality Criteria Applicable to Rhode Island, Vermont, the District of Columbia, Kansas and Idaho

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In 1992, EPA promulgated Federal regulations establishing water quality criteria for toxic pollutants for several States, including Rhode Island, Vermont, the District of Columbia, Kansas and Idaho. These States have now adopted, and EPA has approved, human health and aquatic life water quality criteria. In this action, EPA is amending the Federal regulations to withdraw certain human health and aquatic life criteria applicable to these States. EPA is withdrawing its criteria applicable to these States without a notice and comment rulemaking because the States' adopted criteria are no less stringent than the Federal criteria.

DATES: This rule is effective April 12, 2000.

ADDRESSES: The administrative record for consideration of Rhode Island and Vermont's criteria is available for public inspection at EPA Region 1, Office of Water, 1 Congress Street, Suite 1100, Boston MA 02114–1505 during normal business hours of 9:00 a.m. to 5:00 p.m. The administrative record for consideration of the District of Columbia human health criteria is available at EPA Region 3, Water Protection Division, 1650 Arch St, Philadelphia PA 19103–2029 during normal business hours of 9:00 am to 5:00 pm. The administrative record for consideration of Kansas's human health and aquatic life criteria is available for public inspection at EPA Region 7, Water Resources Protection Branch, 901 North 5th Street, Kansas City, Kansas 66101 during normal business hours of 8:00 a.m. to 4:30 p.m. The administrative record for consideration of Idaho's aquatic life criteria is available for public inspection at EPA Region 10, Office of Water, 1200 Sixth Avenue, Seattle, Washington 98101 during normal business hours of 8:00 a.m. to 4:30 p.m

FOR FURTHER INFORMATION CONTACT: Thomas J. Gardner at EPA Headquarters, Office of Water (4305), 1200 Pennsylvania Ave NW, Washington, D.C., 20460 (tel: 202–260–7309). For questions regarding Rhode Island and Vermont, contact Bill Beckwith in EPA's Region 1 at 617–918–1544. For questions regarding the District of Columbia, contact Garrison Miller in EPA's Region 3 at 215–814–5745. For questions regarding Kansas, contact Ann Jacobs in EPA's Region 7 at 913–551–7930. For questions regarding Idaho, contact Lisa Macchio in EPA's Region 10 at 206–553–1834.

SUPPLEMENTARY INFORMATION:

Potentially Affected Entities

Citizens concerned with water quality in Rhode Island, Vermont, Kansas, the District of Columbia and Idaho may be interested in this rulemaking. Entities discharging toxic pollutants to waters of the United States in these States could be affected by this rulemaking since criteria are used in determining NPDES permit limits. Potentially affected categories and entities include:

Category	Examples of potentially affected entities
Industry	Industries discharging toxic pollutants to surface waters in Rhode Island, Vermont, District of Columbia, Kansas and Idaho.
Municipalities	Publicly-owned treatment works discharging toxic pollutants to surface waters in Rhode Island, Vermont, District of Columbia, Kansas and Idaho.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be potentially affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in § 131.36 of title 40 of the Code of Federal Regulations. If you have any questions regarding the applicability of this action to a particular entity, consult the appropriate person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Background

In 1992, EPA promulgated a final rule (known as the ''National Toxics Rule'', or ''NTR'') to establish numeric water quality criteria for 12 States and two Territories (hereafter ''States'') that had failed to comply fully with section 303(c)(2)(B) of the Clean Water Act (''CWA'') (57 FR 60848). The criteria, codified at 40 CFR 131.36, became the applicable water quality standards in those 14 jurisdictions for all purposes and programs under the CWA effective February 5, 1993.

When a State adopts criteria that meet the requirements of the CWA, EPA will issue a rule amending the NTR to withdraw its criteria. Section 553 of the Administrative Procedure Act, U.S.C. 533(b)(B) provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA has determined that, if the State's criteria are no less stringent than the Federal regulations, additional comment on the criteria is unnecessary. EPA finds that this constitutes good cause for issuing this final rule without notice and comment. EPA has determined that the States criteria are no less stringent than the

NTR criteria because they are identical, identical when rounded using conventional rounding techniques, or more stringent. For the same reason, and because this rule relieves a restriction, EPA has determined that good cause exists to waive the requirement for a 30-day period before the amendment becomes effective and therefore, the amendment will be immediately effective.

Rhode Island

On August 6, 1997, Rhode Island adopted revisions to its surface water quality standards (Regulation EVM 112–88.97–1), regarding human health criteria. Rhode Island adopted human health criteria for toxic pollutants contained in the NTR. EPA Region 1 approved the State's human health criteria on January 15, 1999, because Rhode Island's numeric criteria for the protection of human health were consistent with the CWA and EPA's implementing regulations at 40 CFR Part 131. By adoption of numeric criteria, Rhode Island complied with the requirements of Section 303(c)(2)(b) of the CWA to have numeric criteria for toxic pollutants. EPA Region 1 requested that the Agency withdraw the Federal criteria applicable to Rhode Island for which the State now has numeric criteria.

In today's action, EPA is withdrawing Rhode Island from the NTR for those criteria that the State has adopted that are no less stringent than the Federal criteria in the NTR. Rhode Island adopted, and EPA approved, a human health (organisms only) criterion of 50 μg/l for arsenic. The value promulgated in the NTR for this criterion is 0.14 μg/l. Rhode Island will remain in the NTR for this criterion. In a separate, upcoming action, EPA will propose to remove Rhode Island from the NTR for this criterion and provide for public comment. Additionally, Rhode Island adopted, and EPA approved, human health criteria of 18 mg/l and 59 mg/l (water and organisms, and organisms only, respectively) for bis(2)ethylhexyl pthalate. The values promulgated in the NTR are 18 μg/l and 59 μg/l, respectively. Rhode Island will remain in the NTR for these criteria.

Vermont

On July 12, 1994, Vermont adopted revisions to its surface water quality standards (Appendix C, *Vermont Water Quality Standards,* effective August 1, 1994). EPA Region 1 approved the State's adoption of criteria for all toxics contained in the NTR on December 5, 1996, because they are consistent with the CWA and EPA's implementing regulations at 40 CFR Part 131. EPA Region 1 requested that the Agency withdraw the Federal criteria applicable to Vermont for which the State now has numeric criteria.

In today's action, EPA is withdrawing Vermont from the NTR for certain human health and aquatic life criteria where the State adopted criteria that are no less stringent than the Federal criteria. Vermont adopted, and EPA approved, a human health (organisms only) criterion of 1.5 μg/l for arsenic. The value promulgated in the NTR for this criterion is 0.14 μg/l. Vermont will remain in the NTR for this criterion. In a separate, upcoming action, EPA will propose to remove Vermont from the NTR for this criterion and provide for public comment. Additionally, Vermont adopted and EPA approved, an aquatic life criterion continuous concentration (CCC) of 0.8 μg/l for gamma-BHC. The value promulgated for this criterion in the NTR was 0.08. Vermont will remain in the NTR for this criterion.

District of Columbia

On March 4, 1994, the District of Columbia adopted revisions to its surface water quality standards [amended Chapter 11 of Title 21 DCMR pursuant to the authority set forth in Section 5 of the Water Pollution Control Act of 1984, D.C. Law 5–188, effective March 16, 1985, D.C. Code Section 6–924 (1988) and Mayor's Order 85–152, September 12, 1985], adopting human health criteria to protect from effects related to fish consumption. EPA Region 3 approved these revisions on November 4, 1996, because the District's numeric criteria are consistent with section 303(c)(2)(B) of the Clean Water Act and EPA's implementing regulations at 40 CFR Part 131. EPA Region 3 requested that the Agency withdraw the Federal human health (organism only) criteria applicable to the District for which the District now has numeric criteria.

In today's action, EPA is withdrawing the District of Columbia from the NTR for those human health "organism only" criteria that the District has adopted that are no less stringent than the Federal criteria in the NTR. The District remains in the NTR for organism + water human health criteria. The District removed the drinking water use for the only water body in the District designated for that use. EPA approved the removal of this use and, in a separate upcoming action, EPA will propose to remove the District from the NTR for organism + water human health criteria and will provide for public comment.

Kansas

On June 29, 1994, Kansas adopted revisions to its water quality standards (K.A.R. 28–16–28) regarding both human health and aquatic life criteria, and submitted them to EPA Region 7 for review and approval on October 31, 1994. On February 19, 1998, EPA Region 7 approved certain new or revised water quality criteria for the protection of human health and aquatic life because they are consistent with section 303(c)(2)(B) of the CWA and EPA's implementing regulations at 40 CFR 131, and requested that the Agency withdraw the Federal criteria applicable to Kansas for which the State now has numeric criteria. Additionally, on June 29, 1999, Kansas adopted new and revised ambient water quality criteria for additional pollutants. They were submitted to EPA for review and approval on August 10, 1999. On January 19, 2000, EPA Region 7 approved these additional criteria because they are also consistent with section 303(c)(2)(B) of the CWA and EPA's implementing regulations at 40 CFR 131, and requested that the Agency withdraw the Federal criteria applicable to Kansas for which the State now has numeric criteria.

In today's action, EPA is removing Kansas from the NTR for certain human health and aquatic life criteria because the State's adopted criteria are no less stringent than the Federal criteria. Kansas remains in the NTR for arsenic (human health—organisms only) and cadmium (acute and chronic aquatic life). For these pollutants, Kansas adopted criteria that are less stringent than the Federal rule. In a separate, upcoming action, EPA will propose to withdraw the NTR criteria for these pollutants and provide for public comment. In addition, Kansas remains in the NTR for certain other toxic pollutants for which it has not yet adopted numeric criteria.

In addition, EPA is modifying the NTR for Kansas to reflect the State's adoption of a 10^{-6} risk level for carcinogens and a change in nomenclature for one of the State's use classifications.

Idaho

On August, 24, 1994, Idaho adopted revisions to its surface water quality standards (Title 1, chapter 2, Section 250 of the Idaho Administrative Code). For all aquatic life toxic pollutants, Idaho adopted the NTR criteria by reference. On June 25, 1996, EPA Region 10 approved the criteria because they were identical to the Federal criteria. EPA Region 10 requested that the

Agency withdraw the Federal criteria applicable to Idaho for which the State now has numeric criteria.

In today's action, EPA is withdrawing Idaho from the NTR for all aquatic life criteria because the State adopted criteria that are identical to the Federal criteria.

Administrative Requirements

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

This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA made such a good cause finding, including the reasons therefore, and established an immediate effective date of April 12, 2000. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804 (2).

List of Subjects in 40 CFR Part 131

Environmental protection, Indians—lands, Intergovernmental relations, Water pollution control.

Dated: April 4, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 131—WATER QUALITY STANDARDS

1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

§ 131.36 [Amended]

2. Section 131.36 is amended by:
a. Revising the table in paragraph (d)(1)(ii).
b. Revising the table in paragraph (d)(2)(ii).
c. Revising the table in paragraph (d)(5)(ii).
d. Revising the table in paragraph (d)(9)(i).
e. Revising the table in paragraph (d)(9)(ii).
f. In paragraph (d)(9)(iii) by revising ''State-proposed'' to read ''State-adopted''.
g. Removing and reserving paragraph (d)(13).
The revisions read as follows:

§ 131.36 Toxics criteria for those states not complying with Clean Water Act Section 303(c)(2)(B).

* * * * *

(d) * * *
(1) * * *
(ii) * * *

Use classification	Applicable criteria
Class A .... Class B waters where water supply use is designated	These classifications are assigned the criteria in Column D1—#2, 68
Class B waters where water supply use is not designated. Class C; Class SA; Class SB; Class SC	Each of these classifications is assigned the criteria in: Column D2—#2, 68

(2) * * *
(ii) * * *

Use classification	Applicable criteria
Class A .... Class B waters where water supply use is designated	This classification is assigned criteria in: Column B2—#105
Class B waters where water supply use is not designated Class C.	These classifications are assigned all the criteria in: Column B2—#105 Column D2—#2

* * * * *

(5) * * *
(ii) * * *

Use classification	Applicable criteria
Class C	This classification is assigned the additional criteria in: Column B2—#10, 118, 126 Column D1—#15, 16, 44, 67, 68, 79, 80, 81, 88, 114, 116, 118.

* * * * *

(9) * * *
(i) * * *

Section (2)(A)—Special Aquatic Life Use Waters
Section (2)(B)—Expected Aquatic Life Use Waters
Section (2)(C)—Restricted Aquatic Life Use Waters
Section (3)—Domestic Water Supply.
Section (4)—Food Procurement Use.

(ii) * * *

Use classification	Applicable criteria
Sections (2)(A), (2)(B), (2)(C), (4).	These classifications are each assigned criteria as follows: Column B1, #2, 4 Column B2, #4 Column D2, #2, 12, 21, 29, 39, 46, 68, 79, 81, 86, 93, 104, 114, 118
Section (3)	This classification is assigned all criteria in: Column D1, all except #1, 9, 12, 14, 15, 17, 22, 33, 36, 39, 44, 75, 77, 79, 90, 112, 113, and 115.

(iii) The Human Health Criteria shall be applied at the State adopted 10^{-6} risk level.

* * * * *

[FR Doc. 00–8957 Filed 4–11–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300973A; FRL–6498–4]

RIN 2070–AB78

Ethoxylated Propoxylated (C_{12}-C_{15}) Alcohols; Tolerance Exemption, Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document makes a technical correction to the exemption from the requirement of a tolerance for residues of a range of polymers, α-alkyl (C_{12}-C_{15})-ω-hydroxypoly (oxypropylene)poly(oxyethylene) copolymers (where the poly(oxypropylene) content is 3-60 moles and the poly(oxyethylene) content is 5-80 moles, when used as an inert ingredient (surfactant) in or on growing crops, when applied to raw agricultural commodities after harvest, or to animals.

DATES: This technical correction is effective April 12, 2000.

FOR FURTHER INFORMATION CONTACT: By mail: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–305–6304; and e-mail address: boyle.kathryn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

2. *In person*. The Agency has established an official record for this action under docket control number OPP–300973A. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. What Action is EPA Taking?

In the **Federal Register** of May 26, 1999 (64 FR 28480) (FRL–6081–3), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) (Public Law 104–170) announcing the filing of a pesticide tolerance petition (PP 8E4950) by Omnichem S.A, Industrial Research Park, 1348 Louvain-La-Neuve, Belgium. This notice included a summary of the petition prepared by the petitioner, including a statement of the number average molecular weight of the range of polymers. There were no comments received in response to the notice of filing.

In the **Federal Register** of February 28, 2000 (65 FR 10401) (FRL–6491–3), EPA issued a rule establishing an exemption from the requirement of a tolerance for residues of a range of polymers α-alkyl (C_{12}-C_{15})-ω-hydroxypoly (oxypropylene)poly (oxyethylene)copolymers (where the poly(oxypropylene) content is 3-60 moles and the poly(oxyethylene) content is 5-80 moles in or on growing crops, when applied to raw agricultural commodities after harvest, or to animals when used as an inert ingredient (surfactant). The number average molecular weight, which is routinely included in the tolerance exemption expression, was inadvertently omitted from the tolerance exemption expression in § 180.1001(c) and (e). This rule corrects the tolerance exemption to include the molecular weight as a limitation.

III. Why is this Technical Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today’s rule final without prior proposal and opportunity for comment, because EPA is amending the tolerance exemption expression that was previously issued to include the number average molecular weight. The preamble to the previously published Final Rule discussed how the number average molecular weeight was one of the criteria for identifying low risk polymers. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

IV. Do Any of the Regulatory Assessment Requirements Apply to this Action?

No. This final rule implements a technical amendment to the Code of Federal Regulations to reflect a technical correction to a previously issued Final Rule, and it does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical correction is not a ''significant regulatory action'' subject to review by OMB under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Nor does this rule contain any information collection requirements that require review and approval by OMB pursuant to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.).

Because this action is not economically significant as defined by section 3(f) of Executive Order 12866, this action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action will not result in environmental justice related issues and does not, therefore, require special consideration under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). Since the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administration Procedure Act or any other statute (see Unit IV), this action is not subject to provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. Nor does this action significantly or uniquely affect the communities of tribal governments as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). This action does not involve any technical standards that require the Agency's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order.

For information about the applicability of the regulatory assessment requirements to the final rule that was issued on February 28, 2000 (65 FR 10401) (FRL–6491–3), please refer to the discussion in Unit XII of that document.

V. Will EPA Submit this Final Rule to Congress and the Comptroller General?

Yes. The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. (5 U.S.C. 808(2)). EPA has made such a good cause finding for this final rule, and established an effective date of April 12, 2000. Pursuant to 5 U.S.C. 808(2), this determination is supported by the brief statement in Unit III. of this document. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: March 22, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is corrected as follows:

PART 180—[AMENDED]

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

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

2. In § 180.1001, the table in paragraph (c) is corrected by revising the entry beginning with ''α-alkyl (C_{12}-C_{15})'' and the table to paragraph (e) is corrected by revising the entry beginning with ''α-alkyl (C_{12}-C_{15})-ω-hydroxypoly (oxypropylene)poly (oxyethylene)copolymers'' to read as follows:

§ 180.1001 Exemptions from the requirements of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *	*	*
α-alkyl (C_{12}-C_{15})-ω-hydroxypoly (oxypropylene)poly (oxyethylene)copolymers (where the poly(oxypropylene) content is 3-60 moles and the poly(oxyethylene) content is 5-80 moles), the resulting ethoxylated propoxylated (C_{12}-C_{15}) alcohols having a minimum molecular weight (in amu) of 1,500, CAS Reg. No. 68551–13–3.	Not to exceed 20% of pesticide formulations	Surfactant
* * * * *	*	*

* * * * * * *

(e)* * *

Inert ingredients	Limits	Uses
* * * * *	*	*
α-alkyl (C_{12}-C_{15})-ω-hydroxypoly (oxypropylene)poly (oxyethylene)copolymers (where the poly(oxypropylene) content is 3-60 moles and the poly(oxyethylene) content is 5-80 moles), the resulting ethoxylated propoxylated (C_{12}-C_{15}) alcohols having a minimum molecular weight (in amu) of 1,500, CAS Reg. No. 68551–13–3.	Not to exceed 20% of pesticide formulations	Surfactant
* * * * *	*	*

[FR Doc. 00–8264 Filed 4–11–00; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act.

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act.

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Jefferson (FEMA Docket No. 7293).	Unincorporated Areas	May 12, 1999, May 19, 1999, *Birmingham News*.	Mr. Gary White, President of the Jefferson County Board of Commissioners, Courthouse, Room A–360, Birmingham, Alabama 35263.	Aug. 17, 1999	010217 E
Connecticut: Fairfield (FEMA Docket No. 7293.	Town of Wilton	June 17, 1999, June 24, 1999, Wilton Bulletin.	Mr. Robert H. Russell, First Selectman of the Town of Wilton, Wilton Town Hall, 238 Danbury Road, Wilton, Connecticut 06897.	Sept. 22, 1999	090020 C
Florida: Orange (FEMA Docket No. 7293).	City of Ocoee	June 24, 1999, July 1, 1999, *The Orlando Sentinel*.	The Honorable S. Scott Vandergrift, Mayor of the City of Ocoee, City Hall, 150 North Lakeshore Drive, Ocoee, Florida 34761–2258.	June 17, 1999	120185 C
Illinois: Will (FEMA Docket No. 7293).	City of Crest Hill	March 25, 1999, April 1, 1999, *The Herald-News*.	The Honorable Donald R. Randich, Mayor of the City of Crest Hill, 1610 Plainfield Road, Crest Hill, Illinois 60435.	June 30, 1999	170699 D
Illinois: Kane (FEMA Docket No. 7293).	Village of Hampshire	April 28, 1999, May 5, 1999, *Hampshire Register-News*.	Mr. William Schmidt, Hampshire Village President, P.O. Box 457, 234 South State Street, Hampshire, Illinois 60140.	July 27, 1999	170327 C
Kentucky: Fayette (FEMA Docket No. 7293).	Lexington-Fayette Urban County Government.	June 23, 1999, June 30, 1999, *Lexington Herald*.	The Honorable Pam Miller, Mayor of the Lexington-Fayette Urban County Government, 200 East Main Street, 12th Floor, Lexington-Fayette Government Building, Lexington, Kentucky, 40507.	June 16, 1999	210067 C
Minnesota: Anoka (FEMA Docket No. 7293).	City of Coon Rapids	April 9, 1999, April 16, 1999, *Coon Rapids Herald*.	The Honorable Lonni McCauley, Mayor of the City of Coon Rapids, 11155 Robinson Drive, Coon Rapids, Minnesota 55433.	July 15, 1999	270011 A
North Carolina: Guilford (FEMA Docket No. 7293).	City of Greensboro	May 25, 1999, June 1, 1999, *News and Record*.	The Honorable Carolyn S. Allen, Mayor of the City of Greensboro, One Governmental Plaza, P.O. Box 3136, Greensboro, North Carolina 27402.	May 17, 1999	375351 C
Ohio: Lake (FEMA Docket No. 7293).	Village of Madison	March 30, 1999, April 6, 1999, *The News-Herald*.	The Honorable David G. Reed, Jr., Mayor of the Village of Madison, 126 West Main Street, Madison, Ohio 44057–0007.	Mar. 23, 1999	390316 B

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Pennsylvania: Lancaster (FEMA Docket No. 7293).	Township of East Donegal.	April 28, 1999, May 5, 1999, *Lancaster Newspaper*.	Mr. Allen D. Esbenshade, President, Board of Supervisors, Township Municipal Office, 190 Rock Point Road, Marietta, Pennsylvania 17547.	April 16, 1999	421768 B

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: March 31, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 00–9067 Filed 4–11–00; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7309]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Morgan	City of Decatur	January 25, 2000, February 1, 2000, *The Decatur Daily News*.	The Honorable Julian Price, Mayor of the City of Decatur, P.O. Box 488, Decatur, Alabama 35602.	May 1, 2000	010176 D
Alabama: Jefferson.	City of Homewood	April 28, 1999, May 5, 1999, *Birmingham News*.	The Honorable Barry R. McCulley, Mayor of the City of Homewood, P.O. Box 59666, Homewood, Alabama 35259.	Apr. 21, 1999	015006 D
Florida: Charlotte	Unincorporated Areas.	May 10, 1999, May 17, 1999, *Charlotte Herald Sun*.	Mr. Jan Winters, Charlotte County Administrator, 18500 Murdock Circle, Room 536, Port Charlotte, Florida 33948–1094.	Apr. 30, 1999	120061 D&E
Georgia: Bartow	City of Cartersville	February 17, 2000, February 24, 2000, *The Daily Tribune News*.	The Honorable Sam C. Smith, Mayor of the City of Cartersville, 1 North Erwin Street, P.O. Box 1390, Cartersville, Georgia 30120.	May 24, 2000	130209 F
Georgia: Bartow	Unincorporated Areas.	February 17, 2000, February 24, 2000, *The Daily Tribune News*.	Mr. Clarence Brown, Bartow County Commissioner, 135 West Cherokee Avenue, Suite 251, Cartersville, Georgia 30120.	May 24, 2000	130463 F
Georgia: Catoosa	Unincorporated Areas.	March 8, 2000, March 15, 2000, *Catoosa County News*.	Mr. Jim Callaway, Catoosa County Manager, Catoosa County Courthouse, 7694 Nashville Street, Ringgold, Georgia 30736.	Feb. 28, 2000	130028 D
Georgia: Chatham	Unincorporated Areas.	March 13, 2000, March 20, 2000, *Savannah Morning News*.	Dr. Billy Hair, Chairman of the Chatham County Board of Commissioners, 124 Bull Street, P.O. Box 8161, Savannah, Georgia 31412.	June 18, 2000	130030 C
Georgia: Chatham	Town of Pooler	March 13, 2000, March 20, 2000, *Savannah Morning News*.	The Honorable Earl Carter, Mayor of the Town of Pooler, 100 Southwest Highway 80, Pooler, Georgia 31322.	June 18, 2000	130261 A
Georgia: Gwinnett	Unincorporated Areas.	January 12, 2000, January 19, 2000, *Gwinnett Daily Post*.	Mr. Wayne Hill, Chairman of the Gwinnett County, Board of Commissioners 75 Langley Drive, Lawrenceville, Georgia 30045.	Dec. 29, 1999	130322 C
Illinois: DuPage	Unincorporated Areas.	March 10, 2000, March 17, 2000, *Daily Herald*.	Mr. Robert J. Schillerstrom, Chairman, DuPage County Board, DuPage Center, 421 North Country Farm Road, Wheaton, Illinois 60187.	Mar. 3, 2000	170197 B
Illinois: Cook & DuPage.	Village of Hanover Park.	May 25, 1999, June 1, 1999, *Elgin Courier News & The Daily Herald*.	Mr. Irwin Boch, Village of Hanover Park President, 2121 West Lake Street, Hanover Park, Illinois 60103–4398.	May 18, 1999	170099 D
Illinois: Cook	Village of Indian Head Park.	February 9, 2000, February 16, 2000, *Suburban Life Citizen*.	Mr. Richard S. Pellegrino, President of the Village of Indian Head Park, 201 Acacia Drive, Indian Head Park, Illinois 60525.	Feb. 3, 2000	170110 D
Illinois: Madison	Unincorporated Areas.	January 7, 2000, January 14, 2000, *The Intelligencer*.	Mr. Rudolph J. Papa, Madison County Board Chairman, Madison County Administration Building, 157 North Main Street, suite 165, Edwardsville, Illinois 62025–1964.	Dec. 28, 1999	170436 D
Illinois: Cook	Village of Schaumburg.	January 5, 2000, January 12, 2000, *Daily Herald*.	Mr. Al Larson, Schaumburg Village President, 101 Schaumburg Court, Schaumburg, Illinois 60193–1899.	Dec. 29, 1999	170158 D
Illinois: Cook	Village of Schaumburg.	February 9, 2000, February 16, 2000, *Daily Herald*.	Mr. Al Larson, Schaumburg Village President, 101 Schaumburg Court, Schaumburg, Illinois 60193–1899.	Feb. 1, 2000	170158 D
Illinois: Cook	Village of Streamwood.	January 13, 2000, January 20, 2000, *Daily Herald*.	Ms. Billie D. Roth, Streamwood Village President, Village Hall, 301 East Irving Park road, Streamwood, Illinois 60107.	Jan. 4, 2000	170166 D
Illinois: Will and Cook.	Village of Tinley Park.	March 8, 2000, March 15, 2000, *Daily Southtown*.	The Honorable Edward J. Zabrocki, Mayor of the Village of Tinley Park, 16250 South Oak Park Avenue, Tinley Park, Illinois 60477.	Mar. 31, 2000	170169 C
Illinois: Madison	City of Wood River	January 7, 2000, January 14, 2000, *The Telegraph*.	The Honorable Lon A. Smith, Mayor of the City of Wood River, 111 North Wood River Avenue, Wood River, Illinois 62095–1938.	Apr. 12, 2000	170451 C

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Indiana: Elkhart	Unincorporated Areas.	June 21, 1999, June 28, 1999, *The Elkhart Truth*.	Mr. Amos J. Sheets, Elkhart County Commissioner, 1117 North Second Street, Goshen, Indiana 46526.	Sept. 26, 1999	180056 D
Indiana: Allen	City of Fort Wayne	January 7, 2000, January 14, 2000, *The Journal Gazette*.	The Honorable Paul Helmike, Mayor of the City of Fort Wayne, 1 Main Street, Room 900, Fort Wayne, Indiana 46802–1804.	Dec. 29, 1999	180003 E
Indiana: Hancock	City of Greenfield	June 25, 1999, July 2, 1999, *Daily Reporter*.	The Honorable Patricia Elmore, Mayor of the City of Greenfield, P.O. Box 456, Greenfield, Indiana 46140.	Sept. 30, 1999	180084 D
Indiana: Hendricks	Unincorporated Areas.	March 9, 2000, March 16, 2000, *Hendricks County Flyer*.	Mr. John D. Clampitt, President of the Hendricks, County Commissioners, 355 South Washington, No. 204, Danville, Indiana 46122.	June 14, 2000	180415 B
Kentucky: Daviess	Unincorporated Areas.	June 1, 1999, June 8, 1999, *Messenger Inquirer*.	The Honorable Reid Haire, Daviess County Judge/Executive, Daviess County Courthouse, P.O. Box 1716, Owenboro, Kentucky 42302–1716.	May 24, 1999	210062 D
Michigan: Macomb	Township of Macomb.	January 4, 2000, January 11, 2000, *The Macomb Daily*.	Mr. John D. Brennan, Macomb Township Supervisor, 19925 Twenty-Three Mile Road, Macomb, Michigan 48042.	Dec. 28, 1999	260445 B
New York: Madison.	Town of Madison	January 12, 2000, January 19, 2000, *Oneida Daily Dispatch*.	Mr. Bert L. Snyder, Madison Town Supervisor, P.O. Box 256, Hamilton, New York 13402–0256.	July 5, 2000	361292 D
New York: Niagara	City of Niagara Falls.	January 13, 2000, January 20, 2000, *Niagara Gazette*.	The Honorable James C. Galie, Mayor of the City of Niagara Falls, City Hall, 745 Main Street, Niagara Falls, New York 14302.	July 5, 2000	360506 C
New York: Seneca	Town of Seneca Falls.	January 13, 2000, January 20, 2000, *Finger Lake Times & The Reveille/Between the Lakes*.	Ms. Janette T. Pfeiff, Supervisor for the Town of Seneca Falls, 10 Fall Street, Seneca Falls, New York 13148.	July 5, 2000	360756 D
New York: Niagara	Town of Wheatfield.	December 13, 1999, December 20, 1999 *The Gazette*.	Mr. Timothy E. Demler, Town of Wheatfield Supervisor, 2800 Church Road, North Tonawanda, New York 14120–1099.	June 6, 2000	360513 D
North Carolina: Avery.	Town of Banner Elk.	January 6, 2000, January 13, 2000, *The Mountain Times*.	The Honorable Deka Tate, Mayor of the Town of Banner Elk, Town Hall, P.O. Box 156, Banner Elk, North Carolina 28604.	Dec. 30, 1999	370011 D
North Carolina: Gaston.	City of Gastonia ...	January 14, 2000, January 21, 2000, *The Gaston Gazette*.	The Honorable Jeannie Stultz, Mayor of the City of Gastonia, P.O. Box 1748, 181 South Street, Gastonia, North Carolina 28053–1748.	Jan. 6, 2000	370100 D
North Carolina: Mecklenburg.	Unincorporated Areas.	January 4, 2000, January 11, 2000, *The Charlotte Observer*.	Mr. Gerald G. Fox, Mecklenburg County Manager, 600 East 4th Street, Charlotte, North Carolina 28202–2835.	Apr. 9, 2000	370158 D
North Carolina: Mecklenburg.	Unincorporated Areas.	January 21, 2000, January 28, 2000, *Charlotte Observer*.	Mr. Gerald G. Fox, Mecklenburg County Manager, 600 East 4th Street, Charlotte, North Carolina 28202–2835.	Jan.14, 2000	370158 D
North Carolina: Northampton.	Unicorporated Areas.	July 31, 1999, *Roanoke-Chowan Daily News*.	Mr. William E. Daniels, Northampton County Manager, P.O. Box 808, Jackson, North Carolina 27845,.	Sept. 29, 1999	370173 D
Ohio: Cuyahoga ...	City of Garfield Heights.	March 16, 2000, March 23, 2000, *Neighborhood News*.	The Honorable Thomas Longo, Mayor of the City of Garfield Heights, 5107 Turney Road, Garfield Heights, Ohio 44125.	June 21, 2000	390109 B
Ohio: Cuyahoga ...	City of Highland Heights.	June 3, 1999, June 10, 1999, *The Plain Dealer*.	The Honorable Fran Hogg, Mayor of the City of Highland Heights, 5827 Highland Road, Highland Heights, Ohio 44143.	Sept. 8, 1999	390110 D
Ohio: Lake	Unincorporated Areas.	January 21, 2000, January 28, 2000, *The Herald-News*.	Mr. Robert E. Aufuldish, President of the Lake County, Board of Commissioners, 105 Main Street, Painesville, Ohio 44077.	Jan.14, 2000	390771 C

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Ohio: Shelby	Unincorporated Areas.	February 10, 2000, February 17, 2000, *The Sidney Daily News*.	Mr. Larry Klainhans, Chairman, Shelby County Board of Commissioners, 129 East Court Street, Suite 100, Sidney, Ohio 45365.	May 17, 2000	390503 C
Ohio: Montgomery	City of Trotwood ...	December 22, 1999, December 29, 1999, *Trotwood Independent*.	The Honorable Sara Combs, Mayor of the City of Trotwood, 35 North Olive Road, Trotwood, Ohio 45426.	Mar. 28, 2000	390417 D
Pennsylvania: Berks.	Township of Cumru.	January 6, 2000, January 13, 2000, *Reading Eagle/Times*.	Mr. William Shea, Township of Cumru Manager, 1775 Welsh Road, Mohnton, Pennsylvania 19540.	Apr. 11, 2000	420130 D
Pennsylvania: Berks.	Borough of Kenhorst.	January 6, 2000 January 13, 2000, *Reading Eagle/Times*.	The Honorable Gerald P. Nally, Mayor of Borough of Kenhorst, 339 South Kenhorst Boulevard, Kenhorst, Pennsylvania 19607.	Apr. 11, 2000	420135 D
Pennsylvania: Montgomery.	Township of Lower Merion.	April 22, 1999 April 29, 1999, *Main Line Times*.	Mr. David Latshaw, Manager of the Township of Lower Merion, 75 East Lancaster Avenue, Ardmore, Pennsylvania 19003.	July 28, 1999	420701 D
Pennsylvania: Chester.	Township of Valley	February 8, 2000, February 15, 2000, *The Daily Local News*.	Mr. Grover E. Koon, Chairperson, Township of Vallley Board of Supervisors, P.O. Box 467, Coatesville, Pennsylvania 19320.	Feb. 1, 2000	421206 D
South Carolina: York.	Unincorporated Areas.	May 27, 1999, June 3, 1999, *The Yorkville Enquirer*.	Mr. Carl Gullick, Chairman of the York County Council, P.O. Box 66, York, South Carolina 29745.	Sept. 1, 1999	450193 D
Tennessee: Selby	Town of Collierville	March 23, 2000, March 30, 2000, *The Collierville Herald*.	The Honorable Linda Kerley, Mayor of the Town of Collierville, 160 North Main Street, Suite 850, Memphis, Tennessee 38103.	June 28, 2000	470263 E
Tennessee: Shelby.	Unincorporated Areas.	March 23, 2000, March 30, 2000, *The Collierville Herald*.	The Honorable Jim Rout, Mayor of Shelby County, 160 North Main Street, Suite 850, Memphis, Tennessee 38103.	June 28, 2000	470214
Virginia: Warren ...	Town of Front Royal.	February 1, 2000, February 8, 2000, *Northern Virginia Daily*.	Mr. Richard Anzolut, Jr., Town of Front Royal Manager, P.O. Box 1650, Front Royal, Virginia 22630.	Jan. 27, 2000	510167 B

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: March 31, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 00–9066 Filed 4–11–00; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below.

Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ALABAMA	
Northport (City), Tuscaloosa County (FEMA Docket No. 7295)	
Twomile Creek Tributary No. 5:	
Approximately 100 feet upstream of confluence with Twomile Creek	*184
Approximately 710 feet upstream of confluence with Twomile Creek	*186
Maps available for inspection at the City of Northport City Hall, 3500 McFarland Boulevard, Northport, Alabama.	
Tuscaloosa (City), Tuscaloosa County (FEMA Docket No. 7295)	
Bee Branch:	
At confluence with Hurricane Creek	*214
Approximately 1,600 feet downstream of westbound Route 59	*278
Cottondale Creek Tributary No. 1:	
At confluence with Cottondale Creek	*249
Approximately 1,600 feet upstream of 56th Street East Dam	*298
Cottondale Creek Tributary No. 1A:	
At confluence with Cottondale Creek Tributary No. 1	*268
Approximately 2,450 feet upstream of center point of Interstate 59 and 20/JVC Road culvert	*288
Cypress Creek:	
Approximately 2,400 feet downstream of Kauloosa Avenue	*148
Approximately 800 feet downstream of Springshill Drive	*301
Cribbs Mill Creek:	
Approximately 1,000 feet downstream of 2nd Avenue East	*181
Approximately 630 feet upstream of East 17th Street	*259
Moody Swamp Tributary No. 2:	
Approximately 660 feet downstream of 31st Street	*142
Approximately 525 feet downstream of 25th Street	*159
Moody Swamp Tributary No. 3:	
Approximately 175 feet downstream of Martin Luther King Jr. Boulevard	*141
Approximately 200 feet upstream of 10th Avenue	*179
Maps available for inspection at the City of Tuscaloosa Planning Office, City Hall, 2201 University Boulevard, Tuscaloosa, Alabama.	
Tuscaloosa County (Unincorporated Areas) (FEMA Docket No. 7295)	
Bee Branch:	
Approximately 1,600 feet downstream of Westbound Route 59	*278
Approximately 400 feet downstream of Westbound Route 59	*284
Maps available for inspection at the Tuscaloosa County Planning Department, 2902 6th Street, Tuscaloosa, Alabama.	
CONNECTICUT	
Shelton (City), Fairfield County (FEMA Docket No. 7303)	
Farmill River:	
Approximately 160 feet upstream from confluence of Means Brook	*236
Approximately 140 feet upstream of Farmill Road	*355
Maps available for inspection at the Shelton City Hall, 54 Hill Street, Shelton, Connecticut.	
Wallingford (Town), New Haven County (FEMA Docket No. 7303)	
Quinnipiac River:	
Approximately 1,560 feet downstream of Toelles Road	*23
Approximately 1.09 miles upstream of Oak Street	*70
Maps available for inspection at the Town of Wallingford Department of Planning & Zoning, 45 South Main Street, Wallingford, Connecticut.	
GEORGIA	
Blue Ridge (City), Fannin County (FEMA Docket No. 7295)	
Mineral Springs Creek:	
Approximately 650 feet upstream of private drive	*1,669
Approximately 720 feet upstream of private drive	*1,671
Maps available for inspection at the Fannin County Land Development Office, 171 Church Street, Blue Ridge, Georgia.	
Fannin County (Unincorporated Areas) (FEMA Docket No. 7295)	
Wilscot Creek:	
Approximately 580 feet downstream of Old Dial Road	*1,726
Approximately 0.73 mile upstream of State Route 60	*1,920
Sugar Creek:	
Approximately 50 feet downstream of CSX Transportation	*1,509
At Maxwell Road	*1,830
Stanley Creek:	
Approximately 200 feet downstream of Aska Road	*1,764

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 0.64 mile upstream of Stanley Creek Road	*1,816
Big Creek:	
At confluence with Toccoa River	*1,820
Approximately 1.53 miles upstream of Big Creek Road	*1,943
Noontootla Creek:	
At confluence with Toccoa River	*1,838
Approximately 1.04 miles upstream of Doublehead Gap Road	*2,025
Fightingtown Creek:	
Approximately 0.21 mile downstream of West Tennessee Avenue	*1,460
Approximately 1.57 miles upstream of Old Highway 2	*1,805
Cooper Creek:	
Approximately 0.51 mile downstream of State Route 60	*2,002
Approximately 3.54 miles upstream of State Route 60	*2,087
Hothouse Creek:	
Approximately 2.61 miles downstream of State Route 60	*1,502
Approximately 1.35 miles upstream of Laurel Springs Road	*1,681
Middle Reach Toccoa River:	
Approximately 3.01 miles downstream of Shallowford Road	*1,720
Approximately 1.1 miles upstream of Doublehead Gap Road	*1,880
Upper Reach Toccoa River:	
At confluence with Cooper Creek	*2,002
Approximately 0.53 mile upstream of Private Drive (2nd)	*2,041
Hemptown Creek:	
Approximately 300 feet downstream of Cutcane Road	*1,563
Approximately 0.85 mile upstream of Holly Ridge Lane	*1,804
Lower Reach Toccoa River:	
Approximately 400 feet upstream from CSX Transportation	*1,468
Approximately 600 feet upstream from CSX Transportation	*1,468
Maps available for inspection at the Fannin County Land Development Office, 171 Church Street, Blue Ridge, Georgia.	
Floyd County (Unincorporated Areas) (FEMA Docket No. 7299)	
Coosa River:	
Approximately 1.20 miles downstream of the confluence of Horseleg Creek	*594
Approximately 0.36 mile upstream of the confluence of Horseleg Creek	*595
Horseleg Creek:	
At Horseleg Creek Road southwest	*596
Just downstream of confluence of South Fork Horseleg Creek	*607
South Fork Horseleg Creek:	
Approximately 475 feet downstream of Terry Lane	*626
Approximately 449 feet upstream of Terry Lane	*630
Maps available for inspection at the Floyd County Public Works, 337 Blacks Bluff Road, Rome, Georgia.	
McCaysville (City), Fannin County (FEMA Docket No. 7295)	
Toccoa River:	
Approximately 200 feet south of intersection of Hill Road and River Road	*1,468
Maps available for inspection at the McCaysville City Hall, 223 Blue Ridge Drive, McCaysville, Georgia.	
Rome (City), Floyd County (FEMA Docket No. 7299)	
Coosa River:	
Approximately 1.20 miles downstream of confluence of Horseleg Creek (at corporate limits)	*594
Approximately 1,800 feet downstream of the confluence of Etowah River	*595
Etowah River:	
Approximately 2,400 feet upstream of the confluence of Tributary A	*600
Little Dry Creek:	
At Charlton Street	*597
At Redmond Road	*597
Maps available for inspection at the City of Rome Building Inspection Department, 601 Broad Street, Rome, Georgia.	
ILLINOIS	
Buffalo Grove (Village), Lake County (FEMA Docket No. 7263)	
Des Plaines River:	
At Lake-Cook county boundary	*644
Approximately 0.89 mile upstream of Deerfield Road	*646
Aptakisic Creek:	
Approximately 625 feet upstream of Milwaukee Avenue	*645
Approximately 1,900 feet upstream of Busch Parkway	*646
Maps available for inspection at the Buffalo Grove Engineer's Office, 50 Raupp Boulevard, Buffalo Grove, Illinois.	
DeKalb (City), DeKalb County (FEMA Docket No. 7199)	
South Branch Kishwaukee River:	
Approximately 0.8 mile downstream of Bethany Road	*833
Approximately 0.38 mile upstream of East-West Toll Road	*854
Maps available for inspection at the City of DeKalb City Hall, Engineering Department, 200 South Fourth Street, DeKalb, Illinois.	
DeKalb County (Unincorporated Areas) (FEMA Docket No. 7199)	
South Branch Kishwaukee River:	
Approximately 1,480 feet downstream of County Line Road	*732
At Gurler Road	*856
Blue Heron Creek:	
At the confluence with East Branch South Branch Kishwaukee River	*824
Approximately 5 feet upstream of State Route 23	*840
East Branch South Branch Kishwaukee River:	
At the confluence with South Branch Kishwaukee River	*824
At Barber Greene Road	*842
Little Rock Creek:	
Approximately 1.6 miles downstream of Oak Street	*717
At Duffy Road	*748
Maps available for inspection at the DeKalb County Administrator Building, 110 East Sycamore Street, Sycamore, Illinois.	
Genoa (City), DeKalb County (FEMA Docket No. 7199)	
South Branch Kishwaukee River:	
Approximately 0.4 mile downstream of Soo Line Railroad	*794
Approximately 1.4 miles upstream of State Highway 72	*801
Maps available for inspection at the Genoa City Hall, Public Works, 113 North Genoa Street, Genoa, Illinois.	
Gurnee (Village), Lake County (FEMA Docket No. 7263)	
Des Plaines River:	
Approximately 500 feet downstream of Belvidere Road	*665
Approximately 2.45 miles upstream of Skokie Highway	*669
Gurnee Tributary:	
At confluence with Des Plaines River	*667
At State Route 132 (approximately 250 feet upstream of Wisconsin Central Limited Railroad)	*667
Suburban Country Club Tributary:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 50 feet upstream of Wisconsin Central Limited Railroad	*668
Approximately 1,100 feet upstream of Unnamed Road	*668
Maps available for inspection at the Gurnee Village Engineering Department, 325 North O'Plaine Road, Gurnee, Illinois.	
Hinckley (Village), DeKalb County (FEMA Docket No. 7199)	
Little Rock Creek:	
Approximately 750 feet downstream of Oak Street	*729
Approximately 1,000 feet upstream of South View Street	*734
Maps available for inspection at the Village of Hinckley Village Hall, 131 East Lincoln Avenue, Hinckley, Illinois.	
Kingston (Village), DeKalb County (FEMA Docket No. 7199)	
South Branch Kishwaukee River:	
Approximately 0.29 mile downstream of Main Street	*786
Approximately 0.79 mile upstream of Main Street	*789
Maps available for inspection at the Kingston City Hall, 101 East Railroad, P.O. Box 214, Kingston, Illinois.	
Kirkland (Village), DeKalb County (FEMA Docket No. 7199)	
South Branch Kishwaukee River:	
Approximately 1,300 feet downstream of Kirkland Road	*758
At Pearl Street	*763
Maps available for inspection at the Village of Kirkland Municipal Building, 511 West Main Street, Kirkland, Illinois.	
Lake County (Unincorporated Areas) (FEMA Docket No. 7263)	
Des Plaines River:	
At Lake-Cook county boundary	*644
At state boundary	*676
Des Plaines River Tributary (at Russell):	
At confluence with Des Plaines River	*675
Just downstream of Kilbourne Road	*675
Suburban Country Club Tributary:	
At confluence with Des Plaines River	*668
Just downstream of Delaney Road	*668
Bull Creek:	
Confluence with Des Plaines River	*661
Approximately 140 feet upstream of Unnamed Road	*661
Tributary No. 1:	
At confluence with Des Plaines River	*658
Just downstream of confluence of Tributary No. 1 with Meadow Haven Creek	*658
Aptakisic Creek:	
At confluence with Des Plaines River	*645
Approximately 1,900 feet upstream of Busch Parkway	*646
Mill Creek:	
Downstream side of Skokie Highway (U.S. Route 41)	*670
Approximately 1,100 feet downstream of Dilleys Road	*670
Maps available for inspection at the Lake County Office of Planning and Development, Division of Building and Zoning, 5th Floor, 18 North County Street, Waukegan, Illinois.	
Des Plaines River:	
Approximately 1,900 feet upstream of State Route 60 (Townline Road) (at corporate limits)	*652
Upstream side of Buckley Road (at corporate limits)	*660
Maps available for inspection at the Libertyville Village Public Works Department, Engineering Division, 200 East Cook Avenue, Libertyville, Illinois.	
Lincolnshire (Village), Lake County (FEMA Docket No. 7263)	
Des Plaines River:	
Approximately 1.76 miles upstream of Deerfield Road	*647
Approximately 0.95 mile downstream of Halfday Road (State Route 22)	*647
Maps available for inspection at the Lincolnshire Village Hall, One Olde Half Day Road, Lincolnshire, Illinois.	
Mettawa (Village), Lake County (FEMA Docket No. 7263)	
Des Plaines River:	
Approximately 1.02 miles downstream of State Route 60 (Townline Road)	*650
Approximately 0.68 mile downstream of Rockland Road	*655
Maps available for inspection at the Mettawa Village Hall, 1000 Allanson Road, Mundelein, Illinois.	
Riverwoods (Village), Lake County (FEMA Docket No. 7263)	
Des Plaines River:	
Approximately 600 feet upstream of Lake-Cook Road	*645
Approximately 0.92 mile upstream of Deerfield Road	*646
Maps available for inspection at the Riverwoods Village Hall, 300 Portwine Road, Riverwoods, Illinois.	
Sycamore (City), DeKalb County (FEMA Docket No. 7199)	
South Branch Kishwaukee River:	
Approximately 1,000 feet upstream of Coltonville Road	*832
Approximately 1,500 feet downstream of Bethany Road	*835
East Branch South Branch Kishwaukee River:	
At approximately 0.47 mile downstream of Brick Road	*826
At approximately 0.5 mile downstream of State Route 64	*836
Blue Heron Creek:	
Approximately 950 feet downstream of Brickville Road	*834
Approximately 250 feet downstream of Brickville Road	*835
Maps available for inspection at the Sycamore City Hall, Engineering Department, 535 DeKalb Avenue, Sycamore, Illinois.	
Vernon Hills (Village), Lake County (FEMA Docket No. 7263)	
Des Plaines River:	
Approximately 1.02 miles downstream of State Route 60 (Townline Road)	*650
Approximately 1,900 feet upstream of State Route 60 (Townline Road) at corporate limits	*650
Maps available for inspection at the Vernon Hills Public Works Department, 490 Greenleaf Drive, Vernon Hills, Illinois.	
Wadsworth (Village), Lake County (FEMA Docket No. 7263)	
Des Plaines River:	
Approximately 1.16 miles downstream of McCarthy Road	*669
Approximately 1.6 miles upstream of Wadsworth Road	*671
Mill Creek:	
At confluence with Des Plaines River	*670
Approximately 1,100 feet downstream of Dilleys Road	*670
Maps available for inspection at the Wadsworth Village Hall, 14155 Wadsworth Road, Wadsworth, Illinois.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
INDIANA	
New Albany (City), Floyd County (FEMA Docket No. 7247)	
Fall Run:	
At confluence with Falling Run	*443
At downstream side of Grant Line Road	*443
Falling Run:	
At Ohio River levee	*438
At Janie Drive	*474
Middle Creek:	
Approximately 150 feet downstream of State Route 111	*448
Approximately 75 feet upstream of upstream crossing of Southern Railway	*472
Vincennes Run:	
At confluence with Middle Creek	*448
Approximately 70 feet upstream of Eagle Lane	*471
Maps available for inspection at the City of New Albany City-County Building, Board of Public Works, Room 317, 311 Hauss Square, New Albany, Indiana.	
Easton (Town), Bristol County (FEMA Docket No. 7303)	
Gowards Brook:	
Approximately 1,300 feet downstream of Norton Avenue	*94
Approximately 100 feet upstream of State Route 106	*141
Maps available for inspection at the Town of Easton Planning & Zoning Department, 136 Elm Street, Easton, Massachusetts.	
Randolph (Town), Norfolk County (FEMA Docket No. 7299)	
Cochato River:	
At downstream corporate limits	*105
At Randolph/Holbrook corporate limits, approximately 1,200 feet upstream of Private Dam	*119
Maps available for inspection at the Randolph Town Hall, 1 Turner Lane, Randolph, Massachusetts.	
MICHIGAN	
Howell (City), Livingston County (FEMA Docket No. 7283)	
Thompson Lake:	
Entire shoreline within community	*907
Bogue Creek:	
Approximately 530 feet downstream of Sluice Gate	*892
Approximately 590 feet upstream of Sluice Gate	*907
Maps available for inspection at the City Hall, 611 East Grand River, Howell, Michigan.	
MINNESOTA	
Houston (City), Houston County (FEMA Docket No. 7303)	
Root River:	
Approximately 0.5 mile downstream of Grant Street (State Route 76)	*682
Approximately 0.6 mile upstream of Grant Street (State Route 76)	*686
Outlet A–1:	
Approximately 100 feet south of intersection of Washington and Elm Streets	*682
Outlet A–2:	
Approximately 400 feet north of intersection of Plum and Grant Streets	*681
Outlet B:	
Approximately 150 feet northeast of intersection of Henderson and Elm Streets	*679
Maps available for inspection at the Houston City Hall, 105 West Maple Street, Houston, Minnesota.	
MISSISSIPPI	
Shubuta (Town), Clarke County (FEMA Docket No. 7291)	
Chickasawhay River:	
Approximately 2,900 feet downstream of First Street (County Route 612)	*191
Approximately 1.26 miles upstream of First Street (County Route 612)	*197
Maps available for inspection at the Shubuta Town Hall, 156 Eucutta Street, Shubuta, Mississippi.	
NEW JERSEY	
Bay Head (Borough), Ocean County (FEMA Docket No. 7251)	
Atlantic Ocean:	
At the intersection of Grove Avenue and Club Drive	*5
At intersection of Karge Street and Main Street	#1
Approximately 400 feet east from the intersection of East Avenue and Chadwick Street	*15
Bay Head Harbor:	
At intersection of Grove Street and Holly Avenue	*5
Approximately 1,000 feet northwest of intersection of Lake Avenue and Johnson Street	*5
Maps available for inspection at the Bay Head Borough Hall, 81 Bridge Avenue, Bay Head, New Jersey.	
NEW YORK	
Watson (Town), Lewis County (FEMA Docket No. 7295)	
Black River:	
At approximately 140 feet downstream of downstream corporate limits	*743
At upstream corporate limits	*747
Maps available for inspection at the Watson Town Hall, Clerk's Office, Star Route, Lowville, New York.	
NORTH CAROLINA	
Albemarle (City), Stanly County (FEMA Docket No. 7299)	
Little Long Creek:	
From a point approximately 1,200 feet downstream of Morgan Road	*410
To a point approximately 100 feet downstream of Centerview Church Road	*478
Poplin Creek:	
At the confluence with Little Long Creek	*416
To a point approximately 0.50 mile downstream of Aquadale Road	*419
Town Creek:	
At the confluence with Little Long Creek	*446
To a point approximately 9.75 feet downstream of Snuggs Road	*449
Maps available for inspection at the City of Albemarle Engineering Department, 144 North Second Street, Albemarle, North Carolina.	
Davidson County (Unincorporated Areas) (FEMA Docket No. 7303)	
Hasty Creek:	
Approximately 800 feet upstream of confluence with Hunts Fork	*720
Approximately 250 feet downstream of NCSR 1781	*747
Payne Creek:	
Approximately 225 feet downstream of NCSR 1757	*736
Approximately 0.96 mile upstream of confluence of Payne Creek Tributary	*766
Payne Creek Tributary:	
At confluence with Payne Creek	*744
Approximately 1.1 miles upstream from Canterbury Road	*782
Rich Fork:	
Approximately 0.5 mile downstream of NCSR 1755	*709
Approximately 0.4 mile upstream of NCSR 1741	*765
Rich Fork Tributary:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At confluence with Rich Fork	*765
Approximately 780 feet upstream of NCSR 1739	*780
Stream No. 97:	
At confluence with Stream No. 99	*747
Approximately 0.74 mile upstream from confluence with Stream No. 99	*764
Stream No. 99:	
At confluence with Payne Creek	*731
Approximately 0.71 mile upstream from confluence of Stream No. 97	*778
Maps available for inspection at the Davidson County Governmental Center, 913 Greensboro Street, Lexington, North Carolina.	
Lexington (City), Davidson County (FEMA Docket No. 7303)	
Darr Branch:	
At confluence with Abbotts Creek	*641
Downstream side of Tanyard Street	*724
Darr Drain:	
At confluence with Darr Branch	*652
Approximately 1,025 feet upstream of Young Drive	*676
Nokomis Branch:	
At confluence with Darr Branch	*659
Approximately 80 feet upstream of North Pine Street	*743
Twin Creek:	
At a point approximately 250 feet upstream of confluence with Abbotts Creek	*635
Approximately 0.43 mile upstream of confluence with Abbotts Creek	*661
Twin Creek Tributary:	
Approximately 475 feet upstream of confluence with Abbotts Creek	*636
At a point approximately 1,600 feet upstream of confluence with Abbotts Creek	*654
Maps available for inspection at the City of Lexington Community Development Department, 28 West Center Street, Lexington, North Carolina.	
Stanly County (Unincorporated Areas) (FEMA Docket No. 7299)	
Little Long Creek:	
From a point approximately 1,200 feet downstream of Morgan Road	*410
To a point approximately 200 feet downstream of Morgan Road	*412
Rocky River:	
At a point approximately 3.1 miles downstream of State Route 1145 (River Road)	*475
At a point approximately 300 feet at upstream county boundary	*482
Maps available for inspection at the Stanly County Planning & Zoning Department, 201 South Second Street, 3rd Floor, Albemarle, South Carolina.	
OHIO	
Warren County (Unincorporated Areas) (FEMA Docket No. 7309)	
Bear Run:	
Approximately 120 feet upstream of Hopkins Road	*727
Approximately 25 feet upstream of Zoar Road	*818
Newman Run:	
At downstream side of U.S. Route 42	*721
At confluence with North Fork Newman Run	*767
North Fork Newman Run:	
At confluence with Newman Run	*767
At upstream side of Lytle Road	*974
Salt Run:	
Approximately 1,350 feet upstream of confluence with Little Miami River	*599
Approximately 30 feet on the upstream side of Morrow-Cozdale Road	*842
Satterthwaites Run:	
Approximately 0.79 mile above the confluence with the Little Miami River Mill Run Channel	*808
At the upstream side of Lytle Road	*971
Maps available for inspection at the Warren County Map Room, 320 East Silver Street, Lebanon, Ohio.	
Waynesville (Village), Warren County (FEMA Docket No. 7309)	
Satterthwaites Run:	
Approximately 400 feet downstream of U.S. Route 42	*725
At upstream corporate limits	*837
Maps available for inspection at the Waynesville Village Hall, 291 Church Street, Waynesville, Ohio.	
PENNSYLVANIA	
Freeport (Borough), Armstrong County (FEMA Docket No. 7291)	
Buffalo Creek:	
At confluence with Allegheny River	*768
Approximately 0.22 mile upstream of CONRAIL spur	*768
Allegheny River:	
At downstream corporate limits	*768
Approximately 0.27 mile downstream of upstream corporate limits	*769
Maps available for inspection at the Freeport Borough Council Chambers, 414 Market Street, Freeport, Pennsylvania.	
Gilpin (Township), Armstrong County (FEMA Docket No. 7291)	
Allegheny River:	
Approximately 1,420 feet downstream of Lock and Dam No. 5	*771
Approximately 150 feet upstream of Lock and Dam No. 5	*775
Kiskiminetas River:	
At confluence with the Allegheny River	*771
Approximately 1,400 feet upstream of the confluence with the Allegheny River	*771
Maps available for inspection at the Gilpin Township Municipal Building, Route 66, Leechburg, Pennsylvania.	
South Buffalo (Township), Armstrong County (FEMA Docket No. 7291)	
Allegheny River:	
Approximately 600 feet downstream of CONRAIL	*770
Approximately 125 feet upstream of Lock and Dam No. 5	*775
Maps available for inspection at the South Buffalo Township Municipal Office, 384 Iron Bridge Road, Freeport, Pennsylvania.	
TENNESSEE	
Dyer County (Unincorporated Areas) (FEMA Docket No. 7303)	
Obion River:	
Approximately 75 feet downstream of the Tennessee Kentucky Railroad	*270
Approximately 2.81 miles upstream of State Route 78	*279
Jones Creek:	
Approximately 1,400 feet upstream of the confluence of Light Creek	*287
Approximately 1.4 miles upstream of the confluence of Light Creek	*289
Maps available for inspection at the Dyer County Courthouse, Building Inspector's Office, #1 Veteran's Square, Dyersburg, Tennessee.	
Greeneville (Town), Greene County (FEMA Docket No. 7303)	
Frank Creek:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 375 feet downstream of Tusculum Boulevard	*1,424
Approximately 750 feet upstream of Viking View Estates Road	*1,458
Richland Creek:	
Approximately 1,550 feet downstream of East McKee Street	*1,431
Approximately 2,150 feet upstream of East Church Street	*1,486
Maps available for inspection at the Greeneville Town Hall, 200 North College Street, Greeneville, Tennessee.	
Sweetwater (City), Monroe County (FEMA Docket No. 7303)	
Sweetwater Creek:	
Approximately 0.33 mile downstream of Southern Railway	*903
Approximately 200 feet downstream of State Route 68	*917
Maps available for inspection at the Sweetwater City Hall, 203 Monroe Street, Sweetwater, Tennessee.	
VERMONT	
Bellows Falls (Village), Windham County (FEMA Docket No. 7303)	
Connecticut River:	
At a point approximately 0.85 mile upstream from Bellows Falls Dam	*299
At a point approximately 500 feet upstream of Bellows Falls Dam	*296
Maps available for inspection at the Town of Rockingham , Town Clerk's Office, Village Square, Rockingham, Vermont.	
Rockingham (Town), Windham County (FEMA Docket No. 7303)	
Connecticut River:	
A point approximately 0.78 mile upstream of Bellows Falls Dam	*300
A point approximately 1.34 miles upstream of the confluence of Commissary Brook	*306
Williams River:	
At the confluence with the Connecticut River	*302
A point approximately 80 feet upstream of U.S. Route 5	*302
Maps available for inspection at the Rockingham Town Hall, Clerk's Office, Village Square, Rockingham, Vermont.	
WEST VIRGINIA	
Jackson County (Unincorporated Areas) (FEMA Docket No. 7303)	
Mill Creek:	
Just downstream of State Highway 87	*589
Just downstream of County Highway 21	*599
Maps available for inspection at the Jackson County Courthouse, Main Street, Ripley, West Virginia.	
Ripley (City), Jackson County (FEMA Docket No. 7303)	
Mill Creek:	
Approximately 450 feet downstream of U.S. Route 33	*593
At confluence of Sycamore Creek	*595
At upstream corporate limits	*599
Maps available for inspection at the Ripley Municipal Building, 113 South Church Street, Ripley, West Virginia.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: March 31, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 00–9068 Filed 4–11–00; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 20, and 43

[CC Docket No. 99–301, FCC 00–114]

Local Competition and Broadband Reporting

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission announces the adoption of a program to collect basic information about the status of local telephone service competition and the deployment of advanced telecommunications capability, also known as broadband. The Commission will use this information to help inform it craft its regulations in a manner that encourages development in these markets. The Commission further intends that this information will inform other policy makers and consumers about these markets. By understating the state of local telephony service competition and the deployment of broadband services, the Commission will be better able to fulfill its statutory obligations.

DATES: *Effective Date:* May 12, 2000. *Compliance Date:* For the first filing respondents must submit 1999 year-end data by May 15, 2000.

FOR FURTHER INFORMATION CONTACT: Scott Bergmann or Ellen Burton, Industry Analysis Division, Common Carrier Bureau, at (202) 418–0940. For additional information concerning the information collections contained in the Report and Order (Order) contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (Order) released March 30, 2000 (FCC 00–114), issued in response to the Notice of Proposed Rulemaking released by the Commission on October 22, 1999 (FCC 99–301). The full text of the Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW, Washington, DC 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857–3800, 1231 20th Street, NW, Washington, DC 20037. Additionally, the complete item is available on the Commission's website at <http://www.fcc.gov/Bureaus/Common_Carrier/Orders/2000/>.

Outreach Workshops: In an effort to inform respondents and answer questions regarding their filings, the Commission will hold two workshops in the Commission's Meeting Room at 445 12th Street, SW, Washington, DC 20554. The workshops will be held on April 17, 2000 and May 1, 2000. Details will be provided by Public Notice released by the Commission.

Electronic Access and Filing

You may obtain the latest version of the form (FCC Form 477) from the Common Carrier Bureau's website at <http://www.fcc.gov/broadband/data>. The form is best accessed using Excel 97. However, other comparable spreadsheet software programs may access a version of the form that will be located at the same website.

Summary of the Report and Order

1. In the Order summarized here, we adopt an information collection program to collect basic information about the status of local telephone service competition and the deployment of advanced telecommunications capability, also known as broadband. We conclude that we need timely and reliable information about the pace and extent of developing local competition in different geographic areas in order to

evaluate the effectiveness of actions that this Commission and the states are taking to promote local competition. We also conclude that we need timely and reliable information to assess the deployment of broadband services, as required by section 706 of the Telecommunications Act of 1996.

2. Moreover, we conclude that this information would allow us to avoid ''one size fits all'' regulation, and, specifically, to reduce regulation wherever we can pursuant to new sections 10 and 11 of the Act. 47 U.S.C. 160, 161. The Commission adopts a simple filing that should enable it to make better informed decisions, while placing as low a burden as possible on reporting entities.

3. Throughout the Order, we explain our reasons for the conclusions we reach. We assessed commenters' proposals for alternative means of collecting the needed information. The following text represents a brief summary of conclusions adopted in the Order.

4. *Types of Entities that Must Report:* In the Order, we discuss the types of entities that must report data describing the extent and intensity of local competition and the extent of broadband services deployment. Based on our determination that we need comprehensive data about developing competition for local telephone service, we decide that all local exchange carriers (LECs), both incumbent and competitive, should complete the applicable portions of Form 477 if they meet our defined threshold for deployment of service. We conclude that we should require local exchange carriers to complete Parts II and V of the form for each state in which they provide 10,000 or more voice-grade equivalent lines or wireless channels. Further, we require any facilities-based provider of mobile telephony (defined here as, real time, two-way switched voice service that is interconnected with the public switched network utilizing an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless handoffs of subscriber calls) to complete Part III of the form for each state in which it has 10,000 or more subscribers.

5. We next turn to a consideration of those entities that should report data on deployment of broadband services. The Order concludes that given our broad statutory mandate under section 706 of the Telecommunications Act of 1996, to evaluate the deployment of broadband services, regardless of the transmission media or technology employed, we should collect data from a wide range of broadband providers. More specifically, we require providers of what we term ''one-way broadband'' and ''full broadband'' services to complete the applicable portions of Form 477, to the extent that they exceed the broadband reporting threshold. For purposes of the data collection, ''full broadband'' service is defined, consistent with the *Advanced Telecommunications Report*, as having an information carrying capacity of over 200 Kilobits per second (Kbps) in each direction, simultaneously. *An Inquiry Concerning the Deployment of Advanced Telecommunications Capabilities to All Americans in a Reasonable and Timely Fashion*, 14 FCC 2d 2398, paragraphs 20 through 25 (*Advanced Telecommunications Report*). ''One-way broadband'' service is defined as having an information carrying capacity of over 200 Kilobits per second (Kbps) in only one direction. Actual or potential providers of broadband services may include: LECs (incumbent and competitive), cable television companies, utilities, MMDS/MDS/ ''wireless cable'' carriers, other fixed wireless providers, mobile wireless carriers (both terrestrial and satellite-based), government entities, and others. We believe that only by casting our net wide enough to include all such entities can we discern progress, or the lack of it, in meeting the goals stated in the *Advanced Telecommunications Report*. We thus conclude that any entity that provides at least 250 full or one-way broadband service lines (or wireless channels) or has at least 250 full or one-way broadband customers in a state should be required to complete Parts I and V of Form 477 for that state.

6. *Frequency of Reports:* We decide that we can best balance our need for timely information with our desire to minimize the reporting burden on respondents by requiring providers to report data on a semi-annual basis. Given our desire to collect data to be used in the second Advanced Telecommunications Report, we direct that all respondents should file their end-of-year 1999 data on May 15, 2000. Thereafter, entities will report end-of-year data on March 1st and data as of June 30th on September 1st.

7. *Definition of Reporting Area:* To minimize the burden the reporting requirement places on reporting entities, we conclude that information should be reported by state. To aid our understanding of developments within a given state, we also require the reporting entity to provide the Commission with a list of Zip Codes in which they have at least one subscriber.

8. *Confidentiality of Data:* We continue to believe that the value of this data collection is significantly enhanced by making as much information as possible available to the public. At the same time, we conclude that we can achieve this goal in a manner that ensures the non-disclosure of confidential provider-filed data. We discuss, below, our affirmative policies for handling this information and we believe that these policies will allay commenter concerns that legitimately protectible information would be released to the public. We do not, in this Order, make findings about whether the data elements requested in the reporting form would satisfy the Commission's articulated standard for non-disclosure of competitively sensitive information, but we do make clear that our rules for requesting non-disclosure of confidential information will be available to all filers of the FCC Form 477. Moreover, for purposes of this information collection, we take steps to simplify the procedures for requesting confidential treatment of data. Our rules for requesting non-disclosure of competitively sensitive information afford sufficient protection to providers and appropriately balance the concerns of parties submitting information with the interests of the public in obtaining access to that information. We also make clear that we will not release information that is the subject of non-disclosure requests until persons requesting confidential treatment are afforded all of the procedural protections provided by our confidentiality rules. We expect that these policies will allow us to accomplish our goal of making as much information as possible available to the public while ensuring that service providers can file data with confidence that any information found to be competitively sensitive under our rules will not be disclosed.

9. We note that several commenters express concern over the potential for competitive harm that release of the gathered data could cause and, in particular, about the ability of competitors to take the data submitted and tailor market strategies to quash nascent competition, protect areas that are being subjected to increased competition, or deploy facilities to defend strongholds. Again, we believe that our confidentiality rules afford appropriate protection of legitimately protectible information, but we take additional steps to clarify our existing rules for treatment of competitively-sensitive data because we expect that some of the respondents to this form may be less familiar with Commission practices. The Commission's policy on

confidential treatment of information submitted pursuant to a survey or study is to ''allow survey and study respondents to request confidential treatment pursuant to Section 0.459 to the extent they can show by a preponderance of the evidence a case for non-disclosure consistent with the Freedom of Information Act (FOIA).'' Assessment of the confidentiality of the information is made on a case-by-case basis and action on confidentiality requests is routinely deferred until a request for inspection is made.

10. We also recognize that there is considerable diversity in the way that individual service providers handle the data pertaining to their operations. Indeed, it is our understanding that some providers release considerable data about the nature of their operations, while others more closely safeguard such data, including the type of data that we request in the reporting form. We anticipate that providers will request confidential treatment for data filed where they deem it appropriate. In these cases, and in accordance with the Commission's rules, we will honor all parties' requests for confidential treatment of information that they identify as competitively sensitive until persons requesting confidential treatment are afforded all of the procedural protections provided by our confidentiality rules. Moreover, in such cases, we agree with those commenters who suggest that we can aggregate much of the data—for example, by carrier class and to the state level—so that it does not identify the individual provider in our regularly published reports.

11. We also take an additional step to reduce provider concerns about the release of information identified as competitively sensitive by making it easier for providers to request confidential treatment of their data. In particular, we place a check-box on the first page of the FCC Form 477 that allows providers to request non-disclosure of all or portions of their submitted data without filing at this point in the process the detailed confidentiality justification required by our rules. Thus, where parties seek confidential treatment, they need only check the well-marked box on the first page of the form and provide a completed and a redacted version of the form, as explained fully in the instructions to the Form 477. If the Commission receives a request for, or proposes disclosure of, the information contained in the Form 477, the provider will be notified and required to make the full showing under our rules. Given the unique nature of this data collection, these streamlined procedures for requesting non-disclosure should greatly improve the ability of smaller providers and providers that are less familiar with the Commission's rules to request confidential treatment of their data. We expect that this will lead to a greater level of compliance with this information collection and will give providers confidence that protectible data will not be published in our regular reports.

12. *Part I: Broadband Data.* Without making a prospective decision about whether these data elements would satisfy the Commission's standard for non-disclosure, we state our intention not to publish in our publicly-available reports individual provider-filed data for the broadband (Part I) portion of the form, even where providers do not seek non-disclosure of this data. At this time, we do not have sufficient evidence in the record to make a universally applicable decision about the competitive sensitivity of all of the Part I Broadband information for all providers, but we do agree to aggregate this information in a way that does not identify the individual provider data in our reports because commenters have made at least an initial showing that all or most of the data filed in these sections is typically held confidential by providers of these services. Our decision not to publish individual provider submissions from the Part I Broadband section reflects the particular and limited purposes of this data collection and our desire to maximize the level of voluntary compliance with the information collection. While this is a mandatory collection, we wish to collect as much, and as accurate, information as possible about the status of broadband deployment in a short period of time. We also, as part of this information collection, encourage service providers that are below the reporting thresholds to report data on a voluntary basis. Moreover, particularly with respect to the Part I broadband data, we conclude that we can achieve substantially the same public benefits by releasing this information in an aggregated fashion without any potential risk of competitive harm on the part of respondents. Given the unique nature of this information collection, we believe that this extra step will improve compliance, thus enhancing our understanding of the broadband market, without any material diminution in value of the information collection. Thus, we agree to publish in our regular reports data from Part I of the form only once it has been aggregated, for example by provider class, regardless of whether parties request confidential treatment on the broadband portion of the form.

13. *Parts II and III: Local Competition Data.* With respect to the data filed in Parts II and III of the form concerning wireline and wireless local telephone service, we will also report data in a manner that aggregates and does not identify the identity of providers where providers have requested non-disclosure of the data. We do not decide in advance to publish all of the data filed in Part II of the form in an aggregated fashion, however, because it is our experience that portions of this data are already made publicly available by the individual companies or from other sources. We note, for example, that the local competition market is characterized by incumbent firms that routinely make available their line count data, similar to that reported in Part II of the form. Similarly, competitive LECs in some states are required to submit line count data and this information is routinely made publicly available. We expect that such providers reporting data in Part II of the form will not request non-disclosure of data that has already been made publicly available and that the Commission will be able to publish this data in our reports. Concerning the Part III mobile telephony data, we recognize that mobile telephony providers argue that state-by-state subscriber counts are not routinely made publicly available. We do not, however, have sufficient evidence to make an across-the-board finding at this time. Accordingly, providers submitting data concerning these services may check the box on Form 477 to request confidential treatment of their data, which will afford them the protection of the Commission's confidentiality rules.

14. We emphasize that apart from publicly available information, which we anticipate reporting, we intend to publish the local competition data in our local competition reports only to the level of detail necessary to provide an understanding of how local competition is developing. We therefore agree with those commenters who suggest that we can aggregate much of the data—for example, by carrier class and to the state level—so that it does not identify the individual provider in our regularly published reports. This reporting approach, as well as providers' ability to request confidential treatment under our rules, should maximize the level of voluntary compliance with the information collection.

15. *Part V: Zip Code Data.* In the particular case of Zip Code data (*i.e.*, the lists of Zip Codes where service is offered), the Commission intends to

report information on Zip Codes served, but it will not release the identity of specific providers in a given Zip Code. Public release of Zip Code data in this manner is appropriate, we believe, because it does not reveal information about the actual subscribership levels for any particular provider, but only indicates the presence of one or more providers in the given Zip Code. Although we think it unlikely that any provider would consider this limited release to reveal competitively sensitive information, we do not limit parties' ability to seek non-disclosure of such data under the Commission's rules.

16. *Sharing data with State Commissions.* Finally, because we wish to maximize the value of this information collection for states, we conclude that the Chief of the Common Carrier Bureau may release the information collected under this program to the state commissions, subject to certain conditions. A state commission may view all data submitted on a carrier specific basis, by entities filing data for that commission's state, provided that the state has appropriate protections in place (which may include confidentiality agreements or designation of information as proprietary under state law) that would preclude disclosure of any confidential information. However, where state laws afford less protection than federal FOIA laws, the higher federal standard will prevail. We are aware that there are two states that have ''open records'' statutes that may prevent the state from providing confidential protection for sensitive provider information. In these situations, we will work with these state commissions to enable them to obtain access to such information in a manner that addresses the state's need for this information and also protects the confidential nature of the provider's sensitive information. We anticipate that these actions will give state commissions a valuable and unique view into the state of local competition and broadband deployment in their states. In addition, we hope that this will further our goal of reducing the overall reporting burdens placed on entities in these markets by minimizing the need for additional information collection programs at the state level.

17. We conclude that these policies, taken as a whole, most effectively balance provider concerns with our broader goals for this proceeding. As stated in the Notice, by making the information available, consumers, investors, and policy makers will be better able to make informed decisions on the development of these markets. Such information has value because a better-informed marketplace promotes a more efficient marketplace. Also, by allowing public release of as much of the information as possible, associations, scholars, and others will be able to use the information in their independent analyses of Commission policies, thereby aiding the Commission in crafting regulations that address specific market problems and eliminating those regulations that have outlived their usefulness.

18. *Electronic Filing:* We adopt the method proposed in the Notice for collection of the information through electronic filing except to modify the allowable methods of submission. Specifically, the form will be made available to reporting entities on the Common Carrier Bureau's website at <www.fcc.gov/broadband/data> and will utilize Excel 97 software, as well as other comparable spreadsheet software programs. Carriers and other entities that must comply with this requirement may submit their completed forms to a specified e-mail address or forward to the Commission diskette copies. Regardless of whether the reporting entity e-mails its submission or mails diskette copies, an officer of the reporting entity must submit a ''Certification Statement'' to the Commission attesting to the truthfulness of the data submitted. We conclude that this filing system will ensure, for both the reporting entities and the Commission, that the burdens of the program are minimized and that unnecessary expenditures for compliance are not incurred. Also, by allowing diskette submissions, reporting parties seeking confidential treatment can further ensure that the information submitted is protected.

19. To ensure that this information collection program does not outlive its usefulness, the reporting requirement adopted in the Order will terminate in five years, unless the Commission takes affirmative steps to preserve it.

20. *Data to be Reported:* We describe, in the Order, the specific items set out in the data collection form. A brief description of the data collection form follows, with greater detail found in the complete Order.

21. Part I of the form collects information about the number of broadband lines in service to consumers. This includes information about both ''full broadband'' lines, with information carrying capacity in excess of 200 Kbps in both directions, simultaneously, and asymmetric ''one way broadband'' lines, with information carrying capacity in excess of 200 Kbps in one direction but not both.

22. Part II of the form collects information from incumbent LECs and competitive LECs about the number of voice-grade equivalent lines and fixed wireless channels in service to provide local exchange or exchange access service. We also require respondents to provide information about the extent to which they use their own facilities in providing these lines or wireless channels, and the extent to which they use the facilities or services of other LECs in doing so.

23. Part III of the form collects information about mobile telephony subscribership.

Final Paperwork Reduction Act of 1995 Analysis

24. As required by the Paperwork Reduction Act of 1995, the *Local Competition and Broadband Deployment Notice* invited the general public and the Office of Management and Budget (OMB) to comment on the proposed information collection requirements contained in the Notice. On December 22, 1999, OMB approved the proposed information collection, as submitted to OMB. [1] In this Order, we adopt the proposed Local Competition and Broadband Reporting form, but modify our proposal to reflect comments received from OMB and other commenters. The revised Local Competition and Broadband Reporting has been approved by OMB. The OMB Control Number is 3060–0816.

Final Regulatory Flexibility Act Analysis

25. As required by the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the Notice issued in this proceeding, FCC 99–301, October 22, 1999. The Commission sought written comment in the Notice, including comments on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this Order conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Public Law 104–121, 110 Stat. 847 (1996).

(1) Need for, and Objectives of, the Local Competition and Broadband Reporting Order

26. The Commission initiated this proceeding to determine whether it should require certain providers of communications services to report a limited amount of information about the

[1] *See* Letter from Donald R. Arbuckle, Office of Management and Budget, to Judy Boley, Federal Communications Commission (Dec. 22, 1999).

development of local telephone competition and the deployment of broadband services as mandated by the Telecommunications Act of 1996. In this Order, we adopt rules to collect basic information about two important aspects of communications: the status of local telephone service competition and the deployment of ''advanced telecommunications capability.'' The 1996 Act—in particular, sections 251 and 271—tasked the Commission and the states with important roles in opening local telephone markets to competition. Moreover, the Commission needs timely and reliable information on broadband deployment given that section 706 of the 1996 Act requires the Commission to issue periodic reports on the state of broadband deployment. The information collected pursuant to this program will materially improve our ability to develop, evaluate, and revise policy in these critical areas and will provide valuable benchmarks not only for this Commission but for other policy makers and consumers. Further, the information collection program adopted in this Order is the least burdensome means available to fulfill these statutory obligations.

(2) Summary of Significant Issues Raised by Public Comment in Response to the IRFA

27. In the IRFA, we stated that we would seek to minimize the burden imposed on smaller entities by establishing thresholds for reporting that balanced the needs of the Commission to receive data on the development of local competition and deployment of broadband against the burden such reporting places on smaller entities. In response to the Notice, the Commission received comments from 37 parties and held a series of *ex parte* meetings with potential respondents to the information collection adopted in this Order. Among those parties, only the Office of Advocacy, United States Small Business Administration (SBA) and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), commented specifically on the IRFA. We note that many other commenters raised issues about the proposed rules and we encourage readers of this FRFA to consult the complete text of this Order, which describes in detail our analysis of commenter proposals.

28. In its comments to the IRFA, SBA expresses concern that the proposed threshold for reporting broadband data (1,000 broadband lines nationwide) may be set too low and, therefore, include a number of smaller entities that would be unduly burdened by the reporting requirement. As a result, SBA recommends that the Commission raise the reporting threshold to at least 5,000 lines nationwide or ''significantly reduce the burden on the small businesses that would be replying.'' OPASTCO, in its comments, commends the Commission for its efforts to exempt smaller entities and urges the Commission to adopt an existing SBA definition of small companies: those with fewer than 1,500 employees. We note that other commenters, while not in direct response to the IRFA, disagree with SBA and OPASTCO and urge the Commission to adopt its proposed reporting threshold.

29. In an effort to balance the needs of the Commission with the costs our data gathering may place on smaller entities, the Commission has modified the thresholds for reporting and the frequency of filing reports, and other aspects of the requirements. We believe that these modifications satisfy SBA's request that we significantly reduce the burdens for those small entities that must comply. For example, by adopting a state level threshold (250 broadband lines in a given state), we ensure that reporting entities have a significant presence in a given state, before having to complete the form for that state. Moreover, we conclude that this threshold is set to allow the Commission to comply with Congress' charge in section 706 of the 1996 Act to determine whether advanced telecommunications capability, commonly known as ''broadband,'' is being deployed to *all* Americans. In order to gain the comprehensive understanding—as called for in section 706—of the broadband market, particularly in rural and inner-city areas and among demographic groups that are traditionally underserved, it is necessary to gather data from entities that are most likely to serve these areas and groups, which include some smaller entities.

30. Among the other actions taken to reduce the overall burden on small entities, we decouple the broadband and local competition reporting thresholds. In the Notice, the Commission tentatively concluded that any provider meeting the threshold requirement for the broadband part of the form would be required to complete the local competition part of the form, whether or not the entity met the threshold for that part, if the entity provides services listed in that part of the form. We note that the representatives of traditionally smaller providers opposed this linkage of reporting thresholds. By eliminating this linkage, we reduce reporting burdens on these traditionally smaller providers.

31. To further reduce the potential burden this data gathering program may place on smaller entities the Commission, in this Order, has also reduced the frequency of reporting from quarterly to semi-annually. In this regard, we accept the suggestions of many commenters that reducing the frequency of reporting is a measurable way to decrease the burden placed on reporting entities. We necessarily decline SBA's invitation to adopt an annual filing basis, because we conclude that the rapidly changing nature of the local competition and broadband markets necessitate more regular data collections.

32. Supporting the proposal in the Notice, SBA further encourages the Commission to collect information on a statewide basis. In this Order, we adopt our proposal and require providers to report data on a state-by-state basis. To supplement this data, we ask providers of broadband and local exchange services to provide a list of the Zip Codes in which they serve at least one customer. We conclude that reporting scheme best balances our need to achieve geographically disaggregated information while minimizing burdens on all entities, including small entities.

33. Finally, we note SBA's suggestion that small carriers be allowed to file data on a voluntary basis. While the Commission concludes that it is necessary to adopt a mandatory reporting mechanism, we agree with SBA that smaller, exempted providers should be invited to file data on a voluntary basis. Thus, we encourage small providers to file the new FCC Form 477 even if they do not meet the reporting thresholds for mandatory reporting.

34. Overall, we believe that our approach (*e.g.*, changing thresholds to the state level, decoupling the thresholds for different parts of the form, and reducing the reporting frequency to semi-annually) will result in a program that is not overly burdensome on reporting entities, and thus balances the concerns raised by SBA and other commenters with the Commission's need to gain a better understanding of developments in these markets.

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

35. In the IRFA, the Commission included a description and estimate of the number of small entities to which its proposed rules would apply. No commenters addressed the issue. In this

Order, the Commission decides that local exchange carriers and providers of mobile telephony services that serve 10,000 or more voice-grade equivalent lines or wireless channels (or mobile telephony subscribers) in a given state and any entity that provides 250 or more full or one-way broadband lines or channels in a given state, must report data about those services provided in that state. Based on data available to it at present, the Commission estimates that approximately 200 of the nation's local exchange carriers and between 100–200 mobile telephony providers will be required to comply with the requirement. We do not have concrete data on which to base a precise estimate of the number of broadband providers that may be required to report. We set out, however, a detailed description of the types of entities that may be required to comply with the reporting requirement and we detail our understanding of the number of small entities within each of these categories.

36. To estimate the number of small entities that will be affected by the rules, we first consider the statutory definition of ''small entity'' under the RFA. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

37. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Carrier Locator* report, derived from filings made in connection with the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 4,144 interstate carriers. These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

38. We have included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

39. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms that may be affected by the decisions and rules in the Order.

40. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules in the Order.

41. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, and Resellers.* Neither the Commission nor SBA has developed a definition of small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, there are 1,560 LECs and CAPs, 171 IXCs, 24 OSPs, and 388 resellers. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,410 small entity LECs, 151 IXCs, 129 CAPs, 32 OSPs, and 351 resellers that may be affected by the decisions and rules in the Order.

42. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.

According to SBA's definition, a small business radiotelephone company is one employing no more than 1,500 persons. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned are operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the decisions and rules in the Order.

43. *Cellular, PCS, SMR and Other Mobile Service Providers.* In an effort to further refine our calculation of the number of radiotelephone companies that may be affected by the rules adopted herein, we consider the data that we collect annually in connection with the TRS for the subcategories Wireless Telephony (which includes Cellular, PCS, and SMR) and Other Mobile Service Providers. We will utilize the closest applicable definition under SBA rules—which, for both categories, is for telephone companies other than radiotelephone (wireless) companies, however, to the extent that the Commission has adopted definitions for small entities providing PCS and SMR services, we discuss those definitions. According to our most recent TRS data, 732 companies reported that they are engaged in the provision of Wireless Telephony services and 23 companies reported that they are engaged in the provision of Other Mobile Services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of Wireless Telephony Providers and Other Mobile Service Providers, except as described below, that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 732 small entity Wireless Telephony Providers and fewer than 23 small entity Other Mobile Service Providers that may be affected by the decisions and rules in the Order.

44. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added, and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. However, licenses for Blocks C through F have not been awarded fully, therefore there are few, if any, small businesses currently providing PCS services. Based on this information, we estimate that the number of small broadband PCS licenses will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small PCS providers as defined by SBA and the Commissioner's auction rules.

45. *SMR Licensees.* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small entity'' in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. The definition of a ''small entity'' in the context of 800 MHz SMR has been approved by the SBA, and approval for the 900 MHz SMR definition has been sought. The rules may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than $15 million. Consequently, we estimate, for purposes of this FRFA, that all of the extended implementation authorizations may be held by small entities, some of which may be affected by the decisions and rules in the Order.

46. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we estimate that the number of geographic area SMR licensees that may be affected by the decisions and rules in the Order includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. The Commission, however, has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we conclude, for purposes of this FRFA, that all of the licenses may be awarded to small entities, some of which may be affected by the decisions and rules in the Order.

47. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, if this general ratio continues to 1999 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition, some of which may be affected by the decisions and rules in the Order.

48. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz *Third Report and Order* we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average

gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. 908 licenses were auctioned in 3 different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: one of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. As of October 7, 1999, the Commission had granted 681 of the Phase II 220 MHz licenses won at a first auction and an additional 221 Phase II licenses won at a second auction.

49. *Narrowband PCS.* The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this FRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

50. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (*BETRS*). We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

51. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA definition.

52. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission is unable at this time to estimate the number of, if any, small businesses that could be impacted by the proposed rules. However, the Commission's 1994 Annual Report on PLMRs indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the rules in this context could potentially impact every small business in the United States. We note, however, that because the vast majority of these licensees are end-users, not providers of telephony or broadband services, they would not be directly affected by the rules adopted in this Order.

53. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this FRFA, we will utilize the SBA's definition applicable to radiotelephone companies—*i.e.*, an entity with no more than 1,500 persons. We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

54. *Offshore Radiotelephone Service.* This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small entities under the SBA's definition for radiotelephone communications.

55. *Wireless Communications Services.* This service can be used for fixed, mobile, radio location and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees that may be affected by the decisions and rules adopted in the Order includes these eight entities.

56. *Satellite Services.* The Commission has not developed a definition of small entities applicable to satellite service licensees. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts. According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than $9.999 million. The Census report does not provide more precise data.

57. In addition to the estimates provided above, we consider certain additional entities that may be affected by the data collection from broadband service providers. Because section 706 requires us to monitor the deployment of broadband regardless of technology or transmission media employed, we anticipate that some broadband service providers will not provide telephone service. Accordingly, we describe below other types of firms that may provide broadband services, including cable companies, MDS providers, and utilities, among others.

58. *Cable services or systems.* The SBA has developed a definition of small

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

59. The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

60. The Communications Act also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 66,000,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 660,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 660,000 subscribers or less totals 1,450. We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, and thus are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act. It should be further noted that recent industry estimates project that there will be a total of 66,000,000 subscribers, and we have based our fee revenue estimates on that figure.

61. *Multipoint Distribution Systems (MDS):* The Commission has defined ''small entity'' for the auction of MDS as an entity that, together with its affiliates, has average gross annual revenues that are not more than $40 million for the preceding three calendar years. This definition of a small entity in the context of MDS auctions has been approved by the SBA. The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading areas (BTAs). Of 67 winning bidders, 61 qualified as small entities.

62. MDS is also heavily encumbered with licensees of stations authorized prior to the auction. The SBA has developed a definition of small entities for pay television services, which includes all such companies generating $11 million or less in annual receipts. This definition includes multipoint distribution systems, and thus applies to MDS licensees and wireless cable operators which did not participate in the MDS auction. Information available to us indicates that there are 832 of these licensees and operators that do not generate revenue in excess of $11 million annually. Therefore, for purposes of this FRFA, we find there are approximately 892 small MDS providers as defined by the SBA and the Commission's auction rules, some which may be affected by the decisions and rules adopted in the Order.

63. *Electric Services (SIC 4911):* The SBA has developed a definition for small electric utility firms. The Census Bureau reports that a total of 1379 electric utilities were in operation for at least one year at the end of 1992. According to SBA, a small electric utility is an entity whose gross revenues did not exceed five million dollars in 1992. The Census Bureau reports that 447 of the 1379 firms listed had total revenues below five million dollars.

64. *Electric and Other Services Combined (SIC 4931):* The SBA has classified this entity as a utility whose business is less than 95% electric in combination with some other type of service. The Census Bureau reports that a total of 135 such firms were in operation for at least one year at the end of 1992. The SBA's definition of a small electric and other services combined utility is a firm whose gross revenues did not exceed five million dollars in 1992. The Census Bureau reported that 45 of the 135 firms listed had total revenues below five million dollars.

65. *Combination Utilities, Not Elsewhere Classified (SIC 4939):* The SBA defines this utility as providing a combination of electric, gas, and other services which are not otherwise classified. The Census Bureau reports that a total of 79 such utilities were in operation for at least one year at the end of 1992. According to SBA's definition, a small combination utility is a firm whose gross revenues did not exceed five million dollars in 1992. The Census Bureau reported that 63 of the 79 firms listed had total revenues below five million dollars.

(4) Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

66. The very focus of this proceeding is whether the Commission should require certain providers of communications services to report a limited amount of information about the development of local telephone competition and the deployment of broadband services. The Order concludes that the Commission should undertake such a data collection and that local exchange carriers and providers of mobile telephony services that serve 10,000 or more voice-grade equivalent lines or channels statewide, and any entity that provides 250 or more full or one-way broadband lines or channels statewide, should report specifically targeted information. The Order sets out in detail the types of providers that should report, exempting smaller providers, frequency of reports, data to be reported, and method of reporting. In particular, we conclude in the Order that given the comprehensive data to be obtained from large and medium size providers, it can exempt most small providers from completing the survey without materially affecting its ability to assess the development of local telephone competition and the deployment of broadband services.

(5) Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

67. The most significant step taken to minimize the impact of these rules on small entities is the adoption of reporting thresholds. For example, the Commission makes specific provision to exempt most smaller carriers from the requirement to report local telephone competition data. The Commission concludes that carriers with fewer than 10,000 statewide voice-grade equivalent lines or channels (or mobile telephony subscribers, in the case of mobile telephony providers) should be exempted from the reporting requirement for that state. Based on this exemption, the Commission estimates that only approximately 200 of the nation's largest local exchange carriers would remain subject to the

requirement. Similarly, the Commission exempts the smallest broadband providers by adopting a broadband reporting threshold. Thus, firms that provide fewer than 250 full or one-way broadband lines or wireless channels in a given state need not report data for that state.

68. Among significant alternatives, the Commission considered whether it might rely on publicly available data or voluntary surveys, in lieu of a mandatory data collection program. The Commission concludes other publicly available information sources present less than complete pictures of actual conditions and trends in developing local service markets and in the deployment of broadband. Further, the Commission considered the need for, and size of, its exemptions for small entities. The Commission concludes that the thresholds adopted will allow it to exempt most smaller carriers from completing the form without materially affecting its ability to assess the development of local competition and the deployment of broadband services. The Commission also accepted other suggestions that will reduce burdens on entities, including decoupling reporting thresholds, adopting a less frequent reporting schedule, and allowing providers to report on a state-by-state basis.

69. *Report to Congress.* The Commission will send a copy of the Local Competition and Broadband Reporting Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the Local Competition and Broadband Reporting Report and Order, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Local Competition and Broadband Reporting Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

Ordering Clause

70. Accordingly, *it is ordered* that, pursuant to sections 1–5, 10, 11, 201–205, 215, 218–220, 251–271, 303(r), 332, 403, 502, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 151–155, 160, 161, 201–205, 215, 218–220, 251–271, 303(r), 332, 403, 502, and 503 and pursuant to section 706 of the Telecommunications Act of 1996, 47 U.S.C. 157 nt, this order, with all attachments, is hereby adopted.

71. That the requirements and regulations established in this Order shall become effective May 12, 2000. The Commission shall place a notice in the **Federal Register** announcing the effective date of the requirements and regulations adopted herein.

72. That providers subject to the requirements and regulation established in this Order shall complete and file the Local Competition and Broadband Reporting Form (FCC Form 477) no later than May 15, 2000 and semi-annually thereafter.

73. That the Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Local Competition and Broadband Reporting Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (1981).

Paperwork Reduction Act

The action contained in this Order summarized here contains a modified information collection.

OMB Approval Number: 3060–0816.

Title: ''Local Competition and Broadband Reporting, CC Docket No. 99–301.''

Form Number: FCC Form 477.

Type of Review: Revision of Existing Collection.

Respondents: Business or Not-for-profit institutions, including small businesses.

Burden Estimate: Average burden per respondent—

Number of Respondents: up to 255.

Estimated Time Per Response Per State: 11.1.

Number of Reports Per Year: 2.

Average States Per Respondents: 5.3.

Total Annual Burden: Up to 29,924 person-hours.

Estimated Costs per Respondent: $0.00.

Needs and Uses: The information collection will be used by the Commission to gather information on the state of the development of local competition and broadband deployment. Without such information, the Commission faces significant difficulty in assessing the development of these markets and, therefore, is less able to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended.

List of Subjects

47 CFR Parts 1 and 43

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

47 CFR Part 20

Communications common carriers. Federal Communications Commission.

William F. Caton,
Deputy Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Parts 1, 20 and 43 as follows:

PART 1—PRACTICES AND PROCEDURES

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 303(r), 309.

2. In part 1, subpart U is added to read as follows:

Subpart U—Implementation of Section 706 of the Telecommunications Act of 1996; Commission Collection of Advanced Telecommunications Capability Data

Sec.

§ 1.6000 Purpose.

The purpose of this subpart is to set out the terms by which certain commercial and government-controlled entities report data to the Commission concerning the deployment of advanced telecommunications capability, defined pursuant to 47 U.S.C. 157 as ''high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology,'' and the deployment of services that are competitive with advanced telecommunications capability.

§ 1.6001 Scope and content of filed reports.

(a) Definitions. Terms used in this subpart have the following meanings:

(1) *Facilities-based providers.* Those entities that provide broadband services over their own facilities or over Unbundled Network Elements (UNEs), special access lines, and other leased lines and wireless channels that the entity obtains from a communications service provider and equips as broadband.

(2) *Full broadband lines or wireless channels.* Lines or wireless channels

with information carrying capability in excess of 200 Kbps in both directions simultaneously.

(3) *One-way broadband lines or wireless channels.* Lines or wireless channels with information carrying capability in excess of 200 Kbps in at least one direction, but not both.

(4) *Own facilities.* Lines and wireless channels the entity actually owns and facilities that it obtained the right to use from other entities as dark fiber or satellite transponder capacity.

(b) All commercial and government-controlled entities, including but not limited to common carriers and their affiliates (as defined in 47 U.S.C. 153 (1)), cable television companies, Multichannel Multipoint Distribution Service (MMDS/MDS) ''wireless cable'' carriers, other fixed wireless providers, terrestrial and satellite mobile wireless providers, utilities and others, which are facilities-based providers and are providing at least 250 full or one-way broadband lines or wireless channels in a given state, or provide full or one-way broadband service to at least 250 end-user consumers in a given state, shall file with the Commission a completed FCC Form 477, in accordance with the Commission's rules and the instructions to the FCC Form 477, for each state in which they exceed this threshold.

(c) Respondents identified in paragraph (b) of this section shall file the FCC Form 477 on diskette or via e-mail, as directed in the instructions to the FCC Form 477. Upon submission of each report, an original certification letter (as contained in the instructions to FCC Form 477) signed by the responsible official shall be mailed to the Commission.

(d) Respondents may make requests for Commission non-disclosure of provider-specific data contained in FCC Form 477 under § 0.459 of this chapter by so indicating on Form 477 at the time that the subject data are submitted. The Commission shall make all decisions regarding non-disclosure of provider-specific information, except that the Chief of the Common Carrier Bureau may release provider-specific information to a state commission, provided that the state commission has protections in place that would preclude disclosure of any confidential information.

(e) Respondents identified in paragraph (b) of this section shall file a revised version of FCC Form 477 if and when they discover a significant error in their filed FCC Form 477. For counts, a difference amounting to 5 percent of the filed number is considered significant. For percentages, a difference of 5 percentage points is considered significant.

(f) Failure to file the FCC Form 477 in accordance with the Commission's rules and the instructions to the Form 477 may lead to enforcement action pursuant to the Act and any other applicable law.

§ 1.6002 Frequency of reports.

Entities subject to the provisions of § 1.6001 shall file reports semi-annually. Reports shall be filed each year on or before March 1st (reporting data about the status of their broadband deployment as of December 31 of the prior year) and September 1st (reporting data about the status of their broadband deployment as of June 31 of the current year). Entities becoming subject to the provisions of § 1.6001 for the first time within a calendar year shall file data for the reporting period in which they become eligible and semi-annually thereafter. Entities subject to the provisions of § 1.6001 shall make an initial filing of the FCC Form 477 on May 15, 2000 (reporting data about the status of their broadband deployment as of December 31, 1999).

PART 20—COMMERCIAL MOBILE RADIO SERVICES

3. The authority citation for part 20 is revised to read as follows:

Authority: 47 U.S.C. 154, 160, 251–254, 303, and 332 unless otherwise noted.

4. In § 20.15, paragraph (b)(1) is revised to read as follows:

§ 20.15 Requirements under Title II of the Communications Act.

* * * * *

(b) * * *

(1) File with the Commission copies of contracts entered into with other carriers or comply with other reporting requirements, or with §§ 1.781 through 1.814 and 43.21 of this chapter; except that commercial radio service providers that offer broadband service, as described in § 1.6001(a) or mobile telephony are required to file reports pursuant to §§ 1.6000 and 43.11 of this chapter to the extent that they meet the thresholds as set out in §§ 1.6001(b) and 43.11(a) of this chapter. For purposes of this section *mobile, telephony* is defined as real-time, two-way switched voice service that is interconnected with the public switched network utilizing an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless handoff of subscriber calls.

* * * * *

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

5. The authority citation for part 43 continues to read as follows:

Authority: 47 U.S.C. 154; Telecommunications Act of 1996, Public Law 104–104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220 as amended.

6. In § 43.01, paragraph (b) is revised and paragraph (d) is added to read as follows:

§ 43.01 Applicability

* * * * *

(b) Except as provided in paragraphs (c) and (d) of this section, carriers becoming subject to the provisions of the several sections of this part for the first time, shall, within thirty (30) days of becoming subject, file the required data as set forth in the various sections of this part.

* * * * *

(d) Common carriers subject to the provisions of § 43.11 shall file data semi-annually. Reports shall be filed each year on or before March 1st (reporting data about their deployment of local exchange services as of December 31 of the prior year) and September 1st (reporting data about their deployment of local exchange services as of June 31 of the current year). Common carriers becoming subject to the provisions of § 43.11 for the first time within a calendar year shall file data for the reporting period in which they become eligible and semi-annually thereafter. Common carriers subject to the provisions of § 43.11 shall make an initial filing of the FCC Form 477 on May 15, 2000 (reporting data about their deployment of local exchange services as of December 31, 1999).

7. Section 43.11 is added to read as follows:

§ 43.11 Reports of local exchange competition data

(a) All common carriers and their affiliates (as defined in 47 U.S.C. 153 (1)) providing telephone exchange or exchange access service (as defined in 47 U.S.C. 153 (16) and (47)) or commercial mobile radio service (CMRS) providers offering mobile telephony (as defined in section 20.15(b)(1) of this chapter), which provide at least 10,000 voice-grade equivalent lines or wireless channels or have at least 10,000 end-user consumers in a given state, shall file with the Commission a completed FCC Form 477, in accordance with the Commission's rules and the instructions to the FCC Form 477, for each state in which they exceed this threshold.

(b) Respondents identified in paragraph (a) of this section shall file the FCC Form 477 on diskette or via e-mail, as directed in the instructions to the FCC Form 477. Upon submission of each report, an original certification letter (as contained in the instructions to FCC Form 477) signed by the responsible official shall be mailed to the Commission.

(c) Respondents may make requests for Commission non-disclosure of provider-specific data contained in the Form 477 under § 0.459 of this chapter by so indicating on the Form 477 at the time that the subject data are submitted. The Commission shall make all decisions regarding non-disclosure of provider-specific information, except that the Chief of the Common Carrier Bureau may release provider-specific information to a state commission, provided that the state commission has protections in place that would preclude disclosure of any confidential information.

(d) Respondents identified in paragraph (b) of this section shall file a revised version of FCC Form 477 if and when they discover a significant error in their filed FCC Form 477. For counts, a difference amounting to 5 percent of the filed number is considered significant. For percentages, a difference of 5 percentage points is considered significant.

(e) Failure to file FCC Form 477 in accordance with the Commission's rules and the instructions to Form 477 may lead to enforcement action pursuant to the Act and any other applicable law.

[FR Doc. 00–9187 Filed 4–11–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF34

Endangered and Threatened Wildlife and Plants; Threatened Status for the Santa Ana Sucker

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the Fish and Wildlife Service (Service), determine threatened status according to the Endangered Species Act of 1973, as amended (Act), for the Santa Ana sucker (*Catostomus santaanae*). The species is threatened by potential habitat destruction, natural and human-induced changes in streamflows, urban development and related land-use practices, intensive recreation, introduction of nonnative competitors and predators, and demographics associated with small populations. The final rule invokes the Federal protection afforded by the Act for the Santa Ana sucker within the Los Angeles, San Gabriel, and Santa Ana River drainages.

DATES: The effective date of this rule is May 12, 2000.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2730 Loker Avenue West, Carlsbad, California 92008.

FOR FURTHER INFORMATION CONTACT: Glen W. Knowles, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office (telephone 760–431–9440; facsimile 760–431–9624).

SUPPLEMENTARY INFORMATION:

Background

The Santa Ana sucker (*Catostomus santaanae*) is a recognized species and member of the sucker family (*Catostomidae*) (Robbins *et al.* 1991). The Santa Ana sucker was originally described as *Pantosteus santa-anae* by Snyder (1908). The genus *Pantosteus* was reduced to a subgenus of *Catostomus,* and the hyphen was omitted from the specific name in a subsequent revision of the nomenclature (Smith 1966). Smith and Koehn (1971) and Smith (1992) continued to recognize *Pantosteus* as a subgenus, although several authors have followed earlier usage (Miller 1959) in recognizing *Pantosteus* as a genus related to *Catostomus* (Minckley 1973; Minckley *et al.* 1986).

Moyle (1976a) described the Santa Ana sucker as being less than 16 centimeters (cm) (6.3 inches (in.)) in length. The species is silvery below and darker along the back, with irregular blotches and pigmented membranes connecting the rays of the tail (Moyle 1976a).

The Santa Ana sucker inhabits streams that are generally small and shallow, with currents ranging from swift (in canyons) to sluggish (in the bottomlands). All the streams are subject to periodic severe flooding (Moyle 1976a). Santa Ana suckers appear to be most abundant where the water is cool (less than 22° Celsius (72° Fahrenheit)), unpolluted, and clear, although they can tolerate and survive in seasonally turbid water (Moyle 1976a; Moyle and Yoshiyama 1992). Santa Ana suckers feed mostly on algae, diatoms, and detritus scraped from rocks and other hard substrates, with aquatic insects making up a very small component of their diet. Larger fish generally feed more on insects than do smaller fish (Greenfield *et al.* 1970; Moyle 1976a).

Santa Ana suckers generally reach sexual maturity in just over 1 year and typically do not live more than 3 years (Greenfield *et al.* 1970). Spawning generally occurs from early April to early July, with a peak in spawning activity occurring in late May and June (Greenfield *et al.* 1970; Moyle 1976a). The spawning period may be variable and protracted, however. Recent field surveys on the East Fork of the San Gabriel River found evidence of an extended spawning period. These surveys found small juveniles (<30 millimeters (mm) standard length (<1.2 in.)) in December (1998) and March (1999) at the San Gabriel River site (U.S. Geological Survey (USGS) data, *in litt.* 1999). This data indicates that spawning may be very protracted in this stream, and begin as early as November. The fecundity of the Santa Ana sucker appears to be exceptionally high for a small sucker species (Moyle 1976a). Total fecundity of six females, ranging in size from 78 mm (3.1 in.) to 158 mm (6.2 in.), ranged from 4,423 to 16,151 eggs (Greenfield *et al.* 1970). The combination of early sexual maturity, a protracted spawning period, and high fecundity should allow the Santa Ana sucker to quickly repopulate streams following periodic flood events that could decimate populations (Moyle 1976a).

Historically, the Santa Ana sucker appeared to be native to the rivers and larger streams of the Los Angeles Basin—the Los Angeles, San Gabriel, and Santa Ana River drainage systems in Los Angeles, Orange, Riverside, and San Bernardino Counties (Smith 1966). Although historic records are scarce, Santa Ana suckers presumably ranged from near the Pacific Ocean to the uplands of the Los Angeles and San Gabriel River systems, and to at least where Pump House #1 is now located (near the San Bernardino National Forest boundary) in the Santa Ana River (Swift *et al.* 1993; Camm Swift, Icthyologist Consultant, pers. comm. 1996). Although the Santa Ana sucker was described as common in the 1970s (Moyle 1976a), the species has experienced declines throughout most of its range (Moyle *et al.* 1995; Swift *et al.* 1993). The species is now restricted to three noncontiguous populations:

lower Big Tujunga Creek (Los Angeles River drainage); the East, West, and North Forks of the San Gabriel River (San Gabriel River drainage); and the lower and middle Santa Ana River (Santa Ana River drainage) (Moyle *et al.* 1995; Swift *et al.* 1993). A population also occurs in portions of the Santa Clara River drainage system in Ventura and Los Angeles Counties. The Santa Clara population is presumed to be an introduced population, although this presumption is based on the absence of the species from early collections, and not on any documented records of introduction (Hubbs *et al.* 1943; Miller 1968; Moyle 1976a; Bell 1978). The Santa Clara River population was not included in the proposal to list the Santa Ana sucker as threatened because of its presumed introduced status (see the proposed rule, 64 FR 3915, for further details on this population). In this document, we define the native range of the Santa Ana sucker, as outlined in the proposed rule, to include populations in the Los Angeles River, San Gabriel River, and Santa Ana River drainage systems.

Los Angeles River System

Although historically present, the species may now be extirpated from the Los Angeles River (Swift *et al.* 1993). Santa Ana suckers are still found in portions of Big Tujunga Creek (a tributary of the Los Angeles River) between Big Tujunga Dam and Hansen Dam. Surveys downstream of the Big Tujunga Dam found the species to be present but rare (fewer than 20 individuals collected at each site) just below the dam, as well as in the vicinities of Delta Flat and Wildwood. The species was found to be abundant (an estimated 200 individuals collected) near Stoneyvale (Mike Wickman, Angeles National Forest, *in litt.* 1996). Several thousand Santa Ana suckers were observed in a visual survey of Big Tujunga Creek in small sections from the confluence of Little Tujunga Creek to the Foothill Boulevard bridge in May 1999 (C. Swift, pers. com. 1999). Santa Ana suckers were also common in visual surveys of Big Tujunga Creek from Foothill Boulevard to the intersection of Oro Vista and Mt. Gleason Avenues in May 1999 (Glen Knowles, U.S. Fish and Wildlife Service, *in litt.* 1999a); however, by October 1999, this reach had dried up entirely. Santa Ana suckers were abundant in October 1999 in the approximately 1-mile-long stretch of flowing waters of Big Tujunga and Haines Canyon Creeks between the 210 Freeway and Hansen Dam, as were two other rare native fish species, arroyo chub (*Gila orcutti*) and Santa Ana speckled dace (*Rhinichthys osculus* ssp.). Santa Ana suckers could not be found in other parts of the Big Tujunga Creek in October 1999, which were dry except for a few isolated shallow pools (G. Knowles, *in litt.* 1999a). In late summer and autumn of dry years, Big Tujunga Creek becomes a dry wash for much of its length. During these times, Santa Ana suckers may be restricted to about 1 mile of stream in the Los Angeles River Basin. We estimate that the Santa Ana sucker has lost approximately 80 percent of its historic native range in the Los Angeles River Basin. The portions of Big Tujunga Creek currently occupied by the Santa Ana sucker constitute approximately 25 percent of the total remaining native range of the species. Approximately 60 percent of the current range of the Santa Ana sucker in the Los Angeles River Basin occurs on private lands. The remaining 40 percent of the range in the Los Angeles River Basin occurs on Angeles National Forest lands managed by the U.S. Forest Service (USFS).

San Gabriel River System

Santa Ana suckers were common in the San Gabriel River below Morris Dam, near Fish Canyon, until the mid-1970s (C. Swift, *in litt.* 1999a). However, no suckers were found in surveys conducted below Morris Dam in 1995 (Dr. Tom Haglund, University of California, Los Angeles, *in litt.* 1996). Santa Ana suckers were also absent from 1998 surveys in the mainstem San Gabriel River at Browns Gulch, below Morris Dam, and at Rainbow Ranch (Chambers Group 1999). Santa Ana suckers were present in 1998 Chamber Group surveys of the West Fork of the San Gabriel River (Chambers Group 1999); however, surveys conducted by California Department of Fish and Game (CDFG) in 1998 and 1999 failed to locate suckers in the West Fork (Ray Ally, CDFG, *in litt.* 1999; Robert C. Hight, CDFG, *in litt.* 1999). However, CDFG did find Santa Ana suckers in Bear Creek, a tributary of the West Fork San Gabriel River, in June 1999 (R. Ally, CDFG, *in litt.* 1999). Quarterly surveys indicated suckers were common in the East Fork of the San Gabriel River throughout 1999 (Mike Saiki, USGS Biological Resources Division (BRD), pers. comm. 1999). Thus, the Santa Ana sucker now appears extant only upstream of the confluence of the East, West, and North Forks of the San Gabriel River. Furthermore, the population of Santa Ana suckers in the North Fork is small, and the population in the West Fork appears to be declining. The portions of the San Gabriel River occupied by the Santa Ana sucker constitute approximately 15 percent of the total remaining native range of the species. However, data gathered during sampling indicates that the San Gabriel River may contain the most individuals of any remaining population (R. Ally, *in litt.* 1996; Mike Guisti, CDFG, *in litt.* 1996; M. Wickman, *in litt,* 1996; Juan Hernandez, CDFG, *in litt.* 1997; M. Saiki, pers. com. 1999). We estimate that the Santa Ana sucker has lost approximately 75 percent of its native range in the San Gabriel River. Approximately 15 percent of the current range of the Santa Ana sucker in the San Gabriel River Basin occurs on private lands. The remaining 85 percent of the range in the San Gabriel River Basin occurs in the Angeles National Forest. Even with the substantial decrease in the sucker's range in the San Gabriel River drainage system, Moyle and Yoshiyama (1992) considered this population of Santa Ana suckers to be the only viable population within the species' native range.

Santa Ana River System

In 1986 and 1987, several hundred Santa Ana suckers were observed in the Santa Ana River downstream of Prado Dam (C. Swift, pers. comm. 1996). By 1996, a general fish survey below Prado Dam yielded only 5 suckers from a total of 271 fishes captured (M. Guisti, CDFG, *in litt.* 1996). In April 1987, only five suckers were found during a sampling effort above the Prado Dam from the City of Norco to about 5 kilometers (km) (3.1 miles (mi)) upstream. In addition to fish being scarce above the dam, no small individuals were observed, indicating the possibility of little or no reproduction occurring in the area (Moyle and Yoshiyama 1992). In 1991, sampling indicated that, although fishery habitat in the Santa Ana River was primarily fair to poor, Santa Ana suckers were abundant between Norco and Riverside (Chadwick and Associates 1992). Additionally, evidence suggested Santa Ana suckers were using tributaries, including Tequesquite Arroyo, Sunnyslope Channel, and Anza Park Drain, for spawning and nurseries (Chadwick and Associates 1996). Seventy-six Santa Ana suckers were taken in three collections about 2.0 km (1.2 mi) below Hamner Avenue, Anaheim County, in the summer of 1997. An extensive survey of the Santa Ana River between Weir Canyon Road and Hamner Avenue, in Anaheim County, during the summer of 1998 yielded 42 Santa Ana suckers. All were juveniles less than 70 mm (2.8 in.) long (C. Swift, *in litt,* 1998). However, recently, in surveys between September and November 1999, seven adult suckers were captured near River Road, Riverside—three in the main-stem Santa Ana River, and four in the diversion channel that diverts most of the river's flow into the Prado Wetlands (C. Swift, *in litt.* 1999). Snorkel surveys of the Santa Ana River between Mission Boulevard and Riverside Avenue in Riverside in November 1999 found several pockets of tens to hundreds of Santa Ana suckers, usually in the deepest areas of the stream (C. Swift, pers. comm. 1999). Although Chadwick and Associates (1991) collected one Santa Ana sucker in this area near Mission Boulevard in March 1991, they stated that this reach probably would not support viable populations of fishes due to elevated levels of ''chlorine and unionized ammonia'' in this reach and unsuitable breeding substrates. Recent surveys in September and December 1999 in the Metropolitan Water District crossing near the Van Buren Avenue bridge in Riverside captured 48 and 16 suckers, respectively, although these individuals appeared to be in poorer body condition than those in the San Gabriel River (Barbara Martin, USGS, BRD, pers. comm. 1999). Extensive surveys of the Santa Ana River at Imperial Highway in December 1998 and March, June, September, and December 1999 failed to record any Santa Ana suckers (B. Martin, pers. comm. 1999).

Chadwick and Associates (1996) noted that length-frequency analysis indicates Santa Ana suckers are naturally reproducing in the Santa Ana River system. However, they asserted that Santa Ana sucker population decreases, as evidenced by 1996 surveys, were due to high flows in the basin between 1991 and 1996 (M. Guisti, *in litt.,* 1996). T. Haglund (*in litt.* 1996) contended that a large number of suckers reported in tributaries are juveniles and may be the progeny of very few adults. The presence of juveniles in surveys at the Metropolitan Water District Crossing, in March, June, and September 1999, represent positive evidence of recruitment, despite the apparent lack of suitable spawning habitat at that site (M. Saiki, pers. comm. 1999).

Santa Ana suckers occur in the lower portions of the Santa Ana River, with current survey records from the vicinity of Weir Canyon Road in Anaheim to Riverside Avenue in Riverside, but are now apparently absent from the upper reach of the river in the San Bernardino Mountains (Moyle and Yoshiyama 1992; Swift *et al.* 1993). We estimate that the Santa Ana sucker has lost approximately 70 percent of its native range in the Santa Ana River. The portions of the Santa Ana River occupied by the Santa Ana sucker constitute approximately 60 percent of the total remaining native range of the species. Approximately 75 percent of the range of the species in the Santa Ana River Basin occurs on private lands. The balance is within State, county, city, and regional park lands, with a small portion, 3 percent, on military lands.

In summary, the Santa Ana sucker has declined throughout significant portions of its range. The species has lost approximately 75 percent of its native range. Recent population densities range from approximately 246 fish in 2.9 km (1.8 mi) on the East Fork of the San Gabriel River (J. Hernandez, *in litt.* 1997) to 16 fish in 1.6 km (1.0 mile) of the Santa Ana River in December 1999 (USGS Survey Data, *in litt.* 1999). This overall reduction in range, and the more localized reductions in numbers, are particularly surprising given the high fecundity and apparent broad habitat tolerances of the species. Urbanization, water diversions, dams, introduced competitors and/or predators, and other human-caused disturbances likely are playing a role in the decline of the species. These factors have also been implicated in the decline of other western suckers (Minckley *et al.* 1991; Scoppettone and Vinyard 1991).

The decline of the Santa Ana sucker is also part of a greater overall decline of freshwater fishes in Southern California. The Los Angeles Basin was or is home to at least seven native species of freshwater fishes that have been declining or have been extirpated since the 1930s (Swift *et al.* 1993). Four of these species, the steelhead (*Oncorhynchus mykiss*), the Pacific lamprey (*Lampetra tridentata*), the Pacific brook lamprey (*Lampetra* cf. *pacifica*), and the unarmored three-spined stickleback (*Gasterosteus aculeatus williamsoni*), have been extirpated from the Los Angeles Basin since the 1950s. Two others, the Santa Ana speckled dace (*Rhinichthys osculus*), and the arroyo chub (*Gila orcutti*), have become rare in the Los Angeles Basin (Swift *et al.* 1993).

Previous Federal Action

On September 6, 1994, we received a petition under the Act (16 U.S.C. 1531 *et seq.*) to list the Santa Ana sucker (*Catostomus santaanae*), Santa Ana speckled dace (*Rhinichthys osculus*), and Shay Creek threespine stickleback (*Gasterosteus aculeatus*) as endangered species. The petition was submitted by the Sierra Club Legal Defense Fund, Inc., on behalf of seven groups including the California-Nevada Chapter of the American Fisheries Society, The Nature School, California Sportfishing Protection Alliance, Friends of the River, Izaak Walton League of America, California Trout, and Trout Unlimited. We deferred processing this petition because of other higher priority listing actions and severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996.

On July 9, 1996, we published a 90-day petition finding (61 FR 36021) that substantial information had been presented indicating listing may be warranted for the Santa Ana sucker. On November 26, 1996, we published a notice initiating a status review for the Santa Ana sucker (61 FR 60073). On April 3, 1997, we published a 12-month finding (62 FR 15872) that listing the Santa Ana sucker was warranted, but precluded by higher listing priorities. On January 26, 1999, we proposed threatened status for the Santa Ana sucker within its native historic range of the Los Angeles, San Gabriel and Santa Ana River Systems (64 FR 3915). After the close of the comment period, we received seven requests to reopen the comment period. These requests asked us to consider new information gained from ongoing studies on the species, and to consider the use of a special rule under section 4(d) of the Act to implement a long-term conservation program for the species in the Santa Ana River. On December 16, 1999, we reopened the comment period to satisfy the public notice requirements of the Act and our regulations (50 CFR 424.16(c)(vi)), and to consider new scientific information (64 FR 70209).

The processing of this final rule conforms with our Final Listing Priority Guidance published in the **Federal Register** on October 22, 1999 (64 FR 57114). The guidance clarifies the order in which we will process rulemakings. Highest priority is processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is processing final determinations on proposed additions to the lists of endangered and threatened wildlife and plants. Third priority (Priority 3) is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority (Priority 4). The processing of this final rule is a Priority 2 action.

Summary of Comments and Recommendations

In the January 26, 1999, proposed rule (64 FR 3915), we requested interested parties to submit factual reports or information that might contribute to development of a final rule. The 60-day comment period closed on March 29, 1999. We contacted appropriate Federal and State agencies, county and city governments, scientific organizations, and other interested parties. We reopened the comment period on December 16, 1999, to satisfy the public notice requirements of the Act and to consider new scientific information. The reopened comment period closed on January 3, 2000. We published public notices of the proposed rule in the *Los Angeles Times,* the *Orange County Register,* and the *Riverside Press Enterprise* on December 17, 1999, which invited general public comment. We did not receive any requests for a public hearing.

During the public comment periods, we received written comments from 45 individuals, organizations, and State and local agencies. Of the comments received, 32 were in support of listing, 3 were opposed, and 10 were neutral. Some commenters submitted updated status information on the Santa Ana sucker and new information on possible threats to the species. This information has been incorporated in the ''Background'' and ''Summary of Factors Affecting the Species'' sections. We address all other comments received during the comment periods in the following summary of issues. Comments of a similar nature are grouped into a single issue.

Issue 1: Several commenters felt that the Santa Ana sucker should be listed as an endangered species, rather than a threatened species.

Our Response: Most of these comments did not provide additional information or criteria to justify listing the species as endangered. Those commenters who did provide a basis for endangered status identified potential habitat destruction, natural and human-induced changes in streamflows, urban development and related land-use practices, intensive recreation, the introduction of nonnative competitors and predators, and demographics associated with small populations as reasons that remaining populations were threatened with extinction. We agree that multiple factors threaten the Santa Ana sucker (see ''Summary of Factors Affecting the Species'' section). However, we do not believe the Santa Ana sucker meets the Act's definition of endangered, which is a species ''in danger of extinction throughout all or a significant portion of its range.'' The Act defines a threatened species as ''any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range'' (section 3(19)). Although current population estimates do not exist for any of the sucker populations, all of the currently known populations within the native range were surveyed in 1999. In each drainage, suckers were locally common in 1999, and no populations appeared to be in imminent danger of extinction. We conclude that the remaining populations that constitute the native range of Santa Ana sucker are likely to become in danger of extinction in the foreseeable future. Therefore, the Act's definition of a threatened species fits the current situation of the Santa Ana sucker best.

Issue 2: Some commenters expressed support for designating critical habitat and felt that we should designate critical habitat for the species at the time of listing. Other commenters offered specific recommendations for areas to list as critical habitat, or requested that we not designate critical habitat in specific stream reaches.

Our Response: In this rule, as in the proposed rule, we find that critical habitat is not determinable because the biological needs of the Santa Ana sucker are not sufficiently known to identify an area as critical habitat. When a ''not determinable'' finding is made, we must, within 2 years of the publication date of the original proposed rule, propose the designation of critical habitat unless such designation is found to be not prudent. For a more detailed evaluation of our critical habitat finding for the Santa Ana sucker, and an explanation of ''not determinable'' and ''not prudent'' findings, please see the ''Critical Habitat'' section.

Issue 3: Some commenters requested that we list the Santa Clara population as threatened or endangered. Another commenter asked if the Santa Clara River population would require any increased protection because of its possible role in the recovery of the species.

Our Response: In the proposed rule, we identified only those Santa Ana sucker populations within the native range of the species for listing as threatened. The native range of the Santa Ana sucker is considered to be the rivers and streams of the Los Angeles, San Gabriel, and Santa Ana River Basins. The Santa Clara population is presumed to be an introduced population, although this presumption is based on its absence from early collections, and not on a documented record of introduction (Hubbs *et al.* 1943; Miller 1968; Moyle 1976a; Bell 1978). Therefore, the Santa Clara River population was not included in the proposal to list the species.

We believe that the Santa Ana sucker has lost about 75 percent of its historic native range. Considering the total remaining range of the species as all those areas currently occupied by the Santa Ana sucker, including both native and introduced populations, the portions of the Santa Clara River occupied by the species constitute approximately 50 percent of the total remaining range of the species. In light of the current status of the Santa Ana sucker, and the portion of the remaining range that occurs in the Santa Clara River system, further evaluation of the Santa Clara population is needed to determine its role in the recovery of the species. If the Santa Clara River population is determined to be crucial to the recovery of the species, we may need to reevaluate the status of this population under the Act.

Issue 4: Several commenters expressed the opinion that recreational suction dredging actually benefits the Santa Ana sucker, and that such suction dredging should be allowed to continue in streams occupied by the species.

Our Response: Suction dredging is the use of a suction system to remove and return material at the bottom of a stream, river, or lake for the extraction of minerals. Suction dredging in California is regulated by the CDFG under section 228 of the California Code of Regulations and by the U.S. Army Corps of Engineers (USACE) under section 404 of the Clean Water Act. The USFS may also regulate this activity by closing streams to dredging on Forest Service lands. The USACE does not require a section 404 permit for holders of a CDFG 5653 Standard Dredge Permit, but does require a 404 permit for all other types of dredging. Suction dredge operators are required to obtain a permit from CDFG, which is valid for a calender year (J. Reese, USACE, *in litt.* 1995; CDFG, *in litt.* 1999). In 1999, all counties where the Santa Ana sucker naturally occur were open to suction dredging (Los Angeles, Orange, and Riverside Counties); however, the East Fork of the San Gabriel River and portions of the West Fork of the San Gabriel River are covered by special regulation. The East Fork is the only stream containing Santa Ana suckers that is commonly subject to suction dredging. CDFG issues special dredge permits for this stream with conditions to exclude dredging from April 1 to June 30. The closed period is to allow resident fish and amphibians to spawn without interference from dredging. CDFG issued approximately 200 special dredging permits in 1995 for the East Fork, the first year the stream had been dredged legally in 15 years. This number has decreased steadily to approximately 40 special dredging permits issued in 1999 (Dwayne Maxwell, CDFG, pers. comm. 1999).

Few studies exist on suction dredging and its effects on aquatic ecosystems. Of the studies conducted, most indicate that the effects of a single suction dredge on overall habitat and on benthic (bottom of the stream) aquatic insect communities are highly localized and short term, but vary with stream gradient, flow regime, and sediment load characteristics of the stream (Griffith and Andrews 1981; Harvey *et al.* 1982; Thomas 1985; Harvey 1986; Hall 1988; Somer and Hassler 1992). In general, suction dredging removes all substrates smaller than the diameter of the intake nozzle and deposits them as large, unstable piles just downstream from the dredge. Harvey *et al.* (1982) found that on the American River, Yuba River, and Butte Creek, California, settleable solids and sedimentation rate both increased within several meters of the suction dredge, but rapidly returned to ambient levels downstream. Turbidity, however, was more variable. Streams with higher clay content substrates experienced greater long-lasting changes in turbidity. As with the work by Harvey *et al.* (1982), Thomas (1985) found during a study on Gold Creek in Missoula County, Montana, that suction dredging had only localized, short-term effects on insects living in the soil. Just after dredging, numbers of soil-living insects were significantly reduced in the dredged area. However, within 10 meters (32.5 feet) downstream of the dredged area, insect numbers and turbidity were normal. Within a month, aquatic insect numbers had returned to normal in the dredged section of the stream (Thomas 1985). In addition, Somer and Hassler (1992) found that, while the species composition of benthic insects was altered within sections of streams adjacent to suction dredging, overall abundance remained the same.

Thomas (1985) observed cutthroat trout opportunistically feeding on invertebrates dislodged by a suction dredge. In some circumstances, habitat may be temporarily created by suction dredging. Harvey (1986) observed that fish occupying a riffle during late summer in Butte Creek, California, moved into a newly created dredge excavation, presumably seeking deeper water. Harvey found that adult fishes in general were not sensitive to dredging; however, riffle sculpin (*Cottus gulosus*), a benthic species, was displaced from suction-dredged areas, probably due to disturbance of its microhabitat. Harvey also suspected that the microhabitats of speckled dace (*Rhinichthys osculus*) would also be deleteriously altered by suction dredging.

Although the effects of recreational suction dredging on adult fishes may range from beneficial to deleterious, such dredging appears to have strong negative impacts to early life stages of fishes. Griffith and Andrews (1981) found a mortality rates of up to 100 percent for cutthroat trout (*Oncorhynchus clarki*) eggs and fry, and rainbow trout (*O. mykiss*) un-eyed eggs and sac fry that pass through a suction dredge. Harvey and Lisle (1998) noted that passing through a suction dredge would likely kill eggs, larvae, and fry of other types of fishes as well, including suckers (Catostomidae). Harvey *et al.* (1995) concluded that small larvae of fish such as suckers are easily damaged by physical disturbance caused by the dredge, but adults and juveniles are unlikely to be directly affected by suction dredges since they can either avoid or survive the passage through a dredge. In a review of the current literature on suction dredging, Harvey and Lisle (1998) concluded that while effects from dredging may be minor and local in some situations, fisheries managers would be prudent to consider dredging to be a harmful practice in streams that support threatened or endangered species.

No studies exist that specifically address the effects of suction dredging on Santa Ana suckers. In the proposed rule, we concluded that suction dredging may impact larvae and eggs of Santa Ana suckers, particularly if dredging is concentrated in an area containing spawning suckers. Santa Ana suckers and speckled dace, another species in the East Fork of the San Gabriel River, appear to prefer larger unconsolidated cobble substrates. These types of substrates may actually be created by suction dredging (Harvey and Lisle 1998). Also, suction dredging may provide local increases in food resources for fish (Thomas 1985). However, as stated above, suction dredging could result in mortality of eggs or larvae during spawning periods, and so should be excluded from Santa Ana sucker habitats during spawning. We will continue to evaluate the overall effects of suction dredging on Santa Ana suckers and provide specific recommendations to CDFG and the USFS based on those results.

Issue 5: We received comments that the Service should consider the application of a special rule under section 4(d) of the Act for the Santa Ana sucker in the Santa Ana River. The special rule would exempt certain activities from the take prohibitions of the Act, so long as a Service-approved Santa Ana sucker conservation plan is funded and implemented. The conservation plan would provide for the conservation of the species within the Santa Ana River watershed.

Our Response: Under section 4(d) of the Act, we have the authority to issue regulations as deemed necessary and advisable to provide for the conservation of a species listed as threatened. We are interested in pursuing collaborative, proactive efforts to conserve the Santa Ana sucker. A special rule under section 4(d) could provide an incentive for State, county, and local jurisdictions, as well as private land owners, to protect and conserve the Santa Ana sucker. This special rule could potentially provide for substantial conservation of the Santa Ana sucker. The comments we received from the County of Orange, Orange County Water District, and Santa Ana River Watershed Group provided background information to consider the possibilities of a special rule under section 4(d). If our review of this information indicates that the application of a special rule under 4(d) to facilitate the conservation of the Santa Ana sucker warrants further evaluation, we will publish in the **Federal Register** a notice of intent to consider such a rule.

Issue 6: Commenters expressed concerns about the effects of listing the Santa Ana sucker on the continued use of the San Gabriel Canyon Off Highway Vehicle Area (SGCOHVA), located at the confluence of the East and West Forks of the San Gabriel River in the Angeles National Forest.

Our Response: Although surveys in 1999 failed to record the Santa Ana sucker in the West Fork of the San Gabriel River (R. Ally, CDGF, *in litt.* 1999), the species was found within 1.6 km (1.0 mile) of the SGCOHVA during 1999 surveys of the East Fork (G. Knowles, *in litt.* 1999b). Therefore, we conclude that Santa Ana suckers can be expected to occur in the SGCOHVA.

The commenters stated that the use of the SGCOHVA would have minimal impact to the species because off-road vehicles are not used in streams but cross streams only to access other areas of the SGCOHVA. However, the operation of off-road vehicles in the SGCOHVA could adversely affect Santa Ana sucker habitat due to increased sedimentation to the stream from erosion, or alteration of channel morphology from the physical disturbance of crossing the stream. In addition, one recent study found that certain types of stream crossings can act as barriers to fish movement (Warren and Pardew 1998), although temporary ford crossings, such as those currently in the SGCOHVA, were not a significant barrier to fish dispersal. Since the overall impact of the SGCOHVA to Santa Ana suckers is not currently known, further evaluation is required. Under section 7 of the Act, Federal agencies are required to insure, through consultation with us, that any actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species. The USFS would need to consult with us on the impacts that off-road vehicles in the SGCOHVA, or other ongoing and future activities on national forest lands, would have on Santa Ana suckers.

Issue 7: Several commenters were concerned that future efforts to repatriate the Santa Ana sucker into streams of the upper Santa Ana River Drainage would adversely impact the operation of hydroelectric facilities in the area.

Our Response: No decision has been made to reestablish Santa Ana suckers into areas formerly occupied by the species. However, considering the large amount of habitat loss (the Santa Ana sucker is believed to be extirpated from about 75 percent of its former range), reintroduction of Santa Ana suckers into formerly occupied habitats may be an important component of a recovery plan for the species. A decision to reintroduce the Santa Ana suckers to formerly occupied areas would be part of the recovery efforts for the species and would include analysis under and compliance with the Act, National Environmental Policy Act (NEPA), and other applicable Federal laws and regulations. Such analysis would include an evaluation of the impacts reintroduction would have on hydroelectric facilities and ways to minimize potential conflicts.

Issue 8: Commenters were concerned that listing the Santa Ana sucker would impair the ability of flood control districts to protect upland property from flooding. A commenter stated that the Santa Ana sucker has managed to adapt to the long history of flood control and maintenance activities in the Santa Ana River, and therefore, these activities should be allowed to continue. According to the commenters, flood control districts are willing to work with us to develop plans that would promote the recovery of the Santa Ana sucker to the ''maximum extent possible.''

Our Response: The issue of flood control in Santa Ana sucker habitat is of critical importance. We disagree that the species has managed to adapt to flood control activity in the Santa Ana River. Flood control activity, such as bank stabilization, channelization, vegetation removal, drop structures, and the construction of dams, dikes, and diversions, has been implicated as a key factor responsible for the decline of not only the Santa Ana sucker but six other species of freshwater fishes native to the Los Angeles Basin (Swift *et al.* 1993). An example of the adverse impacts of flood control activity on this species is the Santa Ana River at Imperial Highway (State Highway 90) near Anaheim. Santa Ana suckers were common at this site in the late 1980s and early 1990s. During the last 15 years, the USACE has undertaken various flood control activities at the site. The river has been channelized, riparian vegetation removed, and banks stabilized with rip rap and concrete. Santa Ana suckers have not been recorded in this reach since 1996. Although the exact reasons for the apparent disappearance of Santa Ana suckers from this area may never be known, the drastic changes to its habitat by flood control activities are plausibly a key factor (Chadwick and Associates 1996; Robert Fisher, pers. comm. 1999; M. Saiki, pers. comm. 1999).

We commend the willingness of the flood control districts to work with us to develop a plan to recover the Santa Ana sucker. The Santa Ana River, within the jurisdiction of various flood control districts, contains some of the best remaining occupied habitat for Santa Ana suckers within this drainage, and the protection and enhancement of this habitat likely will be crucial to the recovery of the species. Certain flood control activities are regulated by the USACE under section 404 of the Clean Water Act. Under section 7 of the Act, Federal agencies are required to insure, through consultation with us, that any actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species. The impacts of ongoing and future flood control activities to Santa Ana sucker would be addressed during the section 7 consultation process. In addition, we are considering proposing special regulations under the authority of section 4(d) of the Act that would promote the conservation of the Santa Ana sucker by exempting certain activities from the take prohibitions of the Act in association with implementing locally prepared, Service-approved programs that would contribute to the overall conservation of the species (see ''Issue 5'').

Issue 9: Commenters expressed the concern that the listing of the Santa Ana sucker is premature because sound scientific evidence does not exist demonstrating that the species populations are decreasing, because surveys have been inadequate to document declining populations, and because apparent declines represent natural variation in population size resulting from climate cycles and not from human-induced changes to ecosystems.

Our Response: We estimate that the Santa Ana sucker has been eliminated from about 75 percent of its former native range. This loss has been caused by habitat destruction, natural and human-induced changes in streamflows, urban development and related land-use practices, and the introduction of nonnative competitors and predators (Moyle *et al.* 1995; Swift *et al.* 1993). The utilization of the rivers of the Los Angeles Basin for irrigation began as early as 1821, and was extensive by the 1880s (Miller 1961). The demands of an increasing human population in the Los Angeles area resulted in an extreme level of utilization of the Los Angeles Basin Rivers that was apparent as early as 1930, when McGlashan (1930) wrote of the Santa Ana River, ''Probably no other stream of its size in the United States is made to serve greater or more varied uses.'' By the 1950s, urbanization of the greater Los Angeles metropolitan area had resulted in severe declines of the native fish fauna of the Los Angeles Basin, such that four fish species had been extirpated from the basin (Swift *et al.* 1993). This urbanization resulted in conversion of Santa Ana sucker habitat to the concrete-lined storm drains that now constitute the lowermost reaches of the Los Angeles, San Gabriel, and Santa Ana Rivers (Mount 1995) (*see* ''Summary of Factors Affecting the Species'' section). Moyle and Yoshiyama (1992) stated, ''[e]ven though Santa Ana suckers seem to be quite generalized in their habitat requirements, they are intolerant of polluted or highly modified streams.'' The impacts associated with urbanization are likely the primary cause of the extirpation of Santa Ana suckers from lower reaches of the Los Angeles, San Gabriel, and Santa Ana Rivers. We, therefore, disagree with the contention that sound scientific evidence does not exist demonstrating that the species is decreasing. The decline of the Santa Ana sucker and the destruction of its habitat are well documented (Miller 1961; Moyle 1976a;

Moyle and Yoshiyama 1992; Swift *et al.* 1993; Moyle *et al.* 1995).

Issue 10: Commenters expressed the belief that the newly completed Seven Oaks Dam, upstream from the present range of Santa Ana sucker in the Santa Ana River, would not act as a barrier to upstream fish movement. The only flows connecting the upper and lower Santa Ana River Basins in the last 40 years have been extreme flood flows, which would cause Santa Ana suckers to be lost downstream. In fact, commenters felt that Seven Oaks Dam would be beneficial for the species by reducing the amount of fine particles and sand deposited downstream in flood flows, sediments that threaten Santa Ana sucker habitat in the Santa Ana River.

Our Response: We agree that the surface flows of the Santa Ana River between Riverside and Seven Oaks Dam have long been diverted to provide water for the communities in southwestern San Bernardino County and western Riverside County. We also agree that this dewatered stretch, and not the dam, is the current primary barrier to the movement of Santa Ana suckers upstream in the Santa Ana River. However, records from the 1940s indicate that Santa Ana suckers were once a common resident in the now dewatered stretch of the Santa Ana River near San Bernardino. The restoration of a more perennial flow to these areas may make these areas suitable for Santa Ana suckers. Ideally, connectivity between the upper and lower portions of the drainage would allow for gene flow throughout the population. However, even if water was returned to dry reaches of the Santa Ana River, Seven Oaks Dam would prevent movement of Santa Ana suckers between formerly occupied upstream habitats and the lower reaches they occupy now. Thus, Seven Oaks Dam represents a more permanent barrier to the movement of fishes than dewatered sections of the stream.

We agree that sediment load characteristics of the Santa Ana River have been modified downstream from Seven Oaks Dam. However, the ultimate effects on sediment characteristics of the Santa Ana River downstream of the newly completed Seven Oaks Dam are, at best, difficult to predict. In general, streams below newly closed dams are changed through narrowing and deepening of their channels and coarsening of their beds. This generally results in an armored condition of the river bed just below the dam, such that the bed is lined with relatively large particles that were mobile during high flood flows before the dam was closed but are now too heavy to be moved by the new regime (Graf 1988; Mount 1995). Also, most dams have a high trap efficiency, meaning that they trap most sediment. Only the finer sediments get through (Mount 1995). So, although we cannot know for certain what effect the newly completed Seven Oaks Dam will have on the Santa Ana River downstream, we can generally predict that it will result in a decrease of coarser materials and an increase in finer substrates delivered to downstream reaches. Seven Oaks Dam will further prevent the Santa Ana River from functioning as a natural river, a scenario that has often had numerous negative impacts on the aquatic environment (Hunt 1988; Harden 1996; McCully 1996), as well as on the resident fish populations (Miller 1961; Moyle 1976a; Minckley and Deacon 1991; Mount 1995).

Peer Review

In accordance with the interagency peer review policy published on July 1, 1994 (59 FR 34270), we solicited the expert opinions of independent specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomy, population status, and supportive biological and ecological information for the taxon under consideration for listing. The purpose of such review is to ensure that listing decisions are based on scientifically sound data, assumptions, and analyses, including input of appropriate experts and specialists. We requested four individuals, who possess expertise in Santa Ana sucker biology and Catostomid ecology, and whose affiliations include academia, a Federal agency, and a private company, to review the proposed rule by the close of the comment period. Two individuals responded to our request, and we have addressed their comments in the previous section of the rule, and in updating the ''Background'' and ''Summary of Factors Affecting the Species'' sections.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) issued to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more factors described in section 4(a)(1) of the Act. These factors and their application to the Santa Ana sucker (*Catostomus santaanae*) are as follows:

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

Moyle and Yoshiyama (1992) concluded that the native range of the Santa Ana sucker is largely coincident with the Los Angeles metropolitan area. Intensive urban development of the area has resulted in water diversions, extreme alteration of stream channels, changes in the watershed that result in erosion and debris torrents, pollution, and the establishment of introduced nonnative fishes. Moyle and Yoshiyama (1992) stated, ''[e]ven though Santa Ana suckers seem to be quite generalized in their habitat requirements, they are intolerant of polluted or highly modified streams.'' The impacts associated with urbanization are likely the primary cause of the extirpation of this species from lowland reaches of the Los Angeles, San Gabriel, and Santa Ana Rivers.

As the Los Angeles urban area expanded, the Los Angeles Basin rivers (the Los Angeles, Santa Ana, and San Gabriel Rivers) were highly modified, channelized, or moved in an effort to either capture water runoff or protect property. As Moyle (1976a) stated, ''[t]he lower Los Angeles River is now little more than a concrete storm drain.'' The same is true for the Santa Ana and San Gabriel Rivers. These channelized rivers and canals with uniform and altered substrates do not appear to be suitable for sustaining Santa Ana sucker populations (Swift *et al.* 1993; Chadwick and Associates 1996), and the species appears to persist only in reaches that remain relatively unchannelized. Past and continuing projects have resulted (or will result) in channelization of the Santa Ana River throughout most of the range of the Santa Ana sucker in Orange County. Urban development also threatens the Santa Ana sucker in the Los Angeles and Santa Ana River Basins. This urban development has also resulted in changes in water quality and quantity and the hydrologic regime of these rivers. The Santa Ana sucker is one of seven native freshwater fish species of the Los Angeles Basin that have declined drastically in the last 70 years. Four of these species, the steelhead, Pacific lamprey, Pacific brook lamprey, and the unarmored threespine stickleback have been extirpated from the Los Angeles Basin since the 1950s, and two others are very rare (Santa Ana speckled dace and arroyo chub), presumably due to the same factors that have caused the decline of the Santa Ana sucker (Swift *et al.* 1993) (For an example of the apparent effects of channelization on Santa Ana suckers, see ‘‘Issue 8’’ in the ‘‘Summary of Comments and Recommendations’’ section).

All three river systems have dams that isolate and fragment fish populations. These dams have likely resulted in some populations being excluded from suitable spawning and rearing tributaries. Reservoirs created by the dams also provide areas where introduced predators and competitors can live and reproduce (Moyle and Light 1996) (see factor C of this section). The newly completed Seven Oaks Dam, upstream from the present range of Santa Ana sucker in the Santa Ana River, forms a barrier for the upstream movement of fish and further isolates Santa Ana sucker populations from their native range in the headwaters of the system.

The population of Santa Ana suckers in the West Fork of the San Gabriel River is threatened by accidental high flows from Cogswell Reservoir, which have devastated this section of stream several times in the past (Moyle and Yoshiyama 1992; Haglund and Baskins 1992; T. Haglund, *in litt.* 1996). T. Haglund (*in litt.* 1996) stated that, ‘‘[t]he West Fork population was wiped out by a sluicing event (removal of sediment by releasing a sudden flow of water) from Cogswell Dam in 1981 (anecdotal data) but recolonized from tributaries that acted as refugia. However, data (from CDFG, no date) suggest that the suckers have never returned to their former abundance.’’ Santa Ana suckers have biological adaptations that allow the fish to quickly repopulate streams following periodic flood events (Moyle *et al.* 1995). However, successive high flows could eliminate the sucker population in the West Fork of the San Gabriel River by rapidly depleting the individuals soon after they migrate into the mainstem from tributaries. Proposals for additional sluicing or other sediment removal activities from the Cogswell reservoir on the San Gabriel River system are being considered (R. C. Hight, *in litt.* 1999). The potential effects of the proposed sediment management project may also degrade the habitat of the Santa Ana sucker by depositing large amounts of silt on the streambed, causing a rapid increase in suspended sediments in the water column.

The petitioners contended that suction dredge mining has increased in the Cattle Canyon tributary to the East Fork of the San Gabriel River, thereby threatening the Santa Ana sucker. A commenter indicated that no suction dredging has occurred in Cattle Canyon and suggested that the petitioners took Moyle and Yoshiyama (1992) out of context (Gerald Hobbs, Public Lands Action Committee, *in litt.* 1996, 1999). The CDFG (Patricia Wolf, CDFG, *in litt.* 1996) indicated they are not aware of suction dredging in the Cattle Canyon tributary to the East Fork of the San Gabriel River. However, they had issued nearly 200 Special Dredge Permits for the East Fork of the San Gabriel River in 1995, the first time the East Fork had been dredged in 15 years. This number has dropped to approximately 40 Special Dredge Permits issued in 1999 for the East Fork San Gabriel River (D. Maxwell, CDFG, pers. comm. 1999). Even though surveys from 1996 through 1999 indicate the East Fork of the San Gabriel River continues to maintain a healthy Santa Ana sucker population (R. Ally, *in litt.* 1996; J. Hernandez, *in litt.* 1997;, M. Saiki, pers. comm. 1999), suction dredging may impact larvae and eggs of Santa Ana suckers, particularly if dredging is concentrated in an area containing spawning suckers. Harvey and Lisle (1998) recommended that, given the uncertainty concerning the effects of suction dredging, fisheries managers would be wise to assume that suction dredging is a harmful practice in streams that support threatened or endangered species. (See ‘‘Issue 4’’ in the ‘‘Summary of Comments and Recommendations’’ section.)

Recreational activities on forest lands may also pose some threat to Santa Ana sucker habitat quality. Annually, thousands of people from the Los Angeles metropolitan area and adjacent urban communities use wilderness and nonwilderness areas within the Big Tujunga Creek and San Gabriel Forks areas of the Angeles National Forest for recreation. The impact of large numbers of people using these areas include destruction of streambank vegetation, streambank erosion, and the disposal of untreated human waste and other refuse into the creeks, all of which degrade water quality (D. Maxwell, CDFG, pers. comm. 1999). Given the projected growth of the Los Angeles metropolitan area, this threat should increase.

Although the Santa Ana sucker evolved under conditions that presumably included droughts, water diversions and management practices threaten the continued existence of the species. For example, stretches of the upper Santa Ana River have been permanently dewatered, eliminating Santa Ana sucker populations and migration through these reaches to other areas (Swift *et al.* 1993). As previously discussed, channelization of the rivers of the Los Angeles Basin, water quality degradation, and dam construction have all combined to degrade and eliminate historic Santa Ana sucker habitat. Future human population and urban growth of the basin will further stress the natural resources of the basin and likely exacerbate these conditions by further destruction and degradation of Santa Ana sucker habitat.

Degradation of water quality in the Santa Ana and Los Angeles Rivers may threaten the Santa Ana sucker (Moyle and Yoshiyama 1992). Suckers are common in some areas upstream from Prado Dam where several water treatment facilities discharge into the Santa Ana River (Chadwick and Associates 1992). Chadwick and Associates (1992) attributed high sucker numbers to adequate water supplies discharged by the treatment facilities and the presence of tributaries that offer spawning areas and refugia for suckers. However, they did note that the Santa Ana River between Mission Boulevard and Interstate 10 probably would not support viable populations of fishes, due, in part, to ‘‘elevated levels of chlorine and unionized ammonia.’’ Overall, Santa Ana sucker numbers are much reduced in the Santa Ana River, and the Santa Ana River population appears to be less healthy than populations in other rivers occupied by the species (Moyle and Yoshiyama 1992; M. Saiki, pers. comm. 1999; P. Wolf, *in litt.* 1996).

The small mile-long stretch of Big Tujunga and Haines Canyon Creeks that appears to provide a critical refugia for the Santa Ana sucker, as well as the arroyo chub and Santa Ana speckled dace, is threatened by the potential water quality impacts of a proposed golf course development to be built just upstream of Interstate 210 (Bill Eick, *in litt.* 1999). Cohen *et al.* (1999) reviewed studies of 36 golf courses around the United States in an effort to evaluate the impacts to water quality by golf courses. Although no toxicologically significant impacts were observed by the authors, maximum allowable concentrations of pesticides and related chemicals for aquatic organisms occasionally were exceeded. Moreover, maximum contaminant levels/health advisory levels were frequently exceeded for various pesticides and ground water nitrate-nitrogen. Although the water quality tolerances of Santa Ana suckers are unknown, in general, point and non-point source pollution (*e.g.*, urban runoff, sedimentation) have significantly degraded the water quality in most of the native range of the Santa Ana sucker.

In an effort to identify what environmental variables affect the Santa Ana sucker, the Biological Resources Division of the USGS, in conjunction with the Orange County Water District, County of Orange, Los Angeles County Department of Public Works, and the Service, is nearing completion of a study of the factors affecting Santa Ana sucker abundance. Initial results from this study indicate that tissue concentrations of inorganic and organic contaminants from Santa Ana suckers from the San Gabriel and Santa Ana Rivers were not unusually high. However, measurements of electrical conductance and turbidity did show significant negative correlations with Santa Ana sucker abundance, indicating that Santa Ana suckers are less tolerant where conditions are more turbid and contain more salts (M. Saiki, pers. comm. 1999). Based on available information, we conclude that increased turbidity and associated deposition of fine particles and sand likely threaten the Santa Ana sucker population in the Santa Ana River by decreasing the availability of cobble and other hard substrates and altering the water quality preferred by the species (Moyle and Yoshiyama 1992).

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

We are not aware of any commercial or recreational demand for the Santa Ana sucker. Although the CDFG reported that Santa Ana suckers had been illegally caught with gill and throw nets in the Santa Ana River below Prado Dam (Lt. M. Maytorena, CDFG, pers. comm. 1997), the relative impact of illegal harvesting of the species is unknown.

C. Disease or Predation

Moyle and Yoshiyama (1992) concluded that introduced brown trout (*Salmo trutta*) may have caused the extirpation of the Santa Ana sucker from the upper Santa Ana River in the San Bernardino Mountains. The petitioners noted that centrarchid (sunfishes) and bullheads prey on suckers. In the Los Angeles River, such introduced predators aggregate in pools during droughts and are presumably feeding on native fishes, including Santa Ana suckers (Sierra Club Legal Defense Fund, *in litt.* 1994). Similar conditions exist in the Santa Ana River. Predation by introduced fishes in combination with habitat destruction has been implicated in the decline of other species of suckers in the Southwest (Minckley *et al.* 1991; Scoppettone and Vinyard 1991) and on native fishes in general in California (Moyle 1976b).

Initial results from the USGS study mentioned above indicate that the presence of nonnative fish species was more strongly correlated with the absence of Santa Ana suckers than any water quality variable. Strongly significant negative associations were found with common carp (*Cyprinus carpio*), largemouth bass (*Micropterus salmoides*), bluegill (*Lepomis macrochirus*), and fathead minnow (*Pimephales promelas*), indicating nonnative fishes may exclude Santa Ana suckers by competition, or eliminate suckers through predation (M. Saiki, pers. comm. 1999). Nonnative introduced fishes have long been recognized as having far-reaching negative impacts to native fishes in North America (Moyle *et al.* 1986). Accordingly, introduced predators and competitors likely threaten the continued existence of Santa Ana suckers throughout most of the range of the species.

D. The Inadequacy of Existing Regulatory Mechanisms

Despite existing regulatory mechanisms and conservation activities accomplished to date by private, State, and Federal entities, the Santa Ana sucker has continued to decline throughout a significant portion of its range. Existing regulatory mechanisms that might provide some protection for the Santa Ana sucker if it was not listed include the California Endangered Species Act, California Environmental Quality Act (CEQA), NEPA, Clean Water Act, Federal Endangered Species Act (where the Santa Ana sucker occurs in areas where other federally listed species are located), and land management or conservation measures by Federal, State, or local agencies or by private groups and organizations.

The State of California considers the Santa Ana sucker a ''species of special concern.'' However, the Santa Ana sucker is not listed as endangered or threatened by the State, and ''species of special concern'' are afforded no protection under the California Endangered Species Act.

CEQA requires full public disclosure of the potential environmental impact of proposed projects. This law also obligates disclosure of environmental resources within proposed project areas and may enhance opportunities for conservation efforts. However, CEQA does not guarantee that such conservation efforts will be implemented. The public agency with primary authority or jurisdiction over the project is designated as the lead agency under CEQA, and is responsible for conducting a review of the project and consulting with other agencies concerned with resources affected by the project. Section 15065 of the CEQA guidelines requires a finding of significance if a project has the potential to ''reduce the number or restrict the range of a rare or endangered plant or animal.'' Although not currently listed under the California Endangered Species Act, the Santa Ana sucker would likely qualify as a rare species under section 15380 of the CEQA guidelines and thus would be given the same consideration under CEQA as those species that are officially listed with the State. Once significant impacts are identified, the lead agency may either require mitigation for effects through changes in the project or decide that overriding considerations justify approval of a project with significant impacts. In the latter case, projects may be approved that cause significant environmental damage, such as resulting in the loss of habitat supporting State-listed species. Protection of listed species through CEQA is, therefore, not assured.

NEPA requires an intensive environmental review of projects that may adversely affect a federally listed species, but project proponents are not required to avoid impacts to nonlisted species. The primary purpose of NEPA is to require Federal agencies to fully disclose impacts that would result from their proposed actions, and to make findings regarding the significance of those impacts. It does not require that resources be protected.

Lead agencies responsible under CEQA and/or NEPA have made determinations that have adversely affected, or would adversely affect, the Santa Ana sucker and its habitat. Examples of projects that have been completed or are currently undergoing the review process under CEQA and/or NEPA that would impact this species include the Santa Ana River Mainstem Project, containing multiple projects including Seven Oaks Dam and the raising of Prado Dam, and the continued channelization of the Santa Ana River in Orange County. The reviews for these projects have not addressed the effects of the proposed actions on the Santa Ana sucker, despite its status as a species proposed for listing. Similarly, on the San Gabriel River, proposed silt removal from Cogswell Dam may adversely affect the sucker. While projects altering a stream course are subject to review under section 1601 or 1603 of the California Fish and Game Code, such State regulations have not prevented habitat loss or sufficiently protected habitats to prevent the decline of the Santa Ana sucker.

Section 404 of the Clean Water Act currently affords some protection for the Santa Ana sucker. However, the Clean Water Act, by itself, does not provide adequate protection for the Santa Ana sucker. Although the objective of the Clean Water Act is to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters'' (33 U.S.C. 1251), this law contains no specific provisions to address the conservation needs of rare species. USACE is the Federal agency with primary responsibility for administering the section 404 program. Under section 404, nationwide permits may be issued for certain activities that are considered to have minimal impacts, including minor dredging and discharges of dredged material, some road crossings, and minor bank stabilization (December 13, 1996; 61 FR 65873). USACE seldom withholds authorization of an activity under nationwide permits unless the existence of a listed threatened or endangered species would be jeopardized. Activities that do not qualify for authorization under a nationwide permit, including projects that would result in more than minimal adverse environmental effects, either individually or cumulatively, may be authorized by an individual permit or regional general permit, which are typically subject to more extensive review. Regardless of the type of permit deemed necessary under section 404, rare species such as the Santa Ana sucker may receive no special consideration with regard to conservation or protection unless they are listed under the Act.

As part of the section 404 review process, we provide comments to USACE on nationwide permits and individual permits under the Fish and Wildlife Coordination Act. Our comments are only advisory, although procedures exist for elevating permit review within the agencies when disagreements between us and USACE arise concerning the issuance of a permit. In practice, the section 404 permit review process has often proven to be inadequate to protect unlisted but rare species, such as the Santa Ana sucker.

The Santa Ana sucker may receive a small amount of protection from the overlap of its habitat with two federally endangered birds, the least Bell's vireo (*Vireo bellii pusillus*) and the southwestern willow flycatcher (*Empidonax traillii extimus*). Consideration for these listed bird species protects some areas from projects that could ultimately damage Santa Ana sucker habitat. However, protection is limited because these listed bird species occupy different areas and have dissimilar ecological requirements from the Santa Ana sucker. Although the federally endangered San Bernardino kangaroo rat (*Dipodomys merriami parvus*) also occurs along the Santa Ana River, this listed mammal occurs upstream from the present range of the Santa Ana sucker. Therefore, the presence of the San Bernardino kangaroo rat will have little effect on the status or protection afforded the sucker.

USFS lands encompass approximately 15 percent of the current native range of the Santa Ana sucker. Although a small percentage of the range is within a designated wilderness area, the majority of the range on USFS lands is not under wilderness management. Wilderness designation offers no direct regulatory protection to the sucker, but it does reduce some human-induced impacts on the stream. For example, motorized equipment is excluded from these areas. This restriction reduces or eliminates all motorized recreation and mining activities within the wilderness areas. Because these types of activities may harm Santa Ana sucker populations and habitats, wilderness designation offers some indirect benefit to the species. Santa Ana sucker habitat on USFS is also not subject to the development pressures existing on private land. However, this protection likely is partially offset by the recreational impacts discussed earlier (see factor ''A'').

E. Other Natural or Manmade Factors Affecting its Continued Existence

Periodic wildfires could adversely affect Santa Ana suckers by eliminating vegetation that shades the water and moderates water temperature, or by producing silt-and-ash-laden runoff that can significantly increase the turbidity of rivers. Although recent fires, including the 1996 Biedebach Fire (near the vicinity of Prairie Fork on the East Fork of the San Gabriel River) and the 1999 Bridge Fire (adjacent to the West and North Forks of the San Gabriel River), did not burn the riparian corridor, they may have contributed increased runoff and siltation to the creek.

The high degree of fragmentation of the remaining Santa Ana sucker populations makes the species especially vulnerable to random events, environmental factors, and loss of genetic variability. A small population size increases the rate of inbreeding and may allow increased expression of deleterious recessive genes occurring in the population (known as inbreeding depression). Loss of genetic variability, through random genetic drift (random gene frequency changes in a small population due to chance), reduces the ability of small populations to respond successfully to environmental stresses. Most of the lowland river habitats have been lost, and the remaining populations of Santa Ana suckers are low in numbers, with the exception of the San Gabriel Forks populations. Although Santa Ana suckers are locally common in what remains of their native range, the total population size of any one of the remaining native populations is still relatively small. Random events, such as floods, variations of annual weather patterns, predation and associated demographic uncertainty (conditions affected by chance events, such as sex ratios, that influence survival and reproduction in small populations), or other environmental stresses and human-caused factors, such as chemical spills, may lead to the demise of the remnant populations in the Los Angeles or Santa Ana Basins.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining its status. Based on this evaluation, the preferred action is to list the Santa Ana sucker (*Catostomus santaanae*) as threatened. While not in immediate danger of extinction, the Santa Ana sucker is likely to become an endangered species in the foreseeable future if the present threats continue and populations decline further.

Critical Habitat

Critical habitat is defined in section 3, paragraph (5)(A), of the Act as 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 essential to the conservation of the species and that may require special management considerations or protection; and specific areas outside the geographical area occupied by a species at the time it is listed in accordance with the provisions of section 4 of the Act, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Critical habitat designation, by definition, directly affects only Federal agency actions through consultation under section 7(a)(2) of the Act. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. According to Service regulations (50 CFR 424.12(a)), critical habitat is not determinable if information sufficient to perform required analysis of the impacts of the designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. Section 4(b)(2) of the Act requires us to consider economic and other relevant impacts of designating a particular area as critical habitat on the basis of the best scientific data available. The Secretary may exclude any area from critical habitat if he determines that the economic benefits of such exclusion outweigh the conservation benefits of designation, unless to do so would result in the extinction of the species.

In designating critical habitat, we consider the following requirements of the species: 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, or rearing of offspring; and, generally, habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of this species (see 50 CFR 424.12(b)). In addition to these factors, we also focus on the known physical and biological features (primary constituent elements) within the designated area that are essential to the conservation of the species and may require special management considerations or protection. The essential features for the Santa Ana sucker may include, but are not limited to, spawning sites, food resources, and water quality and quantity (see 50 CFR 424.12(b)).

We conclude that the knowledge and understanding of the biological needs and environmental limitations of the Santa Ana sucker and the primary constituent elements of its habitat are insufficient to determine critical habitat for the fish. We believe that the Santa Ana sucker is intolerant of highly polluted waters, but little information is available concerning this possible limiting factor. Furthermore, in the Santa Ana River, suckers remain extant, although rare, in the lower reaches where water quality is degraded relative to the headwaters. We need additional information on the environmental limits of the sucker to enable us to accurately designate critical habitat for the Santa Ana sucker throughout its range. The physical and biological features including but not limited to water chemistry, water temperature, instream flows, streambed substrate and structure, and fauna and flora of the aquatic environment that supports the Santa Ana sucker are the features about which we need additional information. In an effort to gain these data, the Orange County Water District, the County of Orange, Los Angeles County Department of Public Works, the National Fish and Wildlife Foundation, the Biological Resources Division of USGS, and the Service have funded and implemented research on the environmental limitations of the Santa Ana Sucker. The study is nearing completion and has already identified some environmental parameters, including water quality (e.g., turbidity and conductivity) and some biological parameters (introduced nonnative fish species) associated with variations in population densities. These correlations will help guide future research to focus on the variable(s) most likely to limit sucker populations.

When a ''not determinable'' finding is made, we must, within 2 years of the publication date of the original proposed rule, propose the designation of critical habitat, unless the designation is found to be not prudent. Initial results of the USGS–Santa Ana sucker study have been incorporated into this rule. A final report should be available later this year. We will use this study and other new information to reevaluate our knowledge of the species and, if determined prudent, propose critical habitat for the Santa Ana sucker. We will continue in our efforts to obtain more information on Santa Ana sucker biology and ecology, including distribution, population density, and essential habitat characteristics, particularly in regard to water quality. We will also use the information resulting from these efforts to identify measures needed to achieve conservation of the species, as defined under the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States, and requires that recovery plans be carried out for all listed species. Funding may be available through section 6 of the Act for the State to conduct recovery activities. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat, if designated. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us, under section 7(a)(2) of the Act.

Federal agencies expected to consult with us under section 7 regarding the Santa Ana sucker include USACE and the Environmental Protection Agency because of their permitting authority under section 404 of the Clean Water Act. The USFS may consult with us on its activities on the Angeles National Forest and Los Padres National Forest. These agencies either administer lands/waters containing the Santa Ana sucker or authorize, fund, or otherwise conduct activities that may affect this species.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered and threatened wildlife not covered by a special rule. These prohibitions, codified at 50 CFR 17.21 and 17.31, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt any such conduct), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to our agents and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are at 50 CFR 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, permits also are available for zoological exhibition, educational purposes, or special uses consistent with the mission of the Act.

As published in the **Federal Register** (59 FR 34272) on July 1, 1994, our policy is to identify to the maximum extent practicable those activities that would or would not be likely to constitute a violation of section 9 of the Act if a species is listed. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within a species' range. We believe the following actions would not likely result in a violation of section 9:

(1) Actions that may affect the Santa Ana sucker and are authorized, funded, or carried out by a Federal agency when the action is conducted in accordance with any reasonable and prudent alternatives or reasonable and prudent measures to minimize the impacts of take identified by us in accordance with section 7 of the Act; and

(2) Possession, transport within or between States, and import and export, with proper permits, of Santa Ana suckers that were legally collected prior to the date of publication in the **Federal Register** of the final regulation adding this species to the list of threatened and endangered species.

Activities that we believe could potentially harm the Santa Ana sucker and result in a violation of section 9 of the Act include, but are not limited to:

(1) Take of Santa Ana suckers without a permit, which includes harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting, or attempting any of these actions;

(2) Possessing, selling, delivering, carrying, transporting, or shipping illegally taken Santa Ana suckers;

(3) Unauthorized interstate and foreign commerce (commerce across State and international boundaries) and import/export;

(4) Introduction of nonnative species that compete or hybridize with, or prey on Santa Ana suckers;

(5) Unauthorized destruction or alteration of Santa Ana sucker habitat by dredging, channelization, diversion, dewatering through groundwater withdraw, in-stream vehicle operation or rock removal, or other activities that result in the destruction or significant degradation of cover, channel stability, substrate composition, water quality, water temperature, and migratory corridors; and

(6) Discharging or dumping of toxic chemicals, silt, organic waste, or other pollutants (such as may result from mining, land development or land management activities) into waters supporting Santa Ana suckers that results in death or injury to the species or results in the destruction or degradation of cover, channel stability, substrate composition, water quality, water temperature, and migratory corridors used by the species for foraging, cover, migration, and spawning.

We will review other activities not identified above on a case-by-case basis to determine if a violation of section 9 of the Act may be likely to result from such activity. We do not consider these lists to be exhaustive and provide them as information to the public.

Questions regarding whether specific activities may constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Carlsbad Fish and Wildlife Office (see ADDRESSES section). Requests for copies of the regulations regarding listed wildlife and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–6241; facsimile 503/231–6243)

National Environmental Policy Act

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

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. For additional information concerning permit and associated requirements for threatened wildlife, see 50 CFR 17.32.

References Cited

A complete list of all references cited herein is available upon request from the Carlsbad Fish and Wildlife Office (see ADDRESSES section).

Author

The primary author of this document is Glen W. Knowles, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as 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. Amend § 17.11(h) by adding the following, in alphabetical order under FISHES, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
*	*	*	*	*	*		*
Sucker, Santa Ana ..	*Catostomus santaanae*.	U.S.A. (CA)	Los Angeles River basin, San Gabriel River basin, Santa Ana River basin.	T	694	NA	NA
*	*	*	*	*	*		*

Dated: March 31, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–8999 Filed 4–11–00; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 65, No. 71
Wednesday, April 12, 2000

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–07]

Proposed Establishment of Class E Airspace; Wadena, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Wadena, MN. An Area Navigation (RNAV) Standard Instrument Approach procedure (SIAP) to Runway (Rwy) 34 has been developed for Wadena Municipal Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing this approach. This action would create controlled airspace for Wadena Municipal Airport.

DATES: Comments must be received on or before May 22, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 00–AGL–07, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ‘‘Comments to Airspace Docket No. 00–AGL–07.’’ The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Wadena, MN, by creating controlled airspace for Wadena Municipal Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§71.1 [Amended]

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

* * * * *

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

* * * * *

AGL MN E5 Wadena, MN [New]

Wadena Municipal Airport, MN
(Lat. 46°26′51″ N., long. 95°12′41″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Wadena Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on March 22, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–8968 Filed 4–11–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–08]

Proposed Establishment of Class E Airspace; Minneapolis, Flying Cloud Airport, Minnesota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Minneapolis, Flying Cloud Airport, MN. Flying Cloud Airport is served by Federal Aviation Regulations Part 135 (14 CFR Part 135) air carrier operations. Controlled airspace extending upward from the surface is needed to contain aircraft executing instrument flight procedures and provide a safer operating environment when the control tower is closed. The airport meets the minimum communications and weather observation and reporting requirements for controlled airspace extending upward from the surface. This action proposes to create controlled airspace with a 4.0-mile radius for this airport.

DATES: Comments must be received on or before May 22, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 00–AGL–08, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ‘‘Comments to Airspace Docket No. 00–AGL–08.’’ The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Minneapolis, Flying Cloud Airport, MN, to accommodate and Part 135 air carrier aircraft executing instrument flight rules procedure during periods when the control tower is closed. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from the surface of the earth are published in paragraph 6002 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 6002 Class E airspace designated as a surface area.

AGL MN E2 Minneapolis, Flying Cloud Airport, NM [New]

Flying Cloud Airport, MN

(Lat. 44°49′ 38″ N., long. 93°27′26″ W.)

Within an 4.0-mile radius of the Minneapolis, Flying Cloud Airport. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on March 22, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–8969 Filed 4–11–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–09]

Proposed Establishment of Class E Airspace; Minneapolis, Anoka County-Blaine Airport, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Minneapolis, Anoka County-Blaine Airport, MN. Akoka County-Blaine Airport is served by Federal Aviation Administration Part 135 (14 CFR Part 135) air carrier operations. Controlled airspace extending upward from the surface is needed to contain aircraft executing instrument flight procedures and provide a safer operating environment when the control tower is closed. The airport meets the minimum communications and weather observation and reporting requirements for controlled airspace extending upward from the surface. This action proposes to create controlled airspace with a 3.9-mile radius for this airport.

DATES: Comments must be received on or before May 22, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 00–AGL–09, 2300 East Devon Avenue, Des Plaines, Illinois.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ‘‘Comment to Airspace Docket No. 00–AGL–09.’’ The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of The Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM’s

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM’s should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Minneapolis, Anoka County-Blaine Airport, MN, to accommodate Part 135 air carrier aircraft executing instrument flight rules procedure during periods when the control tower is closed. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from the surface of the earth are published in paragraph 6002 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 6002 Class E airspace designated as a surface area.

* * * * *

AGL MN E2 Minneapolis, Anoka County-Blaine Airport, MN [New]

Anoka County-Blaine Airport, MN

(Lat. 45°08′42″ N., long 93° 12′ 41″ W.)

Within a 3.9-mile radius of the Minneapolis, Anoka County-Blaine Airport. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on March 22, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–8970 Filed 4–11–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–208254–90]

RIN 1545–AO72

Source of Compensation for Labor of Personal Services; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations under section 861 describing the appropriate basis for determining the source of income from labor or personal services performed partly within and partly without the United States.

DATES: The public hearing originally scheduled for Wednesday, April 19, 2000, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: LaNita Van Dyke of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Friday, January 21, 2000 (64 FR 3401), announced that a public hearing was scheduled for Wednesday, April 19, 2000, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 861 of the Internal Revenue Code. The public comment period for these proposed regulations expired on Wednesday, March 29, 2000. The outlines of topics to be addressed at the hearing were due on Wednesday, March 29, 2000.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Wednesday, April 5, 2000, no one has requested to speak. Therefore, the public hearing scheduled for Wednesday, April 19, 2000, is cancelled.

Cynthia Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 00–9004 Filed 4–11–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–777]

RIN 1218–AB36

Ergonomics Program Standard Informal Public Hearings

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Proposed rule; extension of informal public hearing.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is extending the dates of the informal public hearing on the proposed Ergonomics Program standard (64 FR 65768, November 23, 1999) in Portland, Oregon. OSHA has added two additional days to the Portland hearing, which will now be held from April 24, 2000 through May 5, 2000.

DATES: *Informal Public Hearing:* The hearing in Washington, DC, began at 9:30 a.m., March 13, 2000, at the Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210. The hearing in Washington is scheduled to run through April 7, 2000. The hearing will continue in Chicago, Illinois, from April 11, 2000 through April 21, 2000. In Portland, the hearing will run from April 24, through May 5, 2000. The hearings will begin at 8:30 a.m. each day in Chicago and Portland.

Notice of Intention To Appear at the Informal Public Hearing: Notices of intention to appear at the informal public hearing were required to have been postmarked to January 24, 2000.

ADDRESSES: The informal public hearing in Washington, DC, is being held in the Auditorium of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. In Chicago, the hearing will be held at the State of Illinois Building, James R. Thompson Center (Assembly Hall), 100 West Randolph Street. In Portland, the hearing is being held at the Mark Hatfield Federal Court House, 1000 Southwest 3rd Avenue.

FOR FURTHER INFORMATION CONTACT: OSHA's Ergonomics Team at (202) 693–2116, or visit the OSHA Homepage at *www.osha.gov.*

SUPPLEMENTARY INFORMATION: The amended schedule, as well as any additional updates, is available on OSHA's web site, *http://www.osha.gov.* Participants whose scheduled presentation times have changed have already received notification of these changes.

Authority: This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued under sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 1911.

Signed at Washington, DC, this 5th day of April, 2000.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 00–9000 Filed 4–11–00; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 2

[FRL–6575–5]

Revised Freedom of Information Act Regulations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) proposes to revise its regulations implementing the Freedom of Information Act (FOIA). EPA is streamlining and condensing its regulations, in accordance with the principles of the National Performance Review, and is using simpler language whenever possible. The regulations also reflect the principles established by President Clinton and Attorney General Reno in their FOIA Policy Memoranda dated October 4, 1993, as well as Attorney General Reno's recent restatement of those principles in a FOIA Policy Memorandum dated September 3, 1999. In addition, the regulations contain new provisions implementing the Electronic Freedom of Information Act Amendments of 1996, reflect developments in case law under the FOIA, and update cost figures for calculating and charging fees.

DATES: Comments must be received on or before May 12, 2000.

ADDRESSES: Please send any comments on this proposed rule to Jeralene B. Green, Office of Environmental Information (2822), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Public comments on this proposed rule will be available for review at EPA's Air and Radiation Docket and Information Center (6102), Attention Docket Number FOIA–2000–01, 401 M Street, SW., Room M–1500, Waterside Mall (ground floor), Washington, DC 20460. This Docket is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, or by calling (202) 260–7548. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Jeralene B. Green, (202) 260–1050.

SUPPLEMENTARY INFORMATION:

I. Description of Proposed Rule

EPA is proposing this comprehensive revision to 40 CFR part 2, subpart A, to add new provisions to implement the Electronic Freedom of Information Act Amendments of 1996, Public Law 104–231, to update the fee schedule, and to incorporate changes to the language and structure of the regulations. New provisions implementing the amendments are found at § 2.101(c) (electronic availability of records), § 2.104(b) (timing of responses), § 2.104(f) (expedited processing), § 2.104(g) (deletion marking), § 2.104(i)(3) (volume estimation), § 2.106(b)(3) (format of disclosure), and § 2.106(b)(8) (electronic searches).

Proposed changes to the Agency's fee schedule are found at § 2.106(c) and (d). The duplication charge will remain the same at fifteen (15) cents per page, while document search and review charges will increase to $4.00, $7.00, and $10.25 per quarter hour for clerical, professional, and managerial time, respectively. The amount at or below which the Agency will not charge a fee will be $14.00.

II. Statutory Authority

EPA is proposing this rule under the authority of 5 U.S.C. 301, 552 (as amended), and 553.

III. Regulatory Flexibility Act, as Amended

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

EPA has determined that this proposed rule will have only a small economic impact on the small entities that submit FOIA requests to EPA for records. Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. EPA's proposed fees are nominal and have been calculated to recover only the direct costs of processing a FOIA request. The revision to the fee schedule is minimal and reflects a more specific breakdown of direct costs by the kind of EPA employee involved in processing a FOIA request. Therefore, under 5 U.S.C. 605(b), I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

IV. Paperwork Reduction Act

This proposed rule does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* It pertains solely to the dissemination of information under the FOIA.

V. Environmental Impact

This proposed rule is expected to have no environmental impact. It pertains solely to the dissemination of information under the FOIA.

VI. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), EPA must determine whether this proposed rule is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this proposed rule is not a "significant regulatory action" under the terms of

Executive Order 12866 and therefore is not subject to OMB review.

VII. Executive Order 13132 on Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule simply revises EPA's regulations implementing the FOIA. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

VIII. Executive Order 13084 on Consultation With Indian Tribal Governments

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

This proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of Executive Order 13084 do not apply to this proposed rule.

IX. Unfunded Mandates Reform Act of 1995

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a federal mandate which may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, for any rule subject to section 202, EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that this proposed rule does not include a federal mandate as defined in UMRA. This proposed rule does not include a federal mandate that may result in estimated annual costs to State, local or tribal governments in the aggregate, or to the private sector, of $100 million or more, and does not establish regulatory requirements that may significantly or uniquely affect small governments.

X. Executive Order 13045

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned rule is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

EPA believes Executive Order 13045 applies only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

XI. National Technology Transfer and Advancement Act of 1995

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), 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 directs EPA to provide Congress, through OMB, explanations when EPA decides not to use available and applicable voluntary consensus standards.

This proposed rule does not involve any technical standards, and EPA is not considering the use of any voluntary consensus standards. Accordingly, this proposed rule is not subject to the requirements of the NTTAA.

List of Subjects 40 CFR Part 2

Environmental protection, Administrative practice and procedure, Confidential business information, Freedom of information, Government employees.

Dated: March 31, 2000.

Margaret N. Schneider,

Principal Deputy Assistant Administrator.

For the reasons set out above, EPA proposes to amend 40 CFR part 2 as follows:

PART 2—PUBLIC INFORMATION

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301, 552 (as amended), 553; secs. 114, 205, 208, 301, and 307, Clean Air Act, as amended (42 U.S.C. 7414, 7525, 7542, 7601, 7607); secs. 308, 501 and 509(a), Clean Water Act, as amended (33 U.S.C. 1318, 1361, 1369(a)); sec. 13, Noise Control Act of 1972 (42 U.S.C. 4912); secs. 1445 and 1450, Safe Drinking Water Act (42 U.S.C. 300j–4, 300j–9); secs. 2002, 3007, and 9005, Solid Waste Disposal Act, as amended (42 U.S.C. 6912, 6927, 6995); secs. 8(c), 11, and 14, Toxic Substances Control Act (15 U.S.C. 2607(c), 2610, 2613); secs. 10, 12, and 25, Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136h, 136j, 136w); sec. 408(f), Federal Food, Drug and Cosmetic Act, as amended (21 U.S.C. 346(f)); secs. 104(f) and 108, Marine Protection Research and Sanctuaries Act of 1972 (33 U.S.C. 1414(f), 1418); secs. 104 and 115, Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9604 and 9615); sec. 505, Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2005).

2. Subpart A is revised to read as follows:

Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act

Sec.

Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act

§ 2.100 General provisions.

(a) This subpart contains the rules that the Environmental Protection Agency (EPA or the Agency) follows in processing requests for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552. Information routinely provided to the public as part of a regular EPA activity may be provided to the public without following this subpart. As a matter of policy, EPA makes discretionary disclosures of records or information exempt under the FOIA whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption, but this policy does not create any right enforceable in court.

(b) As used in this subpart, the term ‘‘component’’ includes the offices of the Administrator, the Deputy Administrator, the Assistant Administrators, the Regional Administrators, the General Counsel, the Inspector General, the Chief Financial Officer, the Associate Administrators, and the headquarters staff offices.

(c) When documents responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs, such as, but not limited to, the Government Printing Office or the National Technical Information Service, EPA will inform the requester of the steps necessary to obtain records from these sources.

§ 2.101 Where requests for records are to be filed.

(a) You may request records by writing to the Headquarters Freedom of Information Operations Staff (1105), Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; (202) 260–4048; FAX: (202) 260–4499. If you believe the records sought may be located in an EPA regional office, you should send your request to the appropriate regional Freedom of Information Officer as indicated in the following list:

(1) Region I (CT, ME, MA, NH, RI, VT): EPA, Freedom of Information Officer, One Congress Street, Suite 1100, Boston, MA 02114–2023; (617) 918–1103; FAX: (617) 918–1124.

(2) Region II (NJ, NY, PR, VI): EPA, Freedom of Information Officer, 290 Broadway, 26th Floor, New York, NY 10007–1866; (212) 637–3668; FAX: (212) 637–5046.

(3) Region III (DE, DC, MD, PA, VA, WV): EPA, Freedom of Information Officer, 1650 Arch Street, Philadelphia, PA 19103–2029; (215) 814–5553; FAX: (215) 814–5102.

(4) Region IV (AL, FL, GA, KY, MS, NC, SC, TN): EPA, Freedom of Information Officer, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303–3104; (404) 562–8034; FAX: (404) 562–8054.

(5) Region V (IL, IN, MI, MN, OH, WI): EPA. Freedom of Information Officer, 77 West Jackson Boulevard, Chicago, IL 60604–3507; (312) 886–2942; FAX: (312) 886–6686.

(6) Region VI (AR, LA, NM, OK, TX): EPA, Freedom of Information Officer, 1445 Ross Avenue, Dallas, TX 75202–2733; (214) 665–6597; FAX: (214) 665–2146.

(7) Region VII (IA, KS, MO, NE): EPA, Freedom of Information Officer, 901 North Fifth Street, Kansas City, KS 66101; (913) 551–7764; FAX: (913) 551–7066. Subpart A. Procedure

(8) Region VIII (CO, MT, ND, SD, UT, WY): EPA, Freedom of Information Officer, 999 18th Street, Suite 500, Denver, CO 80202–2466, (303) 312–6940; FAX: (303) 312–6961.

(9) Region IX (AZ, CA, HI, NV, AS, GU): EPA, Freedom of Information Officer, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744–1593; FAX: (415) 744–1605.

(10) Region X (AK, ID, OR, WA): EPA, Freedom of Information Officer, 1200 Sixth Avenue, Seattle, WA 98101; (206) 553–8665; FAX: (206) 553–0149.

(b) EPA provides access to all records that the FOIA requires an agency to make regularly available for public inspection and copying. Each component is responsible for determining which of the records it generates are required to be made publicly available and for providing access by the public to them. Each component will also maintain and make available for public inspection and copying a current subject-matter index of such records. Each index will be updated regularly, at least quarterly, with respect to newly-included records.

(c) All records created by EPA on or after November 1, 1996, which the FOIA requires an agency to make regularly available for public inspection and copying, will be made available electronically through EPA's worldwide web site, located at http://www.epa.gov, or, upon request, through other electronic means. EPA will also include on its worldwide web site the current subject-matter index of all such records.

§ 2.102 Procedures for making requests.

(a) How made and addressed. You may make a request for EPA records by writing directly to the Freedom of Information Officer of the component as listed in § 2.101(a). Only written requests for records will be accepted for processing under this subpart. If you are making a request for records about yourself, see 40 CFR part 16, which implements the Privacy Act of 1974. If you are making a request for records about another individual, either a written authorization signed by that individual permitting disclosure of those records to you or proof that that individual is deceased (for example, a copy of a death certificate or an obituary) will help EPA to process your request. For records located at EPA headquarters, or in those instances when you cannot determine which EPA office to send your request, you may send it to the Headquarters Freedom of Information Operations Staff (1105), Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. That office will forward your request to the component(s) it believes most likely to have the records that you want. Your request will be considered received as of the date it is received by the FOIA office. Misdirected requests will not be considered received by EPA until the appropriate FOIA office receives the request. For the quickest possible handling, you should mark both your request letter and its envelope ''Freedom of Information Act Request.''

(b) EPA officers and employees will attempt in good faith to comply with requests for inspection or disclosure of EPA records made orally, by telephone or otherwise, but such requests are not required to be processed in accordance with this subpart.

(c) Description of records sought. You must describe the records you are seeking in enough detail to enable EPA personnel to locate them with a reasonable amount of effort. Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter. If known, you should include any file designations or descriptions for the records that you want. As a general rule, the more specific you are about the records or type of records that you want, the more likely EPA will be able to locate those records in response to your request. If EPA determines that your request does not reasonably describe the records, it will tell you either what additional information you need to provide or why your request is otherwise insufficient. EPA will also give you an opportunity to discuss and modify your request to meet the requirements of this section. Should it be necessary for you to provide a revised description of the records you are seeking, the time necessary to do so will be excluded from the 20 working day period (or any extension of such period) that EPA has to respond to your request as discussed in § 2.104.

(d) Agreement to pay fees. If you make a FOIA request, EPA will consider your request to be an agreement that you will pay all applicable fees charged under § 2.106, up to $25.00, unless you seek a waiver of fees. The EPA component responsible for responding to your request ordinarily will confirm this agreement in writing. When making a request, you may specify a willingness to pay a greater or lesser amount.

§ 2.103 Responsibility for responding to requests.

(a) *In general.* Except as stated in paragraphs (c), (d), and (e) of this section, the Freedom of Information Office of the component that has possession of that record is the component responsible for responding to you. In determining which records are responsive to a request, a component will include only those records in its possession as of the date the Freedom of Information Office of the component receives the request. If any other date is used, the component will inform you of that date.

(b) *Authority to grant or deny requests.* The head of a component, or the component head's designee, has been delegated authority to grant or deny any request for a record of that component.

(c) *Consultations and referrals.* When a component receives a request for a record in its possession, it will determine whether another component, or another agency of the Federal government, is better able to determine whether the record is exempt from disclosure under the FOIA and, if so, whether it should be disclosed as a matter of administrative discretion. If the receiving component determines that it is best able to process the record in response to the request, then it will do so. If the receiving component determines that it is not best able to process the record, then it will either:

(1) Respond to you regarding the record you have requested, after consulting with the component or agency best able to determine whether to disclose it and with any other component or agency that has a substantial interest in it; or

(2) Refer the responsibility for responding to your request regarding that record to the component best able to determine whether to disclose it, or to another agency that originated the record (but only if that agency is subject to FOIA). Ordinarily, the component or agency that originated a record will be presumed to be best able to determine whether to disclose it.

(d) *Law enforcement information.* Whenever a request is made for a record containing information that relates to an investigation of a possible violation of law and was originated by another component or agency, the receiving component will either refer the responsibility for responding to the request regarding that information to that other component or agency or will consult with that other component or agency prior to making any release determination.

(e) *Notice of referral.* Whenever a component refers all or any part of the responsibility for responding to a request to another component or agency, it ordinarily will notify you of the referral and inform you of the name of each component or agency to which the request has been referred and of the part of the request that has been referred.

§ 2.104 Responses to requests.

(a) The Deputy Administrator, Assistant Administrators, Regional Administrators, General Counsel, Inspector General, Chief Financial Officer, Associate Administrators, and heads of headquarters staff offices are delegated the authority to issue initial determinations to release or deny the release of responsive records. The authority to issue initial determinations denying the release of records, except for records that have been claimed as confidential business information (CBI), may be redelegated to the division director level or equivalent, but not lower. The authority to issue initial determinations denying the release of records that have been claimed as CBI, as discussed in subpart B of this part 2, may be redelegated to levels below the division director level or equivalent.

(b) Components ordinarily will respond to requests no later than twenty (20) working days from the date the request is received. Requests ordinarily will be responded to according to their order of receipt.

(c) On receipt of a request, the Freedom of Information Office ordinarily will send an acknowledgment letter advising you of the date it was received and of the processing number assigned to the request for future reference.

(d) Multitrack processing. (1) A component may use two or more processing tracks by distinguishing between simple and complex requests based on the amount of work and/or time needed to process the request, including limits based on the number of pages involved. If a component does so, it will advise you of the processing track in which your request has been placed and of the limits of the different processing tracks.

(2) A component using multitrack processing may place your request in its slower track(s) while providing you the opportunity to limit the scope of your request in order to qualify for faster processing within the specified limits of the component's faster track(s). A component doing so will contact you either by telephone or by letter, whichever is most efficient in each case.

(e) Unusual circumstances. When the time limits for processing a request cannot be met because of unusual circumstances and the component determines to extend the time limits on that basis, the component will notify you in writing, as soon as practicable, of the unusual circumstances and of the date by which the component expects processing of the request to be completed. When the extension is for more than ten (10) working days, the component will provide you with an opportunity either to modify the request so that it may be processed within the ten-day time limit extension or to arrange an alternative time period with the component for processing the original or modified request.

(f) Expedited processing. (1) Requests or appeals will be taken out of order and given expedited treatment whenever EPA determines that such requests or appeals involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) An urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public.

(2) A request for expedited processing may be made at the time of the initial request for records or before processing of the request has been completed. For a prompt determination, you must send a request for expedited processing to the proper component.

(3) If you are seeking expedited processing, you must submit a statement, certified to be true and correct to the best of your knowledge and belief, explaining in detail the basis for the request. For example, if you fit within the category described in paragraph (f)(1)(ii) of this section and are not a full-time member of the news media, you must establish that you are a person whose primary professional activity or occupation is information dissemination, although it need not be your sole occupation. If you fit within the category described in paragraph (f)(1)(ii) of this section, you must also establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally.

(4) Within ten (10) working days from the date of your request for expedited processing, the proper component will decide whether to grant your request and will notify you of the decision. If your request for expedited treatment is granted, the request will be given priority and will be processed as soon as practicable. If your request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

(g) Grants of requests. Once a component makes a determination to grant a request in whole or in part, it will release the records or parts of records to you and notify you of any applicable fee charged under § 2.106. Records released in part will be annotated, whenever technically feasible, with the applicable FOIA exemption(s) at that part of the record from which the exempt information was deleted.

(h) Adverse determinations of requests. Once a component makes an adverse determination of a request, it will notify you of that determination in writing. An adverse determination consists of a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that what has been requested is not a record subject to the FOIA; a determination on any disputed fee matter, including a denial of a request for a fee waiver; and a denial of a request for expedited treatment.

(i) The letter denying a request for records in whole or in part will be signed by the head of the component, or the component head's designee, and will include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason(s) for the denial, including any FOIA exemption applied by the component in denying the request;

(3) An estimate of the volume of records or information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if the volume is otherwise indicated through annotated deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption; and

(4) A statement that the denial may be appealed under, and a description of the requirements of paragraph (j) of this section.

(j) Appeals of adverse determinations. If you are dissatisfied with any adverse determination of your request by a component, you may appeal that determination to the Headquarters Freedom of Information Operations Staff (1105), Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The appeal must be made in writing, and it must be submitted to the Headquarters Freedom of Information Operations Staff no later than thirty (30) calendar days from the date of the letter denying the request. The appeal letter may include as much or as little related information as you wish, as long as it clearly identifies the determination being appealed (including the assigned FOIA request number, if known). For quickest possible handling, the appeal letter and its envelope should be marked ''Freedom of Information Act Appeal.'' Unless the Administrator directs otherwise, the General Counsel or his/her designee will act on behalf of the Administrator on all appeals under this section, except that:

(1) In the case of an adverse determination on an initial request by the General Counsel or his/her designee, the Administrator or his/her designee will act on the appeal;

(2) An adverse determination on an initial request by the Administrator will be the final action of the Agency; and

(3) An appeal will not be acted on if the request becomes a matter of FOIA litigation.

(k) The decision on an appeal will be made normally, in writing, within twenty (20) working days of its receipt by the Headquarters Freedom of Information Operations Staff. A decision affirming a component's adverse determination in whole or in part will contain a statement of the reason(s) for the decision, including any FOIA exemption(s) applied, and inform you of the FOIA provisions for judicial review of the decision. If the component's adverse determination is reversed or modified on appeal, you will be notified in a written decision. This written decision will either have the requested information that has been determined on appeal to be releasable attached to it, or your request will be returned to the component so that it may be reprocessed in accordance with the appeal decision.

(l) If you wish to seek judicial review of any adverse determination, you must first appeal that adverse determination under this section.

§ 2.105 Preservation of records.

Each component shall preserve all correspondence pertaining to the FOIA requests that it receives, as well as copies of all requested records, until disposition or destruction is authorized by title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Records shall not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

§ 2.106 Fees.

(a) In general. Components will charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section or where a waiver or reduction of fees is granted under paragraph (l) of this section. Requesters will pay fees by check or money order made payable to the U.S. Environmental Protection Agency.

(b) Definitions. For purposes of this section:

(1) ''Commercial use request'' means a request from or on behalf of a person who seeks information for a use or purpose that furthers his/her commercial, trade, or profit interests, which can include furthering those interests through litigation. Components will determine, whenever reasonably possible, the use to which a requester will put the requested records. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because a component has reasonable cause to doubt a requester's stated use, the component will provide the requester a reasonable opportunity to submit further clarification.

(2) ''Direct costs'' means those expenses that the Agency actually incurs in searching for and duplicating (and, in the case of commercial use requests, reviewing) records to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits) and the cost of operating duplication equipment. Not included in direct costs are overhead expenses such as the costs of space and heating or lighting of the facility in which the records are kept.

(3) ''Duplication'' means the making of a copy of a record, or of the information contained in it, necessary to respond to a FOIA request. Copies can take the form of paper, microform, audiovisual materials, or electronic records (for example, magnetic tape or disk), among others. Components will honor a requester's specified preference of form or format of disclosure if the record is readily reproducible with reasonable efforts in the requested form or format.

(4) ''Educational institution'' means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education, that operates a program of scholarly research. To be in this category, a requester must show that the request is authorized by, and is made under the auspices of, a qualifying institution and that the records are not sought for a commercial use but are sought to further scholarly research.

(5) ''Noncommercial scientific institution'' means an institution that is not operated on a ''commercial'' basis, as that term is defined in paragraph (b)(1) of this section, and that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry. To be in this category, a requester must show that the request is authorized by, and is made under the auspices of, a qualifying institution and that the records are not sought for a commercial use but are sought to further scientific research.

(6) ''Representative of the news media'' or ''news media requester'' means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news media include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances where they can qualify as disseminators of ''news'') who make their products available for purchase or subscription by the general public. For ''freelance'' journalists to be regarded as working for a news organization, they must demonstrate a solid basis for expecting publication through that organization. A publication contract would be the clearest proof, but components will also look to the past publication record of a requester in making this determination. To be in this category, a requester must not be seeking the requested records for a commercial use. However, a request for records supporting the news-dissemination function of the requester will not be considered to be for a commercial use.

(7) ''Review'' means the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. It also includes processing any record for disclosure (for example, doing all that is necessary to redact it and prepare it for disclosure). Review costs are recoverable even if a record ultimately is not disclosed. Review time includes time spent considering any formal objection to disclosure made by a business submitter requesting confidential treatment, but does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) ''Search'' means the process of looking for and retrieving records or information responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. Components will ensure that searches are done in the most efficient and least expensive manner reasonably possible. For example, components will not search line-by-line where duplicating an entire document would be quicker and less expensive.

(c) Fees to be charged. (1) There are four categories of requests. Fees for each of these categories will be charged as follows:

(i) Commercial use requests. A requester seeking access to records for a commercial use will be charged for the time spent searching for the records, reviewing the records for possible disclosure, and for the cost of each page of duplication. The charges for searching for and/or reviewing the records may be charged even if no responsive records are found or if the records are located but are determined to be exempt from disclosure.

(ii) Educational or non-commercial scientific requests. Requesters from educational or scientific institutions, whose purpose is scholarly, noncommercial research, will be charged only for the cost of record duplication, except that the first 100 pages of duplication will be furnished at no charge.

(iii) News media requests. Requesters who are representatives of the news media, and whose purpose in seeking records is noncommercial, will be charged only for the cost of duplication, except that the first 100 pages of duplication will be furnished at no charge.

(iv) All other requests. Requesters not covered by one of the three categories in paragraphs (c)(1)(i) through (iii) of this section will be charged for the full cost of search and duplication, except that the first two hours of search time and the first 100 pages of duplication will be furnished without charge. The charges for searching for the records will be assessed even if no responsive records are found or if the records are located but are determined to be exempt from disclosure.

(2) In responding to FOIA requests, components will charge the following fees unless a waiver or reduction of fees has been granted under paragraph (l) of this section:

(i) Search. (A) Search fees will be charged for all requests except for those made by educational institutions, noncommercial scientific institutions, or representatives of the news media subject to the limitations of paragraph (d) of this section. Components will charge for time spent searching even if no responsive records are found or if the records are located but are determined to be exempt from disclosure.

(B) For searches and retrievals of requested records, either manually or electronically, conducted by clerical personnel, the fee will be $4.00 for each quarter hour of time. For searches and retrievals of requested records, either manually or electronically, requiring the use of professional personnel, the fee will be $7.00 for each quarter hour of time. For searches and retrievals of requested records, either manually or electronically, requiring the use of managerial personnel, the fee will be $10.25 for each quarter hour of time.

(C) When searches and retrievals are conducted by contractors, requesters will be charged for the actual charges up to but not exceeding the rate which would have been charged had EPA employees conducted the search. The costs of actual computer resource usage in connection with such searches will also be charged, to the extent they can be determined.

(ii) Duplication. Duplication fees will be charged to all requesters, subject to the limitations of paragraph (d) of this section. For either a photocopy or a computer-generated printout of a record (no more than one copy of which need be supplied), the fee will be fifteen cents per page. For electronic forms of duplication, other than a computer-generated printout, components will charge the direct costs of that duplication. Such direct costs will include the costs of the requested electronic medium on which the copy is to be made and the actual operator time and computer resource usage required to produce the copy, to the extent they can be determined.

(iii) Review. Review fees will be charged only to requesters who make a commercial use request. Review fees will be charged only for the initial record review (that is, the review done when a component is deciding whether an exemption applies to a particular record or portion of a record at the initial request level). No charge will be made for review at the administrative appeal level for an exemption already applied. However, records or portions of records withheld under an exemption that is subsequently determined not to apply may be reviewed again to determine whether any other exemption not previously considered applies; the costs of that review will be charged when it is made necessary by a change of circumstances. Review fees will be charged at the same rates as those charged for a search under paragraph (c)(1)(i) of this section.

(d) Limitations on charging fees. (1) No search or review fees will be charged for requests by educational institutions, noncommercial scientific institutions, or representatives of the news media.

(2) No search fee or review fee will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(3) Except for requesters seeking records for a commercial use, components will provide without charge:

(i) The first 100 pages of duplication; and

(ii) The first two hours of search.

(4) Whenever a total fee calculated under paragraph (c) of this section is $14.00 or less for any request, no fee will be charged.

(5) The provisions of paragraphs (d)(3) and (4) of this section are complementary. This means that for requesters other than those seeking records for a commercial use, no fee will be charged unless the cost of search in excess of two hours plus the cost of duplication in excess of 100 pages totals more than $14.00.

(e) Notice of anticipated fees in excess of $25.00. When a component determines or estimates that the fees to be charged under this section will amount to more than $25.00, the component will notify the requester of the actual or estimated amount of the fees, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, the component will advise the requester that the estimated fee may be only a portion of the total fee. When a requester has been notified that actual or estimated fees will amount to more than $25.00, EPA will do no further work on the request until the requester agrees to pay the anticipated total fee. EPA will memorialize any such agreement in writing. A notice under this paragraph will offer the requester an opportunity to discuss the matter with Agency personnel in order to reformulate the request to meet the requester's needs at a lower cost.

(f) Charges for other services. Apart from the other provisions of this section, when a component chooses as a matter of administrative discretion to provide a special service—such as certifying that records are true copies or sending records by other than ordinary mail—the direct costs of providing the service ordinarily will be charged.

(g) Charging interest. EPA may charge interest on any unpaid bill starting on the 31st day following the date of billing the requester. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the date of the billing until payment is received by the Agency. EPA will follow the provisions of the Debt Collection Act of 1982 (Public Law 97–365), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset. No penalty will be assessed against FOIA requesters for exercising their statutory right to ask that a fee be waived or reduced or to dispute a billing. If a fee is in dispute, penalties will be suspended.

(h) Delinquent requesters. If requesters fail to pay all fees within 60 calendar days of the fees assessment, they will be placed on a delinquency list. Subsequent FOIA requests will not be processed until payment of the overdue fees has first been made.

(i) Aggregating requests. When a component reasonably believes that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, the component may aggregate those requests and charge accordingly. Components may presume that multiple requests of this type made within a 30-day period have been made in order to avoid fees. When requests are separated by a longer period, components will aggregate them only if there exists a solid basis for determining that aggregation is warranted under all the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(j) Advance payments. (1) For requests other than those described in paragraphs (j)(2) and (3) of this section, a component will not require the requester to make an advance payment (that is, a payment made before EPA begins or continues work on a request). Payment owed for work already completed (that is, a prepayment before copies are sent to a requester) is not an advance payment.

(2) When a component determines or estimates that a total fee to be charged under this section will be more than $250.00, it may require the requester to make an advance payment of an amount up to the amount of the entire anticipated fee before beginning to process the request, except when it receives a satisfactory assurance of full payment from a requester that has a history of prompt payment.

(3) When a requester has previously failed to pay a properly charged FOIA fee to any component or agency within 30 calendar days of the date of billing, a component may require the requester to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before the component begins to process a new

request or continues to process a pending request from that requester.

(4) When a component requires advance payment or payment due under paragraph (j)(3) of this section, the request will not be considered, and EPA will do no further work on the request until the required payment is made.

(k) Other statutes specifically providing for fees. The fee schedule of this section does not apply to fees charged under any other statute that specifically requires an agency to set and collect fees for particular types of records. When records responsive to requests are maintained for distribution by agencies operating such statutorily based fee schedule programs, components will inform requesters of the steps for obtaining records from those sources so that they may do so most economically.

(l) Waiver or reduction of fees. (1) Records responsive to a request will be furnished without charge or at a charge reduced below that established under paragraph (c) of this section when a component determines, based on all available information, that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(2) To determine whether the first fee waiver requirement is met, components will consider the following factors:

(i) The subject of the request: Whether the subject of the requested records concerns ''the operations or activities of the government.'' The subject of the requested records must concern identifiable operations or activities of the Federal government, with a connection that is direct and clear, not remote.

(ii) The informative value of the information to be disclosed: Whether the disclosure is ''likely to contribute'' to an understanding of government operations or activities. The disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be ''likely to contribute'' to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be as likely to contribute to such understanding when nothing new would be added to the public's understanding.

(iii) The contribution to an understanding of the subject by the public is likely to result from disclosure: Whether disclosure of the requested information will contribute to ''public understanding.'' The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public will be considered. It will be presumed that a representative of the news media will satisfy this consideration.

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute ''significantly'' to public understanding of government operations or activities. The public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced by the disclosure to a significant extent. Components will not make value judgments about whether information that would contribute significantly to public understanding of the operations or activities of the government is ''important'' enough to be made public.

(3) To determine whether the second fee waiver requirement is met, components will consider the following factors:

(i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure. Components will consider any commercial interest of the requester (with reference to the definition of ''commercial use request'' in paragraph (b)(1) of this section), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters will be given an opportunity in the administrative process to provide explanatory information regarding this consideration.

(ii) The primary interest in disclosure: Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is ''primarily in the commercial interest of the requester.'' A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. Components ordinarily will presume that when a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(4) When only some of the requested records satisfy the requirements for a waiver of fees, a waiver will be granted for only those records.

(5) Requests for the waiver or reduction of fees should address the factors listed in paragraphs (l) (2) and (3) of this section, insofar as they apply to each request. Components will exercise their discretion to consider the cost-effectiveness of their investment of administrative resources in deciding whether to grant waivers or reductions of fees. Requests for the waiver or reduction of fees must be submitted along with the request or before processing of the request has been completed.

§ 2.107 Other rights and services.

Nothing in this subpart shall be construed to entitle any person, as a right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

[FR Doc. 00–8837 Filed 4–11–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7307]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT:

Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Alabama	Cowarts (Town), Houston County.	Crawford Creek	Approximately 1,325 feet downstream of Omusee Road.	None	*228
			Just upstream of Omusee Road	None	*233
Maps available for inspection at the Cowarts Town Hall, 800 Jester Street, Cowarts, Alabama.					
Send comments to The Honorable Robert Hall, Mayor of the Town of Cowarts, 800 Jester Street, Cowarts, Alabama 36321.					
Alabama	Dothan (City), Houston County.	Rock Creek	Approximately 50 feet upstream of the confluence with Little Choctawhatchee River.	*227	*228
			At Murray Road	*310	*312
		Beaver Creek Tributary 1	Approximately 300 feet downstream of Honeysuckle Road.	*271	*270
			Approximately 100 feet upstream of State Route 52.	None	*305
		Poplar Spring	At the confluence with Omusee Creek	None	*216
		Branch	At a point approximately 300 feet upstream of U.S. Route 84.	None	*283
		Rocky Branch	Approximately 150 feet upstream of the confluence with Omusee Creek.	None	*231
			At East Wilson Street	*302	*301
		Cypress Creek	Approximately 1,700 feet upstream of Hodgesville Road.	None	*227
			Approximately 60 miles upstream of East Coe Dairy Road.	None	*291
		Buelah Creek	Approximately 1,500 feet upstream of the confluence with Omusee Creek.	None	*233
			Approximately 1.04 miles upstream of Headland Avenue.	None	*276

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
		Omusee Creek	Approximately 50 feet upstream of the confluence of Golf Creek.	None	*208
			Approximately 0.33 miles upstream of Old Kinsey Road.	None	*230
		Gold Creek	At the confluence with Omusee Creek	None	*208
			At Prevatt Road	None	*264
		Crawford Creek	At the confluence with Golf Creek	None	*208
			Approximately 1,325 feet downstream of Omusee Road.	None	*228
		Cypress creek	At the confluence with Cypress Creek	*245	*250
		Tributary 1	Approximately 1,500 feet upstream of Cottonwood Road.	None	*281
		Cypress Creek	Just upstream of Third Avenue	None	*240
		Tributary 2	Just upstream of dirt trail	None	*296
		Chipola Creek	At Fuller Road	*238	*240
			Just upstream of Taylor Road	None	*282
		Chipola Creek	At the confluence with Chipola Creek	None	*266
		Tributary	Approximately 0.41 mile upstream of Bruner Road.	None	*284
		Beaver Creek Tributary 2	Approximately 250 feet upstream from the confluence with Beaver Creek.	None	*223
			Approximately 530 feet upstream of most upstream dam.	None	*249
		Beaver Creek Tributary 3	At the confluence with Beaver Creek Tributary 2.	None	*247
			Just downstream of Enterprise Highway	None	*298
		Harrison Mill Creek	Approximately 0.37 mile upstream of the confluence with Little Choctawhatchee River.	None	*205
			Approximately 0.5 mile upstream of Bethlehem Road.	None	*224
		Cooper Creek	Approximately 1,725 feet upstream of Lucy Grade Road.	None	*205
			Approximately 190 feet upstream of Fowler Road.	None	*219
		Unnamed	At the confluence with Beulah Creek	None	*276
		Tributary to Beulah Creek	Approximately 340 feet upstream of the confluence with Beulah Creek.	None	*277

Map available for inspection at the Dothan City Hall, 125 North St. Andrews, Dothan, Alabama.

end comments to The Honorable Chester Sowell, Mayor of the City of Dothan, P.O. Box 2128, Dothan, Alabama 36302.

State	City/town/county	Source of flooding	Location	Existing	Modified
Alabama	Houston County	Rocky Branch	At the confluence with Omusee Creek	None	*231
	(Unincorporated Areas).		Approximately 150 feet upstream of Confluence with Omusee Creek.	None	*231
		Chipola Creek	Approximately 300 feet downstream of South Park Avenue.	None	*250
			Approximately 1,275 feet upstream of Bruner Road.	None	*261
		Golf Creek	At the confluence of Omusee Creek	None	*208
			At the confluence of Crawford Creek	None	*208
		Cypress Creek	At the confluence of Cypress Creek	None	*238
		Tributary 2	Approximately 450 feet upstream of Reservoir Outlet.	None	*270
		Cooper Creek	At confluence with Cowarts Creek	None	*192
			Approximately 2,000 feet upstream of Lucy Grade Road.	None	*208
		Beaver Creek	At the confluence of Beaver Creek	None	*223
		Tributary 2	Approximately 250 feet upstream of the confluence of Beaver Creek.	None	*223
		Omusee Creek	Approximately 1,580 feet downstream of Watson Bridge Road.	None	*207
			At the confluence of Beulah Creek and Burdeshaw Mill Creek.	None	*233
		Crawford Creek	At the confluence of Gold Creek	None	*208
			Approximately 1.175 feet upstream of State Route 52.	None	*227
		Cypress Creek	Approximately 525 feet downstream of Hodgesville Road.	None	*223

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 350 feet downstream of confluence of Cypress Creek Tributary 1.	None	*250
Alabama	Taylor (Town), Houston County.	Chipola Creek	Approximately 30 feet downstream of Fuller Road.	None	*238
			Approximately 100 feet upstream of Fuller Road.	None	*238

Maps available for inspection at the Taylor Town Hall, 1469 South County Road 59, Taylor, Alabama.

Send comments to the Honorable Michael Tucker, Mayor of the Town of Taylor, 1469 South County Road 95, Taylor, Alabama 36301.

Connecticut	Meriden (City), New Haven County.	Quinnipiac River	At downstream corporate limits	*73	*70
			Approximately 1.04 miles upstream of Oregon Road.	*100	*101
		Sodom Brook	Approximately 0.53 mile downstream of Coe Avenue.	*93	*92
			At downstream side of Leonard Street	*138	*137
		Harbor Brook	Approximately 0.58 mile downstream of Coe Avenue.	*92	*91
			At confluence of Willow and Spoon Shop Brooks.	*201	*205
		Spoon Shop Brook	At confluence with Harbor Brook	*201	*205
			At Birdsey Avenue	*368	*370
		Willow Brook	At confluence with Harbor Brook	*201	*205
			Approximately 0.7 mile upstream of Cinema Road.	*282	*283
		Crow Hollow Brook	At confluence with Sodom Brook	*100	*99
			Approximately 70 feet upstream of West Main Street.	*192	*193

Maps available for inspection at the Meriden City Hall, 142 East Main Street, Meriden, Connecticut.

Send comments to The Honorable Joseph Marinan, Mayor of the City of Meriden, 142 East Main Street, Meriden, Connecticut 06450.

Connecticut	Middletown (City), Middlesex County.	Longhill Brook	Approximately 130 feet downstream of South Main Street.	*53	*52
			Just upstream of Wesleyan Roadd	*188	*187
		Longhill Brook Diversion Channel.	At the downstream confluence with Longhill Brook.	*80	*82
			At the upstream confluence with Longhill Brook.	*91	*98
		Roundhill Brook	At the confluence with Longhill Brook	*85	*88

Maps available for inspection at the Middletown City Hall, 45 DeKoven Drive, Middletown, Connecticut.

Send comments to The Honorable Domenique S. Thornton, Mayor of the City of Middletown, P.O. Box 1300, Middletown, Connecticut 06457.

Connecticut	South Windsor (Town), Hartford County.	Avery Brook	Approximately 1,475 feet downstream of Benedict Drive.	*175	*176
			Approximately 340 feet downstream of Beelzebub Road.	None	*226

Maps available for inspection at the South Windsor Town Hall, 1540 Sullivan Avenue, South Windsor, Connecticut.

Send comments to Mr. Matthew Galligan, South Windsor Town Manager, South Windsor Town Hal, 1540 Sullivan Avenue, South Windsor, Connecticut 06074.

Florida	Polk County (Unincorporated Areas).	Seward Lake	Entire shoreline within community	None	*136
		Hidden Lake	Entire shoreline within community	None	*134
		Sick Lake	Entire shoreline within community	None	*134
		Reedy Creek	A point approximately 16.1 miles above mouth.	None	*67
			A point approximately 19.9 miles above mouth.	None	*68
		Lake Crago	Entire shoreline within community	None	*134

Maps available for inspection at the Polk County Engineering Department, 330 West Church Street, Bartow, Florida.

Send comments to Mr. Jim W. Keene, Manager of Polk County, P.O. Box 9005, Drawer CA01, Bartow, Florida 33831.

Georgia	Americus (City), Sumter County.	Town Creek	Approximately 500 feet downstream of Magnolia Street.	*331	*330

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
			Approximately 225 feet upstream of Rigas Road.	None	*373
		Mill Creek Tributary	Approximately 800 feet downstream of CSX Transportation.	None	*385
			Approximately 130 feet upstream of State Route 27.	*338	*339

Maps available for inspection at the Americus City Hall, Community Development Department, 101 West Lamar Street, Americus, Georgia.

Send comments to Ms. Sybil Smith, City of Americus Chief Administrative Officer, P.O. Box M, Americus, Georgia 31709.

State	City/town/county	Source of flooding	Location	Existing	Modified
Georgia	Rockdale County (Unincorporated Areas).	Lake Capri Tributary	Approximately 400 feet downstream of the Lake Capri Dam.	*719	*720
			Approximately 1,200 feet upstream of Capistrano Dam.	*735	*734
		Hammock Creek	At confluence of Yellow River	None	*711
			Approximately 0.28 mile upstream of Humphries Road.	None	*814
		Yellow River	Approximately 2,950 feet upstream of Irwan Bridge Road.	*710	*711
			At county boundary	*718	*719
		Big Haynes Creek	Approximately 3,800 feet upstream from State Route 138.	None	*740
			Approximately 2,850 feet upstream from Aaralson Mill Road.	None	*752

Maps available for inspection at the Rockdale County Department of Public Services, 2570 Old Covington Highway, Conyers, Georgia.

Send comments to Mr. Norman Wheeler, Chairman of the Rockdale County Board of Commissioners, 922 Court Street, Conyers, Georgia 30012.

State	City/town/county	Source of flooding	Location	Existing	Modified
Georgia	Sumter County (Unincorporated Areas).	Muckalee Creek	At the confluence of Mill Creek	None	*321
			Approximately 1,800 feet upstream of confluence of Wolf Creek.	None	*333
		Mill Creek Tributary	Approximately 700 feet downstream of CSX Transportation.	None	*339
			Approximately 1,500 feet downstream of U.S. Route 280.	None	*375

Maps available for inspection at the Code Enforcement Office, Sumter County Courthouse, West Lamar Street, Americus, Georgia.

Send comments to Mr. J. Wade Halstead, Chairman of the Sumter County Board of Commissioners, P.O. Box 295, Americus, Georgia 31709.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Beach Park (Village), Lake. County	Bull Creek (near Waukegan).	Just upstream of Talmadge Avenue	*627	*625
			Approximately 725 feet upstream of the upstream crossing of Beach Road.	None	*627

Maps available for inspection at the Beach Park Village Hall, 11270 West Wadsworth Road, Beach Park, Illinois.

Send comments to Mr. Milt Jenson, President of the Village of Beach Park, 11270 West Wadsworth Road, Beach Park, Illinois 60099.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Hickory Hills (City), Cook County.	Lucas Ditch	Approximately 1,000 feet upstream of Lucas Ditch Out-Off Tributary.	*595	*594
			Approximately 0.41 mile upstream of Lucas Ditch Cut-Off Tributary.	*595	*594

Maps available for inspection at the City of Hickory Hills Building Department, 8652 West 95th Street, Hickory Hills, Illinois.

Send comments to The Honorable Roy J. Faddis, Mayor of the City of Hickory Hills, 8652 West 95th Street, Hickory Hills, Illinois 60457.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	LaSalle (City), LaSalle County.	Illinois River	Approximately 0.82 mile downstream of State Route 351.	*462	*463
			Approximately 0.95 mile upstream of Illinois Central Railroad.	*463	*465

Maps available for inspection at the LaSalle City Hall, 745 Second Street, LaSalle, Illinois.

Send comments to The Honorable Arthur Washkowiak, Mayor of the City of LaSalle, 745 Second Street, LaSalle, Illinois 61301.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	LaSalle County (Unincorporated Areas).	Goose Creek	At downstream corporate limits	None	*509
			At upstream corporate limits	None	*516
		Illinois River	Approximately 2.5 miles downstream of State Route 251.	None	*462
			Approximately 1.1 miles upstream of South Main Street (State Route 170).	None	*497
		Fox River	At the confluence with the Illinois River	None	*472

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
			Approximately 850 feet downstream of Clear Creek.	None	*554
		Prairie Creek	At the confluence with the Vermilion River.	None	*573
			A point approximately 2,850 feet upstream of Otter Creek Road.	None	*628
		Vermilion River	Upstream of Oakley Road	None	*567
			Approximately 0.77 mile upstream of Bridge Street.	None	*580
		Clark Run Creek	At confluence with Illinois River	None	*466
			Approximately 625 feet upstream of abandoned Illinois and Michigan Canal.	None	*473
		Coal Run Creek	Approximately 50 feet upstream of South Otter Creek Road.	None	*614
			Approximately 585 feet upstream of South Otter Creek Road.	None	*615
		Rat Run	At the confluence with the Illinois River ...	None	*494
			At the Missouri, Kansas, Texas Railroad	None	*501
		Lake Holiday	Entire shoreline within community	None	*644
		First Creek	Approximately 970 feet upstream of confluence with Little Vermilion River.	None	*715
			Approximately 250 feet upstream of 6th Street.	None	*719
		First Creek Tributary	Approximately 350 feet upstream of 17th Street.	None	*740
			At 17th Street	None	*740
		South Branch Coal Run Creek.	Downstream side of South Otter Creek ...	None	*614
			Approximately 425 feet upstream of South Otter Creek Street.	None	*615
		Ponding Area	Approximately 1,800 feet northwest of intersection of West Church Street and Johnson Street.	None	#1
Maps available for inspection at the LaSalle County Courthouse, County Clerk's Office, 707 Etna Road, Ottawa, Illinois.					
Send comments to Mr. Joseph Hettel, Chairman of the LaSalle County Board of Commissioners, 707 Etna Road, Ottawa, Illinois 61350.					
Illinois	Marseilles (City), LaSalle County.	Illinois River	Approximately 4,200 feet downstream of Main Street.	None	*479
			Approximately 15,500 feet upstream of Main Street.	None	*492
Maps available for inspection at the Marseilles City Hall, 209 Lincoln Street, Marseilles, Illinois.					
Send comments to The Honorable John C. Knudson, Mayor of the City of Marseilles, 209 Lincoln Street, Marseilles, Illinois 61341.					
Illinois	McCook (Village), Cook County.	East Avenue Ditch	At East Avenue	None	*648
			Approximately 1,550 feet upstream of East Avenue.	None	*648
Maps available for inspection at the McCook Village Hall, 50th & Glencoe Avenue, McCook, Illinois.					
Send comments to The Honorable Emil T. Sergo, Mayor of the Village of McCook, 5000 Glencoe Avenue, P.O. Box 1501, McCook, Illinois 60525					
Illinois	Millington (Village), LaSalle County.	Fox River	Approximately 1.6 miles upstream of Interstate 80.	*555	*553
			Approximately 400 feet upstream of confluence of Clear Creek.	*557	*555
		Clear Creek	At confluence with the Fox River	*557	*555
			At the Burlington Northern Railroad	*557	*556
Maps available for inspection at the Millington Village Hall, Walnut Street, Millington, Illinois.					
Send comments to Ms. Janet Blue, Millington Village President, Walnut Street, P.O. Box 371, Millington, Illinois 60537.					
Illinois	North Utica (Village), LaSalle County.	Clark Run Creek	Approximately 0.46 mile downstream of crossing of the abandoned Illinois and Michigan Canal.	*465	*466
			Approximately 700 feet downstream of confluence of the abandoned Illinois and Michigan Canal.	*465	*466
		Illinois River	Approximately 0.38 mile downstream of State Route 178.	*465	*466

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
			Approximately 0.55 mile upstream of State Route 178.	*465	*466

Maps available for inspection at the North Utica Village Hall, 245 Johnson Street, Utica, Illinois.

Send comments to Mr. Joseph M. Carey, North Utica Village President, 245 Johnson Street, Utica, Illinois 61373.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Ottawa (City), LaSalle County.	Goose Creek	Approximately 400 feet downstream of Champlain Street.	*476	*472
			Approximately 150 feet upstream of Champlain Street.	*476	*475
		Illinois River	Approximately 0.4 mile downstream of Burlington Northern Railroad.	*472	*471
			Approximately 4,400 feet upstream of confluence of Fox River.	None	*473
		Fox River	Approximately 500 feet upstream of confluence with the Illinois River.	*473	*472
			Approximately 0.98 mile upstream of confluence of Goose Creek.	None	*474

Maps available for inspection at the Ottawa City Hall, 301 West Madison Street, Ottawa, Illinois.

Send comments to The Honorable Robert M. Eschbach, Mayor of the City of Ottawa, Ottawa City Hall, 301 West Madison Street, Ottawa, Illinois 61350.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Palatine (Village), Cook County.	Salt Creek, Arlington Heights.	At confluence with Salt Creek, Arlington Heights Branch.	*719	*717
		Branch Anderson Drive Tributary.	Approximately 450 feet upstream of Evergreen Drive.	None	*719
		Salt Creek,	Upstream side of Northwest Highway	*714	*711
		Arlington Heights Branch	Downstream side of Quentin Road	None	*711
		Salt Creek	Approximately 1,900 feet downstream of Euclid Avenue.	*727	*725
			Downstream side of Roselle Road	*767	*764
		Salt Creek Tributary C	Approximately 1,200 feet upstream of Quentin Road.	*740	*750
			Downstream side of Roselle Road	None	*765
		Buffalo Creek Tributary A	Approximately 200 feet upstream of Dundee Road.	*744	*743
			At confluence with Salt Creek Arlington Heights Branch.	None	*759

Maps available for inspection at the Palatine Village Hall, 200 East Wood Street, Palatine, Illinois.

Send comments to Mr. Michael Cassady, Palatine Village Manager, 200 East Wood Street, Palatine, Illinois 60067.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Peru (City), LaSalle County.	Illinois River	Approximately 7,350 feet downstream of State Route 251.	*461	*462
			A point approximately 2,600 feet upstream of State Route 251.	*462	*463

Maps available for inspection at the Peru City Clerk's Office, 1727 Fourth Street, Peru, Illinois.

Send comments to The Honorable Donald L. Baker, Mayor of the City of Peru, P.O. Box 299, Peru, Illinois 61354.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Seneca (Village), LaSalle County.	Illinois River	Approximately 1.1 miles downstream of South Main Street (State Route 170).	None	*494
			Approximately 400 feet upstream of upstream county boundary.	*498	*497
		Rat Run	Approximately 2,750 feet downstream of Main Street (State Route 170).	*492	*494
			Approximately 1,000 feet downstream of Main Street (State Route 170).	*493	*494

Maps available for inspection at the Seneca Village Hall, 116 West Williams Street, Seneca, Illinois.

Send comments to The Honorable David Yeck, Mayor of the Village of Seneca, 116 West Williams Street, Seneca, Illinois 61360.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Sheridan (Village), LaSalle County.	Fox River	At the downstream corporate limits	None	*542
		Approximately 1,725 feet upstream of North 41st Road.	None	*545	

Maps available for inspection at the Sheridan Village Hall, Engineer's Office, Robinson Street, Sheridan, Illinois.

Send comments to The Honorable James D. Allen, Mayor of the Village of Sheridan, P.O. Box 222, Sheridan, Illinois 60551.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Waukegan (City), Lake County.	Bull Creek (near Waukegan).	Approximately 175 feet upstream of North Shore Avenue.	*654	*651

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Just upstream of the upstream crossing of Beach Road.	*669	*665

Maps available for inspection at the Waukegan City Hall, 106 North Utica, Waukegan, Illinois.

Send comments to The Honorable Bill Durkin, Mayor of the City of Waukegan, 106 North Utica, Waukegan, Illinois 60085.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Winnebago County (Unincorporated Areas).	Manning Creek	At confluence with Kishwaukee River	None	*729
			Approximately 0.52 mile upstream of Lyford Road.	None	*857
		Unnamed	Just downstream of U.S. Route 20	None	*765
		Tributary to South Kent Creek.	Approximately 1,600 feet upstream of Frontage Road.	None	*782
		Kishwaukee River	Just upstream of Interstate 90	None	*729
			Approximately 1,400 feet upstream of Interstate 90.	None	*729

Maps available for inspection at the Winnebago County Highway Department, 424 North Springfield Road, Rockford, Illinois.

Send comments to Ms. Christine Cohn, Chairman of the Winnebago County Board of Supervisors, 404 Elm Street, Rockford, Illinois 61101.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Winnetka (Village), Cook County.	Skokie River	Approximately 150 feet downstream of Winnetka Road.	None	*625
			Approximately 1,200 feet upstream of Tower Road.	*625	*626
		Lake Michigan	Entire shoreline within community	*584	*585

Maps available for inspection at the Winnetka Village Hall, 510 Green Bay Road, Winnetka, Illinois.

Send comments to Ms. Louise Holland, President of the Village of Winnetka, Village Hall, 510 Green Bay Road, Winnetka, Illinois 60093.

State	City/town/county	Source of flooding	Location	Existing	Modified
Maine	Andrews Island, Knox County.	Atlantic Ocean	Approximately 2,000 feet northeast of Nash Point.		*20
			At the island of The Neck, west side of Andrews Island.		*10

Maps available for inspection at the Land Use Regulation Commission, AMHI Complex, Harlow Building, Hospita Street, Augusta, Maine.

Send comments to Mr. Fred Todd, Manager, Land Use and Regulation Commission, 22 State House Station, Augusta, Maine 04333–0022.

State	City/town/county	Source of flooding	Location	Existing	Modified
New Hampshire	Holderness (Town), Grafton County.	Pemigewasset River	At downstream corporate limits	*485	*483
			At upstream corporate limits	*490	*489

Maps available for inspection at the Holderness Town Office, Route 3, Holderness, New Hampshire.

Send comments to Mr. Steve Huff, Chairman of the Town of Holderness Board of Selectmen, P.O. Box 203, Holderness, New Hampshire 03245.

State	City/town/county	Source of flooding	Location	Existing	Modified
New Hampshire	Plymouth (Town), Grafton County.	Pemigewasset River	Approximately 1.2 miles downstream of the confluence with Glove Hollow Brook.	*483	*481
			Approximately 1.3 miles upstream of Interstate 95.	*490	*489

Maps available for inspection at the Plymouth Town Hall, 6 Post Office Square, Plymouth, New Hampshire.

Send comments to Mr. Steve Panagoulis, Chairman of the Town of Plymouth Board of Selectmen, Plymouth Town Hall, 6 Post Office Square, Plymouth, New Hampshire 03264.

State	City/town/county	Source of flooding	Location	Existing	Modified
New Jersey	Chatham (Borough), Morris County.	Passaic River	Approximately 175 feet downstream of Main Street.	*181	*180
			Approximately 300 feet upstream of Stanley Avenue.	*204	*205

Maps available for inspection at the Chatham Borough Hall, 54 Fairmount Avenue, Chatham, New Jersey.

Send comments to Mr. Henry M. Underhill, Chatham Borough Administrator, 54 Fairmount Avenue, Chatham, New Jersey 07928.

State	City/town/county	Source of flooding	Location	Existing	Modified
New Jersey	Chatham (Township), Morris County.	Passaic River	Approximately 0.38 mile downstream of Mount Vernon Avenue.	*204	*205
			Approximately 1,520 feet upstream of Snyder Avenue.	*214	*212

Maps available for inspection at the Chatham Township Hall, 58 Meyersville Road, Chatham, New Jersey.

Send comments to The Honorable Tom Patterson, Mayor of the Township of Chatham, 58 Meyersville Road, Chatham, New Jersey 07928.

State	City/town/county	Source of flooding	Location	Existing	Modified
New Jersey	Hanover (Township), Morris County.	Whippany River	At Troy Road	*179	*177

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
			At confluence of Black Brook	*183	*182
		Black Brook	At confluence with Whippany River	*183	*182
			Approximately 1,300 feet upstream of the confluence of Pinch Brook.	*183	*182
Maps available for inspection at the Township of Hanover Engineering Department, 1000 Route 10, Whippany, New Jersey.					
Send comments to Mr. Joseph Giorgio, Hanover Township Administrator, P.O. Box 250, Whippany, New Jersey 07981.					
New Jersey	Harmony (Township), Warren County.	Delaware River	At downstream corporate limits	*202	*201
			A point approximately 260 feet upstream of the upstream corporate limits.	*230	*232
		Buckhorn Creek	At confluence with Delaware River	*221	*225
			A point approximately 1,800 feet upstream of confluence with Delaware River.	*224	*225
Maps available for inspection at the Harmony Township Hall, 3003 Belvidere Road, Phillipsburg, New Jersey.					
Send comments to The Honorable Henry Skirbst, Mayor of the Township of Harmony, 3003 Belvidere Road, Phillipsburg, New Jersey 08865.					
New Jersey	Long Hill (Township), Morris County.	Passaic River	Approximately 0.9 mile downstream of Passaic Valley Road.	*213	*212
			Approximately 1,500 feet upstream of White Bridge Road.	None	*230
Maps available for inspection at the Long Hill Municipal Building, 1802 Long Hill Road, Millington, New Jersey.					
Send comments to Mr. Joseph Manning, Long Hill Township Administrator, 1802 Long Hill Road, Millington, New Jersey 07946.					
New York	Cold Brook (Village), Herkimer County.	Sheet Flow	Approximately 880 feet north of intersection of State Route 8 and Rose Valley Road along east side of State Route 8.	None	#2
			Approximately 1,170 feet north of intersection of State Route 8 and Military Road along east side of State Route 8.	None	#2
			Approximately 1,720 feet north of intersection of State Route 8 and Military Road along the west side of State Route 8.	None	#2
Maps available for inspection at the Cold Brook Village Hall, 457 Main Street, Cold Brook, New York.					
Send comments to The Honorable Juan Butera, Mayor of the Village of Cold Brook, P.O. Box 215, Cold Brook, New York 13324.					
New York	Lancaster (Town), Erie County.	Little Buffalo Creek	At confluence with Cayuga Creek	None	*679
			At a point approximately 1,200 feet upstream of Schwartz Road.	None	*723
		Scajaquada Creek	At Service Place	*696	*697
			At a point approximately 600 feet upstream of Stoneledge Drive.	None	*711
		Plum Bottom Creek	Upstream side of Steinfeldt Road	*685	*686
			At a point approximately 720 feet upstream of Cemetery Road.	*700	*702
		Ellicott Creek	Approximately 1,700 feet upstream of Transit Road.	*701	*702
			Approximately 100 feet upstream of Pavement Road.	None	*729
Maps available for inspection at the Town of Lancaster Building Inspector's Office, 11 West Main Street, Lancaster, New York.					
Send comments to Mr. Robert Giza, Lancaster Town Supervisor, 21 Central Avenue, Lancaster, New York 14086.					
New York	Monroe (Town), Orange County.	Palm Brook	Approximately 72 feet upstream of State Route 17.	None	*657
			Approximately 0.3 mile upstream of Raywood Drive.	None	*760
Maps available for inspection at the Town of Monroe Building Department, 11 Stage Road, Monroe, New York.					
Send comments to Mr. Mike Frerichs, Monroe Town Supervisor, 11 Stage Road, Monroe, New York 10950.					
New York	Oneida (City), Madison County.	Higinbotham Brook	At abandoned railroad	*429	*428
			Approximately 460 feet upstream of State Route 5.	None	*479

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
Maps available for inspection at the City of Oneida Municipal Building, 109 Main Street, Oneida, New York.					
Send comments to Honorable James Chappell, Mayor of the City of Oneida, 109 North Main Street, Oneida, New York 13421.					
New York	Peru (Town), Clinton County.	Ausable River	Approximately 0.59 mile downstream of U.S. Route 9.	*102	*103
			Approximately 0.83 mile upstream of U.S. Route 9.	None	*116
		Little Ausable River	Upstream side of Delaware and Hudson Railroad Bridge.	*102	*103
			Downstream side of Jarvis Road	None	*321
		Silver Stream	Approximately 320 feet downstream of U.S. Route 9.	*102	*103
			Downstream side of I–87 Northbound	None	*185
		Button Brook	At confluence with Little Ausable River	None	*284
			Downstream side of Peasleeville Road	None	*366
Maps available for inspection at the Peru Town Hall, 3036 Main Street, Peru, New York.					
Send comments to Mr. Kenneth T. Jahn, Supervisor of the Town of Peru, 3036 Main Street, P.O. Box 596, Peru, New York 12972.					
North Carolina	Franklin County (Unincorporated Areas).	Lake Royale	Approximately 3,000 feet east of intersection of Baptist Church Road and Sledge Road.	None	*191
		Tar River	A point approximately 1.20 miles upstream of North Main Street.	None	*207
			A point approximately 1.66 miles upstream of North Main Street.	None	*211
Maps available for inspection at the Franklin County Planning and Development Office, 215 East Nash Street, Louisburg, North Carolina.					
Send comments to Mr. James Moss, Chairman of the Franklin County Board of Commissioners, 113 Market Street, Louisburg, North Carolina 27549.					
North Carolina	Louisburg (Town), Franklin County.	Tar River	A point approximately 1.2 miles upstream of North Main Street.	None	*207
			A point approximately 1.66 miles upstream of North Main Street.	None	*211
Maps available for inspection at the Louisburg Town Hall, 110 West Nash Street, Louisburg, North Carolina.					
Send comments to The Honorable Lucy Allen, Mayor of the Town of Louisburg, 110 West Nash Street, Louisburg, North Carolina 27549.					
Ohio	Warren County (Unincorporated Areas).	Bear Run	Approximately 120 feet upstream of Hopkins Road.	*726	*727
			Approximately 25 feet upstream of Zoar Road.	None	*818
		Newman Run	At downstream side of U.S. Route 42	None	*721
			At confluence with North Fork Newman Run.	None	*767
		North Fork	At confluence with Newman Run	None	*767
		Newman Run	At upstream side of Lytle Road	None	*974
		Salt Run	Approximately 1,350 feet upstream of confluence with Little Miami River.	None	*599
			Approximately 30 feet on the upstream side of Morrow-Cozdale Road.	None	*842
		Satterthwaites Run	Approximately 0.79 mile above the confluence with the Little Miami River Mill Run Channel.	None	*808
			At the upstream side of Lytle Road	None	*971
Maps available for inspection at the Warren County Map Room, 320 East Silver Street, Lebanon, Ohio.					
Send comments to Mr. Larry Crisenbery, President of the Warren County Board of Commissioners, 320 East Silver Street, Lebanon, Ohio 45036.					
Ohio	Waynesville (Village), Warren County.	Satterthwaites Run	Approximately 400 feet downstream of U.S. Route 42.	None	*725
			At upstream corporate limits	None	*837
Maps available for inspection at the Waynesville Village Hall, 291 Church Street, Waynesville, Ohio.					
Send comments to Mr. R. Kevin Harper, Waynesville Village Manager, P.O. Box 657, Waynesville, Ohio 45068.					
Pennsylvania	Allen (Township), Northampton County.	Lehigh River	Approximately 1.03 miles upstream of State Route 329.	*302	*304
			Approximately 1.02 miles downstream of State Route 145.	*323	*321
		Catasauqua Creek	A point approximately 0.52 mile downstream of dam.	None	*303

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 150 feet upstream of Private Road.	None	*326
		Hokendauqua Creek	Approximately 0.4 mile downstream of State Route 329.	None	*321
			Approximately 1,320 feet upstream of State Route 329.	None	*329

Maps available for inspection at the Allen Township Hall, 4714 Indian Trail Road, Northampton, Pennsylvania.

Send comments to Mr. Paul Balliet, Chairman of the Township of Allen Board of Supervisors, 4714 Indian Trail Road, Northampton, Pennsylvania 18067.

Pennsylvania	Ayr (Township), Fulton County.	Big Cove Creek	Approximately 0.6 mile downstream of the corporate limits.	None	*848
			At the corporate limits	None	*865

Maps available for inspection at the Ayr Township Building, 979 Buchanan Trail, McConnellsburg, Pennsylvania.

Send comments to Mr. Marlin Harr, Chairman of the Ayr Township Board of Commissioners, P.O. Box 212, McConnellsburg, Pennsylvania 17233.

Pennsylvania	Bethelehem (City), Northampton County.	Lehigh River	Just downstream of Freemansburg Highway bridge.	*224	*223
			Approximately 0.18 mile upstream of CONRAIL Railroad.	*239	*236
		Saucon Creek	At the confluence of Lehigh River	*226	*224
			At the centerline of Friedensville Road	*276	*277

Maps available for inspection at the Bethlehem City Hall, Planning Office, 10 East Church Street, Bethlehem, Pennsylvania.

Send comments to The Honorable Donald T. Cunningham, Jr., Mayor of the City of Bethlehem, 10 East Church Street, Bethlehem, Pennsylvania 18018.

Pennsylvania	Bethlehem (Township), Northampton County.	Lehigh River	Approximately 1.97 miles upstream of Chain Dam.	*209	*210
			Approximately 0.8 mile downstream of Freemansburg Highway bridge.	*220	*221

Maps available for inspection at the Bethlehem Township Municipal Building, 4225 Easton Avenue, Bethlehem, Pennsylvania.

Send comments to Mr. Jeff J. Bartlett, Acting Bethlehem Township Manager, 4225 Easton Avenue, Bethlehem, Pennsylvania 18020.

Pennsylvania	East Allen (Township), Northampton County.	Monocacy Creek	Downstream of Mill Street	None	*406
			Approximately 1,000 feet downstream of Mill Street.	None	*406

Maps available for inspection at the East Allen Township Offices, 5344 Nor-Bath Boulevard, Northampton, Pennsylvania.

Send comments to Mr. Roger Unangst, Chairman of the Township of East Allen Board of Supervisors, 5344 Nor-Bath Boulevard, Northampton, Pennsylvania 18067.

Pennsylvania	Easton (City), Northampton County.	Lehigh River	Approximately 528 feet downstream of Easton Dam.	*192	*195
			Approximately 1.55 miles upstream of Chain Dam.	*209	*208
		Delaware River	Approximately 1 mile upstream of Interstate 78.	*188	*191
			Approximately 1.23 miles upstream of confluence with Bushkill Creek.	*198	*199

Maps available for inspection at the Easton City Hall, 1 South Third Street, Easton, Pennsylvania.

Send comments to The Honorable Thomas F. Goldsmith, Mayor of the City of Easton, 1 South Third Street, Easton, Pennsylvania 18042.

Pennsylvania	East Rockhill (Township), Bucks County.	East Branch Perkiomen Creek.	A point approximately 50 feet upstream of East Callowhill Road.	*317	*315
			Approximately 620 feet upstream of East Callowhill Road.	*318	*317

Maps available for inspection at the East Rockhill Township Office, 1622 Ridge Road, Perkasie, Pennsylvania.

Send comments to Mr. John Cressman, Chairman of the Township of East Rockhill Board of Supervisors, 1622 Ridge Road, Perkasie, Pennsylvania 18944.

Pennsylvania	Emmaus (Borough), Lehigh County.	Little Lehigh Creek	At downstream corporate limits	*324	*331
			At upstream corporate limits	*329	*337

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
Maps available for inspection at the Emmaus Borough Hall, 28 South Fourth Street, Emmaus, Pennsylvania.					
Send comments to The Honorable Winfield Iost, Mayor of the Borough of Emmaus, 28 South Fourth Street, Emmaus, Pennsylvania 18049.					
Pennsylvania	Forks (Township), Northampton County.	Delaware River	Approximately 1.16 miles upstream of confluence with Bushkill Creek.	*198	*199
			Approximately 0.54 mile downstream of confluence with Mud Run.	*207	*206
Maps available for inspection at the Forks Township Hall, 1606 Sullivan Trail, Easton, Pennsylvania.					
Send comments to Mr. David Hoff, Chairman of the Township of Forks Board of Supervisors, 1606 Sullivan Trail, Easton, Pennsylvania 18040.					
Pennsylvania	Freemansburg (Borough), Northampton County.	Lehigh River	Approximately 420 feet upstream of confluence with Nancy Creek.	*221	*222
			Approximately 1.26 miles downstream of confluence with Monocacy Creek.	*229	*226
Maps available for inspection at the Freemansburg Borough Hall, 600 Monroe Street, Freemansburg, Pennsylvania.					
Send comments to The Honorable Gerald Yob, Mayor of the Borough of Freemansburg, 600 Monroe Street, Freemansburg, Pennsylvania 18017.					
Pennsylvania	Glendon (Borough), Northampton County.	Lehigh River	Approximately 0.31 mile downstream of Glendon Parkway.	*194	*195
			Approximately 0.27 mile upstream of Chain Dam.	*204	*203
Maps available for inspection at the Glendon Borough Hall, 24 Franklin Street, Easton, Pennsylvania.					
Send comments to The Honorable Charles Seip, Mayor of the Borough of Glendon, 24 Franklin Street, Easton, Pennsylvania 18042.					
Pennsylvania	Hellertown (Borough), Northampton County.	Saucon Creek	Approximately 1,435 feet downstream of confluence of Black River.	*259	*260
			Approximately 540 feet downstream of Meadows Road.	*298	*296
Maps available for inspection at the Hellertown Borough Municipal Building, 685 Main Street, Hellertown, Pennsylvania.					
Send comments to Mr. James Sigworth, Hellertown Borough Manager, 685 Main Street, P.O. Box A, Hellertown, Pennsylvania 18055–0222.					
Pennsylvania	Lehigh (Township), Northampton County.	Lehigh River	Approximately 1.02 miles downstream of State Route 145.	*322	*321
			At the county boundary	*387	*388
Maps available for inspection at the Lehigh Township Municipal Building, 1069 Municipal Road, Walnutport, Pennsylvania.					
Send comments to Mr. Richard Demko, Chairman of the Lehigh Township Board of Supervisors, 1609 Municipal Road, Walnutport, Pennsylvania 18088.					
Pennsylvania	Lower Mount Bethel (Township), Northampton County.	Delaware River	Approximately 0.44 mile downstream of confluence with Mud Run.	*206	*207
			Just downstream of the Riverton-Belvidere Highway bridge.	*256	*255
Maps available for inspection at the Lower Mount Bethel Township Hall, 6984 South Delaware Drive, Martins Creek, Pennsylvania.					
Send comments to Mr. Anthony Gasparetti, Chairman of the Lower Mount Bethel Township Board of Supervisors, P.O. Box 257, Martins Creek, Pennsylvania 18063.					
Pennsylvania	Lower Saucon (Township), Northampton County.	Lehigh River	Approximately 1.61 miles upstream of Chain Dam.	*208	*209
			Just upstream of Freemansburg Highway bridge.	*222	*223
		Saucon Creek	Approximately 50 feet upstream of Friedensville Road.	*277	*278
			At the county boundary	*333	*337

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Lower Saucon Township Hall, 3700 Old Philadelphia Pike, Bethlehem, Pennsylvania.					
Send comments to Mr. Jeffrey Zettlemoyer, Assistant Lower Saucon Township Manager, 3700 Old Philadelphia Pike, Bethlehem, Pennsylvania 18015.					
Pennsylvania	McConnellsburg (Borough), Fulton Conty.	Big Cove Creek	At the corporate limits (south)	None	*855
			At the corporate limits (north)	None	*871
Maps available for inspection at the Fulton County Courthouse, North 2nd Street, McConnellsburg, Pennsylvania.					
Send comments to The Honorable Max Stenger, Mayor of the Borough of McConnellsburg, 112 Lincolnh Way East, McConnellsburg, Pennsylvania 17233.					
Pennsylvania	North Catasauqua (Borough), Northampton County.	Lehigh River	At the county boundary	*280	*281
			Approximately 1,900 feet downstream of confluence with Dry Run.	*285	*287
Maps Available for inspection at the North Catasauqua Borough Hall, 1066 Fourth Street, North Catasauqua, Pennsylvania.					
Send comments to Mr. Joseph Keglovits, President of the Borough of North Catasauqua, 1066 Fourth Street, Catasauqua, Pennsylvania 18032.					
Pennsylvania	Northampton (Borough), Northampton County.	Lehigh River	Approximately 1,900 feet downstream of confluence with Dry Run.	*285	*287
			Approximately 1.16 miles upstream of Route 329.	*302	*305
Maps available for inspection at the Northampton Borough Municipal Office, 1401 Laubach Avenue, Northampton, Pennsylvania.					
Send comments to Mr. Charles Bodnar, President of the Northampton Borough Council, 1401 Laubach Avenue, P.O. Box 70, Northampton, Pennsylvania 18067–0070.					
Pennsylvania	North Whitehall (Township), Lehigh County.	Fells Creek	At the confluence with the Lehigh River	*318	*315
			A point approximately 750 feet upstream of Neffs-Laurys Road.	None	*546
Maps available for inspection at the North Whitehall Township Municipal Building, 3256 Levans Road, Coplay, Pennsylvania.					
Send comments to Ms. Janet Talotta, Chairman of the North Whitehall Township Board of Supervisors, 3256 Levans Road, Coplay, Pennsylvania 18037.					
Pennsylvania	Palmer (Township), Northampton County.	Lehigh River	Approximately 0.63 mile downstream of Chain Dam.	*202	*195
			Approximately 1.71 miles upstream of Chain Dam.	*210	*209
Maps available for inspection at the Palmer Township Hall, 3 Weller Place, Palmer, Pennsylvania.					
Send comments to Mr. Jeffrey Young, Chairman of the Palmer Township Board of Supervisors, 3 Weller Place, P.O. Box 3039, Palmer, Pennsylvania 18043.					
Pennsylvania	Perkasie (Borough), Bucks County.	East Branch Perkiomen Creek.	At downstream corporate limits	*308	*307
			Approximately 620 feet upstream of East Callowhill Road.	*318	*317
Maps available for inspection at the Perkasie Borough Office, 311 South 9th Street, Perkasie, Pennsylvania.					
Send comments to Mr. John L. Cornelius, Perkasie Borough Manager, P.O. Box 275, Perkasie, Pennsylvania 18944.					
Pennsylvania	Plainfield (Township), Northampton County.	West Branch Little Bushkill Creek.	Approximately 460 feet downstream of State Route 512.	None	*682
			Approximately 300 feet downstream of Male Street.	None	*689
Maps available for inspection at the Plainfield Township Hall, 6292 Sullivan Trail, Nazareth, Pennsylvania.					
Send comments to Mr. Randy Lieberman, Chairman of the Township of Plainfield Board of Supervisors, 6292 Sullivan Trail, Nazareth, Pennsylvania 18064.					
Pennsylvania	Portland (Borough), Northampton County.	Delaware River	Approximately 0.36 mile downstream of confluence with Jacoby Creek.	*293	*294

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 0.60 mile upstream of confluence with Jacoby Creek.	*298	*299

Maps available for inspection at the Portland Borough Building, 1 Division Street, Portland, Pennsylvania.

Send comments to The Honorable Kay Bucci, Mayor of the Borough of Portland, P.O. Box 295, Portland, Pennsylvania 18351.

Pennsylvania	Sellersville (Borough), Bucks County.	East Branch Perkiomen Creek.	Approximately 150 feet downstream of CONRAIL bridge.	*302	*303
			At upstream corporate limits	*308	*307

Maps available for inspection at the Sellersville Borough Hall, 140 East Church Street, Sellersville, Pennsylvania.

Send comments to The Honorable Joseph F. Hufnagle, Sr., Mayor of the Borough of Sellersville, 140 East Church Street, Sellersville, Pennsylvania 18960.

Pennsylvania	Todd (Township), Fulton County.	Big Cove Creek	Approximately 50 feet downstream of State Route 16.	None	*865
			Approximately 0.6 mile upstream of State Route 16.	None	*887

Maps available for inspection at the Todd Township Building, 2998 East Dutch Corner Road, McConnellsburg, Pennsylvania.

Send comments to Mr. Mack Clevenger, Chairman of the Todd Township Board of Supervisors, P.O. Box 243, McConnellsburg, Pennsylvania 17233.

Pennsylvania	Upper Mt. Bethel (Township), Northampton County.	Delaware River	Just downstream of Riverton-Belvidere Highway bridge.	*256	*255
			Approximately 110 feet downstream of the county boundary.	*314	*313

Maps available for inspection at the Mt. Bethel Township Hall, 387 Ye Olde Highway, Mt. Bethel, Pennsylvania.

Send comments to Mr. Lewis L. Donatelli, Sr., Chairman of the Upper Mt. Bethel Township Board of Supervisors, 387 Ye Olde Highway, Mt. Bethel, Pennsylvania 18343.

Pennsylvania	Walnutport (Borough), Northampton County.	Lehigh River	Approximately 1.05 miles downstream of Route 946 (Main Street).	*356	*366
			Approximately 0.4 mile upstream of Route 946 (Main Street).	*366	*367

Maps available for inspection at the Walnutport Borough Offices, 417 Lincoln Avenue, Walnutport, Pennsylvania.

Send comments to Mr. William Turk, President of the Walnutport Borough Council, 120 Lincoln Avenue, Walnutport, Pennsylvania 18068.

Pennsylvania	West Easton (Borough), Northampton County.	Lehigh River	Approximately 0.88 mile downstream of Glendon Parkway.	*192	*195
			Approximately 50 feet downstream side of 25th Street.	*197	*195

Maps available for inspection at the West Easton Borough Hall, 237 7th Street, West Easton, Pennsylvania.

Send comments to Mr. Carl Persion, West Easton Borough Council President, 237 7th Street, West Easton, Pennsylvania 18042.

Pennsylvania	West Rockhill (Township), Bucks County.	East Branch Perkiomen Creek.	At the upstream side of CountyLine Road	*275	*276
			Approximately 550 feet downstream of CONRAIL bridge.	*302	*301

Maps available for inspection at the West Rockhill Township Hall, 1028 Ridge Road, Sellersville, Pennsylvania.

Send comments to Mr. Richard Derstine, Chairman of the Township of West Rockhill Board of Supervisors, 1028 Ridge Road, Sellersville, Pennsylvania 18960.

Pennsylvania	Williams (Township), Northampton County.	Lehigh River	Approximately 0.27 mile upstream of Chain Dam.	*204	*203
			Approximately 1.61 miles upstream of Chain Dam.	*208	*209
		Delaware River	At the county boundary	*163	*165
			Approximately 1 mile upstream of Interstate 78.	*186	*191

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Williams Township Municipal Building, 655 Cider Press Road, Easton, Pennsylvania.					
Send comments to Mr. Jeffery Marsh, Williams Township Manager, 655 Cider Press Road, Easton, Pennsylvania 18042.					
Pennsylvania	Wilson (Borough), Northampton County.	Lehigh River	Approximately 500 feet downstream of 25th Street.	*197	*195
			Approximately 950 feet upstream of 25th Street.	*197	*195
Maps available for inspection at the Wilson Borough Hall, 2040 Hay Terrace, Easton, Pennsylvania.					
Send comments to Mr. David S. Perruso, President of the Wilson Borough Council, 2040 Hay Terrace, Easton, Pennsylvania 18042.					
Rhode Island	Coventry (Town), Kent County.	Tributary A1	Approximately 400 feet upstream of the confluence with South Branch Pawtuxet River.	*241	*239
			Approximately 55 feet upstream of Flat River Road.	*254	*246
		Tributary A2	A point approximately 37 feet upstream of Bike Path.	*254	*241
			A point approximately 85 feet upstream of Bike Path.	*254	*241
Maps available for inspection at the Coventry Town Hall, 1670 Flat River Road, Coventry, Rhode Island.					
Send comments to Mr. Francis Frobel, Coventry Town Manager, Coventry Town Hall, 1670 Flat River Road, Coventry, Rhode Island 02816.					
Virginia	Danville (City), Pittsylvania County.	Apple Branch	At confluence with Dan River	None	*418
			Approximately 25 feet upstream of Northmont Boulevard.	None	*535
		Dan River	At downstream corporate limits	*395	*396
			Approximately 970 feet downstream of upstream corporate limits.	*457	*458
		Sandy Creek	At confluence with Dan River	*421	*424
			At downstream side of U.S. Route 58	*423	*424
		Sandy River	At confluence with Dan River	*424	*427
			Just downstream of old U.S. Route 58	*426	*427
		Pumpkin Creek	At confluence with Dan River	*400	*401
			750 feet upstream of State Route 265	*400	*401
		Jackson Branch	At confluence with Dan River	*401	*403
			Approximately 1,725 feet upstream of Goodyear Boulevard (Whitmell Street).	*402	*403
		Fall Creek	At confluence with Dan River	*403	*404
			100 feet downstream of Halifax Street	*403	*404
Maps available for inspection at the Department of Community Development, 427 Patton Street, Danville, Virginia.					
Send comments to Mr. Lyle Lacy, Interim City Manager, P.O. Box 3300, Danville, Virginia 24543.					
Virginia	Monterey (Town), Highland County.	West Straight Creek	Approximately 120 feet downstream of the downstream corporate limits.	None	*2,847
			Approximately 615 feet upstream of Mill Alley.	None	*2,965
Maps available for inspection at the Town of Monterey Building and Zoning Office, Courthouse Annex, Spruce Street, Monterey, Virginia.					
Send comments to The Honorable Janice S. Warner, Mayor of the Town of Monterey, P.O. Box 460, Monterey, Virginia 24465.					
West Virginia	Moorefield (Town), Hardy County.	Unnamed Ponding Area	Approximately 500 feet southwest of the intersection of U.S. Route 220 and Monroe Avenue.	*805	*804
		South Branch Potomac River.	Unnamed tributary from downstream corporate limits to Spring Avenue.	None	*798
Maps available for inspection at the Moorefield Town Hall, 206 Winchester Avenue, Moorefield, West Virginia.					
Send comments to The Honorable Larry P. Snyder, Mayor of the Town of Moorefield, 206 Winchester Avenue, Moorefield, West Virginia 26836.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: March 31, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 00–9065 Filed 4–11–00; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 43

[CC Docket No. 98–137, CC Docket No. 99–117, AAD File No. 98–26; FCC 00–119]

1998 Biennial Regulatory Review—Review of Depreciation Requirements for Incumbent Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the primary goal of the Commission is to determine whether there are circumstances under which Commission depreciation requirements could be eliminated for price-cap carriers in a manner that serves the public interest. In reaching this goal it is important to ensure that the consumers are protected against harmful rate impacts that could result from unregulated depreciation practices. The Commission remains concerned, and seeks to assure, that any changes in depreciation practices do not adversely impact consumers and competition.

DATES: Written comments by the public on the proposed information collections are due April 17, 2000. Reply comments must be received on or before April 28, 2000. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection(s) on or before June 12, 2000.

ADDRESSES: Federal Communications Commission, 445—12th Street, SW, TW–A325, Washington, DC 20554. In addition to filing comments with the Office of the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Edward C. Springer, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW, Washington, DC 20503 or via the Internet to Edward.Springer@omb.eop.gov. For additional information concerning the information collection(s) contained in this document, contact Judy Boley at 202–418–0214, or via the Internet at *jboley@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: JoAnn Lucanik, Accounting Safeguards Division, Common Carrier Bureau at (202) 418–0873 or Andy Mulitz, Chief, Legal Branch, Accounting Safeguards Division, Common Carrier Bureau at (202) 418–0827. For additional information concerning the information collection(s) contained in this document, contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: The Further Notice of Proposed Rulemaking (FNPRM) in CC Docket No. 98–137, CC Docket No. 99–117 and AAD File No. 98–86, adopted on March 31, 2000 and released on April 3, 2000, is available for inspection and copying during normal business hours in the FCC Reference Information Center (RIC), 445 12th Street, SW, TW–A325, Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC 20036 (202) 857–3800.

This FNPRM contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act

This FNPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection(s) contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this FNPRM; OMB notification of action is due 60 days from date of publication of this FNPRM in the **Federal Register**.

Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060–0168.

Title: Reports of Proposed Changes in Depreciation Rates—Section 43.43.

Form No.: N/A.

Type of Review: Revision of existing collection.

Respondents: Business or other for-profit.

Number of Respondents: 10.

Estimated Time Per Response: 4000 hours (avg).

Total Annual Burden: 40,000 hours.

Cost to Respondents: $0.

Needs and Uses: The FNPRM seeks comment on a proposal to provide relief from the Commission's depreciation prescription process for price cap incumbent LECs. Generally, the proposal provides for a price cap incumbent LEC to adjust the net book costs on its regulatory books to its financial book levels and amortize the difference over a five year period; forego the opportunity to seek recovery of the amortized difference in any state and/or interstate rates through a low-end adjustment, an exogenous adjustment, an above-cap filing or any other recovery mechanism; use the same depreciation factors and rates for both regulatory and financial accounting purposes; submit information concerning its depreciation accounts, including forecast additions and retirements for major network accounts and replacement plans for digital central offices; use the amortized amount in the calculation of regulated earnings; and report costs that reflect both amortization as a one time write-off and as amortized over the five year period. If adopted, the proposal would most likely eliminate the waiver process set forth in the R&O.

Synopsis of Notice

In their *March 3, 2000 letter*, Incumbent Local Exchange Carriers (ILECs) participating in the Coalition for Affordable Local and Long Distance (CALLS) modified plan identified a potential alternative joint waiver approach to achieving the objectives set forth in the *Depreciation Order* released on December 30, 1999 (FCC 99–397), 65 FR 18926 (April 7, 2000). Specifically, the letter outlines steps that the ILECs propose to take to achieve freedom from depreciation requirements, including: (1) use of the same depreciation factors and rates for both federal regulatory and financial accounting purposes; (2) submission of information concerning their depreciation accounts when significant changes to depreciation factors are made; and (3) use of a straight-line amortization over a five-year period to account for the difference between the reserve balances on their regulatory books and the corresponding balances on their financial books. The ILECs indicated that, under their proposal, the amortization expense for each year would be included in the calculation of regulated earnings (treated as an above-the-line expense) when reporting to the Commission. The ILECs would agree, however, that the amortization would have no effect on interstate price caps or their interstate rates and would commit not to seek recovery of the amortization expense through a low-end adjustment, an exogenous adjustment, or an above-cap filing. Also, under this proposal, the ILECs would commit not to seek recovery of the interstate amortization expense through any action at the state level, including any action on UNE rates.

The primary goal of this proceeding is to determine whether there are circumstances under which our depreciation requirements could be eliminated for price-cap carriers in a manner that serves the public interest. In reaching this goal, it is important to ensure that consumers are protected against harmful rate impacts that could result from unregulated depreciation practices. Further, while we seek to eliminate burdensome regulatory requirements, we remain committed to assuring that such elimination does not have any adverse impact on the development of local competition. Also, because many of the state regulatory commissions use our cost models and often rely on our depreciation prescriptions for state ratemaking purposes, we seek to ensure that elimination of our depreciation requirements will not have any adverse impact at the state level.

The conditions we established in the *Depreciation Order*, pursuant to which a carrier could seek a waiver from the depreciation requirements, were found to largely mitigate any adverse impacts that could occur when carriers are given freedom from depreciation regulation. Prominent among these conditions was a requirement to write-off, below-the-line, the difference between the carriers' regulatory and financial book costs. The *Depreciation Order* identified this one-time write-off as one means to eliminate the disparity that exists between financial and regulatory books and to ensure that these expenses would not be unjustifiably recovered in consumer rates. Under a five-year amortization proposal, the differential between the carriers' financial and regulatory books would be eliminated in five years.

We seek comment on whether an above-the-line amortization of the difference between the price-cap carriers' regulated and financial book costs over a five-year period, combined with a commitment not to seek recovery of the amortization and not to base any application for federal or state rate increases (through a low-end adjustment or other means) on any portion of the amortization over the course of the five year period adequately protects consumers from adverse rate impacts and otherwise meets the policy goals of the *Depreciation Order*. If not, are there additional steps that would eliminate or minimize these concerns? We specifically invite state commissions to comment on whether the depreciation changes discussed herein will have an adverse impact on local rates or competition. If so, we seek comment from states on specific actions we might take to protect against such adverse impacts.

We also seek comment on whether it is appropriate, under a five-year amortization approach, coupled with a commitment not to seek recovery of any portion of the amortization from federal or state rates, to include the amortization amount in the calculation of regulated earnings in the carriers' reports to the Commission. If so, what protections, if any, will ensure that the carriers' reported earnings, which would include the amortization expense, are not used in applications for rate increases under low-end adjustment, above cap price filings, or other mechanisms to justify rate increases. For example, should price-cap ILECs be required to periodically report costs that reflect what their costs would have been had the write-off been taken as a one-time below-the-line event or maintain records that reflect the amortization factored-in and factored-out, particularly where the carrier may be seeking price increases under low-end adjustments or some other mechanism? We seek comment on whether a five-year amortization accounting treatment has an adverse impact on reported earnings, and if so, what, if any, action the Commission should take to address these impacts. We also seek comment on what measures we should take to account for and monitor the proposed amortization process.

In the *Depreciation Order*, we found that, in order to prevent any inappropriate and undesirable fluctuations in high cost support or the rates for interconnection and UNEs due to changes in depreciation factors or rates caused by carriers no longer subject to the Commission's depreciation requirements, we would continue to maintain realistic ranges of depreciable life and salvage factors for each of the major plant accounts for use in the cost models. Thus, we required that carriers agree to provide information about their depreciable plant accounts, including forecast additions and retirements for major network accounts, replacement plans for digital central offices, and information concerning relative investments in fiber and copper cable. We seek comment on the timing of the carriers' data submissions to the Commission and the scope of such submissions that will be needed to periodically update depreciation factors for use in the cost models.

Finally, we note that audits of the continuing property records (CPR) of the Regional Bell Operating Companies (RBOCs) are before the Commission, as are the results of a joint State-Federal audit of GTE's CPRs. The CPR audits found that, combined, these carriers could not account for approximately $5 billion of central office equipment and recommended that these amounts be written-off their regulatory books of account. We estimate that a five-year amortization, if applied to these carriers, would result in a reduction of approximately $28 billion in asset value from their regulated books of accounts. Given the size of the write-off proposed by the audits, we seek comment on whether, if the RBOCs and GTE bring their regulatory book balances to the levels of their financial book levels, the CPR audit findings are rendered moot. In particular, we seek comment on whether an accounting treatment that results in a non-recoverable amortization of a substantial portion of a carrier's investment provides a legitimate basis to terminate the CPR audits.

Procedural Issues

A. Ex Parte Presentations

This is a permit but disclose rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. *See* *generally* 47 CFR 1.1202, 1.1203, and 1.1206.

B. Supplemental Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The SBA has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. This rulemaking action is supported by sections 4(i), 4(j), 201–205, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201–205, 254, and 403.

This Further Notice seeks comment on what conditions would be appropriate to eliminate the prescription of depreciation rates for price-cap ILECs. As noted, a ''small business'' under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small ILECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small ILECs in the RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts. We note, however, that the action we propose in this rulemaking proceeding does not apply to small ILECs, but would apply only to price-cap ILECs subject to Commission depreciation requirements.

We certify that the proposal in this Further Notice, if adopted, will not have a significant economic impact on a substantial number of small entities. Pursuant to long-standing rules, ILECs with annual operating revenues exceeding the indexed revenue threshold must comply with the Commission's depreciation prescription process. This Further Notice proposes, under appropriate conditions, to eliminate these depreciation requirements. These changes should be easy and inexpensive for ILECs to implement and will not require costly or burdensome procedures. We therefore expect that the potential impact of the proposed rules, if such are adopted, is beneficial and does not amount to a possible significant economic impact on affected entities. If commenters believe that the proposals discussed in the Further Notice require additional RFA analysis, they should include a discussion of these issues in their comments.

The Commission's Office of Public Affairs, Reference Operations Division, will send a copy of this Further Notice, including this initial certification, to the Chief Counsel for Advocacy of the Small Business Administration.

C. Paperwork Reduction Act

This Further Notice seeks comment on the timing of price-cap ILECs' data submissions to the Commission and the scope of such submissions that are needed by the Commission to periodically update depreciation factors for use in the cost models. As part of our continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on information collections contained in this Further Notice of Proposed Rulemaking, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this Further Notice of Proposed Rulemaking. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

D. Comment Filing Procedures

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before April 17, 2000. Interested parties may file reply comments on or before April 28, 2000. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address.'' A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW Room TW–A325, Washington, DC 20554.

Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Debbie Byrd, Accounting Safeguards Division, 445 12th Street, SW, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case CC Docket No. 98–137, CC Docket No. 99–117, and AAD File No. 98–26), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the

Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC 20037.

Written comments by the public on the proposed information collections are due on or before April 17, 2000 and reply comments or due on or before April 28, 2000. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before June 12, 2000. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW, Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

Ordering Clauses

Pursuant to the authority contained in sections 4(i), 4(j), 201(b), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201(b), 303(r), and 403, this Further Notice of Proposed Rulemaking is adopted.

The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration, 5 U.S.C. 605(b).

Federal Communications Commission.

Kenneth P. Moran,

Chief, Accounting Safeguards Division.

[FR Doc. 00–9230 Filed 4–11–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG02

Endangered and Threatened Wildlife and Plants; Proposed Determination of Endangered Status for *Astragalus Holmgreniorum* (Holmgren Milk-Vetch) and *Astragalus Ampullarioides* (Shivwits Milk-Vetch)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Fish and Wildlife Service (Service), propose to determine endangered species status under the Endangered Species Act (Act) of 1973, as amended, for two perennial herbs, *Astragalus holmgreniorum* (Holmgren milk-vetch) and *Astragalus ampullarioides* (Shivwits milk-vetch). Three small populations of *A. holmgreniorum* exist in Washington County, Utah and adjacent Mohave County, Arizona. Five small populations of *A. ampullarioides* exist in Washington County, Utah. Significant portions of the habitat of both species are subject to disturbance from urban development, off-road vehicles (ORVs), grazing, displacement by exotic weeds, and mineral development. A determination that *A. holmgreniorum* and *A. ampullarioides* are endangered species would implement the Federal protections provided by the Act for these plants.

DATES: Comments from all interested parties must be received by June 12, 2000. Public hearing requests must be received by May 30, 2000.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Lincoln Plaza, Suite 404, 145 East 1300 South, Salt Lake City, Utah 84115. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John L. England, Botanist, Utah Field Office, at the address listed above (telephone: 801/524–5001).

SUPPLEMENTARY INFORMATION:

Background

Astragalus holmgreniorum (Holmgren milk-vetch) was first collected as a scientific specimen in 1941 by Melvin Ogden. Rupert Barneby and Noel and Patricia Holmgren rediscovered the species in 1979. Barneby (1980) recognized the species as a unique taxon occurring in a localized area on the Arizona-Utah border, and named it for its co-discovers. *A. ampullarioides* (Shivwits milk-vetch) was first collected near Shem in Washington County, Utah by Duane Atwood in 1976. The species was originally described by Stanley Welsh (1986) as a variety of *A. eremiticus.* Barneby (1989) questioned the taxonomic significance of the species and submerged *A. eremiticus* var. *ampullarioides* within typical *A. eremiticus.* Later research work by Harper and Van Buren (1998), and Stubben (1997) demonstrated significant genetic and ecological differences between typical *A. eremiticus* and *A. eremiticus* var. *ampullarioides.* Welsh (1998) revised the species' taxonomy elevating the taxon to full species status as *A. ampullarioides.* Both species are narrowly distributed Mojave Desert endemics restricted to the immediate vicinity of St. George, Utah.

A member of the pea family (Fabaceae), *Astragalus holmgreniorum* grows close to the ground and is a herbaceous (non-woody) perennial that produces small purple flowers in the spring, and dies back to its root crown (base of the stalk where roots begin) after the flowering season. The plant's pinnately compound (arranged on opposite sides of the stem in a row) leaves arise directly from the root crown. The leaves are pressed close to the ground, and are 4 to 13 centimeters (cm) (1.5 to 5.1 inches (in)) long, and have 9 to 15 leaflets. The leaflets are 0.8 to 1.6 cm (0.3 to 0.6 in) long and are broadly obovate (oval with the narrow end towards the base of the leaf) in shape. The flowers of *A. holmgreniorum* are purple, 1.8 to 2.4 cm (0.7 to 0.9 in) long, and 0.6 to 0.9 cm (0.2 to 0.4 in) wide and have the distinctive papilionaceous flower shape of a legume (pea-like flower with 5 petals that include a large petal on top enclosing 2 lateral petals and 2 smaller lower petals). The flowers are borne in a raceme inflorescence (flowers occur along a stalk), commonly with 6 to 16 flowers. The peduncle (flower stalk) is 2 to 8.5 cm (0.8 to 3.6 in) long and arises directly from the root crown. The peduncle is erect during anthesis (period the flower is open) and is prostrate, with the plant's leaves in fruit (Barneby 1980; 1989; Welsh, *et al.* 1987; Stubben 1997). The fruits are pods 3 to 5 cm (1 to 2 in) long and 0.6 to 0.9 cm (0.2 to 0.4 in) across. The pods retain seeds even after the pods fully open up along the margin. With age, each pod eventually drys out and opens up at both the top and bottom ends (Barneby 1989; Stubben 1997).

Astragalus holmgreniorum grows on the shallow, sparsely vegetated soils derived primarily from the Virgin limestone member of the Moenkopi Formation. The species is a principal member of a warm-desert shrub vegetative community dominated by the following perennial shrubs: desert goldenhead (*Acamptopappus sphaerocephalus*), white burrobush (*Ambrosia dumosa*), range ratany (*Krameria parvifolia*), and Anderson wolfberry (*Lycium andersonii*). In addition, plant species associated with *A. holmgreniorum* include several perennial and annual forbs and grasses; most significant are the introduced weedy species foxtail brome (*Bromus rubens*), storksbill (*Erodium cicutarium*), and African mustard (*Malcolmia africana*) (Stubben 1997; Armstrong and Harper 1991; Van Buren 1992; Harper and Van Buren 1998).

Only three populations of *Astragalus holmgreniorum* are known. The species' primary population exists on the Arizona (Mohave County) and Utah (Washington County) border approximately 11 kilometers (km) (7 miles (mi)) south of the center of St. George, Utah (Stubben 1997). This population is fragmented by Interstate Highway 15, areas of urban development, and spotty natural habitat occurrences. The number of individual plants in all the species' populations varies considerably from year to year. This population averages from 4,000 to 5,000 plants in an average year to about 9,000 to 10,000 plants in years with wet winters (Stubben 1997; R. Van Buren, Utah Valley State College, Orem, Utah, pers. comm. 1998). The second population of about 1,000 plants is approximately 8 km (5 mi) west of St. George (Stubben 1997; Van Buren 1992). The third population consist of about 300 plants, and is located approximately 15 km (9 mi) east of St. George (Stubben 1997). The small number of populations and restricted habitat of this species make it vulnerable to human-caused and natural environmental disturbances. Urban expansion of St. George and highway and power line construction have destroyed significant portions of the species' potential habitat and threaten additional occupied habitat. The species is also threatened by ORV use, displacement by exotic weeds, mineral exploration and development (Harper 1997; Stubben 1997).

Astragalus ampullarioides (Shivwits milk-vetch) is a perennial, herbaceous plant that is considered a tall member of the pea family, although some plants appear shorter because of grazing impacts. Stems may grow along the ground or to a height of 20 to 50 cm (8 to 20 in). However, ungrazed flowering stems may attain a height of 1 meter (40 in). Its leaves are pinnately compound, 4 to 18 cm (1.6 to 7.1 in) long, and have 11 to 23 elliptical leaflets. Each plant produces about 45 small cream-colored flowers about 2 cm (0.8 in) long on a single stalk in the spring. Seeds are produced in small pods, and the plant dies back to its root crown after the flowering season. The fruit is a short, broad pod between 0.8 and 1.5 cm (0.3 to 0.6 in) in length and 0.6 to 1.2 cm (0.2 to 0.5 in) in width (Barneby 1989; Welsh 1986, 1998; Welsh, *et al.* 1987).

Differences between *Astragalus ampullarioides* and typical *A. eremiticus,* which is also found in Washington County, Utah, are apparent from the following morphological and ecological characteristics: (1) *A. ampullarioides* has more flowers in each inflorescence, (2) *A. ampullarioides* has more elongated flower stalks, (3) *A. ampullarioides* has wider pods, (4) *A. ampullarioides* has taller plants, (5) *A. ampullarioides* has hollow stems, *A. eremiticus* stems are solid, and (6) *A. ampullarioides* plants are highly palatable to grazing animals, whereas typical *A. eremiticus* is seldom if ever eaten (Barneby 1989; Welsh 1986, 1998; Welsh, *et al.* 1987; Van Buren 1992; Harper and Van Buren 1998). The variation between the two species is also apparent at the genetic level. DNA analysis of *Astragalus* species, have shown significant differences in genetic markers between *A. ampullarioides and A. eremiticus* (Stubben 1997).

Astragalus ampullarioides grows on the Chinle geological formation at five separate sites in Washington County, Utah. These sites are distributed on a narrow band of the exposed Chinle formation over a distance of about 40 km (25 mi) near the City of St. George, Utah. These 5 populations contain about 1,000 individual plants (R. Van Buren, pers. comm. 1998). Two of the five populations occur near Shivwits on the western edge of the species' range. One population occurs on the Shivwits Indian Reservation and contains about 50 individual plants (L. England, pers. comm. 1999); the other population occurs on Bureau of Land Management (BLM) land and contains about 135 individual plants (Utah Natural Heritage Program 1999). Three other populations occur near Harrisburg Junction on the eastern edge of the species' range. One of these populations occurs on a mixture of State and BLM lands and contains about 300 individual plants (L. England, pers. comm. 1999). Another population occurs on BLM lands and contains four plants (Utah Natural Heritage Program 1999). The third population is located within commercial and residential development and contains about 200 individual plants (Utah Natural Heritage Program 1999). Native plant species normally associated with *A. ampullarioides* include: beautiful bluedicks (*Dichlostemma pulchellum*), birdsfoot trefoil (*Lotus humistratus*), snakeweed (*Gutierrezia microcephala*), mariposa lily (*Calochortus flexuosus*), and several other Mojave Desert plants. Currently the most significant plant species associated with *A. ampullarioides* are the introduced weedy species foxtail brome (*Bromus rubens*), cheat grass (*B. tectorum*), storksbill (*Erodium cicutarium*), and African mustard (*Malcolmia africana*) (Armstrong and Harper 1991; Van Buren 1992, 1998; Harper and Van Buren 1998).

Astragalus ampullarioides is threatened by the same activities as *A. holmgreniorum.* In addition, *A. ampullarioides* also is heavily grazed by most wild and domestic herbivores, and one of its five populations is threatened by activities associated with clay quarry mining and unauthorized waste disposal (Harper 1997). *A. ampullarioides* is restricted to clay soils derived from outcrops of the Chinle formation which naturally limits its potential habitat and population (R. Van Buren pers. comm. 1998).

Previous Federal Action

Section 12 of the Act (16 U.S.C. 1533 *et seq.*) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. We published a notice in the July 1, 1975, **Federal Register** (40 FR 27823) announcing our decision to treat the Smithsonian report as a petition within the context of section 4(c)(2) now section 4(b)(3) of the Act), and our intention to review the status of those plants.

The July 1975 notice was updated by a notice in the **Federal Register** on December 15, 1980 (45 FR 82480). On November 28, 1983, we amended the 1980 notice (48 FR 53640) and added *Astragalus holmgreniorum* as a category 2 candidate species. Category 2 candidates were defined as taxa for which information indicated that proposing to list the taxa as endangered or threatened was possibly appropriate but substantial data on biological vulnerability and threats were not currently known or on file to support a listing proposal. A later Notice of Review published on February 21, 1990 (55 FR 6185), maintained *A. holmgreniorum* as a category 2 species and included *A. eremiticus* var. *ampullarioides* (a synonym of A. *ampullarioides*) as a category 2 species.

Based on new biological and threat information (Armstrong and Harper 1991; Van Buren 1992) we identified *Astragalus holmgreniorum* as a category 1 candidate in the 1993 plant Notice of Review (58 FR 51133). At that time, category 1 candidates comprised taxa for which we had significant biological information to propose the species as endangered or threatened.

In the February 28, 1996, Notice of Review (61 FR 7596), we ceased using the category designations for candidates and included both *Astragalus holmgreniorum* and *A. ampullarioides* (*A. eremiticus* var. *ampullarioides*) as candidate species. Candidate species are those for which we have on file sufficient information on biological vulnerability and threats to support proposals to list the species as threatened or endangered.

On June 2, 1999, we received a petition from Peter Galvin of the Southwest Center for Biological Diversity, Tucson, Arizona to list both *Astragalus holmgreniorum* and *A. ampullarioides* as endangered species under the Act. The petition specified endangered status because of the rarity of the plant and the significant population and individual losses of both plants. The petition also requested designation of critical habitat concurrent with the listing. Inasmuch as *Astragalus holmgreniorum* and *A. ampullarioides* are currently designated candidate species with assigned listing priorities of two and three, respectively, we consider them already under petition and covered by a warranted but precluded finding. We responded to this petition on June 14, 1999, notifying the petitioner that our Endangered Species Petition Management Guidance issued in July 1996 considers a petition for a candidate species as redundant, and as such will be treated as a second petition. We also notified the petitioner that preparation of a proposed rule for listing of *A. holmgreniorum* and *A. ampullarioides* was ongoing and would be published in the **Federal Register** in the near future.

The processing of this final rule conforms with our Listing Priority Guidance published in the **Federal Register** on October 22, 1999 (64 FR 57114). The guidance clarifies the order in which we will process rulemakings. Highest priority is processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is processing final determinations on proposed additions to the lists of endangered and threatened wildlife and plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. The processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will no longer be subject to prioritization under the Listing Priority Guidance. This proposed rule for *Astragalus holmgreniorum* and *A. ampullarioides* is a Priority 3 action and is being completed in accordance with the current Listing Priority Guidance. If it is determined that an emergency situation exists for either or both species, the species will be elevated to Priority 1.

Peer Review

In accordance with interagency policy published on July 1, 1994 (59 FR 34270), upon publication of this proposed rule in the **Federal Register** we will solicit expert reviews by at least three specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomic, biological, and ecological information for *Ambrosia pumila.* The purpose of such a review is to ensure that listing decisions are based on scientifically sound data, assumptions, and analyses, including the input of appropriate experts.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Astragalus ampullarioides* (Welsh) Welsh (Shivwits milk-vetch) and *A. holmgreniorum* Barneby (Holmgren milk-vetch) are as follows:

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

The entire population of *Astragalus holmgreniorum* and most of the population of *A. ampullarioides* are vulnerable to habitat loss and extirpation due to urban growth and development in the St. George area of Washington County, Utah. St. George is a rapidly growing ''sun-belt'' city. The human population of the St. George area has grown from about 48,000 in 1990 to over 75,000 in 1999, and is projected to double within the next 20 years. Construction of residential housing destroyed occupied and potential habitat of both species during the last 5 years (Harper 1997; Stubben 1997; R. Van Buren, pers. comm. 1998). The continued demand for land for urban expansion of Washington County communities threatens all populations of *A. holmgreniorum* and the eastern populations of *A. ampullarioides* (Harper 1997; Stubben 1997). Residential and commercial development, along with associated construction of new roads, highways, electric power transmission lines, pipelines, airports, residential and commercial buildings, recreational facilities such as golf courses, and maintenance of existing roads will encroach and threaten the habitat of both species.

Habitat degradation from ORV use is increasing within both species' habitats. Both *Astragalus holmgreniorum* and *A. ampullarioides* are in the same general area as the listed plant species *Arctomecon humilis* (dwarf bear-poppy), which has been severely impacted by ORV use and urban development (Harper 1997; R. Van Buren, pers. comm. 1998). Conservation measures to protect the recently listed Mohave Desert tortoise (*Gopherus agassizii*) population from development may have caused a change in urbanization patterns that may lead to an increase in urban development and encroachment into the habitat of *A. holmgreniorum* and *A. ampullarioides* (Stubben 1997; Harper 1997; D. Pietrzak, BLM, St. George, Utah, pers. comm. 1993). Patterns of urban, commercial, and residential expansion north of St. George City were affected by conservation efforts for the Desert tortoise including the Washington County Habitat Conservation Plan. Significant areas of potential community growth in the St. George area, especially between the city and the Arizona border, are within the occupied habitat of *A. holmgreniorum* and *A. ampullarioides.*

In Utah, occupied *Astragalus holmgreniorum* and *A. ampullarioides* habitat occurs on Federal (BLM), State of Utah, Tribal (Shivwits Band of the Paiute Tribe) and private land. In Arizona, *A. holmgreniorum* is restricted to State of Arizona lands immediately adjacent to the Utah border. Private and State lands may be subject to land use changes such as an increase in urban development. Federal lands with populations of *A. holmgreniorum* may be subject to exchange or sale to the States or private parties. The State of Utah had proposed to the BLM to acquire lands that harbor the largest portion of the *A. holmgreniorum* population in exchange for occupied desert tortoise habitat north of St. George in Washington County (Stubben 1997; D. Pietrzak, pers. comm. 1993). A private land developer has proposed to develop much of the Utah portion of the

A. holmgreniorum habitat for a planned residential community. A major highway is proposed for construction through the *A. holmgreniorum* habitat between St. George and the Arizona border. A proposed planned community development near Harrisburg Junction has the potential to destroy one of the three eastern *A. ampullarioides* populations (Rosenberg Associates 1999). An electric power transmission line is proposed to pass through the two western *A. ampullarioides* populations. Gypsum mining operations occur adjacent to occupied *A. holmgreniorum* habitat south of St. George. An existing clay pit now being used as an unauthorized waste disposal area occurs adjacent to occupied *A. ampullarioides* habitat east of St. George. Both of these mining-related activities have the potential to destroy both *A. holmgreniorum* and *A. ampullarioides* habitat.

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

Astragalus holmgreniorum and *A. ampullarioides* have no known commercial, recreational, or scientific use at this time. There is no evidence of overcollection by botanists and/or horticulturists at this time.

C. Disease or Predation

We have no information to indicate that diseases threaten the continued survival of either *Astragalus holmgreniorum* or *A. ampullarioides.*

Astragalus ampullarioides is extremely palatable to both wildlife and domestic livestock, but *A. holmgreniorum* is not. The two western *A. ampullarioides* populations currently are overgrazed, often to the point that reproduction is forgone due to the loss of the entire flower and fruit of virtually every plant in the population (Harper 1997; Harper and Van Buren 1998).

D. The Inadequacy of Existing Regulatory Mechanisms

There are no Federal or State laws or regulations directly protecting *Astragalus holmgreniorum* and *A. ampullarioides* or their habitat. However, the BLM Manual 6840 states that ''The BLM shall carry out management, consistent with multiple use, for the conservation of candidate species and their habitats and shall ensure that actions authorized, funded, or carried out do not contribute to the need to list any of these species as Threatened or Endangered.'' The BLM has incorporated its intent to conserve these species into the *Dixie Resource Area Proposed Management Plan and Final Environmental Impact Statement* (BLM 1998). However, the location of these species in areas valued for future urban expansion makes the long term security of their habitat, even on Federal lands, questionable. Listing the species under the Act will reinforce the BLM'S ability to conserve habitat on Federal lands. There is no legal protection for either species on State of Arizona or State of Utah lands or on private property.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Past habitat disturbance has caused the proliferation of introduced annual weeds into both species' occupied habitat (Harper 1997). Foxtail brome, cheatgrass, storksbill, and African mustard are now the dominant species within the plant communities of both *Astragalus holmgreniorum* and *A. ampullarioides* (Stubben 1997; Harper and Van Buren 1998; Van Buren 1999). Both species are vulnerable to displacement by introduced weeds (Harper 1997; Harper and Van Buren 1998; Stubben 1997; Van Buren 1999).

Because of the low numbers of individuals, low number of populations, and restricted habitats of both *Astragalus holmgreniorum* and *A. ampullarioides,* these plants are vulnerable to human disturbances, which may increase the negative impacts of natural disturbances to populations of these species. The numbers of individuals and populations are sufficiently low that future losses may result in the loss of population viability. The extremely small and disjunct populations of *A. ampullarioides* may be vulnerable to a loss of genetic viability (Harper 1997; Harper and Van Buren 1998).

We have carefully assessed the best scientific and commercial information available concerning the past, present, and future threats faced by these species in making this proposed rule. Threats to *Astragalus holmgreniorum* and *A. ampullarioides,* including development of land for residential and urban use, habitat modification from human disturbances, competition with non-native plant species, and impacts from mining and grazing activities, imperil the continued existence of these species. Much of the habitat where these species occur is suitable for development and for modification by mining and grazing, and is unprotected from these threats. Because of the high potential of these threats to result in the extinction of both species, the preferred action is to list *A. holmgreniorum* and *A. ampullarioides* as endangered. The Act defines an endangered species as one in danger of extinction throughout all or a significant portion of its range. Endangered status reflects the vulnerability of these species to factors that may adversely affect these species and their extremely limited habitat.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by the 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 geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

The Final Listing Priority Guidance for FY 2000 (64 FR 57114) states that the processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will no longer be subject to prioritization under the Listing Priority Guidance. Critical habitat determinations, which were previously included in final listing rules published in the **Federal Register**, may now be processed separately, in which case stand-alone critical habitat determinations will be published as notices in the **Federal Register**. We will undertake critical habitat determinations and designations during FY 2000 and FY 2001 as allowed by our funding allocation for that year. As explained in detail in the Listing Priority Guidance, our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. Deferral of the critical habitat designation for *Astragalus holmgreniorum* and *A. ampullarioides* will allow us to concentrate our limited resources on higher priority critical habitat and other listing actions, while allowing us to put in place protections needed for the conservation of these species without further delay.

We propose that critical habitat is prudent for *Astragalus holmgreniorum* and *A. ampullarioides.* In the last few years, a series of court decisions have overturned Service determinations regarding a variety of species that designation of critical habitat would not be prudent (*e.g., Natural Resources Defense Council* v. *U.S. Department of the Interior* 113 F. 3d 1121 (9th Cir. 1997); *Conservation Council for Hawaii* v. *Babbitt,* 2 F. Supp. 2d 1280 (D. Hawaii 1998)). Based on the standards applied in those judicial opinions, we believe that designation of critical habitat for *A. holmgreniorum* and *A. ampullarioides* would be prudent.

Due to the small number of populations, both *Astragalus holmgreniorum* and *A. ampullarioides* are vulnerable to unrestricted collection, vandalism, or other disturbance. We are concerned that these threats might be exacerbated by the publication of critical habitat maps and further dissemination of locational information. However, at this time we do not have specific evidence for either *A. holmgreniorum* or *A. ampullarioides* of taking, vandalism, collection, or trade of this species or any similarly situated species. Consequently, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and recent case law, we do not expect that the identification of critical habitat will increase the degree of threat to this species of taking or other human activity.

In the absence of a finding that critical habitat would increase threats to a species, if there are any benefits to critical habitat designation, then a prudent finding is warranted. In the case of these species, there may be some benefits to designation of critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. While a critical habitat designation for habitat currently occupied by this species would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat is designated. Examples could include unoccupied habitat or occupied habitat that may become unoccupied in the future. There may also be some educational or informational benefits to designating critical habitat. Therefore, we propose that critical habitat is prudent for *Astragalus holmgreniorum* and *A. ampullarioides.*

We plan to employ a priority system for deciding which outstanding critical habitat designations should be addressed first. We will focus our efforts on those designations that will provide the most conservation benefit, taking into consideration the efficacy of critical habitat designation in addressing the threats to these species, and the magnitude and immediacy of those threats. We will make the final critical habitat determination with the final listing determination for *Astragalus holmgreniorum* and *A. ampullarioides.* If this final critical habitat determination is prudent, we will develop a proposal to designate critical habitat for *A. holmgreniorum* and *A. ampullarioides* as soon as feasible, considering our workload priorities. Unfortunately, for the immediate future, most of Region 6's listing budget must be directed to complying with numerous court orders and settlement agreements, as well as final listing determinations with statutory deadlines.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing can encourage and result in public awareness and conservation actions by Federal, State, Tribal (Shivwits Band of the Paiute Tribe), and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States, and requires that recovery actions be carried out for all listed species. Funding may be available through section 6 of the Act for the States to conduct recovery activities. The protection required by Federal agencies and prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us.

Considerable portions of the habitat of both *Astragalus holmgreniorum* and *A. ampullarioides* are on lands under Federal jurisdiction managed by the BLM. The BLM is responsible for insuring that all activities and actions on lands that they manage are not likely to jeopardize the continued existence of *A. holmgreniorum* and *A. ampullarioides.* Proposed highway and power line projects within the habitat of both species would require Federal permits from the Federal Highway Administration and Federal Energy Regulatory Commission. These agencies, also, must insure that actions which they permit are not likely to jeopardize the continued existence of both species. In addition, sections 2(c)(1) and 7(a)(1) of the Act require Federal agencies to utilize their authorities in furtherance of the purposes of the Act to carry out conservation programs for endangered and threatened species.

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

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered and threatened plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. We anticipate that few trade permits would be sought or issued for *Astragalus holmgreniorum* and *A. ampullarioides* because these species are not common in the wild and are unknown in cultivation.

It is our policy, published in the **Federal Register** (59 FR 34272) on July 1, 1994, to identify to the maximum extent practicable those activities that would or would not be likely to constitute a violation of section 9 of the Act if a species is listed. The intent of this policy is to increase public awareness of the effect of the species' listing on proposed and ongoing activities within its range. Collection of listed plants or activities that would damage or destroy listed plants on Federal lands are prohibited without a Federal endangered species permit. Such activities on non-Federal lands would constitute a violation of section 9 of the Act if they were conducted in knowing violation of State law or regulation, or in the course of violation of State criminal trespass law. Otherwise such activities would not constitute a violation of the Act on non-Federal lands.

Questions regarding whether specific activities, such as changes in land use, will constitute a violation of section 9 should be directed to the Utah Field Office (see ADDRESSES section). Requests for copies of the regulations regarding listed species and inquiries about prohibitions and permits may be addressed to: Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225–0486.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and 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. In particular, comments are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to these species;

(2) The location of any additional population of these species and the reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act;

(3) Additional information concerning the range, distribution, and population of these species; and

(4) Current or planned activities in the subject area and their possible impacts on these species.

Final promulgation of the regulation on these species will take into consideration the comments and any additional information we receive, and such communications may lead to a final regulation that differs from this proposal.

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. Such requests must be made in writing and be addressed to the Field Supervisor, Utah Field Office (see ADDRESSES section).

National Environmental Policy Act

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

Paperwork Reduction Act

This rule does not contain any collections of information that require Office of Management and Budget (OMB) approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An information collection related to the rule pertaining to permits for endangered and threatened species has OMB approval and is assigned clearance number 1018–0094. This rule does not alter that information collection requirement. For additional information concerning permits and associated requirements for endangered plant species, see 50 CFR 17.62 and 17.63.

References Cited

Armstrong V. and K.T. Harper. 1991. *Astragalus holmgreniorum* and *Astragalus ampullarioides* status report. Unpublished report on file with the Bureau of Land Management, Salt Lake City, Utah. 13 pp + appendices.

Barneby, R.C. 1980. Dragma Hippomanicum V: Two New Astragali from the Intermountain United States. Brittonia 32:24–29.

Barneby, R.C. 1989. in A. Cronquist, A.H. Holmgren, N.H., Holmgren, J.L. Reveal, and P.K. Holmgren, eds. Intermountain Flora, Vol. 3, Part B. Fabales. Columbia University Press, New York. 279 pp.

Bureau of Land Management. 1998. Dixie Resource Area Proposed Management Plan and Final Environmental Impact Statement. Salt Lake City, Utah. 248 pp + appendices.

Harper, K.T. 1997. Status of Knowledge of *Astragalus holmgreniorum* and *Astragalus eremiticus* var. *ampullarioides.* Sego Lily 20(2), News Letter of the Utah Native Plant Society. 5 pp.

Harper, K. and R. VanBuren. 1998. Field Report—1996, Rare Loco Weeds of Washington County, Utah. Unpublished report on file with the Bureau of Land Management, Salt Lake City, Utah. 32 pp.

Rosenberg Associates. 1999. Coral Canyon Land Use Master Plan. St. George, Utah. 1 map.

Stubben, C. 1997. Habitat Characteristics of *Astragalus holmgreniorum* Barneby and Genetic Variation Among Two Rare Milkvetches in Southwestern Utah. Master of Science Thesis, Brigham Young University, Provo, Utah. 59 pp.

Utah Natural Heritage Program. October, 1999. Element Occurrence Database. Utah Division of Wildlife Resource, Salt Lake City, Utah.

Van Buren, R. 1992. Astragalus Species, Field Report 1992. Unpublished report on file with the Bureau of Land Management, Salt Lake City, Utah. 11 pp + appendix.

Van Buren, R. 1999. 1998 Final Report Monitoring Astragalus ampullarioides and Astragalus holmgreniorum. Unpublished report on file with the Bureau of Land Management, Richfield, Utah. 17 pp + appendix.

Welsh, S.L. 1986. New Taxa in Miscellaneous Families from Utah. Great Basin Naturalist. Brigham Young University, Provo, Utah. 46:261–264.

Welsh S.L. 1998. Astragalus (Leguninosae): Nomenclatural Proposals and New Taxa. Great Basin Naturalist. Brigham Young University, Provo, Utah. 58:45–53.

Welsh S.L., N.D. Atwood, L.C. Higgins, and S. Goodrich. 1987. A Utah Flora. Great Basin Naturalist Memoirs. Brigham Young University, Provo, Utah. No. 9. 1–897.

Author

The primary author of this proposed rule is John L. England, U.S. Fish and Wildlife Service, Utah Ecological Services Field Office, Salt Lake City, Utah (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

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

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1561–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

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

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*		*
Astragalus ampullarioides.	Shivwits milk-vetch	U.S.A. (UT)	Fabaceae	E	....	NA	NA
Astragalus holmgreniorum.	Holmgren milk-vetch	U.S.A. (AZ, UT)	Fabaceae	E	....	NA	NA
*	*	*	*	*	*		*

Dated: March 29, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–9070 Filed 4–11–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 112399D]

Fisheries Off West Coast States and in the Western Pacific; Petition for Rulemaking on the Prohibition of Shark Finning and Related Measures

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

ACTION: Notice of receipt of petition for rulemaking; request for comments.

SUMMARY: NMFS announces receipt of, and requests public comment on, a petition for rulemaking. The Western Pacific Fisheries Coalition (Petitioner), consisting of the Hawaii Fishermen's Foundation and Hawaii Audubon Society, has petitioned the Secretary of Commerce (Secretary) to prohibit shark finning (i.e., removal of only the fins and returning the remainder of the shark to the sea), and implement measures to require full utilization of sharks harvested in fisheries conducted under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP).

DATES: Comments on the petition must be received by NMFS no later than May 12, 2000.

ADDRESSES: Written comments should be sent to, and copies of the petition are available from, Dr. Charles Karnella, Administrator, Pacific Islands Area Office, NMFS, 1601 Kapiolani Blvd., Rm 110, Honolulu, HI 96814. Please mark the outside of the envelope ''Shark Petition.'' Comments also may be sent via facsimile (fax) to 808-973-2941. Comments submitted via e-mail or Internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, 808-973-2935 ext. 207, fax 808-973-2941, e-mail *alvin.katekaru@noaa.gov*

SUPPLEMENTARY INFORMATION: The fishery affected by this petition for rulemaking is primarily the Hawaii-based longline fishery, which is managed according to the FMP developed by the Western Pacific Regional Fishery Management Council (Council). The Secretary has management authority, under the Magnuson-Stevens Fishery Conservation and Management Act, over the shark resources in the U.S. Exclusive Economic Zone of the western Pacific region.

The purpose of the petition is to facilitate maximum utilization of sharks harvested in the western Pacific, particularly in the Hawaii longline fishery. The Petitioner maintains that the continued unrestricted practice of shark finning in the fishery is wasteful and could lead to overexploitation of certain vulnerable shark species that are managed under the FMP. A prohibition on shark finning would be consistent with the United Nations Food and Agriculture Organization's International Plan of Action for the Conservation and Management of Sharks.

The Petitioner requests the Secretary to amend the FMP and to promulgate regulations for the western Pacific region that would govern the possession at-sea and landing of sharks, as well as implement restrictions on the sale/purchase of sharks, similar to those contained in the regulations implementing the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (50 CFR 635.30(c); 64 FR 29090, May 28, 1999). Such regulations would be precautionary and would likely reduce the harvest of Pacific shark stocks, including the relatively abundant blue shark.

NMFS requests comments on the petition for rulemaking. NMFS recognizes that shark fin transshipments and importation of processed shark fins into the United States are closely related to the conservation and management issues raised in this petition. In addition to comments on the petition for rulemaking, NMFS requests public comment addressing the practice of shark finning as it relates to transshipments and importation of processed fins. NMFS will consider this information in determining whether to proceed with the development of regulations requested by the Petitioner.

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

Dated: April 7, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–9071 Filed 4–7–00; 3:54 pm]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 65, No. 71

Wednesday, April 12, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Little Bear-Wilson Timber Sale, Gallatin National Forest, Gallatin County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service intends to prepare an environmental impact statement to document the analysis and disclose the environmental impacts of a proposed action to manipulate forest vegetation on about 500 acres. This area lies about 13 miles south of Bozeman, Montana.

The proposed action would harvest timber on about 500 acres. The purpose of this timber harvest is to provide revenue to facilitate the funding of land exchanges as directed in the Gallatin Land Consolidation Act of 1998 (PL 105–267). Approximately 2.5 miles of temporary roads will be constructed to facilitate removal of wood products. These temporary roads will be obliterated following post-harvest activities. Approximately 3.8 miles of existing road will be reconstructed. As estimated 50 to 100 miles of existing road will be closed to use by passenger vehicle (highway vehicles greater than 50 inches wide). Watershed restoration treatments would depend on the individual road conditions but could include road closures by using gates, berms or other barriers; installing water bars, removing culverts, ripping/seeding/slashing, and in a few segments, recontouring. Some roads may be converted to trails. All main roads which have been historically open to the public, such as Little Bear road, would remain open to motorized use. Where consistent with the purpose of providing land exchange revenues, treatments to improve the visual quality altered by past clearcutting will be used.

DATES: Initial comments concerning the scope of the analysis should be received in writing no later than May 12, 2000.

ADDRESSES: Send written comments to Jan Lerum, District Ranger, 3710 Fallon Street, Suite C, Bozeman, MT 59718. The responsible official is David P. Garber, Forest Supervisor, Gallatin National Forest.

FOR FURTHER INFORMATION CONTACT: Marsha Hollander, Project Leader, Bozeman Ranger District, at (406) 522–2558.

SUPPLEMENTARY INFORMATION: No clearcutting or permanent road construction is proposed. About 257 acres to be harvested in which 85% of the mature trees are cut and 15% left. About 156 acres to be harvested in which 60% of the mature trees are cut and 40% left. About 59 acres to be harvested in which 50% of the mature trees are cut and 50% left. About 28 acres to be harvested in which 90% of the mature trees are cut and 10% left. Site-specific, forest plan amendments may be proposed for visual quality, road Density and vegetation structural diversity standards.

The project area is located in the Little Bear, Big Bear, Wilson, and Jack Creek drainages (specifically, T3S, R5E, Section 32; T4S, R4E, Sections 12, 16 and 24; and T4S, R5E, sections 4, 8, 14, 16, 18, 19 and 22, PMM). The scope of this proposal is limited to timber harvest, post harvest regeneration treatments, area improvements, road restoration and related mitigation requirements within the project area.

Public participation is important to this analysis. Part of the goal of public involvement is to identify additional issues and to refine the general, tentative issues. A scoping notice describing the project was mailed to those who requested information on timber harvest activities on the Gallatin National forests. The United States Fish and Wildlife Service will be consulted concerning effects to threatened and endangered species.

Preliminary issues identified by Forest Service specialists include effects to water quality, sensitive, threatened, and endangered wildlife species habitat, big game security, sensitive fish species habitat, visual quality, recreational access, old growth forests, and timber sale revenue. The analysis will consider all reasonably foreseeable activities.

People may visit with Forest Service officials at any time during the analysis and prior to the decision. Two periods are specifically designated for comments on the analysis: (1) During the scoping process and (2) during the draft EIS period.

During the scoping process, the Forest Service is seeking information and comments from Federal, State and local agencies and other individuals or organization who may be interested in or affected by the proposed action. The agency invites written comments and suggestions on this action, particularly in terms of identification of issues and alternative development.

The draft EIS should be available for review in August, 2000. The final EIS is scheduled for completion in January, 2001.

The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of the draft environmental impact statement 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. *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338, (E.D. Wis. 1980)* Because of these court rulings, it is 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 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.

The responsible official will make the decision on this proposal after considering comments and responses, environmental consequences discussed in the final EIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Dated: March 24, 2000.

David P. Garber,

Forest Supervisor.

[FR Doc. 00–9015 Filed 4–11–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 of the Department of Commerce (the Department) Regulations (19 CFR 351.213 (1999)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than the last day of April 2000, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in April for the following periods:

	Period
Antidumping Duty Proceedings	
Canada: Sugar and Syrups,* A–122–085	4/1/99–12/31/99
France: Sorbitol, A–427–001	4/1/99–12/31/00
Greece: Electrolytic Manganese Dioxide, A–484–801	4/1/99–12/31/00
Japan: Calcium Hypochlorite*, A–588–401	4/1/99–12/31/99
Japan: Electrolytic Manganese Dioxide*, A–588–806	4/1/99–12/31/00
Japan: 3.5″ Microdisks and Media Thereof*, A–588–802	4/1/99–12/31/99
Kenya: Standard Carnations*, A–779–602	4/1/99–12/31/99
Mexico: Fresh Cut Flowers*, A–201–601	4/1/99–12/31/99
Norway: Fresh and Chilled Atlantic Salmon, A–403–801	4/1/99–12/31/00
Republic of Korea: Color Television Receivers*, A–580–008	4/1/99–12/31/99
Taiwan: Color Television Receivers*, A–583–009	4/1/99–12/31/99
The People's Republic of China: Brake Rotors, A–570–846	4/1/99–12/31/00
Turkey: Certain Steel Concrete Reinforcing Bars, A–489–807	4/1/99–12/31/00
Countervailing Duty Proceedings	
Norway: Fresh and Chilled Atlantic Salmon, C–403–802	4/1/99–12/31/99
Peru: Pompon Chrysanthemums, C–333–601	4/1/99–12/31/99
Suspension Agreements	
None.	

*Order revoked effective 01/01/2000.

In accordance with section 351.213 of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. In recent revisions to its regulations, the Department had changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 771(9) of the Act, an interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a review (Department of Commerce Regulations, 62 FR 27295, 27424 (May 19, 1997)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other supplies) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, Department of Commerce, 14t Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/ Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building, Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administration Review of

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of April 2000. If the Department does not receive, by the last day of April 2,000, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: April 6, 2000.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 00–9107 Filed 4–11–00; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–854]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Tin Mill Products From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 12, 2000.

FOR FURTHER INFORMATION CONTACT: Samantha Denenberg or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–1386 and (202) 482–3833, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce (''Department'') regulations are to the regulations at 19 CFR part 351 (April 1999).

Preliminary Determination

We preliminarily determine that Certain Tin Mill Products (''TMP'') from Japan are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice. For all the following companies, the Department has used adverse facts available for their estimated margin: Nippon Steel Corporation (''NSC''); Kawasaki Steel Corporation (''Kawasaki''); NKK Corporation (''NKK''); and Toyo Kohan (''Toyo''). *See* Case History section.

Case History

On November 17, 1999, the Department initiated an antidumping duty investigation on imports of Certain Tin Mill Products from Japan (Notice of Initiation of Antidumping Investigations: Certain Tin Mill Products from Japan (64 FR 66892 (November 30, 1999)) (''Initiation Notice''). Since the initiation of this investigation the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage (*see* 64 FR 69730 (December 14, 1999)). Throughout the months of January and February, the Department received numerous filings from respondents (*i.e.*, Kawasaki, NKK, NSC) and other interested parties (*i.e.*, H.J. Heinz Co.; Silgan Containers Corp.; ITOCHU International; Maui Pineapple Co., Ltd.; NAPP Systems, Inc.; Reynolds Metals Co.; Fuji Photo Film, Inc.; Mitsui & Co. (U.S.A.), Inc.; Eastman Kodak Co.; and Berlin Metals Inc.). On January 27, 2000 and February 7, 2000, Weirton Steel Corporation, the Independent Steelworkers Union, and the United Steelworkers of America, AFL–CIO (collectively ''petitioners''), submitted comments to the Department requesting that the scope exclude certain TMP from the scope of the investigation. On March 13, 2000, March 31, 2000, and April 3, 2000, petitioners filed letters agreeing to amend the scope of the investigation to exclude various types of tin mill products (*see* Scope Amendment Memorandum from Richard Weible to Joseph A. Spetrini, April 5, 2000).

On December 3, 1999, petitioners submitted a proposal for model match criteria. On December 15, 1999, the Department issued proposed model match criteria to all interested parties. On December 22 and December 29, 1999, NKK and NSC submitted comments on our proposed model matching criteria.

On December 20, 1999, the United States International Trade Commission (''ITC'') notified the Department of its affirmative preliminary injury determination on imports of subject merchandise from Japan. On December 21, 1999, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of the subject merchandise from Japan (64 FR 71497).

On November 30, 1999, the Department issued Section A of its antidumping duty questionnaire to NSC, Kawasaki, NKK, and Toyo. On December 15, 1999, the Department again issued Section A of the antidumping duty questionnaire to Toyo's headquarters in Japan because Toyo no longer had legal representation. On December 14, 1999, the Department received NKK and Kawasaki's responses to Question 1 of Section A. On December 15, 1999, the Department received MITI's response to the Department's request for information on the Japanese producers. On December 15, 1999, NSC informed the Department that it would not be participating in the TMP investigation. On December 21, 1999, Toyo informed the Department that it would not be participating in the TMP investigation.

On January 5, 2000, the Department issued Sections B–E of its antidumping duty questionnaire to Kawasaki and NKK. On January 20, 2000, petitioners filed comments on Kawasaki's section A response. On January 21, 2000, petitioners filed comments on NKK's section A response. On February 11, 2000 both Kawasaki and NKK informed the Department that they would not be participating in the TMP investigation.

Scope of Investigation

The scope of this investigation includes tin mill flat-rolled products that are coated or plated with tin, chromium or chromium oxides. Flat-rolled steel products coated with tin are known as tin plate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, such and scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single- or double-reduced), and whether or not coated with a plastic material.

All products that meet the written physical description are within the scope of this investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

• Single reduced electrolytically chromium coated steel with a thickness 0.238 mm (85 pound base box) (±10%) or 0.251 mm (90 pound base box) (±10%) or 0.255 mm (±10%) with 770 mm (minimum width) (−0/+1.588 mm) by 900 mm (maximum length if sheared) sheet size or 30.6875 inches (minimum width) (−0/+ 1⁄16 inch) and 35.4 inches (maximum length if sheared) sheet size; with type MR or higher (per ASTM) A623 steel chemistry; batch annealed at T2½ anneal temper, with a yield strength of 31 to 42 kpsi (214 to 290 Mpa); with a tensile strength of 43 to 58 kpsi (296 to 400 Mpa); with a chrome coating restricted to 32 to 150 mg/m^2; with a chrome oxide coating restricted to 6 to 25 mg/m^2 with a modified 7B ground roll finish or blasted roll finish; with roughness average (Ra) 0.10 to 0.35 micrometers, measured with a stylus instrument with a stylus radius of 2 to 5 microns, a trace length of 5.6 mm, and a cut-off of 0.8 mm, and the measurement traces shall be made perpendicular to the rolling direction; with an oil level of 0.17 to 0.37 grams/base box as type BSO, or 2.5 to 5.5 mg/m^2 as type DOS, or 3.5 to 6.5 mg/m^2 as type ATBC; with electrical conductivity of static probe voltage drop of 0.46 volts drop maximum, and with electrical conductivity degradation to 0.70 volts drop maximum after stoving (heating to 400 degrees F for 100 minutes followed by a cool to room temperature).

• Single reduced electrolytically chromium or tin-coated steel in the gauges of 0.0040 inch nominal, 0.0045 inch nominal, 0.0050 inch nominal, 0.0061 inch nominal (55 pound base box weight), 0.0066 inch nominal (60 pound base box weight), and 0.0072 inch nominal (65 pound base box weight), regardless of width, temper, finish, coating or other properties.

• Single reduced electrolytically chromium coated steel in the gauge of 0.024 inch, with widths of 27.0 inches or 31.5 inches, and with T–1 temper properties.

• Single reduced electrolytically chromium coated steel, with a chemical composition of 0.005% max carbon, 0.030% max silicon, 0.25% max manganese, 0.025% max phosphorous, 0.025% max sulfur, 0.070% max aluminum, and the balance iron, with a metallic chromium layer of 70–130 mg/m^2, with a chromium oxide layer of 5–30 mg/m^2, with a tensile strength of 260–440 N/mm^2, with an elongation of 28–48%, with a hardness (HR–30T) of 40–58, with a surface roughness of 0.5–1.5 microns Ra, with magnetic properties of Bm (KG) 10.0 minimum, Br (KG) 8.0 minimum, Hc (Oe) 2.5–3.8, and μ 1400 minimum, as measured with a Riken Denshi DC magnetic characteristic measuring machine, Model BHU–60.

• Bright finish tin-coated sheet with a thickness equal to or exceeding 0.0299 inch, coated to thickness of ¾ pound (0.000045 inch) and 1 pound (0.00006 inch).

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS''), under HTSUS subheadings 7210.11.0000, 7210.12.0000, 7210.50.0000, 7212.10.0000, and 7212.50.0000 if of non-alloy steel and under HTSUS subheadings 7225.99.0090, and 7226.99.0000 if of alloy steel. Although the subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The Period of Investigation (''POI'') is October 1, 1998 through September 30, 1999.

Facts Available

Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall use facts otherwise available in reaching the applicable determination.

In this case, NSC and Toyo indicated that they would not participate in the Department's investigation and did not provide the Department with information requested and needed to calculate a dumping margin. Therefore, we determine that NSC and Toyo withheld information requested by the Department. Accordingly, the Department finds it necessary to use the facts otherwise available for these respondents in accordance with section 776(a)(2)(A) of the Act.

With respect to Kawasaki and NKK, both companies responded to Section A of the Department's questionnaire. However, both companies failed to respond to Sections B-C of the Department's questionnaire. On February 11, 2000, Kawasaki and NKK informed the Department that they would not be submitting responses to section B-C of the Department's questionnaire. Therefore, the Department determines that Kawasaki and NKK withheld information requested by the Department. Because the Department is lacking complete information, we find it necessary to use the facts otherwise available for Kawasaki and NKK in accordance with section 776(a)(2)(A) of the Act.

In selecting from among the facts otherwise available, section 776(b) of the Act provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See also* Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103–316, Vol. I, at 870 (1994) (''SAA''). In this case, NSC and Toyo completely failed to respond to the Department's questionnaires notwithstanding warnings under section 782(d) that the information was necessary and that failure to provide it could result in the use of the facts available. Further, the companies indicated that they would not participate in the Department's investigation. Because of the companies' complete lack of participation in this investigation, we find that the companies failed to cooperate to the best of their abilities, and that section 782(e) of the Act does not apply. Accordingly, when selecting among the facts available, we find that the use of an adverse inference is warranted in accordance with section 776(b) of the Act.

With respect to Kawasaki and NKK, while the companies did respond to the Department's section A questionnaires, neither company responded to the Department's Sections B-C questionnaires. In light of these facts, the Department finds that Kawasaki and NKK failed to act to the best of their abilities to comply with the Department's requests for information under section 776(b) of the Act. Because of this finding, section 782(e) of the Act is not applicable. Thus, the Department has determined that, in selecting among the facts otherwise available, an adverse inference is warranted for these companies as well.

Section 776(b) states that an adverse inference may include reliance on information derived from the petition or any other information placed on the record. *See also* SAA at 829-831. As adverse facts available, the Department is assigning to NSC, Kawasaki, NKK, and Toyo a dumping margin of 95.29 percent, which was calculated from petition information placed on the record by petitioners on October 28, 1999 and November 8, 1999, and represents the highest petition margin.

As explained in detail in the ''Corroboration'' section below, we are using this information because it represents the best price-to-price comparison on the record. Further, the Department determines that use of this margin accomplishes the statute's aim of encouraging participation. As the SAA provides, where a party has not cooperated in a proceeding:

Commerce * * * may employ adverse inferences about the missing information to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully. In employing adverse inferences, one factor the agencies will consider is the extent to which a party may benefit from its own lack of cooperation. SAA at 870.

Section 776(c) of the Act provides that, when the Department relies on secondary information (which includes information from the petition) in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.

The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See* SAA at 870.

We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose. *See* Import Administration Antidumping Duty (''AD'') Investigation Initiation Checklist (November 17, 1999), for a discussion of the margin calculations in the petition. In addition, in order to determine the probative value of the margins in the petition in accordance with section 776(c) of the Act, we examined the key elements of the export price (''EP'') and normal value (''NV'') calculations on which the margins in the petition were based. Petitioners constructed normal values based on the average prices of tin mill products sold in Japan by NSC to large end users during June 1999. Petitioners determined that, because NSC is the largest producer of the subject merchandise in the Japanese market, NSC's prices would be representative of the normal value in the Japanese tin mill market. The Japanese home market prices for five sample models of tin plate products and thirteen sample models of tin free steel were obtained by foreign market research consultants in Japan. The prices used in the calculation of NV were delivered, VAT exclusive prices. Petitioners derived NV by deducting a commission from the delivered price, which represents payment made to large trading companies. Petitioners also deducted expenses for freight, handling, and other movement related expenses such as storage during transportation and tolls. For the calculation of dumping margins, petitioners compared the average unit value for all five sample sales of tin plate to the average customs value for the corresponding HTSUS item for the month of June 1999, and the average unit value for all thirteen sample sales of tin free steel to the average customs value for the corresponding HTSUS item for the month of June 1999.

The estimated dumping margins in the petition were based on a comparison between NSC's home market prices and U.S. prices derived from IM–145 statistics. The Department determined the adequacy and accuracy of the information from which the petition margins were calculated by reviewing all of the data presented and by requesting clarification and confirmation from petitioners and their sources as needed (*see* Petition on Certain Tin Mill Products from Japan: Deficiency Questionnaire, November 3, 1999). As the EP values were derived by using IM–145 statistics, the Department notes that no further corroboration is necessary because the source is official U.S. import statistics (*see* Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails from the People's Republic of China, 62 FR 51410, 51412 (October 1, 1997)). Our review of the EP and NV calculations indicated that the information in the petition has probative value, as relevant information included in the margin calculations in the petition are from public sources concurrent with the POI (*e.g.,* IM–145 statistics and interest rates).

All Others

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign as the ''all others'' rate the simple average of the margins in the petition. *See* Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Canada, 64 FR 15457 (March 31, 1999); Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Italy, 64 FR 15458, 15459 (March 21, 1999).

We are basing the ''all others'' rate on the simple average of margins in the petition, including information placed on the record by petitioners on November 8, 1999, which is 32.52 percent (*see* Memorandum of Analysis for the Preliminary Results of the Antidumping Duty Investigation of Certain Tin Mill Products from Japan, April 5, 2000).

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The dumping margins are as follows:

	Margin (Percent)
Exporter/Manufacturer:	
Kawasaki Steel Corporation	95.29
Nippon Steel Corporation	95.29
NKK Corporation	95.29
Toyo Kohan	95.29
All Others	32.52

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination, or 45 days after our final determination, whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than thirty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than thirty-five days after publication of this notice. A list of authorities used and an executive summary of issues should accompany

any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held thirty-seven days after publication of this notice, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination no later than 75 days after this preliminary determination.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: April 5, 2000.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–9106 Filed 4–11–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–428–817]

Certain Cut-to-Length Carbon Steel Plate From Germany: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 12, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Copyak at (202) 482–2209, Import Administration, International Trade Administration, 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 make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time period for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On November 4, 1998, the Department published a notice of initiation of administrative review of the countervailing duty order on certain cut-to-length carbon steel plate from Germany, covering the period January 1, 1997, through December 31, 1997 (64 FR 60161). As of October 29, 1998, the Department had deferred that administrative review for one year (63 FR 58009). On October 1, 1999, the Department published a notice of initiation of administrative review of the countervailing duty order on certain cut-to-length carbon steel plate from Germany, covering the period January 1, 1998, through December 31, 1998 (64 FR 53318). The preliminary results of these two administrative reviews are currently due no later than May 2, 2000.

Extension of the Time Limit for Preliminary Results

We determine that it is not practicable to complete the preliminary results of these reviews within the original time limit. Therefore, the Department is extending the time limit for completion of the preliminary results until no later than August 30, 2000. See Memorandum from John Brinkman, Acting Director, AD/CVD Enforcement Office VI, to Holly A. Kuga, Acting Deputy Assistant Secretary for Import Administration, Group II, dated March 31, 2000, which is on file in the Central Records Unit, Room B–099 of the main Commerce building. We intend to issue the final results no later than 120 days after publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: April 4, 2000.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 00–9105 Filed 4–11–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Advanced Technology Program

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork respondent burden, invites the general public and other Federal agencies to comment on the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 12, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Clearance Officer, Department of Commerce, Room 5033, 14th and Constitution Avenue, N.W., Washington, D.C. 20230 or via the Internet (LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Barbara Lambis, Senior Policy and Operations Advisor, Advanced Technology Program, National Institute of Standards and Technology, 100 Bureau Drive, Stop 4700, Room 333, Administration Building, Gaithersburg, MD 20899–4700 or via the Internet (Barbara.Lambis@nist.gov).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Advanced Technology Program (ATP) is administered by the National Institute of Standards and Technology (NIST). ATP is a competitive, cost-sharing program designed for the federal government to work in partnership with industry to foster the development and broad dissemination of challenging, high-risk technologies that offer the potential for significant, broad-based economic benefits for the nation. This program provides multi-year funding through the use of cooperative agreements to single companies and to industry-led joint ventures. To receive ATP financial assistance, ATP solicits proposals from U.S. businesses and industry-led joint ventures consisting of U.S. businesses, universities, governmental laboratories, and non-profit independent research organizations. The information provided through the proposal process is used to make funding decisions, and once funded, reports are required to monitor the progress of projects. Awardees may also be requested to participate in special economic studies.

II. Method of Collection

The proposal information is submitted in writing. The monitoring/case studies' reports are provided by various means, including in writing, orally (by telephone and during site visits), and electronically.

III. Data

OMB Number: 0693–0009.

Agency Form Number(s): NIST 1262 and NIST–1263.

Type of Review: Revision and extension for a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 925 annually.

Estimated Time Per Response: 20–30 hours for proposals and 1–3 hours for monitoring/case studies' reports.

Estimated Total Annual Burden Hours: 16,275.

Estimated Total Annual Cost: $0 (no capital expenditures required).

IV. Request for Comments

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 (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: April 5, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–9053 Filed 4–11–00; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Submission For OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Standards and Technology (NIST).

Title: User Evaluation of DARPA Communicator Systems.

Form Number(s): None.

OMB Approval Number: None.

Type of Request: New collection.

Burden Hours: 120.

Number of Respondents: 160.

Average Hours Per Response: 5 minutes.

Needs and Uses: The Defense Advanced Research Projects Agency (DARPA) has provided funds to NIST to evaluate the DARPA Communicator implementations that have been built by research groups also funded by DARPA for that purpose. The evaluation is user-based and the users are paid research subjects. The subjects will fill out a user questionnaire that is intended to assess their user-satisfaction and subjective opinion about various aspects of each system that are being objectively measured. The information collected is intended to achieve three goals: (1) help implementors of Communicator programs to identify the successes and weaknesses of their implementations; (2) enable the research sponsor (DARPA) to identify and measure progress in order to assess the success of the program; and (3) advance the state of research knowledge about metrics and evaluation of task-based spoken dialogue systems.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at lengelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: April 6, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–9054 Filed 4–11–00; 8:45 am]

BILLING CODE 3510–13–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Nepal

March 31, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 6, 2000.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, special shift and carryover.

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 64 FR 71982, published on December 22, 1999). Also see 64 FR 54871, published on October 8, 1999.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 31, 2000.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 4, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Nepal and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on April 6, 2000, you are directed to adjust the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and Nepal:

Category	Adjusted twelve-month limit [1]
336/636	334,217 dozen.
340	478,914 dozen.
342/642	291,570 dozen.
347/348	907,501 dozen.
640	115,279 dozen.
641	247,762 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–9043 Filed 4–11–00; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Petition HP 00–3 Requesting a Ban of Candle Wicks Containing Lead and of Candles Containing Such Wicks

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Commission has received two submissions, one from Public Citizen and one jointly from the National Apartment Association (NAA) and the National Multi Housing Council (NMHC), that contain requests that the Commission ban lead-containing candles and wicks sold for candle-making that contain lead. These requests have been docketed collectively as a petition under the Federal Hazardous Substances Act (FHSA) (Petition No. HP 00–3). The Commission solicits written comments concerning the petition from all interested parties.

DATES: Comments on the petition should be received in the Office of the Secretary by June 12, 2000.

ADDRESSES: Comments on the petition should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0800, or delivered to the Office of the Secretary, Consumer Product Safety Commission, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''Petition HP 00–3—Candle Wicks Containing Lead.'' Copies of the petition are available by writing or calling the Office of the Secretary.

FOR FURTHER INFORMATION CONTACT: Rockelle Hammond, Docket Control and Communications Specialist, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0800 ext. 1502.

SUPPLEMENTAL INFORMATION: The Commission has received two submissions, one from Public Citizen and one jointly from the National Apartment Association (NAA) and the National Multi Housing Council (NMHC), that request the Commission to ban lead-containing candles and wicks sold for candle-making that contain lead. These have been docketed collectively as a petition under the Federal Hazardous Substances Act (FHSA) (Petition No. HP 00–3). The submissions argue that the lead in candle wicks produces hazardous combustion materials when the candles are used, creating a lead poisoning hazard for occupants, particularly children.

Public Citizen's submission also asked that the Commission recall such products. This request has not been docketed as part of the petition because this action does not require rulemaking. (This request will be considered separately by the Office of Compliance.) In addition, Public Citizen's submission asked that the Commission ban candles in metal containers that contain lead. This request has not been docketed as part of the petition because the submission did not provide facts to explain why such action is necessary, as required by the Commission's rules for petitions, 16 CFR 1051.5(a)(4).

The Commission solicits comments on the petition, particularly regarding the potential costs and benefits of the requested rule.

Comments to CPSC should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland; telephone (301) 504–0800. Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''Petition HP 00–3—Candle Wicks Containing Lead.''

Interested parties may obtain a copy of the petition from the CPSC's website at http://www.cpsc.gov or by writing or calling the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0800. A copy of the petition is available for inspection from 8:30 a.m. to 5 p.m., Monday through Friday, in the Commission's Public Reading Room, room 501, 4330 East-West Highway, Bethesda, Maryland 20814.

Dated: April 5, 2000.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 00–9013 Filed 4–11–00; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Commission Agenda and Priorities/ Government Performance and Results Act (GPRA); Public Hearing

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public hearing.

SUMMARY: The Commission will conduct a public hearing to receive views from all interested parties about its agenda and priorities for Commission attention during fiscal year 2002, which begins October 1, 2001, and about its current strategic plan, to be revised and submitted to Congress September 30, 2000, pursuant to the Government Performance and Results Act (GPRA). Participation by members of the public is invited. Written comments and oral presentations concerning the Commission's agenda and priorities for fiscal year 2002, and strategic plan will become part of the public record.

DATES: The hearing will begin at 10 a.m. on May 22, 2000. The Office of the Secretary must receive written comments and requests from members of the public desiring to make oral presentations not later than May 8, 2000. Persons desiring to make oral presentations at this hearing must submit a written text of their presentations not later than May 15, 2000.

ADDRESSES: The hearing will be in room 420 of the East-West Towers Building, 4330 East-West Highway, Bethesda, Maryland 20814. Written comments, requests to make oral presentations, and texts of oral presentations should be captioned ''Agenda, Priorities and Strategic Plan'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Comments, requests, and texts of oral presentations may also be filed by telefacsimile to (301) 504–0127 or by e-mail to cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the hearing, a copy of the strategic plan, or to request an opportunity to make an oral presentation, call or write Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0800; telefacsimile (301) 504–0127; or by e-mail to cpsc-os@cpsc.gov. The strategic plan can also be obtained from the CPSC website at www.cpsc.gov.

SUPPLEMENTARY INFORMATION: Section 4(j) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2053(j)) requires the Commission to establish an agenda for action under the laws it administers, and, to the extent feasible, to select priorities for action at least 30 days before the beginning of each fiscal year. Section 4(j) of the CPSA provides further that before establishing its agenda and priorities, the Commission shall conduct a public hearing and provide an opportunity for the submission of comments. In addition, section 306(d) of the Government Performance and Results Act (GPRA) (5 U.S.C. 306(d)) requires the Commission to seek comments from interested parties on the agency's strategic plan. The plan provides an overall guide to the formulation of future agency actions and budget requests. A revised strategic plan will be submitted to the Office of Management and Budget and Congress not later than September 30, 2000.

The Office of Management and Budget requires all Federal agencies to submit their budget requests 13 months before the beginning of each fiscal year. The Commission is formulating its budget request for fiscal year 2002, which begins on October 1, 2001. This budget request must reflect the contents of the agency's strategic plan developed under GPRA.

Accordingly, the Commission will conduct a public hearing on May 22, 2000, to receive comments from the public concerning its GPRA strategic plan, and agenda and priorities for fiscal year 2002. The Commissioners desire to obtain the views of a wide range of interested persons including consumers; manufacturers, importers, distributors, and retailers of consumer products; members of the academic community; consumer advocates; and health and safety officers of state and local governments.

The Commission is charged by Congress with protecting the public from unreasonable risks of injury associated with consumer products. The Commission enforces and administers the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*); the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*); the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*); the Poison Prevention Packaging Act (15 U.S.C. 1471 *et seq.*); and the Refrigerator Safety Act (15 U.S.C. 1211 *et seq.*). Standards and regulations issued under provisions of those statutes are codified in the Code of Federal Regulations, title 16, chapter II.

While the Commission has broad jurisdiction over products used by consumers, its staff and budget are limited. Section 4(j) of the CPSA expresses Congressional direction to the Commission to establish an agenda for action each fiscal year and, if feasible, to select from that agenda some of those projects for priority attention. These priorities are reflected in the current strategic plan developed under GPRA.

Persons who desire to make oral presentations at the hearing on May 22, 2000, should call or write Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0800, telefax (301) 504–0127, or e-mail, cpsc-os@cpsc.gov, no later than May 8, 2000. Persons who desire a copy of the current strategic plan may call or write Rockelle Hammond, office of the Secretary, CPSC, Washington DC 20207, telephone (301) 504–0800, (301) 504–0127, or may obtain it from the Commission's website at www.cpsc.gov.

Presentations should be limited to approximately ten minutes. Persons desiring to make presentations must submit the written text of their presentations to the Office of the Secretary not later than May 15, 2000. The Commission reserves the right to impose further time limitations on all presentations and further restrictions to avoid duplication of presentations. The hearing will begin at 10 a.m. on May 22, 2000 and will conclude the same day.

The Office of the Secretary should receive written comments on the Commission's strategic plan, and agenda and priorities for fiscal year 2002, not later than May 8, 2000.

Dated: April 5, 2000.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 00–9012 Filed 4–11–00; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Department of Defense, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics)/Office of the Director, International Cooperation.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Director, International Cooperation, announces the proposed extension of a public 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 through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 12, 2000.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Director, International Cooperation, Attention: Mr. Roger Golden, 3070 Defense Pentagon, Washington, DC 20301–3070.

FOR FURTHER INFORMATION CONTACT: To request further information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Mr. Roger Golden, Office of the Director, International Cooperation, (703) 695–0271.

Title, Associated Form, and OMB Number: Defense Export Loan Guarantee (DELG) Application, DD Form 2747, OMB Control Number 0704–0391.

Needs and Uses: The collection of information is necessary to review and process applications for loan guarantees issued under 10 U.S.C. 2540 for defense exports.

Affected Public: Businesses or other for profit, Small businesses or organizations.

Annual Burden Hours: 20.

Number of Respondents: 20.

Responses to Respondent: 1.

Average Burden per Response: 1 Hour.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are defense suppliers or exporters, lenders or nations, who are requesting a DoD guarantee of a private sector loan in support of the sale or long term lease, to certain eligible countries, of U.S. defense articles, services or design and construction services. The completed form will enable the department to determine whether the proposed transaction meets statutory guidance for program implementation.

Dated: April 6, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 00–9062 Filed 4–11–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

New Challenge Program

AGENCY: Department of Defense (DoD).

ACTION: Notice.

SUMMARY: Section 812 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106–65) requires DoD to implement ‘‘a plan to provide for increased innovative technology for acquisition programs of the Department of Defense from commercial private sector entities, including small-business concerns.’’ To accomplish this, DoD will implement at new ‘‘Challenge’’ program on a pilot basis in at least 20 Acquisition Category 1 or 2 programs, starting in fiscal year 2001. A full description of the new program is discussed under Supplementary Information. DoD seeks comments on the program, particularly on such issues as: (i) Program implementation during the pilot period; (ii) criteria for evaluating the pilot program; and (iii) consideration in deciding whether and how to continue the program after the pilot period.

DATES: Comments are due no later than May 12, 2000.

FOR FURTHER INFORMATION CONTACT: Jon Baron, OUSD(AT&L)/SADBU, 1777 North Kent Street, Suite 9100, Arlington, VA 22209; telephone (703) 588–8636; facsimile (703) 588–7561; email baronj@acq.osd.mil.

SUPPLEMENTARY INFORMATION: The Under Secretary of Defense for Acquisition, Technology, and Logistics has approved the recommendation of an Integrated Product Team that DoD implement a new ‘‘Challenge’’ program on a pilot basis in at least 20 Acquisition Category (ACAT) 1 or 2 programs. A summary of the Team's main findings; the provision it has developed for inclusion in the solicitations of participating acquisition programs; and the procedures for acquisition program office implementation of the Challenge program follow.

The Under Secretary of Defense for Acquisition, Technology, and Logistics will request that each Military Department nominate for participation in the pilot (i) by June 1, 2000, at least four ACAT 1 or 2 programs that will initiate a contracting action for a new phase of the program in FY 2001; and (ii) by June 1, 2001, at least 3 other ACAT 1 or 2 programs that will initiate a contracting action for a new phase of the program in FY 2002. The Military Departments will be asked to include among their nominations competitive and sole-source development programs and production programs (especially production programs involving significant modifications) and, if desired, a maintenance program. In order to facilitate a systematic evaluation of the pilot effort, the Military Departments will be asked to identify, for each nominated program, an acquisition program of similar size, scope, and phase of acquisition to participate in a control group.

The Under Secretary of Defense for Acquisition, Technology, and Logistics asked the Director of the Office of Small and Disadvantaged Business Utilization (SADBU) to coordinate this initiative and report on its implementation on a semi-annual basis. The Military Departments will be asked to provide their Department's nominated programs to Jon Baron (tel. 703/588–8636; fax 703/588–7561; email baronj@acq.osd.mil) by the designated dates. For each nominee, the Military Departments will be asked to identify both the acquisition program manager and a point of contact in the responsible Program Executive Office.

In addition, the Under Secretary of Defense for Acquisition, Technology, and Logistics asked the Director, SADBU, in consultation with the Military Departments, to develop metrics of the effectiveness of the pilot program and to arrange for an independent evaluation of the program. The evaluation should include a preliminary report by May 1, 2002 addressing (i) whether the program appears to be accomplishing its goals, and (ii) whether and how the program should be continued after the pilot period.

Summary of the Team's Main Findings and Goals

Main findings: After the competition in an acquisition program has ended and a prime contractor is selected for contract award, that prime contractor generally faces little competitive pressure to bring innovative new technologies from commercial firms into the program.

Indeed, the Team found that, in some cases, the prime contractors resist the adoption of outside technologies or seek to bring subsystem work-in-house, even when there are more capable and innovative sources outside the firm. This finding is consistent with the results of a 1997 Defense Science Board study, which found that DoD's vertically-integrated prime contractors have economic incentives to use in-house suppliers in ways that are at odds with DoD's interest in fostering competition and innovation at the subsystem level.

In this respect, defense procurement markets differ significantly from competitive commercial markets, where there are competitive pressures to bring innovative new technologies into a program throughout development and production, and to outsource when stronger capabilities exist outside the firm.

Based on its findings, the Team developed a set of recommendations designed to:

(i) Foster competition among alternative technological approaches and suppliers wherever possible in the development of subsystems of DoD acquisition programs. The rationale is that such competition is needed to create the incentives for the development and rapid insertion into acquisition programs of technological innovations developed by commercial firms, including small technology companies.

(ii) Create other incentives and opportunities for insertion of new technology during the course of an acquisition program (*e.g.,* technology upgrade cycles).

The Team recommended a provision to be inserted into the solicitations of DoD acquisition programs and a set of procedures for acquisition program office implementation of the Challenge program.

Provision To Be Inserted Into the Solicitations of Acquisition Programs

I. This Acquisition Program Is Participating in the New ''Challenge'' Program, Based on Section 812 of Public Law 106–65

The Challenge program, as approved for implementation by the Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)), is designed to:

(A) Foster competition among alternative technological approaches and suppliers wherever possible in the development of subsystems of DoD acquisition programs. The rationale is that such competition is needed to create the incentives for the development and rapid insertion into acquisition programs of technological innovations developed by commercial firms, including small technology companies. These innovations are essential to reducing the cost and improving the performance of acquisition programs.

(B) Create other incentives and opportunities for insertion of new technology throughout the acquisition cycle.

II. As Part of the Challenge Program, Your Firm Is Required To Submit a Brief Innovative Technology Insertion Plan as Part of Its Proposal (No More Than Five Pages in Length)

In the Insertion Plan, please describe how your firm plans to implement the following practices, which are encouraged to foster subtier competition and technology insertion from commercial firms:

(A) *Competitive sourcing of subsystem development and production.* Please list the 10 subsystems involving the largest expenditure of federal funds under this contract, and also any other subsystems that offer significant opportunities for technology insertion. (Please show the expected federal funding associated with each listed subsystem.) Indicate:

(a) Which of these subsystems your firm will award to another firm (unaffiliated with your firm) that has already been selected through a competitive process; and

(b) Which of these subsystems your firm will award to a source that will be selected in the future through a competitive process.

(B) *Adaptability of the acquisition program and its subsystems, through such features as open-system architecture, to enable a wide array of competing approaches to the subsystems' design and production.* Please describe the adaptability of the acquisition program and the proposed subsystems listed in (A).

(C) *Technology upgrade cycles, to foster the insertion of new cost-saving and performance-enhancing technologies into the acquisition program and its subsystems through the course of the contract.* For the acquisition program and the subsystems listed in (A), please describe (i) the features that will be subject to technology upgrade cycles, and (ii) the nature of those cycles and the extent to which they will involve competitive sourcing.

(D) Subcontracting of the RDT&E effort to small technology companies, which are a particularly potent source of innovation and effective vehicle for technology insertion. Please indicate the total amount of RDT&E funding provided under the contract that your firm plans to outsource to small businesses, as defined in 13 CFR 121.702 to include firms which employ not more than 500 employees, including affiliates, and which are at least 51 percent owned and controlled by U.S. citizens or permanent resident aliens.

Please also identify incentives that your firm would like to be included in the contract to facilitate successful implementation of the Insertion Plan, including (i) an award fee, or an award-fee bonus, that is based on your firm's progress in successfully implementing the Insertion Plan; and/or (ii) (for production or maintenance contracts:) opportunities for your firm to share significantly in the cost savings and performance benefits resulting from the technology insertion, through such mechanisms as Value Engineering Change Proposals. Where appropriate, identify the technologies or subsystems to which these incentives might be applied.

III. If Your Firm's Proposal Is Selected for Contract Award, Its Insertion Plan Will Be Included as a Requirement in the Contract. The Contract Will Also Provide That

(A) Your firm establish a comparable Challenge program and process in awarding subcontracts for the major subsystems (i.e., those expected to involve an expenditure for RDT&E of more than $25 million, or for procurement of more than $75 million under this contract).

(B) Your firm's Insertion plan, and the Insertion Plan of your firm's major subsystem suppliers, be publicly released on the USD(AT&L) web site, so that potential offerors are made aware of the competitive opportunities that are available.

(C) Your firm receive significant incentives for successful implementation of its Insertion Plan, as described in the last paragraph of Section II.

(D) Your firm provide written notification to the acquisition program office, with a copy to the Office of the USD(AT&L) (attn: *baronj@acq.osd.mil*), before undertaking actions including the following that may be incompatible with the Insertion Plan in the contract:

(a) Your firm proposes not to competitive source a subsysten or upgrade designated for competitive sourcing in its Insertion Plan, and instead to use in-house source;

(b) Your firm's competitive sourcing results in the proposed selection of an in-house supplier; or

(c) Your firm proposes to reduce the amount of RDT&E funds designated in the Insertion Plan for outsourcing to small technology companies. Such proposed actions may not be undertaken without government approval.

(E) Your firm submit a brief annual report (no more than five pages) on its progress in implementing the Insertion Plan to both the acquisition program office and the Office of the USD(AT&L)(attn: *baronj@acq.osd.mil*), for inclusion in the Challenge program's report to the USD(AT&L).

Procedures for Acquisition Program Office Implementation of the Challenge Program

(A) Please include the provision above (or a reasonable variation containing its main elements) in your Office's program solicitation to potential offerors.

(B) *In competitive acquisitions,* include the quality of the Innovative Technology Insertion Plan as a significant source selection criterion, with the specific weighting to be determined by the contracting officer in conjunction with the source selection authority.

In sole-source acquisitions, the Insertion Plan of the offeror is subject to an independent review before contract award by a panel appointed by the Program Executive Officer (or equivalent individual) under whom this acquisition program falls, who is encouraged to include significant participation from individuals outside the acquisition program office. The review panel will—

(a) Where feasible, use the Insertion Plans developed in other, competitive acquisitions as a benchmark for assessing the sole-source offeror's Innovation Plan; and

(b) Provide specific recommendations to the acquisiton program manager and the contracting officer on whether and how the offeror's Insertion Plan should be improved before it is included in the contract.

The reviewers' recommendations and the extent to which they are implemented in the contract, will be included in the Challenge program's report to the USD(AT&L).

(C) For the firm that is selected for contract award, include as requirements of the contact (i) the firm's Innovative Technology Insertion Plan, and (ii) the items listed in Section III of the solicitation provision above. The acquisition program office is particularly encouraged to work with the contractor to include in the contract significant positive incentives for successful implementation of the Insertion Plan, as discussed in Section III (C) of the solicitation provision.

(D) If, after contract award, the contractor proposes, through written notification (per Section III (D) of the solicitation provision), to undertake actions that may be incompatible with its Insertion Plan, such actions are subject to government review and approval through the following process.

(a) The acquisition program office, after consultation with the Office of the USD(AT&L) (POC: Jon Baron,OUSD(AT&L)/SADBU, tel. 703/588–8636, fax 703/588–7561, email baronj@acq.osd.mil), will make an initial determination of whether the proposed action potentially represents a non-trivial deviation from the letter or intent of the Insertion Plan contract.

(b) If such a determination is made, the proposed action will be subject to an independent review by a panel (i) appointed by the Program Executive Officer (or equivalent individual) under whom this acquisition program falls, and (ii) consisting of individuals outside the acquisition program office. The contractor will be asked to show that conditions have significantly changed since the contract was awarded, such that there are substantial and compelling reasons why the potential supplier base cannot now adequately meet the requirement. The contractor's proposed action and rationale will be publicly released for comment by potential suppliers and others. Based on such inputs and the criterion described above, the reviewers will make a formal recommendation to the acquisition program manager and the contracting officer on whether to approve or disapprove the proposed action. The reviewers' recommendation, and the contracting officer's resulting action, will be included in the Challenge program's report to the USD(AT&L).

Dated: April 4, 2000.

Patricia L. Toppings.

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–9061 Filed 4–11–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Inventions for Licensing; Government-Owned Inventions

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy.

U.S. Patent Application Serial No. 09/296,802 entitled ''An Interactive Communication System Permitting Increased Collaboration Between Users'', filing date: April 23, 1999, Navy Case No. 78947.

U.S. Patent Application Serial No. 09/296,746 entitled ''Computer Software for Converting A General Purpose Computer Network Into An Interactive Communications System'', filing date: April 23, 1999, Navy Case No. 79258.

U.S. Patent Application Serial No. 09/296,757 entitled ''A Method for Facilitating Collaborative Development Efforts Between Widely Dispersed Users'', filing date: April 23, 1999, Navy Case No. 79259.

ADDRESSES: Requests for copies of the patent applications cited should be directed to the Naval Surface Warfare Center, Dahlgren Laboratory, Code CD222, 17320 Dahlgren Road, Building 183, Room 015, Dahlgren, VA 22448–5100, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: James B. Bechtel, Patent Counsel, Naval Surface Warfare Center, Dahlgren Laboratory, Code CD222, 17320 Dahlgren Road, Building 183, Room 015, Dahlgren, VA 22448–5100, telephone (540)–653–8061.

(Authority: 35 U.S.C. 207, 37 CFR Part 404).

Dated: March 28, 2000.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–9016 Filed 4–11–00; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–015]

Natural Gas Pipeline Company of America; Notice of Proposed Change in FERC Gas Tariff

April 6, 2000.

Take notice that on April 3, 2000, Natural Gas Pipeline Company of America (Natural) tendered for filing to be a part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Original Sheet No. 261, to be effective April 1, 2000.

Natural states that the purpose of this filing is to implement a negotiated rate transaction with Duke Energy Trading and Marketing Services, L.L.C. (Duke) under Rate Schedules FTS pursuant to Section 49 of the General Terms and Conditions of Natural's Tariff. Natural states that it has filed by a separate filing the executed negotiated rate agreement between Natural and Duke.

Natural requests waiver of the Commission's Regulations to the extent necessary to permit Original Sheet No. 261 to become effective April 1, 2000.

Natural states that copies of the filing are being mailed to its customers, interested state commissions and all parties set out on the Commission's official service list in Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–9032 Filed 4–11–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–63–000]

New York State Electric & Gas Corporation, Complainant v. New York, Independent System Operator, Respondent; Notice of Filing

April 6, 2000.

Take notice that on March 31, 2000, New York State Electric & Gas Corporation (NYSEG) submitted a Complaint pursuant to Section 206 of the Federal Power Act against the New York Independent System Operator (NYISO). The Complainant seeks to correct the NYISO tariff and market implementation flaws associated with operating reserves and to compel the NYISO to use Temporary Extraordinary Procedures (TEP).

Copies of the filing were served upon the NYISO and other interested parties.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before April 13, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before April 13, 2000.

David P. Boergers,

Secretary.

[FR Doc. 00–9030 Filed 4–11–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–241–000]

Public Utilities Commission of the State of California v. El Paso Natural Gas Company, El Paso Merchant Energy-Gas, L.P., and El Paso Merchant Energy Company; Notice of Complaint

April 6, 2000.

Take notice that on April 4, 2000, pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, and Section 5 of the Natural Gas Act, 15 U.S.C. 717d, the Public Utilities Commission of the State of California (CPUC) filed a Complaint against El Paso Natural Gas Company (El Paso) and its marketing affiliates, El Paso Merchant Energy-Gas, L.P. and El Paso Merchant Energy Company (collectively El Paso Merchant), challenging the justness and reasonableness and anti-competitive effects of three contracts between El Paso and El Paso Merchant (dated February 15–17, 2000) in which El Paso Merchant acquired approximately 1220 MMcf/d of firm capacity rights on El Paso to the California border. The CPUC's Complaint further raises affiliate abuse issues relating to El Paso Merchant's acquisition and use of these capacity rights on El Paso.

The CPUC specifically requests that the Commission issue an order terminating El Paso's contracts with El Paso Merchant, or, at a minimum, that the Commission require El Paso Merchant to release on a short-term basis any unused firm transportation rights under these contracts. In addition, the CPUC requests that the Commission order El Paso to delete restrictions (under one of the contracts) on the recallability of Block II capacity rights.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before April 24, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before April 24, 2000.

David P. Boergers,

Secretary.

[FR Doc. 00–9031 Filed 4–11–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. No. RP97–408–011]

Trailblazer Pipeline Company; Notice of Compliance Filing

April 6, 2000.

Take notice that on March 31, 2000, Trailblazer Pipeline Company (Trailblazer) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets to be effective April 1, 2000.

Trailblazer states that the purpose of this filing is to implement base rates and tariff provisions reflected in its Amended Stipulation and Agreement (Settlement) in Docket No. RP97–408. The Federal Energy Regulatory Commission (Commission) approved the Settlement in its orders issued April 28, 1999 and August 3, 1999. The presiding Administrative Law Judge has terminated the proceeding.

Trailblazer requests waivers of the Commission's Regulations to the extent necessary to permit the tariff sheets submitted to become effective April 1, 2000.

Trailblazer states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 first Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/

rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–9033 Filed 4–11–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–006

TransColorado Gas Transmission Company; Notice of Tariff Filing

DATES: April 6, 2000.

ADDRESSES: Take notice that on March 29, 2000, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Sixth Revised Sheet No. 21, to be effective April 1, 2000.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000.

TransColorado states that the tendered tariff sheets revises TransColorado's Tariff to implement a new negotiated-rate transportation service agreement between TransColorado and Duke Energy Trading and Marketing, LLC, to be effective April 1, 2000. TransColorado requested wavier of 18 CFR 154.207 so that the tendered tariff sheet may become effective April 1, 2000.

TransColorado states that a copy of this filing has been served upon all parties to this proceeding. TransColorado's customers, the Colorado Public Utilities Commission and New Mexico Public Regulatory Commission.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–9034 Filed 4–11–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–771–003, et al.]

Tucson Electric Power Company, et al.; Electric Rate and Corporate Regulation Filings

April 3, 2000.

Take notice that the following filings have been made with the Commission:

1. Tucson Electric Power Company

[Docket No. ER00–771–003]

Take notice that on March 29, 2000, Tucson Electric Power Company (Tucson), tendered for filing an amendment to its March 9, 2000 compliance filing.

Comment date: April 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Southwest Power Pool, Inc.

[Docket No. ER00–1829–000]

Take notice that on March 28, 2000, Southwest Power Pool, Inc. (SPP), tendered for filing revised requested effective dates of January 1, 2001, January 1, 2002, and January 1, 2003, respectively, for three executed service agreements for firm point-to-point transmission service under the SPP Tariff with Tenaska Power Services Company (Tenaska).

SPP states that the revised requested effective dates correspond to the actual dates service is to commence under each of the three agreements and that those dates replace the effective dates inadvertently requested when the agreements were filed in Docket No. ER00–1829–000 on March 7, 2000.

Copies of this filing were served upon Tenaska and Entergy Power Marketing Corporation (Entergy).

Comment date: April 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Southern California Edison Company

[Docket No. ER98–441–018]

Take notice that on March 28, 2000, Reliant Energy Etiwanda, LLC and Reliant Energy Mandalay, LLC tendered for filing a compliance report regarding refunds as required by the Commission's Order issued January 31, 2000 approving the Stipulation and Agreement filed in the above-captioned proceeding on September 8, 1999.

Comment date: April 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power & Light Company

[Docket No. ER99–723–003]

Take notice that on March 28, 2000, Florida Power & Light Company tendered for filing a compliance report showing monthly refunds required under the Commission order approving a settlement in this docket.

Comment date: April 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Cinergy Services, Inc.

[Docket No. ER00–1984–000]

Take notice that on March 28, 2000, Cinergy Services, Inc., tendered for filing an Interconnection Agreement entered into by and between Cinergy Services, Inc. (Cinergy) and WestFork Land Development Company, LLC (WestFork) dated as of March 9, 2000.

The Interconnection Agreement between the parties provides for the interconnection of the Wheatland Facility to the 345 kV transmission line from the Gibson Generating Station to the Qualitech Substation, both of which substations are owned by PSI Energy, Inc., a Cinergy utility operating company. In addition, the Interconnection Agreement sets forth the entire agreement and understanding of the parties and further defines the continuing responsibilities and obligations of the parties with respect thereto.

Cinergy states that it has served a copy of its filing upon the Indiana Utility Regulatory Commission and Enron North America.

Comment date: April 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–1985–000]

Take notice that on March 28 , 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply), tendered for filing Supplement No. 30 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy Supply requests a waiver of notice requirements to make service available as of January 21, 2000 or on a date as determined by the

Commission to Ameren Services Company.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: April 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–1986–000]

Take notice that on March 28, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply), tendered for filing Supplement No. 34 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy Supply requests a waiver of notice requirements to make service available as of February 18, 2000 or on a date as determined by the Commission to GPU Energy.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: April 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–1987–000]

Take notice that on March 28 , 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply), tendered for filing Supplement No. 32 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy Supply requests a waiver of notice requirements to make service available as of February 10, 2000 or on a date as determined by the Commission to CMS Marketing, Services & Trading Company.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: April 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–1988–000]

Take notice that on March 28, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply), tendered for filing Supplement No. 31 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy Supply requests a waiver of notice requirements to make service available as of February 2, 2000 or on a date as determined by the Commission to Cargill-Alliant, LLC.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: April 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–1989–000]

Take notice that on March 28, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply), tendered for filing Supplement No. 33 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy Supply requests a waiver of notice requirements to make service available as of February 17, 2000 or on a date as determined by the Commission to Southern Company Services Inc.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: April 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–1990–000]

Take notice that on March 28 , 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply), tendered for filing Supplement No. 29 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy Supply requests a waiver of notice requirements to make service available as of January 8, 2000 or on a date as determined by the Commission to Illinois Power Company.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: April 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. PPL Electric Utilities Corporation

[Docket No. ER00–1997–000]

Take notice that on March 29, 2000, PPL Electric Utilities Corporation (formerly PP&L, Inc.) (PPL Utilities), tendered for filing the Susquehanna Steam Electric Station Transmission Agreement between PPL Utilities and Allegheny Electric Cooperative, Inc. (Allegheny), dated March 18, 1977.

PPL Utilities has served a copy of this filing on Allegheny.

Comment date: April 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Allegheny Energy Service Corporation, on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–1998–000]

Take notice that on March 29, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply), tendered for filing Amendment No. 2 to Supplement No. 5 to the Market Rate Tariff to incorporate a Netting Agreement with American Electric Power Service Corporation into the tariff provisions.

Allegheny Energy Supply Company requests a waiver of notice requirements to make the Amendment effective as of March 22, 2000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: April 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Allegheny Energy Service Corporation, on Behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–1999–000]

Take notice that on March 29, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply), tendered for filing Amendment No. 4 to Supplement No. 9 to the Market Rate Tariff to incorporate a Netting Agreement with Strategic Energy, LLC into the tariff provisions.

Allegheny Energy Supply Company requests a waiver of notice requirements to make the Amendment effective as of March 6, 2000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: April 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Cleco Utility Group, Inc.

[Docket No. ER00–2000–000]

Take notice that on March 29, 2000, Cleco Utility Group, Inc., Transmission Services tendered for filing, pursuant to Section 205 of the Federal Power Act, a network integration transmission service agreement and a network operating agreement with an internal division of itself, Cleco Utility Group, Inc., Retail Energy Services, establishing the provision of network transmission service to serve the city of Gueydan, Louisiana under the existing Cleco Utility Group, Inc., open access transmission tariff.

Cleco Utility Group, Inc., requests an effective date for these agreements under its open access transmission tariff of March 31, 2000.

Comment date: April 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. American Electric Power Service Corporation

[Docket No. ER00–2001–000]

Take notice that on March 29, 2000, the American Electric Power Service Corporation (AEPSC), tendered for filing blanket service agreements by the AEP Companies under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff). The Power Sales Tariff was accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5.

AEPSC respectfully requests waiver of notice to permit the service agreements to be made effective as specified in the submittal letter to the Commission with this filing.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: April 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Detroit Edison Company

[Docket No. ER00–2002–000]

Take notice that on March 29, 2000, Detroit Edison Company (Detroit Edison) tendered for filing Service Agreements for wholesale power sales transactions (the Service Agreements) under Detroit Edison's Wholesale Power Sales Tariff (WPS–2), FERC Electric Tariff No. 3 (the WPS–2 Tariff).

Comment date: April 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–9029 Filed 4–11–00; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6576–9]

Agency Information Collection Activities: Continuing Collection; Comment Request; Confidentiality Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Confidentiality Rules, EPA ICR No. 1665.03, OMB Control No. 2020–0003, expiration date May 31, 2000. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 12, 2000.

ADDRESSES: U.S. Environmental Protection Agency, Office of Environmental Information, Office of Information Collection, Mailstop 2822, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Interested persons may obtain a copy of the ICR without charge.

FOR FURTHER INFORMATION CONTACT: Rebecca Moser, Office of Information Collection, Collection Strategies Division, Information Strategies Branch; Phone, 202–260–6780; Fax, 202–260–8550; Email, *moser.rebecca@epa.gov.*

SUPPLEMENTARY INFORMATION: Affected entities: Entities potentially affected by this action are those who characterize the information they provide to EPA as confidential business information (CBI).

Title: Confidentiality Rules, OMB Control No. 2020–0003, EPA ICR No. 1665.03, expiring May 31, 2000.

Abstract: The U.S. Environmental Protection Agency (EPA) administers a number of environmental protection statutes (e.g., the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; the Resource Conservation and Recovery Act; the Comprehensive

Environmental Response, Compensation, and Liability Act; the Federal Water Pollution Control Act; and others), which require it to collect data from thousands of facilities in many economic sectors. The data often provide information on toxic chemicals, industrial processes, waste streams, regulatory compliance; and in many cases, businesses that submit the data claim it as confidential business information (CBI). EPA established the procedures described in 40 CFR Part 2, Subpart B, to protect the confidentiality of information as well as the rights of the public under FOIA. In accordance with these regulations, when EPA finds it necessary to make a final confidentiality determination (e.g., in response to a FOIA request or in the course of rulemaking or litigation), it notifies the affected business and provides it with an opportunity to submit comments (i.e., a substantiation). This ICR relates to the collection of information that will assist EPA in determining whether previously submitted information is entitled to confidential treatment.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Burden Statement: EPA estimates that in response to the procedures outlined in 40 CFR Part 2, Subpart B, the Agency would notify 543 businesses and provide them with an opportunity to submit comments explaining why previously submitted information should be treated as confidential. Of the 543 businesses, EPA estimates that approximately 443 industries would respond by submitting substantiations. The Agency estimates that it takes industry approximately 14 hours and $464.43 in labor costs to prepare and submit each substantiation; or a total of 6,202 hours at a cost of $205,742.49 in labor for all 443 substantiations. For those 100 businesses that do not submit substantiations, they are still likely to spend approximately 1 hour at a cost of $32.04 in labor to review EPA's notice, examine the information in question, and make a decision not to respond; or a total of 100 hours at a cost of $3,204.00 in labor costs for reviewing and deciding not to respond in 100 cases. The total burden on industry to review and, if desired, respond to 543 EPA substantiation requests is 6,302 hours at a cost of $208,946.49 in labor.

In addition, when EPA utilizes the services of contractors/subcontractors in implementing 40 CFR, Part 2, Subpart B, all contractor/subcontractor employees who may be given access to confidential information must first sign confidentiality agreements stating that they will honor the terms of the contract/subcontract which requires the protection of CBI.

In addition, contractor/subcontractor businesses must maintain a file of all such agreements. EPA estimates that there are about 129 contractor/subcontractor businesses that handle CBI in connection with their work for EPA each year. These 129 contractor/subcontractor businesses together have a total of approximately 658 employees who must sign confidentiality agreements each year. Each employee would need approximately 0.1 hour to review and sign an agreement, at a cost of $3.34 in labor; employees' review and signature of all agreements would require approximately 65.8 hours at a cost of $2197.72 in labor per year. In addition, each subcontractor/contractor business would need approximately 0.5 hour at a cost of $8.07 in labor per year to maintain a file of employee confidentiality agreements; the 129 contractor/subcontractor businesses together would require a total of 64.5 hours at a labor cost of $1041.03 to maintain a file of confidentiality agreements. The total burden for signing and maintaining confidentiality agreements would thus be 130.3 hours at a cost of $3238.75.

The overall burden for handling confidentiality claims—including the substantiation process and the signing and maintaining of confidentiality agreements—would be 6432.3 hours at a total labor cost of $212,185.24 per year. EPA estimates that no capital costs or operation and maintenance costs would be incurred as a result of this information collection.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjusting the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 4, 2000.

Oscar Morales,

Director, Collection Strategies Divisio, Office of Information Collection

[FR Doc. 00–9094 Filed 4–11–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6577–5]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at 260–2740,or email at Farmer.sandy@epa.gov,and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No.1773.02; New and Amended Reporting and Recordkeeping Requirements for

NESHAP from Hazardous Waste Combustors; in 40 CFR part 63, subparts A and EEE; was approved 02/25/2000; OMB No. 2060-0349; expires 02/28/2003.

(Note: EPA will request OMB to change OMB No. 2060–0349 to a 2050 series number since it is now the responsibility of the Office of Solid Waste).

EPA ICR No. 0275.07; Pre-award Compliance Review Report for All Applicants Requesting Federal Financial Assistance; in 40 CFR part 7; was approved 02/25/2000; OMB No. 2090–0014; expires 02/28/2003.

EPA ICR No. 1842.02; Notice of Intent for Storm Water Discharges Associated with Construction Activity under a NPDES General Permit; in 40 CFR part 122; was approved 03/01/2000; OMB No. 2040–0188; expires 03/31/2003.

EPA ICR No. 0318.08; Clean Water Needs Survey; was approved 03/02/2000; OMB No. 2040–0050; expires 12/31/2001.

EPA ICR No. 0827.05; Construction Grants Program; in 40 CFR part 35,subpart I; was approved 03/03/2000; OMB No. 2040–0027; expires 03/31/2003.

EPA ICR No. 0909.06; Construction Grants Delegation to States; in 40 CFR part 35, subpart J; was approved 03/03/2000; OMB No. 2040-0095; expires 03/31/2003.

EPA ICR No. 1898.02 Public Water System Supervision program Public Notification Requirements; in 40 CFR part 141; was approved 03/07/2000; OMB No. 2040–0209; expires 06/30/2002.

EPA ICR No. 1892.02; A Pilot Study of Children's Total Exposure to Persistent Pesticides and Other Persistent Organic Pollutants; in 40 CFR part 141; was approved 03/20/2000; OMB No. 2080–0061; expires 03/31/2003.

EPA ICR No. 1711.03; Voluntary Customer Service Satisfaction Survey; was approved 03/20/2000; OMB No. 2090–0019; expires 03/31/2003.

EPA ICR No. 1654.03; Reporting Requirements under EPA's Water Alliances for Voluntary Efficiency (WAVE) Program; was approved 03/27/2000; OMB No. 2040–0164; expires 03/31/2003

Extensions of Expiration Dates

EPA ICR No. 0011.09; Selective Enforcement Auditing and Record-keeping Requirements for On-Highway HDE, Non-road Compression Ignition Engines, and On-Highway Light-Duty Vehicles and Light-Duty Trucks; in 40 CFR part 90, subpart F; OMB No. 2060–0064; on 02/29/2000 OMB extended the expiration date through 08/31/2000.

EPA ICR No. 1001.06; Polychlorinated Biphenyls (PCBs) Exclusions, Exemptions, and Use Authorizations; in 40 CFR part 761; OMB No. 2070–0008; on 02/29/2000 OMB extended the expiration date through 08/31/2000.

EPA ICR No. 1774.01; Information Collection Activities Associated with EPA's Mobile Air Conditioner Retrofitting Program; in 40 CFR part 82; OMB No. 2060–0350; on 02/29/2000 OMB extended the expiration date through 05/31/2000.

EPA ICR No. 1710.02; Residential Lead-Based Paint Hazard Disclosure Requirements; in 40 CFR part 745, subpart F; OMB No. 2070–0151; on 02/29/2000 OMB extended the expiration date through 05/31/2000.

EPA ICR No. 0574.10; Premanufacture Review Reporting and Exemption Requirements for New and New Use Chemicals; in 40 CFR parts 720, 721, 723, and 725; OMB No. 2070–0012; on 02/29/2000 OMB extended the expiration date through 05/31/2000.

EPA ICR No. 1619.02; EPA Indoor Environmental Quality Questionnaire; OMB No. 2060–0244; on 02/29/2000 OMB extended the expiration date through 05/31/2000.

EPA ICR No. 1139.05; TSCA Section 4 Test Rules, Consent Orders and Test Rule Exemptions; in 40 CFR part 790; OMB No. 2070–0033; on 02/29/2000 OMB extended the expiration date through 05/31/2000.

EPA ICR No. 1381.05; Recordkeeping and Reporting Requirements for Solid Waste Disposal Facilities and Practices, Recordkeeping and Reporting Requirements; in 40 CFR part 258; OMB No. 2050–0122; on 03/01/2000 OMB extended the expiration date through 06/30/2000.

EPA ICR No.1717.02; NESHAP for Off-Site Waste and Recovery Operations; in 40 CFR part 63, subpart DD; OMB No. 2060–0313; on 03/02/2000 OMB extended the expiration date through 05/31/2000.

EPA ICR No. 0180.05; Emission Recall Audit Program Owner Questionnaire; in 40 CFR part 85, subparts S and T; OMB No. 2060–0046; on 03/09/2000 OMB extended the expiration date through 09/30/2000.

EPA ICR No. 1564.04; NSPS for Small Industrial-Commercial-Institutional Steam Generating Units; in 40 CFR part 60, subpart Dc; OMB No. 2060–0202; on 03/09/2000 OMB extended the expiration date through 06/30/2000.

EPA ICR No. 1084.05; Amendments to NSPS for Nonmetallic Mineral Processing Plants; in 40 CFR part 60, subpart OOO; OMB No. 2060-0050; on 03/09/2000 OMB extended the expiration date through 06/30/2000.

EPA ICR No. 0994.06; Beach Closing Survey Report on the Great Lakes; OMB No. 2090–0003; on 03/16/2000 OMB extended the expiration date through 09/30/2000.

EPA ICR No. 1427.05; National Pollutant Discharge Elimination System (NPDES) Compliance Assessment/Certification Information; in 40 CFR parts 122 and 501; OMB No. 2040–0110; on 03/16/2000 OMB extended the expiration date through 09/30/2000.

EPA ICR No. 1643.03; Amended Application Requirements for the Approval and Delegation of Federal Air Toxic Programs to State and Local Agencies; in 40 CFR part 63, subpart E; OMB No. 2060–0264; on 03/20/2000 OMB extended the expiration date through 05/31/2000.

EPA ICR No. 1157.05; NSPS for Flexible Vinyl and Urethane Coating and Printing; in 40 CFR part 60, subpart FFF; OMB No. 2060-0073; on 03/21/2000 OMB extended the expiration date through 06/30/2000.

EPA ICR No. 1596.04; Significant New Alternatives Policy (SNAP) Program under Title VI of the Clean Air Act Amendments of 1990; in 40 CFR part 82, subpart G; OMB No. 2060–0226; on 03/23/2000 OMB extended the expiration date through 07/31/2000.

EPA ICR No. 1160.05; NSPS for Wool Fiberglass Insulation Manufacturing Plants; in 40 CFR part 60.680, subpart PPP; OMB No. 2060–0114; on 03/23/2000; OMB extended the expiration date through 08/31/2000.

EPA ICR No. 1072.05; NSPS for Lead Acid Battery Manufacturing Plants, Recordkeeping and Reporting Requirements; in 40 CFR part 60, subpart KK; OMB No. 2060–0081; on 03/23/2000 OMB extended the expiration date through 06/30/2000.

Comments Filed

EPA ICR No. 1923.01; Radon in Drinking Water; on 03/03/2000 OMB filed comment.

EPA ICR No. 1922.01; Storage, Treatment, Transportation, and Disposal of Mixed Waste; on 03/13/2000 OMB filed comment.

Dated: April 7, 1000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–9095 Filed 4–11–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6576–6]

Notice of Prevention of Significant Deterioration (PSD) Final Determination for Knauf Fiberglass, GmbH, Shasta Lake, CA

AGENCY: Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that, on March 14, 2000, the Environmental Protection Agency (EPA) Environmental Appeals Board (Board) dismissed all petitions for review of a permit issued for the Knauf Fiberglass, GmbH, by the Shasta County Air Quality Management District (District) pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations under 40 CFR 52.21.

DATES: The effective date for the Board's decision is March 14, 2000.

FOR FURTHER INFORMATION CONTACT: Duong Nguyen, Permits Office, Air Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1142.

SUPPLEMENTARY INFORMATION: On August 17, 1999, the District issued a revised Authority to Construct (ATC) to Knauf Fiberglass for the construction of a new fiberglass manufacturing facility in Shasta Lake, CA. The revised ATC was issued after the Board remanded the original permit to the District following the first round of petitions to include a revised Best Available Control Technology (BACT) analysis and environmental justice (EJ) documentation provided by EPA, Region 9. The revised ATC, issued on August 17, 1999, also constituted a final PSD Permit under 40 CFR 52.21 and the terms of the District's delegation of authority from the U.S. EPA under 40 CFR 52.21(u). Subsequent to the issuance of the revised ATC, the Board received 65 petitions for review from citizens, citizen groups, and another fiberglass manufacturer. On March 14, 2000, the Board denied review of all 65 petitions for the following reasons: (1) Many of the petitions failed to meet the Board's requirement that issues be raised with specificity; (2) most of the miscellaneous issues raised in the petitions are outside the scope of review for this post-remand appeal; (3) the supplemental BACT analysis and revised BACT determination provide ample support for the District's final decisions on BACT and the revised permit conditions on PM10 emissions; (4) the petitioners failed to contradict Region 9's EJ analysis showing that the proposed facility's will not have disproportionately high or adverse human health or environmental effects on a minority or low-income population; and (5) the new National Emission Standards for Hazardous Air Pollutants (NESHAP) requirement applicable to the fiberglass manufacturing industry was appropriately cross-referenced in the revised permit. (See *In re: Knauf Fiberglass, GmbH,* PSD Appeal Nos. 99–8 through 99-72.)

Pursuant to 40 CFR 124.19(f)(2), for purposes of judicial review, final Agency action occurs when a final PSD permit is issued and Agency review procedures are exhausted. This notice, being published today in the FR, constitutes notice of the final Agency action denying review of the PSD permit. If available, judicial review of these determinations under section 307(b)(1) of the CAA may be sought only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which this determination is published in the FR. Under section 307(b)(2) of this Act, this determination shall not be subject to later judicial review in any civil or criminal proceedings for enforcement.

Dated: March 30, 2000.

David P. Howekamp,

Director, Air Division, Region IX.

[FR Doc. 00–9096 Filed 4–11–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00653; FRL–6552–7]

Solutions by Design; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be tranferred to Solutions by Design in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Solutions by Design has been awarded multiple contracts to perform work for OPP, and access to this information will enable Solutions by Design to fulfill the obligations of the contract.

DATES: Solutions by Design will be given access to this information on or before April 17, 2000.

FOR FURTHER INFORMATION CONTACT: By mail: Erik R. Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–305–7248; e-mail address: johnson.erik@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affect 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**.

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

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

II. Contractor Requirements

Under contract number, 68-W9-9011 the contractor will perform the following: Deal with the analysis, design, development, installation and maintenance of OPP applications developed in Lotus Notes and their interconnectivity to other applications developed in Oracle. The Project Officer or his/her designee, after a written determination by the appropriate program office, may disclose FIFRA CBI to the contractor necessary to carry out work required under this contract.

The contract involves no subcontractors.

OPP has determined that the contract described in this document involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with Solutions by Design, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Solutions by Design is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Solutions by Design until the requirements in this document have been fully satisfied. Records of information provided to Solutions by Design will be maintained by EPA Project Officers for the contract. All information supplied to Solutions by Design by EPA for use in connection with the contract will be returned to EPA when Solutions by Design has completed its work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: March 29, 2000.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 00–8960 Filed 4–11–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00656; FRL–6554–1]

State FIFRA Issues Research and Evaluation Group (SFIREG) Pesticide Operations and Management Working Committee; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Pesticide Operations and Management Working Committee will hold a 2–day meeting, beginning on April 17, 2000 and ending on April 18, 2000. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, April 17, 2000 from 8:30 a.m. Pacific Standard time (p.s.t.) to 5:00 p.m. p.s.t. and Tuesday, April 18, 2000 from 8:30 a.m. p.s.t. to 2:30 p.s.t..

ADDRESSES: The meeting will be held at the Sir Francis Drake Hotel on Union Square, 450 Powell Street, San Francisco, CA 94102.

FOR FURTHER INFORMATION CONTACT: Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843–1249; (802) 472–6956; fax: (802) 472–6957; e-mail address: aapco@plainfield.bypass.com or Elaine Y. Lyon, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (703) 305–5306; fax number: (703) 308–1850; e-mail address: lyon.elaine@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general, but all parties interested in SFIREG's information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into the EPA's decision-making process are invited and encouraged to attend the meetings and participate as appropriate.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. You may also obtain electronic copies of the minutes, and certain other related documents that might be available electronically, from the Association of American Pesticide Control Officials (AAPCO) Internet Home Page at http://aapco.ceris.purdue.edu/doc/index.html. To access this document, on the Home Page select ''SFIREG'' and then look up the entry for this document under the ''SFIREG Meetings.''

2. *By mail*. Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843–1249.

III. Purpose of Meeting

Tentative Agenda:

1. Anti-Bacterial pesticide product labeling.
2. Pesticide product ''contaminants'' other than active ingredients.
3. Experimental Use Permits - Regulations and Procedures.
4. Update on Consumer Labeling Initiative.
5. Update and discussion on 25(b) pesticide regulatory notice.
6. Update and discussion on conditional registration.
7. Update and discussion on isomer pesticide products.
8. Inspector credential initiative.
9. Results and use of inspector training survey.
10. Update on rodenticide stakeholders labeling initiative.
11. Update and discussion on Internet distribution of pesticides.
12. Update on drift minimization.
13. Discussion of ''Keep Out of Reach of Children'' issue paper.
14. Discussion of ''Reentry Label Statements'' issue paper.
15. Discussion of OECA worker protection standard audit.
16. American Water Works Association letter to EPA on subject and enforcement implications.
17. Update on phosphine labeling initiative.
18. Discussion on genetically modified, plant pesticide labeling/enforcement issues.
19. Update from the Office of Pesticide Programs.
20. Update from the Office of Enforcement and Compliance Assurance.
21. Other topics as appropriate.

List of Subjects

Environmental protection.

Dated: April 6, 2000.

Jay Ellenberger,

Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 00–9098 Filed 4–11–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00621A; FRL–6552–1]

Pesticides; Data Submitter Rights for Data Submitted in Support of Tolerance Actions; Notice of Availability; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On January 19, 2000 (65 FR 2947) (FRL–6385–7), EPA announced the availability for comment of a paper discussing options to enable the Agency to appropriately implement the new provisions contained in section 408(i) of the Federal Food, Drug, and Cosmetic Act (FFDCA) to address exclusive use and compensation rights for data submitted to EPA in support of tolerance and tolerance exemption actions. The comment period closed on March 20, 2000. However, the Agency received requests to extend the comment period. This notice announces the reopening of the comment period for an additional 30 days.

DATES: Comments, identified by docket control number OPP–00621A must be received on or before May 12, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00621A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Cameo G. Smoot, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5454; fax number: (703) 305–5884; e-mail address: smoot.cameo@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to you if you submit data to EPA in support of establishing or maintaining tolerances for pesticides, or are a pesticide registrant or a person applying for pesticide registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). You may also be interested in commenting if you submit data to EPA in support of an exemption from a tolerance. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. You may obtain a copy of the options paper described in this notice by accessing this **Federal Register** notice using the **Federal Register** Environmental Documents cite on EPA's Internet and selecting ''Related Documents.'' Hard copies of the options paper are available by consulting with the person listed under **FOR FURTHER INFORMATION CONTACT.**

2. *In person*. The Agency has established an official record for this action under docket control number OPP–00621A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00621A in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00621A. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified 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 control 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 is reopening the comment period for an additional 30 days and will continue to make available for comment an options paper on exclusive use and data compensation rights for data submitted to the Agency in support of tolerance and tolerance exemption actions. As part of the Food Quality Protection Act of 1996, Congress amended section 408(i) of the FFDCA addressing such rights. The Agency is currently evaluating how to implement this new provision and is seeking public comment. The options paper briefly discusses the new section 408(i) of the FFDCA and the Agency's practices regarding data compensation and exclusive use; the current compensation and exclusive use process the Agency implements under section 3 of FIFRA; and presents three options for implementing the new provision. The options represent different interpretations focusing on who the data submitters may be. However, the Agency also seeks comments on other interpretations of section 408(i) and suggested procedures for implementing whatever option the commenter prefers.

EPA will consider the comments received and develop a detailed proposal for implementing data rights under section 408(i) of FFDCA.

List of Subjects

Environmental protection, Pesticide tolerances, Data compensation.

Dated: April 4, 2000.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 00–9097 Filed 4–11–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–934; FRL–6551–8]

Notice of Filing a Pesticide Petition to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the amendment 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 control number PF–934, must be received on or before May 12, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–934 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Mary Waller, fungicide Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; 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 affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

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

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

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

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

2. *In person.* The Agency has established an official record for this action under docket control number PF–934. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m.,

Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–934 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3.*Electronically.* You may submit your comments electronically by e-mail to: ''*opp-docket@epa.gov*,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–934. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified 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 control 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 Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in 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: April 5, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the amendment to a pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. 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.

American Cyanamid Company

PP 7F4816

EPA has received an amendment to pesticide petition (7F4816) from American Cyanamid Company, Global Agricultural Products Research Division, P.O. Box 400, Princeton, NJ 08543-0400 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of dimethomorph (E,Z)4-[3-(4-chlorophenyl)-3-(3,4-dimethoxyphenyl)-1-oxo-2-propenyl]-morpholine in or on the raw agricultural commodity (RAC) imported grapes at 3.5 parts per million (ppm) and in or on imported grape, raisin, at 6 ppm. 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 support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* Radiolabeled dimethomorph was applied to grape vines at 0.8 lb. active ingredient per acre (ai/acre) for 4 consecutive weeks, giving a total application rate of 3.2 lb. ai/acre. The amount of total radioactive residue (TRR) in or on grapes harvested 35 days following the last of these applications was 14.6 ppm. Parent dimethomorph accounted for 87.3% of the TRR (12.7 ppm). No metabolites were identified that require regulation.

2. *Analytical method.* FAMS 002-04 is a reliable high performance liquid chromatography (HPLC) method for the determination of dimethomorph residues in grape and raisin.

3. *Magnitude of residues.* The residue data were collected from studies having multiple applications (3–11) of dimethomorph with a maximum seasonal rate of up to 2.94 lb. ai/acre. The resulting dimethomorph residues in the RAC grape ranged from < 0.01 ppm (the limit of quantitation (LOQ) of the

method) to 2.55 ppm. Residues of dimethomorph upon processing of grape to raisin were concentrated by a factor of 1.8x. Residues of dimethomorph did not concentrate upon processing of grape to juice or wine. Therefore, tolerances of 3.5 ppm in/on imported grape and 6.0 ppm in/on imported raisins are proposed.

B. Toxicological Profile

The toxicity of dimethomorph has been studied extensively and there is a complete data base to address the acute and chronic effects, effects on genetic material, the potential for carcinogenicity, or teratogenicity, and effects on reproductive performance or growth of offspring. EPA has previously evaluated the available toxicological data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also, considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The toxicological profile for dimethomorph which supports this petition for tolerances of dimethomorph in or on imported grapes and imported raisins was previously published in the **Federal Register** final rule of October 13, 1998 (63 FR 545587) (FRL–6036–7).

C. Aggregate Exposure

1. *Dietary exposure*. To assess the potential chronic dietary exposure to dimethomorph residues for all tolerances in effect early in 1999, EPA used the dietary exposure evaluation model (DEEM 89) to conduct a chronic dietary (food only) exposure analysis. In conducting this analysis, EPA made very conservative assumptions: that all commodities having dimethomorph tolerances contain residues of dimethomorph and those residues are at the level of the tolerance. These assumptions result in an overestimate of human dietary exposure. All section 18 tolerances (cantaloupes, watermelons, cucumbers, squash, and tomatoes) were included in this assessment along with tolerances for cereal grains crops, and potatoes. The results of the analysis were theoretical maximum residue contributions (TMRC) that were equivalent to the following percentages of the population adjusted dose (PAD) (equivalent to the reference dose (RfD), as EPA removed the extra 10x safety factor): U.S. population (total), 2%; nursing infants, 0.6%; non-nursing infants, 2.4%; children 1–6 years, 4.3%; and children 7–12 years, 3%. In a similar analysis utilizing data derived by TAS, Inc., the chronic dietary exposure to dimethomorph was evaluated for tolerances pending at that time for imported commodities of hops, tomato, and grape (at 2 ppm with no tolerance for raisin proposed). The assumptions made in this assessment were likewise very conservative: all of these commodities (domestically-produced and imported) contain residues of dimethomorph and residues at the level of the tolerance. The results of the analyses were TMRC values that were equivalent to the following percentages of the PAD: U.S. population (total), 1.58%; all infants, 2.38%; non-nursing infants, 2.6%; children 1–6 years, 4.39%; and children 7–12 years, 1.81%. From these two analyses, American Cyanamid had previously concluded that the chronic dietary exposure to dimethomorph from all established and pending tolerances was less than 10% of the PAD for the U.S. population and for population subgroups (e.g., for children 1–6 years, 4.3% plus 4.39%). This conclusion was supported by conservative assumptions and the expiration of the section 18 tolerances for tomato commodities. Given these factors, an increase of the proposed tolerance for imported grape from 2 ppm to 3.5 ppm and the addition of a 6 ppm tolerance for raisin is not expected to exceed the allowed chronic dietary exposures.

i. *Food—acute dietary exposure*. An acute dietary risk assessment is not required because no acute toxicological endpoints were identified by EPA for dimethomorph.

ii. *Drinking water*. The tolerances proposed in this petition are for imported commodities, thus there is no direct impact of establishment of these tolerances on domestic drinking water. Currently, the only federally-registered food/feed use of dimethomorph in the United States is on potato crops. For this use, the drinking water level of concern (DWLC) from chronic exposure to dimethomorph was estimated by EPA to be 3,400 parts per billion (ppb) for the U.S. population and for males 13 years and older; 2,900 ppb for females 13 years and older; and 960 ppb for children (1–6 years of age). These levels are all much greater than that calculated from the generic estimated environmental concentration (GENEEC; 24 ppb for 56 days) which simulates the residues in surface water. Dimethomorph residues in ground water were also estimated using the screening concentration in ground water model, SCI-GRO, but these estimates were significantly lower than those obtained from the GENEEC model. Given the low levels of dimethomorph residues as estimated by the GENEEC model and the large margin of exposure (40x–142x), the registered food use of dimethomorph does not meet or exceed a level of concern for residues in drinking water.

2. *Non-dietary exposure*. Currently, there are no registered residential uses for dimethomorph in the United States. Thus, an assessment of non-dietary exposure is not relevant to this petition.

D. Cumulative Effects

There is no information to indicate that any toxic effects produced by dimethomorph would be cumulative with those of any other chemical. The fungicidal mode of action of dimethomorph is unique; dimethomorph inhibits cell wall formation only in Oomycete fungi. The result is lysis of the cell wall which kills growing cells and inhibits spore formation in mature hyphae. This unique mode of action and limited pest spectrum suggest that there is little or no potential for cumulative toxic effects in mammals. In addition, the toxicity studies submitted to support this petition do not indicate that dimethomorph is a particularly toxic compound. No toxic end-points of potential concern were identified.

E. Safety Determination

1. *U.S. population*. The PAD is 0.1 milligram/kilogram bodyweight per day (mg/kg bwt/day), based on a no observed adverse effect level (NOAEL) of approximately 10 mg/kg bwt/day (200 ppm) from a 2–year dietary toxicity study in rats that demonstrated decreased body weight and liver foci in females at 750 ppm. The PAD is calculated using an uncertainty factor of 100. The combined TMRC for all current and pending dimethomorph tolerances will utilize less than 100% of the PAD for the general U.S. population. Since EPA generally has no concern for exposures below 100% of the PAD, EPA should conclude that there is a reasonable certainty that no harm will result from aggregate exposure to dimethomorph residues as result of establishment of the requested tolerances.

2. *Infants and children*. The results of the studies submitted to support this package provide no evidence that dimethomorph caused reproductive, developmental or fetotoxic effects. No such effects were noted at dose levels which were not maternally toxic. There is no evidence to indicate that children or infants would be more sensitive than adults to toxic effects caused by exposure to dimethomorph. The NOAELs observed in the developmental

and reproductive studies were 6 to 65 times higher than the NOAEL used to establish the PAD. Further, the combined TMRC values for all current and pending dimethomorph tolerances will utilize less than 100% of the PAD for each of these subgroups. Therefore, the registrant believes that the results of the toxicology and metabolism studies support both the safety of dimethomorph to humans based on the intended use as a fungicide on imported grapes and raisins and the granting of the requested tolerances

F. International Tolerances

There are no Codex tolerances established for dimethomorph.

[FR Doc. 00–8959 Filed 4–11–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–929; FRL–6498–8]

Notice of Filing a Pesticide Petition to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–929, must be received on or before May 12, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–929 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Indira Gairola, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–6379; e-mail address: gairola.indira@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

2. *In person*. The Agency has established an official record for this action under docket control number PF–929. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–929 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: *''opp-docket@epa.gov*,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–929. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified 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 control 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 pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petitions. Additional data may be needed before EPA rules on the petitions.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 3, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

The petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the view of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summaries announce 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.

1. LignoTech USA, Inc.

6E4705

EPA has received a pesticide petition (6E4705) from LignoTech USA, Inc., 100 Highway 51 South, Rothschild, WI 54474–1198 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for residues of humic acid, sodium salt when used as an inert ingredient in pesticide formulations applied to growing crops, raw agricultural commodities (RAC) after harvest, or to animals. 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 support granting of the petition. Additional data may be needed before EPA rules on the petition. Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, LignoTech USA, Inc. has submitted the following information, data and arguments in support of their petition.

A. Product Identity

1. *Product chemistry*. Humic substances are ubiquitous in the environment, including soils, fresh water and oceans. Humic acid, sodium salt (synonym: sodium humate) has been defined as the portion of soil organic matter that is soluble in base and insoluble in mineral acid or alcohol. A variety of brown materials, not occurring in soil, have also, been designated humic acids. Two examples of the latter are the dark-colored substances from coal and from marine sediment.

Humic acid (CAS No. 68131–04–4) is a hydrophilic, reversible colloid whose molecular weight ranges from 2,000 daltons for the more soluble form to 500,000 daltons for the less soluble form. The average molecular weight for humic acids is in the 20,000–50,000 daltons range. Chemically, humic acids are complex, polymeric polyhydroxy acids formed by the process of degradation of organic matter under the action of soil microorganisms and ground worms.

Most humic acids of commercial use are produced by extraction of naturally occurring lignite and brown coals with alkali. The sodium salt of humic acid is produced by extraction of Leonardite with sodium hydroxide.

2. *Proposed use practice*. Humic acid, sodium salt is proposed for use as an inert ingredient in pesticide formulations that would typically be applied to growing crops. Humic acid, sodium salt has been used safely in commercial agriculture for many years, and is generally applied via tank mixing with fertilizers, and/or pesticides, or as granules. Humates such as humic acid, sodium salt are beneficial to growing plants, and are reported to affect germination speed, nutrient uptake, promote root and plant growth, and increase pesticide effectiveness. Use levels of humic acid, sodium salt are anticipated to be in the range of 5 to 50% by weight of the product formulation, with the typical use level expected to be in the 5 to 10% use range. It is anticipated that humic acid, sodium salt would be added directly to the pesticide active ingredient at the time of manufacture/formulation, or it would be tank-mixed with the pesticide at the time of application.

3. *Magnitude of residues*. It is not expected that, when used as proposed, humic acid, sodium salt would result in residues that would remain in human food items.

B. Toxicological Profile

1. *Acute toxicity*. Humic acid, sodium salt is ubiquitous in the environment, and is derived from soil or soil deposits. Sodium humates and humic acids are generally recognized as having low mammalian, aquatic and avian toxicity. Toxicity testing of LignoTech USA, Inc.'s humic acid, sodium salt product (trade name: Lignosol UVB; code number: D–1109) indicated an acute oral toxicity of LD_{50} > 5,000 milligrams/kilograms (mg/kg) Toxicity Category IV, no primary skin irritation Toxicity Category IV, and mild eye irritation Toxicity Category III. The results of these acute toxicity studies indicate Toxicity Category III or IV, which pose

no significant human health risks. Published literature reports that humic acid is nongenotoxic, nonteratogenic and nonmutagenic to test animals. There are no reports in the literature of humic acid, sodium salt causing disease or injury to man or other animals. No incidents of hypersensitivity have been reported in the published literature by researchers, manufacturers or users.

2. *Genotoxicty*. A study published on the *in vivo* cytogenic effects of natural humic acid determined that ''humic acid has not been demonstrated to be genotoxic either *in vitro* or *in vivo*.''

3. *Endocrine disruption*. To date there is no evidence to suggest that humic acid, sodium salt functions in a manner similar to any known hormone, or that it acts as an endocrine disrupter.

C. Aggregate Exposure

1. *Dietary exposure*. Dietary exposure from use of humic acid, sodium salt in pesticide formulations is minimal. Even if exposure occurred, the lack of reports of disease in man or animals indicates there is no risk for these exposures.

i. *Food*. Dietary exposure from use of humic acid, sodium salt in pesticide formulations is minimal. Residues of humic acid, sodium salt are not expected on agricultural commodities. Humic substances are ubiquitous in nature and have been used for many years in commercial agriculture without adverse effect.

ii. *Drinking water*. Humic substances are ubiquitous in nature, including soils, fresh water and oceans. Increased drinking water exposure from use of humic acid, sodium salt in pesticide formulations would not be expected. Humic acid, sodium salt has been widely used in commercial agriculture for many years without adverse effect.

2. *Non-dietary exposure*. The potential for non-dietary exposure to the general population, including infants and children, is unlikely as the proposed use sites of pesticide formulations that would contain humic acid, sodium salt are commercial, agricultural and horticultural settings. However, non-dietary exposures would not be expected to pose any quantifiable risk due to a lack of residues of toxicological concern. In addition, the personal protective equipment required for use of most pesticide formulations mitigates the potential for exposure to applicators and handlers of the proposed products, when used in commercial, agricultural and horticultural settings.

D. Cumulative Effects

It is not expected that, when used as proposed, humic acid, sodium salt would result in residues that would remain in human food items. Data on humic acid, sodium salt has shown a lack of toxicity to humans or other animal species, as well as no information in the literature indicating a cumulative effect with any other compound. A cumulative risk assessment is therefore, not necessary.

E. Safety Determination

1. *U.S. population*. Humic substances are ubiquitous in the environment. Based on known acute toxicity studies, humic acid, sodium salt is not toxic to humans. There have been no reports of toxins or secondary metabolites associated with humic acid, sodium salt, and the acute toxicity studies conducted have shown that it is nontoxic and nonirritating to test animals. Published literature reports that humic acid is nongenotoxic, nonteratogenic and nonmutagenic to test animals. Residues of humic acid, sodium salt are not expected on agricultural commodities, and therefore, exposure to the general U.S. population, from the proposed uses, is not anticipated.

2. *Infants and children*. Residues of humic acid, sodium salt, when used in pesticide formulations, are not expected on agricultural commodities. There is a reasonable certainty of no harm for infants and children from exposure to humic acid, sodium salt from the proposed use.

F. International Tolerances

There are no international tolerances or tolerance exemptions for humic acid, sodium salt. No CODEX maximum residue levels have been established for humic acid, sodium salt.

2. PURAC America Inc.

5E4510

EPA has received a pesticide petition (15E4510) from PURAC America Inc., Barclay Boulevard, Lincolnshire Corporate Center, Lincolnshire, IL 60069 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for ethyl lactate when used as an inert ingredient in pesticide formulations applied to growing crops, RAC's after harvest or animals . 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 support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Toxicological Profile

1. *Acute toxicity*. The oral LD_{50} of butyl lactate in rats is greater than 2,000 mg/kg (top dose tested-per OECD Guideline No. 401). No mortality or macroscopic effects were noted. The (inhalation) LC_{50} for butyl lactate is 5,140 mg/kg (top aerosol concentration generated). It is known that lactates hydrolyze to lactic acid and the corresponding alcohol. No mortality or macroscopic effects at autopsy were noted. All animals gained weight during the 14–day observation period. The only clinical signs noted were decreased breathing frequency and wet head or fur during exposure and shortly after.

2. *Genotoxicity*. Ames testing of similar lactate (ethyl lactate) did not show any activity. Butyl lactate should give similar results in these tests.

3. *Reproductive and developmental toxicity*. Developmental and mutagen testing has not been conducted on butyl lactate, but ethyl lactate a similar lactate, has been evaluated. Dermal developmental testing of ethyl lactate in rats day 6–15 of gestation did not produce any developmental effects or other signs of toxicity in the dams or fetus other than skin irritation in the dams at the top dose (3.619 grams/kilograms (g/kg)).

4. *Subchronic toxicity*. Subacute inhalation studies have been conducted on two similar lactates (ethyl, isobutyl), but not on butyl lactate. Degenerative changes in the nasal cavity were noted in both studies. For ethyl lactate the effects were noted at 600 mg/m^3 and higher, primarily in the olfactory epithelium. In the case of isobutyl lactate, effects were seen at 400 mg/m^3 and above, but less severe than ethyl lactate at the same concentrations. The affected areas tended to be more respiratory than olfactory epithelium for isobutyl lactate. The no observed adverse effect level (NOAEL) in both studies is 200 mg/m^3. Based on the similarity of effects and kinetic parameters it appears that lactic acid is most likely the cause of the lactate toxicity. Butyl lactate would be expected to give similar results in a subacute inhalation test.

5. *Animal metabolism*. The *in vitro* hydrolysis of lactate esters (methyl, ethyl, butyl, pentyl, isoamyl, isopropyl, isobutyl, 2-ethylhexyl) in rat olfactory epithelium homogenate has been evaluated. In general of the eight lactates evaluated, the rat nasal epithelium showed increased capacity to hydrolyze the lactates and increased affinity with increasing molecular

weight (increase in alcohol chain length). The *in vitro* hydrolysis kinetic parameters were similar for ethyl and isobutyl lactate (Kmax 1. 11 0. 7 mM, Vmax 70 and 180 nmol/min/mg respectively).

6. *Metabolite toxicology*. Butyl lactate is readily hydrolyzed to lactic acid and N butyl alcohol (both are exempt from requirements for tolerance 40 CFR 180.1001). Lactic acid is a normal metabolite in humans and is found in or added to foods (21 CFR 172.515). Lactic acid oral LD_{50} in rats is 3,730 mg/kg. It is not active in mutagenic tests. It will produce skin and eye irritation at high concentrations. The sodium salt of lactic acid is used in cosmetics as a skin moisturizer and parental solutions in the pharmaceutical industry. Butyl alcohol is found in certain foods and beverages and is used as an approved flavoring agent (21 CFR 172.515). It is used as a solvent in fingernail products. Butyl alcohol oral LD_{50} in rats ranges from 700–2,100 mg/kg. It is not active in mutagenic tests. It will produce skin and eye irritation at high concentrations. It is not a developmental hazard in animals. Its primary effect in man is intoxication and narcosis.

B. Aggregate Exposure

Non-dietary exposure. Butyl lactate will be used in animal, pre- harvest and post-harvest applications as a solvent, diluent, coalescence agent, surfactant and emulsifier at levels up to 50. It will be applied, at a maximum of 2–3 times per crop. The low vapor pressure would tend to keep airborne exposure low.

3. PURAC America Inc.

5E4515

EPA has received a pesticide petition (15E4515) from PURAC America Inc., 111 Barclay Boulevard, Lincolnshire Corporate Center, Lincolnshire, IL 60069 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for ethyl lactate when used as an inert ingredient in pesticide formulations applied to growing crops, RACs after harvest or animals. 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. Toxicological Profile

1. *Acute toxicity*. The oral LD_{50} of ethyl lactate in rats is greater than 2,000 mg/kg (top dose tested-per OECD Guideline No. 401). No mortality or macroscopic effects were noted. All animals gained weight after 3 days. The inhalation LC_{50} for ethyl lactate is 5,400 mg/m^3 (top aerosol concentration generated). It is known that lactates hydrolyze to lactic acid and the corresponding alcohol. No mortality was noted. Macroscopic effects at autopsy revealed pale lungs with dark spots.

2. *Genotoxicity*. A *Salmonella*/ Mammalian-Microsome Plate Assay (Ames) of ethyl lactate in five tester strains with and without metabolic activation did not show mutagenic activity.

3. *Reproductive and developmental toxicity*. Dermal developmental testing of ethyl lactate in groups of 25 pregnant rats was conducted at 0, 0.517, 1.551, or 3.619 g/kg/day for day 6–15 of gestation. No developmental effects or other sign of toxicity in the dams or fetus other than skin irritation in the dams at the top dose was observed. The matemal NOAEL (based on skin irritation) is greater than 1.551 g/kg/day. The developmental NOAEL was greater than 3.619 g/kg.

4. *Subchronic toxicity*. Subacute inhalation studies have been conducted on ethyl lactate. Degenerative changes in the nasal cavity were noted in both studies. Groups of rats (5 male and 5 females) were exposed by inhalation for 6 hours/day, 5 days/week for 4 weeks and then held 28 additional days before sacrifice. Exposure was 0, 150, 600, or 2,500 mg/m^3 of ethyl lactate in the first study and 0, 25, 75, or 200 milligram/ milliliter (mg/mL) in the second study. For ethyl lactate the effects were noted at 600 mg/m^3 and higher, primarily damage in the olfactory epithelium. The NOAEL was 200 mg/m^3.

5. *Animal metabolism*. The *in vitro* hydrolysis of lactate esters (methyl, ethyl, butyl, pentyl, isoamyl, isopropyl, isobutyl, 2-ethylhexyl) in rat olfactory epithelium homogenate has been evaluated. In general of the eight lactates evaluated, the rat nasal epithelium showed increased capacity to hydrolyze the lactates and increased affinity with increasing molecular weight (increase in alcohol chain length). Based on the similarity of effects and kinetic parameters it appears that lactic acid is most likely the cause of the lactate toxicity. An *in vivo* absorption and hydrolysis study in rats with ethyl lactate demonstrated 80% hydrolysis in rat plasma in 60 minutes at room temperature. Ethyl lactate was detected in the portal blood indicate partial absorption by the gut.

6. *Metabolite toxicology*. Ethyl lactate is readily hydrolyzed to lactic acid and ethyl alcohol (both which are listed as inert ingredients exempt from requirements for tolerance - 40 CFR 180.1001). These breakdown products are also listed as synthetic flavoring substances (21 CFR 172.515). Lactic acid is a metabolic break down product of all lactates, It is a normal metabolite in humans and is found in or added to foods (21 CFR 172.515). Lactic acid oral LD_{50} in rats is 3,730 mg/kg. It is not active in mutagenic tests. It will produce skin and eye irritation at high concentrations. The sodium salt of lactic acid is used in cosmetics as a skin moisturizer and parental solutions in the pharmaceutical industry. Ethyl alcohol occurs naturally as a product of fermentation of carbohydrates. It is the primary alcohol in beer, wine and liquor and is found in certain foods and other beverages and is used as a favoring agent (21 CFR 172.515). It is used as a chemical intermediate and as a solvent in perfumers, cosmetics, adhesives, inks and preservatives. Ethyl alcohol oral LD_{50} in rats is 13,700 mg/kg. It is not active in mutagenic tests. It will produce mild skin irritation at high concentrations (dryness). It is a developmental hazard causing fetal alcohol syndrome in humans. Its primary acute effect in man is intoxication and narcosis. It can cause chronic liver damage.

B. Aggregate Exposure

Non-dietary exposure. Ethyl lactate will be used in animal, pre-harvest and post-harvest applications as a solvent, diluent, coalescence agent, surfactant and emulsifier at levels up to 50%. It will be applied, at a maximum of 2–3 times per crop. The low vapor pressure would tend to keep airborne exposure low.

[FR Doc. 00–9099 Filed 4–11–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6577–4]

Clean Water Act Section 303(d): Availability of Total Maximum Daily Loads (TMDLs) and Determinations That TMDLs Are Not Needed

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability for comment of the administrative record file for 19 TMDLs, and the calculations for these TMDLs prepared by EPA Region 6 for waters listed in the Mermentau and Vermilion/Teche river basins, under section 303(d) of the Clean Water Act (CWA). The above TMDLs were completed in response to the October 1, 1999, Court Order in the *Sierra Club, et al.* v. *Clifford et al.,* No. 96–0527 (E.D. La. Oct. 1, 1999). This Court Order required EPA to establish TMDLs for CWA section 303(d) listed waters in several basins, including the Mermentau and Vermilion/Teche river basins. This notice also announces the availability for comment of EPA determinations that TMDLs are not needed for 46 waterbody/pollutant combinations in the Mermentau and Vermilion/Teche river basins and an additional 2 listings in the Pearl River basin.

DATES: Comments must be submitted to EPA on or before May 12, 2000.

ADDRESSES: Comments on the 19 TMDLs and notice that TMDLs are not needed for 48 waterbodies should be sent to Ellen Caldwell, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733. For further information, contact Ellen Caldwell at (214) 665–7513. Copies of the TMDLs and their respective calculations may be viewed at www.epa.gov/region6/water/tmdl.htm, or obtained by writing or calling Ms. Caldwell at the above address. The administrative record file for these TMDLs is available for public inspection at the above address as well. Please contact Ms. Caldwell to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 665–7513.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (Plaintiffs), filed a lawsuit in Federal Court against the United States Environmental Protection Agency (EPA). Among other claims, plaintiffs alleged EPA failed to fulfill a mandatory duty under CWA section 303(d), submission of a reasonable schedule and establishment of TMDLs for all Louisiana waters not satisfying water quality standards.

By the October 1, 1999, judgment (*Sierra Club, et al.* v. *Clifford et al.,* No. 96–0527 [E.D. La. Oct. 1, 1999]), the Court disapproved EPA's proposed 12-year TMDL schedule. The Court, in part, ordered the following EPA actions:

(1) The defendants, EPA, shall prepare total maximum daily loads for Louisiana waters identified as not meeting water quality standards according to the following schedule:

(a) By December 31, 1999, for all of the waters in the Mermentau and Vermilion/Teche basins.
(b) By December 31, 2001, for all of the waters in the Calcasieu and Ouachita basins.
(c) By December 31, 2003, for all of the waters in the Barataria and Terrebonne basins.
(d) By December 31, 2005, for all of the waters in the Red and Sabine basins.
(e) By December 31, 2006, for all of the waters in the Pontchartrain basins.
(f) By December 31, 2007, for all of the waters in the Mississippi, Atchafalaya, and Pearl basins.

(2) The defendants, EPA, shall add or delete waters to the schedule as new data confirms that the waters are or are not meeting water quality standards. If a water is deleted from the identification of waters that do not meet water quality standards, the defendants need not prepare a total maximum daily load for the water. If an additional water is identified as not meeting water quality standards, the defendants shall prepare a total maximum daily load for the water by the applicable deadline in the schedule if the water is identified at least one year prior to the deadline. If the additional water is identified less than one year before the total maximum load would be due under the schedule, the defendants shall have discretion to prepare the load by the scheduled deadline or to extend the schedule.

(3) The defendants, EPA, may determine if the State of Louisiana wishes to assist the EPA in preparing any or all of the total maximum daily loads required by this schedule. If Louisiana elects to assume responsibility for preparation of any of the total maximum daily loads, it shall submit the load to the defendants by the dates indicated in the schedule described above. The defendants shall approve or disapprove any total maximum daily load submitted by the state within 30 days of its submission. If the defendants disapprove any total maximum daily load, the defendants shall prepare a total maximum load for the water within 30 days after the date of its disapproval. If after assuming responsibility for the preparation of any total maximum daily load, the state fails to submit the load to the EPA by the required deadline, the defendants shall prepare the total maximum daily load within 60 days after the deadline.

Consistent with earlier EPA representations, the administrative record file and calculations for the following nineteen TMDLs, prepared on waters located within the Mermentau and Vermilion/Teche basins, are available for review and comment:

Subsegment	Waterbody name	Pollutant
050201	Bayou Plaquemine Brule.	Mercury.
050101	Bayou Des Cannes.	Mercury.
050702	Seventh Ward Canal (Intracoastal Waterway).	Mercury.
060203	Chicot Lake	Mercury.
050901	Coastal waters of the Gulf of Mexico (Mermentau River Basin Coastal).	Mercury.
061201	Coastal waters of the Gulf of Mexico (Vermilion-Teche RB-CB&G).	Mercury.
050101	Bayou Des Cannes.	Fecal Coliform
050201	Bayou Plaquemine Brule.	Fecal Coliform
050301	Bayou Nezpique	Fecal Coliform
050501	Bayou Queue de Tortue.	Turbidity
060208	Bayou Boeuf	Fecal Coliform
060301	Bayou Teche	Fecal Coliform
060401	Bayou Teche	Fecal Coliform
060801	Vermilion River	Fecal Coliform
060802	Vermilion River	Fecal Coliform
060801	Vermilion River	Dissolved Oxygen
060801	Vermilion River	Nitrogen
060802	Vermilion River	Dissolved Oxygen
060802	Vermilion River	Nitrogen.

EPA regulations provide for public participation when the Agency establishes TMDLs. By this notice, and pursuant to 40 CFR part 130.7(d)(2), EPA is seeking comment on the above 19 TMDLs. While these TMDLs were prepared consistent with short time frames provided in the October 1, 1999, Court Order, EPA recognizes the importance of preparing both, timely and accurate TMDLs. Thus, EPA requests the public to provide any significant data and information that may impact these 19 TMDLs. If such data and information is submitted during the public comment period, EPA may determine it is necessary to revise any one, or some of the 19 TMDLs. After consideration of data and information submitted during the public comment period, and making any appropriate revisions, EPA will forward the TMDLs to the Court and the Louisiana Department of Environmental Quality (LDEQ). LDEQ will incorporate the TMDLs into its current water quality management plan.

Through this notice, EPA is also making available for comment EPA's February 25, 2000 determination that TMDLs are not needed for 46 waterbody/pollutant combinations in the Mermentau and Vermilion/Teche river basins and 2 in the Pearl River basin.

In response to the Court's October 1, 1999 Order, EPA on October 28, 1999 disapproved Louisiana's 1998 CWA section 303(d) list and, on November 1, 1999, submitted to the Court a Court Ordered CWA section 303(d) list and administrative record. EPA made the Court Ordered List available for public comment on November 29, 1999 (64 FR 66635). After review of water quality data and monitoring information and public comments, EPA issued a Modified Court Ordered CWA section 303(d) list on February 25, 2000. As part of that decision, EPA determined that 46 waterbody/pollutant combinations in the Mermentau and Vermilion/Teche basins and 2 in the Pearl River basin should be removed from the Court Ordered CWA section 303(d) list. The rationale for the determinations is set out in the Decision Document for the Modified Court Ordered § 303(d) List and further explained in Appendix E of that document and provided as follows:

050101 Bayou Des Cannes—Headwaters to Mermentau
- Copper .... New data shows it is meeting Water Quality Standards (WQS).
- Lead .... New data shows it is meeting WQS.

050201 Bayou Plaquemine Brule—Headwaters to Bayou Des Cannes
- Lead .... New data shows it is meeting WQS.
- Phosphorus .. New data shows it is meeting WQS.
- Turbidity ...... New data shows it is meeting WQS.

050301 Bayou Nezpique—Headwaters to Mermentau
- Copper .... New data shows it is meeting WQS.
- Lead .... New data shows it is meeting WQS.

050401 Mermentau River — Origin to Lake Arthur
- Phosphorus .. Assessment of data shows it is meeting WQS.
- Copper .... New data shows it is meeting WQS.
- Lead .... New data shows it is meeting WQS.
- Mercury .... New data shows it is meeting WQS.
- Suspended Solids. New data shows it is meeting WQS.

050501 Bayou Queue de Tortue—Headwaters to Mermentau
- Lead .... New data shows it is meeting WQS.

050601 Lacassine Bayou—Headwaters to Intracoastal Waterway
- Phosphorus .. Assessment of data shows it is meeting WQS.
- Suspended Solids. New data shows it is meeting WQS.
- Turbidity ...... New data shows it is meeting WQS.
- Lead .... New data shows it is meeting WQS.

050703 White Lake
- Siltation .... Assessment of data and information shows it is meeting WQS.
- Turbidity ...... Assessment of data and information shows it is meeting WQS.
- Lead .... New data shows it is meeting WQS.

050801 Mermentau River—Catfish Point Control Structure to Gulf of Mexico (Estuarine)
- Copper .... New data shows it is meeting WQS.

060101 Spring Creek—Headwaters to Cocodrie Lake
- Siltation .... Assessment of data shows it is meeting WQS.
- Turbidity ...... New data shows it is meeting WQS.
- Cadmium ..... New data shows it is meeting WQS.
- Copper .... New data shows it is meeting WQS.
- Lead .... New data shows it is meeting WQS.
- Mercury .... New data shows it is meeting WQS.

060102 Cocodrie Lake
- Cadmium ..... Original basis for listing determined to be inaccurate.
- Copper .... Original basis for listing determined to be inaccurate.
- Lead .... Original basis for listing determined to be inaccurate.

060201 Bayou Cocodrie from US Highway 167 to the Boeuf-Cocodrie Diversion Canal
- Lead .... New data shows it is meeting WQS.

060203 Chicot Lake
- Copper .... New data shows it is meeting WQS.
- Lead .... New data shows it is meeting WQS.

060204 Bayou Courtableau—Origin to West Atchafalaya Borrow Pit Canal
- Lead .... New data shows it is meeting WQS.

060205 Bayou Teche—Headwaters at Bayou Courtableau to I–10
- Lead .... New data shows it is meeting WQS.

060401 Bayou Teche—Keystone Locks & Dam to Charenton Canal
- Phosphorus .. Assessment of data shows it is meeting WQS.

060501 Bayou Teche—Charenton Canal to Wax Lake Outlet
- Phosphorus .. Assessment of data shows it is meeting WQS.

060702 Lake Fausse Point and Dauterive Lake
- Phosphorus .. Assessment of data shows it is meeting WQS.

060801 Vermilion River—Headwaters at Bayou Fusilier-Bourbeaux Junction to New Flanders (Ambassador Caffery Bridge)
- Phosphorus .. Assessment of data shows it is meeting WQS.
- Cadmium ..... New data shows it is meeting WQS.
- Lead .... New data shows it is meeting WQS.

060802 Vermilion River from New Flanders (Ambassador Caffery Bridge) New Bridge, LA Hwy 3073 to Intracoastal Waterway
- Phosphorus .. Assessment of data shows it is meeting WQS.
- Lead .... New data shows it is meeting WQS.

060902 Bayou Carlin (Delcambre Canal) Lake Peigneur to Bayou Petite Anse (Estuarine)
- Copper .... New data shows it is meeting WQS.

061104 Vermilion Bay
- Copper .... New data shows it is meeting WQS.

090101 Pearl River
- Copper .... New data shows it is meeting WQS.

090202 West Pearl River
- Copper .... New data shows it is meeting WQS.

110507 Bayou Anacoco
- Dioxin .... Original basis for listing determined to be inaccurate, dioxin included with priority organics listing.

EPA request the public to provide any significant data or information warranting revision of EPA's decision to remove these 48 waterbody/pollutant combinations. If such data or information is submitted during the public comment period, EPA may revise the Modified Court Ordered List accordingly. EPA is not requesting comment on any other aspect of its February 25, 2000, decision on the Modified Court Ordered CWA section 303(d) list.

Dated: March 25, 2000.

Oscar Ramirez, Jr.,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. 00–9093 Filed 4–11–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting, Thursday, April 13, 2000

April 6, 2000.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, April 13, 2000, which is scheduled to commence at 9:30 a.m. in room TW–C305, at 445 12th Street, S.W., Washington, D.C.

Item No.	Bureau	Subject
1	Common Carrier	TITLE: Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; and Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers (CC Docket No. 94–129). SUMMARY: The Commission will reconsider petitions for reconsideration of the Second Report and Order pursuant to Section 258 of the Act, which prohibits a carrier from submitting or executing changes in a subscriber's telephone service except in accordance with the Commission's verification procedures.
2	Cable Services	TITLE: Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; and Accessibility of Emergency Programming (MM Docket No. 95–176). SUMMARY: The Commission will consider a Second Report and Order concerning the accessibility of emergency information programming to persons with hearing disabilities.
3	Office of Plans and Policy and Office of Engineering and Technology.	TITLE: Compatibility Between Cable Systems and Consumer Electronics Equipment. SUMMARY: The Commission will consider a Notice of Proposed Rule Making addressing the issues of labeling digital television sets to indicate their capability to operate with cable television systems and of licensing terms for copy protection technology.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY (202) 418–2555.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, International Transcription Services, Inc. (ITS, Inc.) at (202) 857–3800; fax (202) 857–3805 and 857–3184; or TTY (202) 293–8810. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. ITS may be reached by e-mail: its__inc@ix.netcom.com. Their Internet address is http;//www.itsi.com.

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–0100; fax number (703) 834–0111.

Federal Communication Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–9120 Filed 4–7–00; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1316–DR]

Alaska; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Alaska (FEMA–1316–DR), dated February 17, 2000, and related determinations.

EFFECTIVE DATE: April 4, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Alaska is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 17, 2000:

Aleutians East Borough, Bethel Census Area, Bristol Bay Borough, Dillingham Census Area, Denali Borough, Fairbanks North Star Borough, Kodiak Island Borough, Lake and Peninsula Borough, Southeast Fairbanks Census Area, and Wade Hampton Census Area for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 00–9069 Filed 4–11–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 217–011700

Title: DSEN/CSAV Slot Charter Agreement.

Parties:

DSR-Senator Lines GmbH (''DSEN'')
Compania Sud Americana de Vapores S.A. (''CSAV'')

Synopsis: The proposed agreement authorizes CSAV to charter container slots from DSEN in the trade between United States East Coast ports and points, and ports and points in North Europe.

Agreement No.: 201101.

Title: Tampa—Tampa Bay Marine Terminal Wharfage Incentive Agreement.

Parties:

Tampa Port Authority
Tampa Bay International Terminals, Inc.

Synopsis: The proposed agreement provides for a wharfage incentive. The agreement runs through March 31, 2001.

By Order of the Federal Maritime Commission.

Dated: April 7, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–9100 Filed 4–11–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicant

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, D.C. 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

CPS International Inc., 1869 N.W. 97th Street, Miami, FL 33172, Officers: Rodrigo Cordon, President (Qualifying Individual) Alberto Ubilla, Vice President

K-Way Express, 9000 Bellanca Ave., #110, Los Angeles, CA 90045, Kenny Kyusup Kim, Sole Proprietor

CMS Shipping Co., 11099 S. La Cienega Blvd., Suite 246, Los Angeles, CA 90045, Chi M. Hwang, Sole Proprietor

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Ambert Inc. d/b/a African Express Lines, 249 Merrifield Avenue, Oceanside, NY 11572, Officer: Selina Megertichian, President (Qualifying Individual)

Ocean Freight Forwarders—Ocean Transportation Intermediary Applicants

Kudley Trans-Port International, Inc., 1100 Cesery Blvd., #5, Jacksonville, FL 32211, Officers: Frank M. Walters, Vice President (Qualifying Individual); David D. Rudley, President

Dated: April 7, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–9101 Filed 4–11–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 5, 2000.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. The Dai-Ichi Kangyo Fuji Trust & Banking Co., Ltd., Tokyo, Japan; to acquire 100 percent of the voting shares of DKF Trust Company (USA), New York, New York.

2. Mizuho Holdings, Inc., Tokyo, Japan; to become a bank holding company by acquiring 100 percent of the voting shares of The Dai-Ichi Kangyo Bank of California, Los Angeles, California; The Fuji Bank and Trust Company, New York, New York; The Industrial Bank of Japan Trust Company, New York, New York; IBJ Whitehall Bank & Trust Company, New York, New York; and DKF Trust Company, (USA) New York, New York. Upon conversion to a ''bank'' as defined by the Bank Holding Company Act.

In connection with this proposal, Mizuho Holdings, Inc., Tokyo, Japan has applied to acquire a variety of nonbanking activities in the United States performed by subsidiaries of The Dai-Ichi Kangyo Bank, Limited, The Fuji Bank, Limited, The Industrial Bank of Japan, Limited, all located in Tokyo, Japan, including companies that engage in, including lending activities pursuant to section 225.28(b)(1) and (b)(2) of Regulation Y; leasing activities, pursuant to section 225.28(b)(3), trust services, pursuant to section 225.28(b)(5), providing investment advice, pursuant to 225.28(b)(6), data processing pursuant to 225.28(b)(14); and securities activities pursuant to 225.28(b)(8) of Regulation Y. These nonbanking activities and companies are described in the notice filed with the Federal Reserve Bank of New York. Mizuho Holding, Inc., also proposes to engage de novo indirectly in industrial loan company activities, pursuant to Section 225.28(b)(4) of Regulation Y.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. SouthernBank Holdings, Inc., Buford, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of SouthernBank, N.A. (in organization), Buford, Georgia.

Board of Governors of the Federal Reserve System, April 6, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–9055 Filed 4–11–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 982 3180]

CMO Distribution Centers of America, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the

draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 5, 2000.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Tom Carter, Federal Trade Commission, Southwest Region, 1999 Bryan St., Suite 2150, Dallas, TX. 75201–6803. (214) 979–9372

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 5, 2000), on the World Wide Web, at ''http://www.ftc.gov/ftc/formal.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania, Ave., NW, Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Seciton4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis or Proposed Consent Order To and Public Comment

The Federal Trade Commission has accepted, subject to final approval, and agreement to a proposed Consent Order (''proposed order'') from CMO Distribution Centers of America, Inc., and Kalon Samulonis, individually and as an officer of CMO Distribution Centers of America, Inc.

The proposed consent order has been placed on the public record for thirty (30) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns advertisements on the Internet for a product called ''CMO,'' described as a form of cetylmyristoleate, said to be derived from beef. CMO is purportedly useful in the treatment of cure of arthritis and other diseases. According to the proposed respondents' advertising, CMO affects the human immune system in one of two courses of treatment, each lasting less than three weeks. The proposed respondent claimed their product permanently relieves the symptoms of osteoarthritis and reheumatoid arthritis and reverses the effects of the disease. CMO was also claimed to be useful for the treatment, mitigation, prevention, and cure of most forms of arthritis and a number of other diseases.

The Commission's complaint charges that the proposed respondents engaged in deceptive advertising in violation of Section 5 and 12 of the FTC Act by making unsubstantiated claims that their CMO products: (1) Are effective in the mitigation, treatment, prevention, and cure of all forms of arthritis, except gouty arthritis; (2) relieve all symptoms of arthritis, including pain, impaired mobility, swelling, and deformity; (3) are as effective as, or superior to, prescription medications for the treatment of arthritis and the relief of arthritis symptoms; (4) are effective in the treatment of multiple sclerosis, leukemia, lupus, emphysema, cancer, benign prostate hyperplasia, silicone breast disease, asthma, fibromyalgia, and scleroderma; and (5) are completely safe and without harmful side effects, even at extremely high doses.

The complaint further alleges that the proposed respondents made false claims that: (1) Clinical studies prove that CMO is a safe and effective treatment for virtually all forms of arthritis except gouty arthritis; (2) CMO is accepted by the medical community; (3) Time magazine reported in its October 28, 1996 issue that CMO™ is one of the most promising developments in arthritis research; and (4) the Arthritis Foundation has not commented on CMO, except to suggest that when taking CMO, patients should consult their physicians before reducing steroids or other medications.

The proposed order contains provisions designed to remedy the violations charged and to prevent proposed respondents from engaging in similar acts in the future.

Paragraph I of the proposed order prohibits proposed respondents from making any representation that CMO or any similar product: (1) Is effective in the mitigation, treatment, prevention, or cure of arthritis; (2) provides significant relief from symptoms of arthritis, including pain, swelling, impaired mobility, or deformity; (3) is as effective as, or superior to, prescription medications for the treatment of arthritis or the relief of arthritis symptoms: (4) is effective in the treatment of multiple sclerosis, leukemia, lupus, emphysema, cancer, benign prostate hyperplasia, silicone breast disease, asthma, fibromyalgia, or scleroderma; or (5) is safe or has not adverse side effects, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph II of the proposed order prohibits proposed respondents from making any representations about the performance, safety, efficacy, or health benefits of CMO or any other food, dietary supplement, or drug, unless the claims are substantiated by competent and reliable scientific evidence.

Paragraph III of the proposed order prohibits proposed respondents from using the name ''cmocure,'' using the word ''cure'' in an address or telephone number, or using any other name, address, or telephone number in marketing a food, dietary supplement, drug, or program, to represent a cure for any disease or health-related condition, unless the respondents possess and rely upon competent, reliable scientific evidence substantiating the representation.

Paragraph IV of the proposed order prohibits the proposed respondents from misrepresenting that a product or program is endorsed or approved by any governmental, professional, or private organization or association, or complies with standards or guidelines established by such organization or association.

Paragraph V of the proposed order prohibits proposed respondents from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Paragraph VI of the proposed order prohibits proposed respondents from representing that the experience represented by any user testimonial or endorsement of any product or program represents the typical or ordinary experience of members of the public who use the product or program, unless the representation is true, and competent and reliable scientific evidence substantiates that claim, or respondents clearly and prominently disclose either: (1) What the generally expected results would be for users or the product or program; or (2) the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

Paragraph VII of the proposed order provides that proposed respondents are not prohibited from making representations which are specifically permitted by regulations of the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990. Paragraph VIII of the proposed order provides that proposed respondents are not prohibited from making representations for a drug that are permitted under tentative final or final standards issued by the Food and Drug Administration or under any new drug application approved by that agency.

Paragraph IX of the proposed order requires that proposed respondents: (1) Not disseminate to any distributor any material containing any representations prohibited by the order; (2) not authorize any distributor to make any representations prohibited by the order; (3) send a required notice to each distributor with whom proposed respondents have done business since January 1, 1996, requesting that the distributor cease using advertising or promotional materials containing unsubstantiated claims for CMO, requesting distributors not to make unsubstantiated oral representations, informing the distributor of this settlement, and not including any other documents in the mailing; (4) for a period of three (3) years following service of the order, send the required notice to each distributor who has not previously received the notice; the notices shall be sent with the first shipment of respondents' products to the distributor; (5) require distributors to submit to proposed respondents all advertising and promotional materials and claims for any products or programs covered by the order for review prior to their dissemination and publication, and not authorize distributors to disseminate materials and claims unless they comply with the order; alternatively, proposed respondents must furnish to distributors marketing materials that comply with the order and require the distributors to submit for review all advertising and promotional materials for a particular product covered by the order that contain representations that are not substantially similar to the representations for the same product or program contained in the marketing materials most recently provided to the distributors by proposed respondents; and (6) use reasonable efforts to monitor distributors' advertising and promotional activities, immediately terminate the right of any distributor who disseminates advertisements or marketing material or makes oral representations prohibited by the order, and immediately provide information to the Federal Trade Commission about any such distributor and the materials used. ''Distributor'' is defined in the proposed order to mean any person who purchased a product covered by the order from the respondents for resale or at a discounted or wholesale price unavailable to the general public at the time of the purchase, or who has purchased more than twelve bottles or packages of a covered product from respondents within a twelve-month period.

Paragraph X of the proposed order requires the proposed respondents to send a prescribed notice to each person, other than a distributor, who purchased respondents' CMO products and can be identified through a diligent search of respondents' records. The notice offers a refund of the purchase price and any shipping or handling charges to customers who purchased respondents' CMO product for personal use or the use of a family member and who make a request for a refund within ninety days of the date of the notice. Paragraph XI of the proposed order requires the proposed respondents to submit a report to the Federal Trade Commission specifying the actions they have taken to comply with the provisions of Paragraph X. Paragraph XII of the proposed order requires proposed respondents to retain for five years after the last correspondence to which they pertain and to make available to the Federal Trade Commission on request, copies of notification letters, communications with distributors, and other materials relating to the requirements of Paragraph IX and Paragraph X.

Paragraph XIII of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict covered claims and requires proposed respondents to keep and maintain all advertisements and promotional materials containing any representation covered by the proposed order. In addition, Paragraph XIV requires distribution of a copy of the consent decree to current and future officers and agents. Further, Paragraph XV requires the filing of a compliance report. Paragraph XVI of the proposed order requires the respondents to notify the Federal Trade Commission in advance of any change in the corporation that may affect compliance obligations arising under the order.

Finally, Paragraph XVII of the proposed order provides for the termination of the order after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–9074 Filed 4–11–00; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 982 3181]

EHP Products, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 5, 2000.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Tom Carter, Federal Trade Commission, Southwest Region, 1999 Bryan St., Suite 2150, Dallas, TX. 75201–6803. (214) 979–9372.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approved, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 5, 2000), on the World Wide Web, at ''http://www.ftc.gov/ftc/formal.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania. Ave., NW, Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed Consent Order (''proposed order'') from EHP Products, Inc., and Elaine H. Parrish, individually and as an officer of EHP Products, Inc.

The proposed consent order has been placed on the public record for thirty (30) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns advertisements on the Internet and print advertisements provided to consumers and prospective distributors, for a product called cetyl myristoleate (''CMO''), purportedly useful in the treatment, prevention, or cure of arthritis and other diseases. Purportedly, the substance, in one or two courses of treatment, each lasting four weeks or less, provides long term relief from the symptoms of osteoarthritis and rheumatoid arthritis. CMO is also claimed to be useful for the treatment, mitigation, prevention, and cure of most forms of arthritis and a number of other diseases.

The Commission's complaint charges that the proposed respondents engaged in deceptive advertising in violation of Sections 5 and 12 of the FTC Act by making unsubstantiated claims that their CMO products: (1) Are safe and effective in the mitigation, treatment, prevention, and cure of most forms of arthritic conditions, including rheumatoid arthritis and osteoarthritis; (2) significantly relieve pain, swelling, and tenderness caused by arthritis; (3) are effective in the mitigation, treatment, and cure of hepatitis C, emphysema, obstructive lung disease, spinal stenosis, eczema, psoriasis, aches and pains of the back and extremities, fibromyalgia, tendonitis, systemic lupus erythematosus, scleroderma, bursitis, temperomandibular joint disease, gout, arthropathy, osteitis, osteochondritis, osteomalacia, osteomyelitis; (4) are effective in the prevention of fever blisters, colds, flu, and allergy symptoms; and (5) effectively lower cholesterol, blood pressure, and blood sugar levels.

The complaint further alleges that the proposed respondents made false claims that (1) the issuance of two patents proves that the respondents' products are effective in treating and alleviating the symptoms of rheumatoid arthritis and osteoarthritis; and that (2) laboratory tests prove that respondents' CMO products promote resistance to pain, swelling, and tenderness caused by arthritis.

The proposed order contains provisions designed to remedy the violations charged and to prevent proposed respondents from engaging in similar acts in the future.

Paragraph I of the proposed order prohibits proposed respondents from making any representation that CMO or any similar product: (1) Is safe or effective in the mitigation, treatment, prevention, or cure of arthritic conditions, including rheumatoid arthritis and osteoarthritis; (2) significantly relieves pain, swelling, or tenderness caused by arthritis; (3) is effective in the mitigation, treatment, or cure of hepatitis C, emphysema, obstructive lung disease, spinal stenosis, eczema, psoriasis, aches and pains of the back and extremities, fibromyalgia, tendonitis, systemic lupus erythematosus, scleroderma, bursitis, temperomandibular joint disease, gout, arthropathy, rheumatism, osteitis, osteochondritis, osteomalacia, or osteomyelitis; (4) is effective in the prevention of fever blisters, colds, flu, or allergy symptoms; or (5) effectively lowers cholesterol, blood pressure, or blood sugar levels, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph II of the proposed order prohibits proposed respondents from making any representations about the performance, safety, efficacy, or health benefits of CMO or any other food, drug, dietary supplement, or program, unless the claims are substantiated by competent and reliable scientific evidence.

Paragraph III of the proposed order prohibits proposed respondents from misrepresenting that the issuance of a patent proves the safety or efficacy of any product or program. Additionally, Paragraph IV of the proposed order prohibits proposed respondents from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Paragraph V of the proposed order prohibits proposed respondents from representing that the experience represented by any user testimonial or endorsement of any product or program represents the typical or ordinary experience of members of the public who use the product or program, unless the representation is true, and competent and reliable scientific evidence substantiates that claim, or respondents clearly and prominently disclose either: (1) What the generally expected results would be for users or the product or program; or (2) the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

Paragraph VI of the proposed order provides that proposed respondents are not prohibited from making representations which are specifically permitted by regulations of the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990. Paragraph VII of the proposed order provides that proposed respondents are not prohibited from making representations for a drug that are permitted under tentative final or final standards issued by the Food and Drug Administration or under any new drug application approved by that agency.

Paragraph VIII of the proposed order requires that proposed respondents: (1) Not disseminate to any distributor any material containing any representations prohibited by the order; (2) not authorize any distributor to make any representations prohibited by the order; (3) send a required notice to each distributor with whom proposed respondents have done business since

January 1, 1996, requesting that the distributor cease using any advertising or promotional materials containing unsubstantiated claims for CMO, requesting distributors not to make unsubstantiated oral representations, informing the distributor of this settlement, and not including any other documents in the mailing; (4) for a period of three (3) years following service of the order, send the required notice to each distributor who has not previously received the notice; the notices shall be sent with the first shipment of respondents' products to the distributor; (5) require distributors to submit to proposed respondents all advertising and promotional materials and claims for any products or programs covered by the order for review prior to their dissemination and publication, and not authorize distributors to disseminate materials and claims unless they comply with the order; alternatively, proposed respondents must furnish to distributors marketing materials that comply with the order and require the distributors to submit for review all advertising and promotional materials for a particular product covered by the order that contain representations that are not substantially similar to the representations for the same product or program contained in the marketing materials most recently provided to the distributors by proposed respondents; and (6) use reasonable efforts to monitor distributors' advertising and promotional activities, immediately terminate the right of any distributor who disseminates advertisements or making material or makes oral representations prohibited by the order, and immediately provide information to the Federal Trade Commission about any such distributor and the materials used. ''Distributor'' is defined in the proposed order to mean any person who purchased a product covered by the order from proposed respondents for resale or at a discounted or wholesale price unavailable to the general public as the time of the purchase, or who has purchased more than twelve bottles or packages of a covered product from respondents within a twelve-month period.

Paragraph IX of the proposed order requires proposed respondents to send a prescribed notice to each person, other than a distributor, who purchased respondents' CMO products and can be identified through a diligent search of respondents' records. The notice offers a refund of the purchase price of the CMO products and an allowance for shipping and handing charges to customers who purchased respondents' CMO product for personal use or the use of a family member and who make an initial request for a refund within ninety days of the date of this notice. The notice further provides that, if any refund request from a single purchaser is for greater than three bottles of a product covered by the order, the purchaser may be required to return all unopened bottles of the product, at the expense of respondents, to receive a refund. Paragraph X of the proposed order requires proposed respondents to submit a report to the Federal Trade Commission specifying the actions they have taken to comply with the provisions of Paragraph IX. Paragraph XI of the proposed order requires proposed respondents to retain for five years after the last correspondence to which they pertain and to make available to the Federal Trade Commission on request, copies of notification letters, communications with distributors, and other materials relating to the requirements of Paragraph VIII and Paragraph IX.

Paragraph XII of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict covered claims and requires proposed respondents to keep and maintain all advertisements and promotional materials containing any representation covered by the proposed order. In addition, Paragraph XIII requires distribution of a copy of the consent decree to current and future officers and agents. Paragraph XIV of the proposed order requires the respondents to notify the Federal Trade Commission in advance of any change in the corporation that may affect compliance obligations arising under the order. Further, Paragraph XV requires the filing of a compliance report.

Finally, Paragraph XVI of the proposed order provides for the termination of the order after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

By direction of the Commission,

Donald S. Clark,

Secretary.

[FR Doc. 00–9075 Filed 4–11–00; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 992 3225]

Michael D. Miller; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 5, 2000.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Richard Cleland, FTC/S–4002, 600 Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–3088.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 5, 2000), on the World Wide Web, at ''http://www.ftc.gov/ftc/formal.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Michael D. Miller, individually and doing business as Natural Heritage Enterprises (''Miller'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves alleged unsubstantiated representations that ''Rene Caisse's Original Herbal Tea Remedy,'' also known as ''Rene Caisse's Essiac Tea'' or ''Essiac Tea'' (''Essiac Tea'') is effective for treating or curing a number of diseases including, among others, cancer, leukemia, diabetes, and AIDS/HIV. The complaint alleges that these representations were made through the following means, taken together: The visible portion of Miller's Internet Web sites and in the metatags and mouseover text. In addition, according to the FTC complaint, through the visible portion of his Internet advertisements, Miller falsely represented that clinical evidence proves that Essiac Tea is an effective cancer cure; that ''recommended [Web] sites'' to which respondent's home page links are independent Web sites not associated with Miller or Natural Heritage; and, impliedly, that the experiences of persons giving testimonials are representative of the typical experience of those using the product.

The proposed consent order contains provisions designed to prevent Miller from engaging in similar acts and practices in the future.

Part I of the order prohibits Miller from representing, without competent and reliable scientific evidence substantiating the representation, that any Essiac product, service, or program, or any other food, drug, or dietary supplement, is effective in the treatment or cure of certain enumerated diseases; that the product, service, or program is effective in the mitigation, treatment, prevention, or cure of any disease or illness; or about the health benefits, performance, safety, or efficacy of any such product, service, or program.

Part II of the order provides that Miller shall not mispresent the connection or association between any Web site created and/or maintained by Miller and any other Web site, or the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Part III of the order provides that Miller shall not represent that the experience represented by any user testimonial or endorsement of the product, service, or program represents the typical or ordinary experience of members of the public who use the product, service, or program, unless the representation is substantiated or Miller discloses, clearly and prominently, in close proximity to the endorsement or testimonial, either what the generally expected results would be for users of the product, or the limited applicability of the endorser's experience to what consumers may generally expect to achieve.

Parts I, II, and III apply to representations that are either express or implied, and specifically apply to representations communicated in any manner, including claims made by means of meta tags or mouseover text.

Part IV of the order requires respondent to deliver to the Commission a list, in the form of a sworn affidavit, of all consumers who purchased an Essiac product from respondent on or after September 15, 1996, and to send to all such consumers, by first class mail, an exact copy of a notice with information about the scientific research on Essiac tea.

Part V of the order requires respondent to pay seventeen thousand five hundred dollars ($17,500) in redress. The funds paid by respondent, together with any accrued interest, shall, in the discretion of the Commission, be used by the Commission to provide direct redress to purchasers of an Essiac product in connection with the acts or practices alleged in the complaint, and to pay any attendant costs of administration; or, if the Commission determines, in its sole discretion, that redress to purchasers of this product is wholly or partially impracticable or is otherwise unwarranted, any funds not so used shall be paid to the United States Treasury.

Part IV of the order states that representation for any drug that is permitted in labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration, are not prohibited by the order. The order also does not prohibit respondent from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

Parts VII–XII of the order require Miller to keep copies of relevant advertisements and materials substantiating or calling into question claims made in the advertisements; to provide copies of the order to certain of its personnel; to notify the Commission of changes in the company that may affect the order; to notify the Commission of his current address and employment status, and any changes in address or in employment status; and to file compliance reports with the Commission Part XIII provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–9076 Filed 4–11–00; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Office of Communications

Cancellation of a Standard Form

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The Department of State is cancelling the following Standard Form because of no usage:

OF 212, Allotment of Pay—Application and Authorization to Make, Change, or Discontinue.

DATES: Effective April 12, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

Dated: March 28, 2000.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer.

[FR Doc. 00–9039 Filed 4–11–00; 8:45 am]

BILLING CODE 6820–34–M

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Sunshine Act Meeting; Trustees Meeting; United States Capitol Building, Room HC–6, May 2, 2000, 4:00–5:30 pm

1. Call to Order by Chairman Staats.
2. Approval of Minutes for the 1999 Annual Meeting.
3. Consideration to reauthorize the Truman Scholarship Summer Institute for 2001–2006.
4. Review of selection of the 2000 Truman Scholars.
5. Report by the Executive Secretary.
6. Status of the Foundation's assets.
7. Status of appointments and vacancies on the Board of Trustees.
8. New Business.

Adjournment.

Dated: March 30, 2000.

Louis H. Blair,

Executive Secretary.

[FR Doc. 00–9211 Filed 4–10–00; 12:16 pm]

BILLING CODE 6820–AD–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. Empowerment Zones and Enterprise Communities (EZ/EC) Health Improvement Capacity Survey—NEW—The Office of the Assistant Secretary for Planning and Evaluation is proposing a survey of directors of EZ/ECs to assess their capacity to engage in health improvement planning efforts. Recognizing that EZ/ECs represent some of the nation's most economically disadvantaged and ethnically diverse urban and rural areas, this project is designed to measure the level of interest, commitment and priority assigned to reducing health disparities in these localities. Respondents: EZ/EC Directors; Number of Respondents: 136; Frequency of Response: one time; Average Burden per Response: 20 minutes; Total Annual Burden: 46 hours.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, room 10235, 725 17th Street NW, Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW, Washington, DC, 20201. Written comments should be received within 30 days of this notice.

Dated: April 4, 2000.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 00–9010 Filed 4–11–00; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–00–32]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) is providing an opportunity for public comment on proposed data collection projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC/ATSDR Reports Clearance Officer at (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to CDC/ATSDR Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Interstate Control of Communicable Diseases—New—The Food and Drug Administration (FDA) and Centers for Disease Control and Prevention (CDC) are planning to consolidate regulations related to controlling the spread of communicable diseases, thereby increasing their efficiency and effectiveness. Currently, the regulations contained in Part 1240 of Title 21, Code of Federal Regulations, which pertain to interstate control of communicable diseases, are administered by FDA. Regulations to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States are separately promulgated in Part 71 of Title 42, Code of Federal Regulations and are administered by the CDC. FDA is transferring to CDC certain sections of 21 CFR Part 1240 that relate to restrictions on interstate travel of any person who is in the communicable period of cholera, plague, smallpox, typhus, or yellow fever, or who, having been exposed to any such disease, is in the incubation period thereof.

Of the regulations being transferred, 21 CFR 1240.50 (Certain communicable diseases; special requirements), contains a requirement for reporting certain information to the Federal government. Specifically, this regulation requires any person who is in the communicable period of cholera, plague, smallpox, typhus or yellow fever, or who, having been exposed to any such disease, is in the incubation period thereof, to apply for and receive a permit from the Surgeon General or his authorized representative in order to travel from one State or possession to another.

Control of disease transmission within the States is considered to be the province of State and Local health authorities, with Federal assistance being sought by those authorities on a cooperative basis, without application of Federal regulations. The regulations formerly administered by FDA and being assumed by CDC were developed to facilitate Federal action in the event of large outbreaks of disease requiring a coordinated effort involving several States, or in the event of inadequate local control. While it is not known whether, or to what extent, situations may arise in which these regulations would be invoked, contingency planning for domestic emergency preparedness is not uncommon. Should this occur, the reporting and recordkeeping requirements contained in the regulations will be used by CDC to carry out quarantine responsibilities as required by law.

Because of the uncertainty about whether a situation will ever arise precipitating CDC's enforcement of this rule, the following data collection burden estimate was prepared using the article Smallpox: An Attack Scenario, Tara O'Toole; Emerging Infectious Diseases, Vol. 5, No. 4, Jul–Aug. 1999. This article describes the aftermath of a hypothetical domestic public health emergency situation involving smallpox virus. Of the potentially 15,000 persons infected with smallpox, the data collection assumes that one-fourth of these would apply for a permit to move from one state to another while in the communicable period of or having been exposed to smallpox. Should the event be different and/or involve a different number of people, the burden would vary accordingly. There is no cost to respondents.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Applicants	3,750	1	0.25	937.5
Total	3,750			937.5

Dated: April 5, 2000.

Charles Gollmar,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–9045 Filed 4–11–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–20–00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

CDC Application for Distance Learning Program, Laboratory Training, and other Training—Revision—The Public Health Practice Program Office (PHPPO) in conjunction with the Public Health Training Network (PHTN) and the National Laboratory Training Network (NLTN) at CDC includes the Distance Learning Program which offers self-study, computer-based training, satellite broadcast, video courses, instructor-led field courses, and lab courses related to public health professionals worldwide. Employees of hospitals, universities, medical centers, laboratories, state and federal agencies, and state and local health departments apply for training in an effort to learn up-to-date public health procedures. The ''Application for Training'' forms are the official applications used for all training activities conducted by the CDC. The Continuing Education (CE) Program, which includes CDC's accreditation to provide Continuing Medical Education (CME), Continuing Nurse Education (CNE), and Continuing Education Unit (CEU) for almost all training activities, requires a unique identifying number, preferably the respondent's Social Security Number (SSN), to positively identify and track individuals who have been awarded CE credit. It is often necessary to identify individuals currently enrolled in courses, or to retrieve historical information as to when a particular individual completed a course or several courses over a time period. This information provides the basis for producing a requested transcript or determining if a person is enrolled in more than one course. The use of the SSN is the only positive way of assigning a unique number to a unique individual for this purpose. However, the use of the SSN is voluntary; if a student chooses not to submit a SSN, CDC assigns a unique identifier. The reason the SSN, rather than an arbitrary assigned number, is preferred is because students are not likely to remember an arbitrary number. A student's participation in the curriculum of self-study courses sometimes spans a number of years. The SSN is necessary for eliminating duplicate enrollments, for properly crediting students with completed course work who have similar names or have changed addresses, or for generating transcripts of previous completed course work on a cumulative basis. Due to the volume of enrollments, CDC Form 36.5 has been previously approved and used for years as an optical mark scan form. Use of this form, along with the use of the SSN, greatly enhances CDC's capability to process a much greater volume of enrollments in less time with much greater accuracy. The total annual burden hours are 4584.

Respondents	No. of respondents	No. of responses/ respondent	Avg. burden of response (in hrs.)	Total burden (in hours)
Application for Training CDC—0.759A	6,300	1	5/60	525
Application for Laboratory Training—CDC–32.1	10,000	1	5/60	833
Application for Distance Learning Program—CDC 36.5	40,000	1	10/60	6,666
Total				8,024

Dated: April 3, 2000.

Charles Gollmar,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 00–9046 Filed 4–11–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care and Development Fund Annual Aggregate Report, ACF–800.

OMB No.: 0970–0150.

Description: This legislatively mandated report collects program and participant data on children and families receiving direct Child Care and Development Fund services. Aggregate data is collected and used to determine the program scope, types of providers, methods of child care delivery, and to provide a report to Congress.

Respondents: States, the District of Columbia, American Samoa, Guam, Northern Marianna Islands, Puerto Rico, and the U.S. Virgin Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	No. of responses per respondent	Average burden hours per response	Total burden hours
ACF–800	56	1	50	2,800
Estimated Total Annual Burden Hours.				2,800

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW, Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW, Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: April 6, 2000.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 00–9011 Filed 4–11–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Innovative Food Safety Projects; Availability of Grants; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Office of Regulatory Affairs (ORA), Division of Federal-State Relations (DFSR) is announcing the availability of grant funds for the support of an innovative food safety program. Approximately $250,000 will be available in fiscal year 2000. FDA anticipates making at least five awards, not to exceed $50,000 (direct and indirect costs combined) per award per year. Support of these grants will be for 1 year. The number of grants funded will depend on the quality of the applications received and the availability of Federal funds to support the grant. These grants are not intended to fund or conduct food inspections.

DATES: Submit applications by June 12, 2000. Each application must be submitted under separate cover. Do NOT submit more than one application (with copies) per envelope.

ADDRESSES: Application forms are available from, and completed applications should be submitted to Cynthia M. Polit, Grants Management Specialist (HFA–520), Food and Drug Administration, 5600 Fishers Lane, rm. 2129, Rockville, MD 20857, 301–827–7180, e-mail: cpolit@oc.fda.gov (Applications hand-carried or commercially delivered should be addressed to 5630 Fishers Lane, rm. 2129, Rockville, MD 20857.)

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Cynthia M. Polit (address and telephone number given above).

Regarding the programmatic aspects of this notice: Richard H. Barnes, Director, or Anne Hope Scott, Project Officer, DFSR, Office of Regulatory Affairs, Food and Drug Administration (HFC–150), 5600 Fishers Lane, rm. 12–07, Rockville, MD 20857, 301–827–6906, Internet site: vm.fda.gov/ora/fed__state.

SUPPLEMENTARY INFORMATION:

I. Introduction

FDA will support projects covered by this notice under section 1701 [300u] of the Public Health Service Act (42 U.S.C. 241). FDA's project program is described in the Catalog of Federal Domestic Assistance No. 93.245, and applicants are limited to food safety regulatory agencies of State and local governments. The FDA strongly encourages all award recipients to provide a smoke-free workplace and to discourage the use of all tobacco products. This is consistent with the FDA mission to protect and advance the physical and mental health of the American people.

FDA urges applicants to submit work plans that address specific objectives of ''Healthy People 2000.'' Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report, stock No. 017–0010–0474–0) through Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, 202–512–1800.

II. Background

ORA is the inspection component of FDA and has some 1,100 investigators and inspectors who cover the country's approximately 95,000 FDA-regulated businesses. These investigators and inspectors inspect more that 15,000 facilities a year. In addition to the standard inspection program, they conduct special investigations, food inspection recall audits, perform consumer complaint inspections and sample collections. FDA has relied on the States in assisting with the above duties through formal contracts, partnership agreements, and other informal arrangements. Under the President's Food Safety Initiative (FSI), the demands on both the agency and the States will increase. Procedures need to be reviewed and innovative changes made that will increase effectiveness and efficiency and conserve resources. ORA will support FSI by providing: (1) Effective and efficient compliance of regulatory products; and (2) high quality, science-based work that results in maximizing consumer protection.

Under FSI, FDA is mandated to develop innovative food safety programs that would be utilized nationally by State and local food safety regulatory agencies. Even though the American food supply is among the safest in the world, millions of Americans are stricken by illness each year caused by the food they consume, and some 7,000 Americans a year, primarily the very young and elderly, die as a result. The goal of FSI is to further reduce the incidence of foodborne disease to the greatest extent possible. Innovative food safety programs that are developed at the State and local levels and have national implication could enhance programs that are developed at the Federal level.

A. Project Goals, Definitions, and Examples

The specific objective of this program will be to complement, develop, or improve State and local food safety programs that would have applicability to food safety programs nationwide. Applications that fulfill the following specific project objectives will be considered for funding. Each application must address only one project. Applicants may apply for more than one project area, but must submit a separate application for each project. These grants are not to fund or conduct food inspections for food safety regulatory agencies. Applications relating to the Retail Food Program area should be applicable to program improvement processes for FDA's draft entitled ''Recommended National Retail Food Regulatory Program Standards'' (http://vm.cfsan.fda.gov/~dms/ret-toc.html) (see review criteria).

There are two key project areas identified for this effort:

1. Inspection

Development of innovative regulatory inspection methods or techniques for the inspection process of various food establishments in order to improve effectiveness and efficiency. Innovative Regulatory Program Methodology projects must demonstrate an effect on factors which contribute to foodborne illness in all, or a segment of, food industry programs. For example, projects could address key elements from the draft entitled ''Recommended National Retail Food Regulatory Program Standards,'' such as the five Food Code Interventions (management knowledge, employee health, hands as a vehicle of contamination, time/temperature relationships, and consumer advisory), or the five Centers for Disease Control and Prevention risk factors (improper holding temperature, inadequate cooking, contaminated equipment, unsafe source, and poor personal hygiene). Another example of projects in this area could include innovative regulation and compliance strategies for State and local food safety regulatory agencies. The goal of these projects should be to achieve efficient and effective compliance with regulations that impact contributing factors to foodborne illness.

2. Education and Health Information Dissemination

Development of innovative education projects and materials for State and local food safety regulatory officials that foster consistency and uniform application of State and local food regulations. These education projects and/or materials must be reproducible by other State and local food safety regulatory agencies. These projects may incorporate concurrent education of both State and local food safety regulatory agencies and the food industry.

B. Applicability

All grant application projects that are developed at State and local levels *must* have national implication or application that can enhance Federal, State, and local food regulatory programs and reduce factors that cause foodborne illness. At the discretion of FDA, successful project formats will be made available to interested Federal, State, and local food safety regulatory agencies. No grant will be awarded for projects that do not support the FDA Food Code.

III. Reporting Requirements

Semiannual progress reports as well as a Final Program Progress Report and a Final Financial Status Report (FSR) (SF–269) are required. An original FSR and two copies shall be submitted to FDA's Chief Grants Management Officer within 90 days of the expiration date of the grant. The Final Program Progress Report must provide full written documentation of the project, copies of any results, as described in the grant application, and an analysis and evaluation of the results of the project. The documentation must be in a form and contain sufficient detail that other State and local food safety regulatory agencies could reproduce the final project.

Program monitoring of recipients will be conducted on an ongoing basis and written reports will be reviewed and evaluated at least semiannually by the Project Officer. Project monitoring may also be in the form of telephone conversations between the Project Officer/Grants Management Specialist and the Principal Investigator and/or a site visit with appropriate officials of the recipient organization. The results of these monitoring activities will be duly recorded in the official file and may be available to the recipient upon request.

IV. Mechanism of Support

A. Award Instrument

Support for this program will be in the form of a grant. These grants will be subject to all policies and requirements that govern the project grant programs of FDA, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 also apply to this program and are implemented through Department of Health and Human Services (DHHS) regulations at 45 CFR part 100. Executive Order 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. A current listing of SPOC's is included in the application kit. The SPOC should send any State review process recommendations to FDA's administrative contact (address listed above). The due date for the State process recommendations is no later than 60 days after the deadline date for the receipt of applications. FDA does not guarantee to accommodate or explain SPOC comments that are received after the 60 day cut-off.

B. Eligibility

These grants are available only to State and local government food regulatory agencies (see SPOC requirements stated previously).

C. Length of Support

The length of support will be for 1 year from date of award.

V. Review Procedure and Criteria

All applications submitted in response to this request for application (RFA) will first be reviewed by grants management and program staff for responsiveness. If applications are found to be nonresponsive, they will be returned to the applicant without further consideration. An application will be considered nonresponsive if any of the following criteria are not met: (1) If it is received after the specified receipt date; (2) if the total dollar amount exceeds $50,000; (3) if all required signatures are not on the face page or assurance pages of the application; or (4) if there is no original signature copy.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application. Responsive applications will also be subject to a second level of review by a National Advisory Council for concurrence with the recommendations made by the first level reviewers. Final funding decisions will be made by the Commissioner of Food and Drugs or her designee.

Applicants are strongly encouraged to contact FDA to resolve any questions regarding criteria prior to the submission of their application. All questions of a technical or programmatic nature must be directed to ORA's program staff (address above) and all questions of an administrative or financial nature must be directed to the grants management staff (address above). Applications will be given an overall score and judged based on all of the following criteria:

1. Applications relating to the Retail Food Program (http://vm.cfsan.fda.gov/¢dms/ret-toc.html) only: The outcomes of the project should be applicable to program improvement process for FDA's draft entitled ''Recommended National Retail Food Regulatory Program Standards.'' (http://vm.cfsan.fda.gov/~dms/ret-toc.html). These standards will serve as a guide to regulatory retail food program managers for the design and management of a regulatory retail food program. The standards apply to the operation, management, and promotion of a regulatory retail food program focused on the reduction of risk factors known and suspected to cause foodborne illness. FDA's draft entitled ''Recommended National Retail Food Regulatory Program Standards'' are found on the Internet site at http://www.cfsan.fda.gov/~dms/ret-toc.html or contact your local FDA Regional Retail Food Specialist from the list provided in the application packet.

2. Application budgets must remain within the $50,000 cap for combined direct and indirect costs. Applications exceeding this dollar amount will be returned as nonresponsive.

3. Applications must provide in detail, a sound rationale and appropriate grant design to address the objectives of the RFA and the project must be reproducible within the national regulatory framework.

4. Applications must include a detailed explanation of the desired goals and outcomes of the project.

5. Applications must include a full description of the project design, a detailed implementation plan, methods of execution, and timeline for completion. The application must include a detailed description of measures of effectiveness and a description of the source documents or data collection methods for establishing the baseline for measurement.

6. Applications must address the adequacy of facilities, expertise of project staff, equipment, data bases, and support services needed for the project .

VI. Submission Requirements

The original and two copies of the completed Grant Application Form PHS–5161–1 (revised 6/99) for State and local governments, with copies of the appendices for each of the copies, should be delivered to Cynthia M. Polit (address above). The application receipt date is June 12, 2000. No supplemental or addendum material will be accepted after the receipt date.

The outside of the mailing package and item 2 of the application face page should be labeled ''Response to RFA–FDA–ORA–00–Project I'' or ''RFA–FDA–ORA–Project II.'' Submit only one project application (an original and two copies) per package.

VII. Method of Application

A. Submission Instructions

Applications will be accepted during working hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before the established receipt date. Applications will be considered received on time if sent or mailed on or before the receipt date as evidenced by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and they will be returned to the applicant. Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.

Do not send applications to the Center for Scientific Research, National Institutes of Health (NIH). Any application that is sent to NIH, that is then forwarded to FDA and not received in time for orderly processing, will be deemed nonresponsive and returned to the applicant. Instructions for completing the application are included in Form PHS–5161–1. FDA is unable to receive applications through the Internet.

B. Format for Application

Submission of the application must be on Grant Application Form PHS–5161–1 (rev 6/99). All instructions for the enclosed Standard Form 424 (SF–424) should be followed using the nonconstruction application pages.

The face page of the application should indicate ''RFA–FDA–ORA–00–Project I,'' or ''RFA–FDA–ORA–Project II.''

Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Information collection requirements requested on Form PHS–5161–1 were approved and issued under Office of Management and Budget Circular A–102.

C. Legend

Unless disclosure is required by FOIA as amended (5 U.S.C. 552), as determined by the freedom of information officials of DHHS or by a court, data contained in the portions of this application which have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted and/or proprietary information shall not be used or disclosed except for evaluation purposes.

Dated: April 5, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–9063 Filed 4–11–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1223]

International Conference on Harmonisation; E11: Clinical Investigation of Medicinal Products in the Pediatric Population

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a draft guidance entitled ''E11: Clinical Investigation of Medicinal Products in the Pediatric Population.'' The draft guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guidance sets forth critical issues in pediatric drug development and approaches to the safe, efficient, and ethical study of medicinal products in the pediatric population. The draft guidance is intended to encourage and facilitate the timely development of pediatric medicinal products internationally.

DATES: Submit written comments by May 30, 2000.

ADDRESSES: Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Copies of the draft guidance are available from the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4573. Single copies of the draft guidance may be obtained by mail from the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852, or by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800. Copies may be obtained from CBER's FAX Information System at 1–888–CBER–FAX or 301–827–3844.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: M. Dianne Murphy, Center for Drug Evaluation and Research (HFD–2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Regarding the ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In October 1999, the ICH Steering Committee agreed that a draft guidance entitled ''E11: Clinical Investigation of Medicinal Products in the Pediatric Population'' should be made available for public comment. The draft guidance is the product of the Efficacy Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Efficacy Expert Working Group.

In accordance with FDA's good guidance practices (62 FR 8961, February 27, 1997), this document is being called a guidance, rather than a guideline.

The draft guidance sets forth critical issues in pediatric drug development and approaches to the safe, efficient, and ethical study of medicinal products in the pediatric population. The draft guidance addresses the following clinical study issues: (1) Considerations when initiating a pediatric program for a medicinal product; (2) timing of initiation of pediatric studies during medicinal product development; (3) types of studies (pharmacokinetic, pharmacokinetic/pharmacodynamic, efficacy, safety); (4) age categories for studies; and (5) ethics of pediatric clinical investigation. The draft guidance is not comprehensive, but is intended to be used in conjunction with other ICH guidances and documents from regional regulatory authorities and pediatric societies. The draft guidance is intended to encourage and facilitate the timely development of pediatric medicinal products internationally.

This draft guidance represents the agency's current thinking on clinical investigation of medicinal products in the pediatric population. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the draft guidance on or before May 30, 2000. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. An electronic version of this guidance is available on the Internet at http://www.fda.gov/cder/guidance/index.htm or at http://www.fda.gov/cber/publications.htm.

The text of the draft guidance follows:

E11: Clinical Investigation of Medicinal Products in the Pediatric Population [1]

1. Introduction

1.1 Objectives of the Guidance

The number of medicinal products currently labeled for pediatric use is limited. It is the goal of this guidance to encourage and facilitate timely pediatric medicinal product development internationally. The

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guidance provides an outline of critical issues in pediatric drug development and approaches to the safe, efficient, and ethical study of medicinal products in the pediatric population.

1.2 Background

Other ICH documents on the following topics include relevant information impacting on pediatric studies:

- E2: Clinical Safety Data Management
- E3: Structure and Content of Clinical Study Reports
- E4: Dose-Response Information to Support Drug Registration
- E5: Ethnic Factors in the Acceptability of Foreign Clinical Data
- E6: Good Clinical Practice
- E8: General Considerations for Clinical Trials
- E9: Statistical Principles for Clinical Trials
- E10: Choice of Control Group in Clinical Trials
- M3: Nonclinical Safety Studies for the Conduct of Human Clinical Trials for Pharmaceuticals
- Q1: Stability Testing
- Q2: Validation of Analytical Procedures
- Q3: Impurity Testing

1.3 Scope of the Guidance

Specific clinical study issues addressed include: (1) Considerations when initiating a pediatric program for a medicinal product; (2) timing of initiation of pediatric studies during medicinal product development; (3) types of studies (pharmacokinetic, pharmacokinetic/pharmacodynamic (PK/PD), efficacy, safety); (4) age categories for studies; and (5) ethics of pediatric clinical investigation. This guidance is not intended to be comprehensive; other ICH guidances as well as documents from regional regulatory authorities and pediatric societies provide additional detail.

1.4 General Principles

Pediatric patients should be given medicines that have been appropriately evaluated for their use. Safe and effective pharmacotherapy in pediatric patients requires the timely development of information on the proper use of medicinal products in pediatric patients of various ages and, often, the development of pediatric formulations of those products. Major advances in formulation chemistry and in pediatric study design ensure that this goal can be achieved.

Drug development programs should include the pediatric patient population when a product is being developed for a disease/condition in adults and it is anticipated the product will be used in the pediatric population. The ethical imperative to obtain knowledge of the effects of medicinal products in pediatric patients has to be balanced against the ethical imperative to protect each pediatric patient in clinical studies. This responsibility is shared by companies, regulatory authorities, health professionals, and society as a whole.

2. Guidance

2.1 Issues When Initiating a Pediatric Medicinal Product Development Program

Data on the appropriate use of medicinal products in the pediatric population should be available unless the use of a specific medicinal product in pediatric patients is clearly inappropriate. The initiation of clinical studies in relation to studies conducted in adults, which may be influenced by regional public health and medical needs, is discussed in section 2.3. In general, pediatric studies should not delay completion of adult studies and availability of a medicinal product for adults. Justification for timing and the approach to the clinical program needs to be clearly addressed with regulatory authorities at an early stage.

The decision to proceed with a pediatric development program, and the nature of the program, for a medicinal product involves consideration of many factors, including:

- The prevalence of the condition to be treated in the pediatric population
- The seriousness of the condition to be treated
- The availability and suitability of alternative treatments for the condition in the pediatric population, including the efficacy and the adverse event profile (including any unique pediatric safety issues) of those treatments
- Whether the medicinal product is novel or one of a class of compounds with known properties
- Whether there are unique pediatric indications for the medicinal product
- The age ranges of patients likely to be treated with the medicinal product
- Unique pediatric (developmental) safety concerns about the medicinal product, including any nonclinical safety issues
- Potential need for pediatric formulation development

Of these factors, most important is the presence of a serious disease without good current therapy. This situation suggests relatively urgent and early initiation of pediatric studies.

Information from nonclinical safety studies to support a pediatric clinical program is discussed in ICH M3, section 11. It should be noted that the most relevant safety data for pediatric studies come ordinarily from adult human exposure. Repeat-dose toxicology and reproductive toxicology/genotoxicology would generally be available. The need for juvenile animal studies should be considered on a case-by-case basis and be based on developmental toxicology concerns.

2.2 Pediatric Formulations

There is a need for pediatric formulations that permit accurate dosing and enhance patient compliance. For oral administration, different types of formulations (suspensions, ''sprinkles,'' chewable tablets) and different flavors and colors may be more acceptable in one region than another. Several formulations, such as liquids, suspensions, and chewable tablets, may be needed or desirable for pediatric patients of different ages. Different concentrations of these various formulations may also be necessary. Consideration should be given to the development of alternative approaches for delivery of medicinal products such as patches or suppositories.

For injectable formulations, the concentration of the medicinal product needs to be compatible with the doses to be administered, including doses for small premature infants if the drug is to be used in that population. This compatibility may require a more dilute solution to allow accurate administration of the dose using available syringes and administration pumps or a more concentrated solution where fluid restriction imposed for very small patients is a concern. For medicinal products supplied as single-use vials, consideration should be given to dose-appropriate single-dose packaging, conditions for safe multiple use of preservative-free vials, or addition of preservatives. Some excipients (e.g., benzyl alcohol) may be toxic, particularly in the preterm newborn. Depending on the active substance and excipients, appropriate use of the medicinal product in the newborn may require a new formulation or appropriate information about dilution of an existing formulation. International harmonization on the acceptability of formulation excipients and of validation procedures will help ensure that appropriate formulations are available for the pediatric population everywhere (see ICH guidances on topics Q1 through Q3).

2.3 Timing of Studies

During clinical development, the timing of pediatric studies should be flexible and will depend on the medicinal product, the type of disease being treated, safety considerations, and the efficacy and safety of alternative treatments. Since development of pediatric formulations can be difficult and time consuming, it is important to consider the development of these formulations early in medicinal product development.

2.3.1 Medicinal Products for Diseases Predominantly or Exclusively Affecting Pediatric Patients

In this case, the entire development program will be conducted in the pediatric population except for initial safety and tolerability data, which will usually be obtained from adults. Some products may reasonably be studied only in the pediatric population even in the initial phases, e.g., when studies in adults would yield little useful information or expose them to inappropriate risk. Examples include surfactant for respiratory distress syndrome in preterm infants and therapies targeted at metabolic or genetic diseases unique to the pediatric population.

2.3.2 Medicinal Products Intended to Treat Serious or Life-Threatening Diseases, Occurring in Both Adults and Pediatric Patients, for Which There Are Currently No or Limited Therapeutic Options

In this case, medicinal product development should begin early in the pediatric population, following initial safety data and reasonable evidence of potential benefit. Pediatric study results should be part of the marketing application data base. In circumstances where this has not been possible, lack of data should be justified in detail.

2.3.3 Medicinal Products Intended to Treat Other Diseases and Conditions

In this case, where the medicinal product will be used in pediatric patients but there is less urgency than in the previous cases, studies might begin at various phases of clinical development or, if a safety concern exists, even after substantial postmarket experience in adults. Companies should have a clear plan for pediatric studies and reasons for their choice of when to initiate them. Testing of these medicinal products in the pediatric population would usually not begin until Phase 2 or 3. In most cases, only limited pediatric data would be available at the time of application submission, but more would be expected after marketing. Even for a nonserious disease, if the medicinal product represents a major therapeutic advance for the pediatric population, studies should begin as early in development as possible, and the submission of pediatric data would be expected in the application. Lack of data should be justified in detail. As the development of many new chemical entities is discontinued in Phase 1 and 2 adult trials for lack of efficacy or an unacceptable side effect profile, very early initiation of testing in pediatric patients might needlessly expose these patients to a compound that will be of no benefit. Thus, it is important to carefully weigh risk/benefit and therapeutic need in deciding when to start studies.

2.4 Types of Studies

The principles outlined in ICH E4, E5, E6, and E10 apply to pediatric studies. Several pediatric-specific issues are worth noting. When a medicinal product is studied in pediatric patients in one region, the intrinsic (e.g., pharmacogenetic) and extrinsic (e.g., diet) factors that could impact the extrapolation of data to other regions should be considered.

When the medicinal product is to be used in the pediatric population for the same indication(s) as those studied and approved in adults, the disease process is similar in adults and pediatric patients, and the outcome of therapy is likely to be comparable, extrapolation from adult efficacy data may be appropriate. In such cases, pharmacokinetic studies in all the age ranges of pediatric patients likely to receive the medicinal product, together with safety or other studies, may provide adequate information for use by allowing selection of pediatric doses that will produce blood levels similar to those observed in adults. If this approach is taken, adult pharmacokinetic data should be available to plan the pediatric studies.

When a medicinal product is to be used in younger pediatric patients for the same indication(s) as those studied in older pediatric patients, the disease process is similar, and the outcome of therapy is likely to be comparable, extrapolation of efficacy from older to younger pediatric patients may be possible. This approach may be necessary where assessment of outcome variables is particularly difficult in younger patients (e.g., forced expiratory volume (FEV1) below the age of 6 years). In such cases, pharmacokinetic studies in all relevant age groups of pediatric patients likely to receive the medicinal product, together with safety studies, may be sufficient to provide adequate information for pediatric use.

A pharmacokinetic approach may not be sufficient for medicinal products where blood levels are not known to correspond with efficacy or where there is concern that the concentration-response relationship may differ between the adult and pediatric populations. Where the comparability of the disease course or outcome of therapy in pediatric patients is expected to be similar, but the appropriate blood levels are not clear, it may be possible to use measurements of a pharmacodynamic effect to confirm the expectations of effectiveness and to define the dose and concentration needed to attain that pharmacodynamic effect. Such studies would provide increased confidence that achieving a given exposure to the medicinal product in pediatric patients will result in the desired therapeutic outcomes. A PK/PD approach could avoid the need for clinical efficacy studies.

For certain products, it may be useful to determine blood levels for purposes of safety assessment (e.g., to determine relative systemic exposure for topically applied agents).

When novel indications are being sought for the medicinal product in pediatric patients, or where the disease course and outcome of therapy are likely to be different in adults and pediatric patients, clinical efficacy studies in the pediatric population would need to be conducted. Similarly, in situations where a pharmacokinetic approach is not applicable, such as for topically active products, studies may need to include clinical endpoints or appropriate alternative assessments.

2.4.1 Pharmacokinetics

Pharmacokinetic studies generally should be performed to support formulation development, determine pharmacokinetic parameters in different age groups to support dosing recommendations, and understand PK/PD relationships where these may differ from adults. Bioequivalence comparisons of pediatric formulations with the adult oral formulation typically should be done in adults. Definitive pharmacokinetic studies for dose selection across age ranges where the medicinal product is likely to be used should be conducted in the pediatric population.

Pharmacokinetic studies in the pediatric population differ from most adult PK studies in that they are generally conducted in patients with the disease. This may lead to higher intersubject variability, but the data better reflect clinical use.

For medicinal products that exhibit linear pharmacokinetics in adults, single-dose pharmacokinetic studies in the pediatric population may often be sufficient to ascertain correct dosing. This can be corroborated, if indicated, by sparse population sampling in multidose clinical studies. Any nonlinearity in absorption, distribution, and elimination in adults and any duration-of-effect-related changes would suggest the need for steady state studies in the pediatric population. All these approaches are facilitated by knowledge of adult pharmacokinetic parameters. Knowing the pathways of clearance (renal and metabolic) of the medicinal product and understanding the age-related changes of those processes will often be helpful in planning pediatric studies.

Dosing recommendations for most medicinal products used in the pediatric population are usually based on milligrams (mg)/kilograms (kg) up to a maximum adult dose. While dosing on a mg/square meter basis might be preferred, clinical experience indicates that errors in measuring height or length (particularly in smaller children and infants) and calculation errors of surface area from weight and height are common. For some medications (e.g., medications with a narrow therapeutic index, such as those used in oncology), surface-area-guided dosing may be necessary, but with extra care to ensure proper dose calculation.

Practical Considerations to Facilitate Pharmacokinetic Studies

The volume of blood withdrawn should be minimized in pediatric studies; institutional review boards/independent ethics committees (IRB's/IEC's) generally establish the maximum amount of blood (usually on a milliliters (mL)/kg or percentage of total blood volume basis) that may be taken for experimental purposes. Several approaches can be used to minimize the amount of blood drawn:

- Use of sensitive assays (gas chromatography/mass spectroscopy, tandem mass spectroscopy) for parent drugs and metabolites to decrease the volume of blood required per sample
- Use of laboratories experienced in handling small volumes of blood for pharmacokinetic analyses and for laboratory safety studies (blood counts, clinical chemistry)
- Collection of routine, clinical blood samples wherever possible at the same time as samples are obtained for pharmacokinetic analysis
- Use of population pharmacokinetic approaches to minimize the number of samples obtained from each patient. Techniques include:

— Sparse sampling approaches where each patient contributes as few as 2 to 4 observations at predetermined times to an overall ''population area-under-the-curve''

— Population pharmacokinetic analysis using the most useful sampling time points derived from modeling of adult data

— The use of indwelling catheters, etc., to minimize distress as discussed in section 2.6.5.

2.4.2 Efficacy

The principles in study design, statistical considerations and choice of control groups detailed in ICH E6, E9, and E10 generally apply to pediatric efficacy studies. There are, however, certain unique features to pediatric studies. The potential for extrapolation of efficacy from studies in adults to pediatric patients or from older to younger pediatric patients is discussed in section 2.4. Where efficacy studies are needed, it may be necessary to develop, validate, and employ different endpoints for specific age and developmental subgroups. Measurement of subjective symptoms such as pain requires different assessment instruments for patients of different ages. Responses of chronic diseases may vary in patients with early stages of disease and in patients with years of disability and organ dysfunction. Many diseases in the preterm and term newborn infant are unique or have unique manifestations precluding extrapolation of efficacy from older pediatric patients and calling for novel methods for outcome assessment.

2.4.3 Safety

Reporting requirements for adverse events, as described in ICH guidances on E2 topics and ICH E6, apply to pediatric studies. Age-appropriate, normal laboratory values and clinical measurements should be used in adverse event reporting. Unexpected exposures to medicinal products (accidental ingestions, etc.) may provide the opportunity to obtain safety and pharmacokinetic information and to maximize understanding of dose-related side effects.

Medicinal products may affect physical and cognitive growth and development, and the adverse event profile may differ in pediatric patients. Because developing systems may respond differently than matured adult organs, some adverse events that occur in pediatric patients may not be identified in adult studies. In addition, the dynamic processes of growth and development may not manifest an adverse event acutely but at a later stage of growth and maturation. Long-term studies, either while patients are on chronic therapy or during the post-therapy period, may be needed to determine possible effects on skeletal, behavioral, cognitive, sexual, and immune maturation and development.

2.4.4 Postmarketing Experience

Normally the pediatric data base is limited at the time of approval. Therefore, postmarketing and long-term followup studies and surveillance are particularly important. They may provide safety and/or efficacy information for subgroups within the pediatric population or additional information for the entire pediatric population.

2.5 Age Classification of Pediatric Patients

Any classification of the pediatric population into age categories is arbitrary, but classification provides an initial basis for thinking about study design in pediatric patients. As discussed below, decisions about how to stratify studies and data by age need to consider developmental biology and pharmacology. Thus, a flexible approach is necessary to ensure that studies reflect current knowledge of pediatric pharmacology.

If the clearance pathways of a medicinal product are well established and the ontogeny of the pathways understood, age categories for pharmacokinetic evaluation might be chosen based on any ''break point'' where clearance is likely to change dramatically. Sometimes, it may be more appropriate to collect data over broad age ranges and examine the effect of age as a continuous covariant. For efficacy, different endpoints may be established for pediatric patients of different ages, and the age groups might not correspond to the categories presented below. Dividing the pediatric population into too many small age groups might needlessly increase the number of patients required. In longer term studies, pediatric patients may move from one age category to another; the study design and statistical plans should prospectively take into account changing numbers of patients within a given age category.

The following is suggested as a possible categorization. Ages are defined in completed days, months, or years.

- Preterm newborn infants
- Term newborn infants (0 to 27 days)
- Infants and toddlers (28 days to 23 months)
- Children (2 to 11 years)
- Adolescents (12 to 16 to 18 years (dependent on region))

2.5.1 Preterm Newborn Infants

The study of medicinal products in preterm newborn infants presents specific challenges because of the unique pathophysiology and responses to therapy in this population. The complexity and ethical considerations of studying preterm infants suggest the need for careful protocol development with expert input from neonatologists and neonatal pharmacologists. Only rarely will it be possible to extrapolate efficacy from studies in adults or even in older pediatric patients to the preterm infant.

The category of preterm infants is not a homogeneous group of patients. A 25-week gestation, 500-gram (g) newborn is very different from a 30-week gestation newborn weighing 1,500 g. A distinction should also be made for low-birth-weight babies as to whether they are immature or growth retarded. Essential features to be considered in this age range include: (1) Gestational age at birth and age after birth (adjusted age); (2) immaturity of renal and hepatic clearance mechanisms; (3) protein binding and displacement issues (particularly bilirubin); (4) penetration of medicinal products into the central nervous system (CNS); (5) unique neonatal disease states (e.g., respiratory distress syndrome of the newborn, patent ductus arteriosus, primary pulmonary hypertension); (6) unique susceptibilities of the preterm newborn (e.g., necrotizing enterocolitis, intraventricular hemorrhage, retinopathy of prematurity); (7) rapid and variable maturation of all physiologic and pharmacologic processes leading to different dosing regimens with chronic exposure; and (8) transdermal absorption of medicinal products and other chemicals. Study design issues that should be considered include: (1) Weight/age (gestational and postnatal) stratification, (2) small blood volumes (a 500-g infant has 40 mL of blood), (3) small numbers of patients at a given center and differences in care among centers, and (4) difficulties assessing outcomes.

2.5.2 Term Newborn Infants (0 to 27 days)

While term newborn infants are developmentally more mature than preterm newborn infants, many of the physiologic and pharmacologic principles discussed above also apply to term infants. Volumes of distribution of medicinal products may be different from those in older pediatric patients because of different body water and fat content and high body-surface-area-to-weight ratio. The blood-brain barrier is still not fully mature, and medicinal products and endogenous substances (e.g., bilirubin) may gain access to the CNS with resultant toxicity. Oral absorption of medicinal products may be less predictable than in older pediatric patients. Hepatic and renal clearance mechanisms are immature and rapidly changing; doses may need to be adjusted over the first weeks of life. Many examples of increased susceptibility to toxic effects of medicinal products result from limited clearance in these patients (e.g., chloramphenicol grey baby syndrome). On the other hand, term newborn infants may be less susceptible to some types of adverse effects (e.g., digoxin-induced arrhythmias, aminoglycoside nephrotoxicity).

2.5.3 Infants and Toddlers (28 days to 23 months)

This is a period of CNS maturation associated with completion of myelination. During this time, the immune system is rapidly developing, and both total body growth and brain growth are rapid. Oral absorption becomes more reliable. Hepatic and renal clearance pathways continue to mature rapidly. Clearance of many drugs on a mg/kg basis may exceed adult values by 1 to 2 years of age. The developmental pattern of maturation is dependent on specific pathways of clearance. There is often considerable interindividual variability in maturation.

2.5.4 Children (2 to 11 years)

Most pathways of drug clearance (hepatic and renal) are mature, with clearance often exceeding adult values. Changes in clearance of a drug may be dependent on maturation of specific metabolic pathways.

Specific strategies should be addressed in protocols to ascertain any effects of the medicinal product on growth and development. Children achieve several important milestones of psychomotor development that could be adversely affected by CNS-active drugs. Similarly, entry into school and increased cognitive and motor skills may affect a child's ability to participate in some types of efficacy studies (e.g., FEV1, pain assessment scales). Among factors useful in determining the effects of a medicinal product on children are skeletal growth, weight gain, school attendance, and school performance. Recruitment of patients should ensure adequate representation across the age range in this category. This is important to ensure a sufficient number of younger patients for evaluation. Stratification by age within this category often is unnecessary, but it may be appropriate to stratify patients based on pharmacokinetic and/or efficacy endpoint considerations.

The onset of puberty is highly variable and occurs earlier in girls, in whom normal onset of puberty may occur as early as 9 years of age. Puberty can affect the apparent activity of enzymes that metabolize drugs, and dose requirements for some medicinal products on a mg/kg basis may decrease dramatically (e.g., theophylline). In some cases, it may be appropriate to specifically assess the effect of puberty on a medicinal product by studying pre- and postpubertal pediatric patients. In other cases, it may be appropriate to record Tanner stages of pubertal development or obtain biological markers of puberty and examine data for any potential influence of pubertal changes.

2.5.5 Adolescents (12 to 16 to 18 years (dependent on region))

This is a period of sexual maturation; medicinal products may interfere with the actions of sex hormones and impede development. Pregnancy testing and, in relevant studies, review of sexual activity and contraceptive use become necessary.

This is also a period of rapid growth. Medicinal products and illnesses that delay or accelerate the onset of puberty can have a profound effect on the pubertal growth spurt and, by changing the pattern of growth, may affect final height. Evolving cognitive and emotional changes could potentially influence the outcome of clinical studies.

Many diseases are also influenced by the hormonal changes around puberty (e.g., insulin resistance increases in diabetes mellitus, seizures may recur around menarche, frequency and severity of migraine and asthma change). Hormonal changes may thus influence the results of clinical studies.

Within this age group, adolescents are assuming responsibility for their own health and medication. Noncompliance is a special problem, particularly when medicinal products (for example, steroids) affect appearance. In clinical studies, compliance checks are important. Recreational use of unprescribed drugs should be specifically considered and monitored.

The upper age limit was arbitrarily set and may vary among regions. It may be possible to include older adolescents in adult studies, although issues of compliance may present problems. Given some of the unique challenges of adolescence, it may be appropriate to consider studying adolescent patients (whether they are to be included in adult or separate protocols) in centers knowledgeable and skillful in the care of this special population.

2.6 Ethical Issues in Pediatric Studies

The pediatric population represents a vulnerable subgroup. Therefore, special measures are needed to protect the rights of pediatric study participants and to shield them from undue risk. The purpose of this section is to provide a framework to ensure that pediatric studies are conducted ethically.

To be of benefit to those participating in a clinical study, as well as to the rest of the pediatric population, a clinical study must be properly designed to ensure the quality and interpretability of the data obtained. In addition, participants in clinical studies are expected to obtain some direct or indirect benefit from the clinical study except under the special circumstances discussed in ICH E6 (''Good Clinical Practice,'' section 4.8.14).

2.6.1 Institutional Review Board/ Independent Ethics Committee (IRB/IEC)

The roles and responsibilities of IRB's/ IEC's as detailed in ICH E6 are critical to the protection of study participants. When protocols involving the pediatric population are reviewed, there should be IRB/IEC members, or experts consulted by the IRB/ IEC, who are knowledgeable in pediatric ethical, clinical, and psychosocial issues.

2.6.2 Recruitment

Recruitment of study participants should occur in a noncoercive manner. While reimbursement and subsistence costs may be covered in the context of a pediatric clinical study, coercive inducements (financial or other), either to the parents or to the child, are not appropriate.

When studies are conducted in the pediatric population, an attempt should be made to include individuals representing the demographics of the region and the disease being studied, unless there is a valid reason for restricting enrollment.

2.6.3 Consent

Pediatric study participants are dependent on their parents or guardians who take legal responsibility for the participants' welfare and safety; fully informed consent should be obtained from the legal guardian in accordance with regional laws or regulations. All participants should be fully informed about the study in language and terms they are able to understand. Participants should assent to enroll in a study (age of assent to be determined by IRB's/IEC's). Participants of appropriate intellectual maturity should personally sign and date either a separately designed, written assent form or the written informed consent. In all cases, participants should be made aware of their rights to decline to participate or to withdraw from the study at any time. A participant's wish to withdraw from a study must be respected. There may be circumstances in therapeutic studies where, in the opinion of the investigator, parents, and IRB/IEC, the welfare of a pediatric patient would be jeopardized by his or her failing to participate in the study; the patient's agreement or assent may be waived under such circumstances. Emancipated or mature minors (as defined by local laws) may be capable of giving autonomous consent.

Information that can be obtained in a less vulnerable, consenting population should not be obtained in a more vulnerable population or one unable to provide individual consent. Studies in handicapped or institutionalized pediatric populations should be limited to diseases or conditions found principally or exclusively in these populations, or where the disease or condition in these pediatric patients would be expected to alter the disposition or pharmacodynamic effects of a medicinal product.

2.6.4 Minimizing Risk

However important a study may be to prove or disprove the value of a treatment, participants may suffer injury as a result of inclusion in the study, even if the whole community benefits. Every effort should be made to anticipate and reduce known hazards. Investigators should be fully aware before the start of a clinical study of all relevant preclinical and clinical toxicity of the medicinal product. To minimize risk in pediatric clinical studies, those conducting the study should be properly trained and experienced in studying the pediatric population, including the evaluation and management of potential pediatric adverse events.

In designing studies, every attempt should be made to minimize the number of participants and of procedures, consistent with good study design. Mechanisms should be in place to ensure that a study can be rapidly terminated should an unexpected hazard be noted.

2.6.5 Minimizing Distress

Repeated invasive procedures may be painful or frightening. Discomfort can be minimized if studies are designed and conducted by investigators experienced in the treatment of pediatric patients.

Protocols and investigations should be designed specifically for the pediatric population (not simply re-worked from adult protocols) and approved by a competent and experienced IRB/IEC.

Practical considerations to ensure that participants' experiences in clinical studies are positive and to minimize discomfort and distress include the following:

- Personnel knowledgeable and skilled in dealing with the pediatric population and its age-appropriate needs, including skill in performing pediatric procedures
- A physical setting with furniture, play equipment, activities, andfood appropriate for age
- Conducting studies in a familiar environment such as the hospital or clinic where participants normally receive their care
- Using approaches to minimize discomfort of procedures, such as:
  — Topical anesthesia to place IV catheters
  — Indwelling catheters rather than repeated venipunctures for blood sampling
  — Collection of some protocol-specified blood samples when routine clinical samples are obtained

IRB's/IEC's should consider how many venipunctures are acceptable in an attempt to obtain blood samples for a protocol and ensure a clear understanding of procedures if an indwelling catheter fails to function over time. The participant's right to refuse further investigational procedures must be respected.

Dated: April 5, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–9064 Filed 4–11–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration

(FDA). The meeting will be open to the public.

Name of Committee: Cardiovascular and Renal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 1, 2000, from 8:30 a.m. to 5:30 p.m., and on May 2, 2000, from 9 a.m. to 5:30 p.m.

Location: National Institutes of Health, 9000 Rockville Pike, Bldg. 10, Clinical Center, Jack Masur Auditorium, Bethesda, MD.

Contact Person: Joan C. Standaert, Center for Drug Evaluation and Research (HFD–110), Food and Drug Administration, Woodmont II Bldg., 1451 Rockville Pike, Rockville, MD 20752, 419–259–6211, or John M. Treacy (HFD–21), 301–827–7001 or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12533. Please call the Information Line for up-to-date information on this meeting.

Agenda: On May 1, 2000, the committee will discuss new drug applications (NDA) 21–188, Vanlev® (omapatrilat) Bristol Myers Squibb to be indicated for hypertension, and NDA 19–901, Altace® (ramipril) Capsules, King Pharmaceuticals, Inc., to be indicated for significant reduction of mortality, myocardial infarction, stroke, revascularization procedures, and heart failure in high risk patients. On May 2, 2000, the committee will discuss NDA 20–807/S–004, Refludan® [lepirudin(-DNA) for injection] Aventis Pharmaceuticals, Inc., to be indicated for anticoagulation in adult patients with acute coronary syndromes (unstable angina and acute myocardial infarction without ST segment elevations on electrocardiogram (EKG).

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 24, 2000. Oral presentations from the public will be scheduled between approximately 8:30 a.m. and 9:30 a.m. on May 1, 2000. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 24, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C., app. 2).

Dated: April 4, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–9003 Filed 4–11–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–482]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Methodology for Estimating Waiver Costs of HCFA Demonstration Projects;

Form No.: HCFA–482 (OMB# 0938–0408);

Use: The information collected is intended to provide guidance to individuals responsible for the preparation of waiver cost estimates for HCFA demonstrations. These estimates are used in analysis of potential costs and benefits associated with implementing a proposed policy.;

Frequency: Other: On Occasion;

Affected Public: State, Local or Tribal Government, Individuals or Households, Business or other for-profit, and Not-for-profit institutions;

Number of Respondents: 25;

Total Annual Responses: 25;

Total Annual Hours: 2,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 20, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–9017 Filed 4–11–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–314]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection;

Title of Information Collection: Medicare+Choice Beneficiary Notices, Volume 1 and Supporting Regulations in 42 CFR 422.60;

Form No.: HCFA–R–314 (OMB# 0938–NEW);

Use: HCFA is requesting approval of 5 Medicare+Choice (M+C) election notices that M+C organizations will be required to send to Medicare beneficiaries who submit applications for enrollment. The notices will be used to inform Medicare beneficiaries of the status and outcome of an application to enroll in a M+C organization. All M+C organizations will be required to use the language in these notices, but may print the notices on their business letterhead. Neither HCFA nor the M+C organizations will use such notices to collect and analyze data on beneficiary M+C enrollment. They are for information purposes only.;

Frequency: On occasion, One time only;

Affected Public: Business or other for-profit, and Individuals or Households;

Number of Respondents: 2,853,347;

Total Annual Responses: 2,853,347;

Total Annual Hours: 109,314.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards Attention: Dawn Willinghan Room N2–14–26 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 29, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–9018 Filed 4–11–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–193]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, DHHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection.

Title of Information Collection: ''Important Message About Medicare Rights: Admission, Discharge, & Appeals.'' Title XVIII Section 1866(a)(1)(M) and Supporting Regulations in 42 CFR 466.78, 489.20, 489.34, 489.32, 411.404, 412.42, 417.440.

Form No.: HCFA–R–193 (OMB #0938–0692).

Use: Hospitals participating in the Medicare program have agreed to distribute ''Important Message About Medicare Rights: Admission, Discharge, & Appeals'' to beneficiaries during the course of their hospital stay and inform them of their impending discharge. Receiving this information will provide all Medicare beneficiaries with some ability to participate and/or initiate discussions concerning actions that may affect their Medicare coverage, payment, and appeal rights in response to hospital notification that their care will no longer continue.

Frequency: Other: As needed.

Affected Public: Individuals or Households, Business or other for-profit, Not-for-profit institutions, Federal Government, and State, Local or Tribal Government.

Number of Respondents: 6,293.

Total Annual Responses: 11,000,000.

Total Annual Hours: 1,100,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 29, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–9019 Filed 4–11–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–0245]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collections referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR, part 1320. This is necessary to ensure compliance with section 1895 of the Social Security Act. We cannot reasonably comply with the normal clearance procedures because section 1895 of the Social Security Act requires us to begin paying home health agencies under a prospective payment system for cost reporting periods beginning October 1, 2000. In order to be able to do that, we must be able to revise current OASIS schedules and make them available to home health providers, allowing sufficient time for training. Moreover, current HAVEN software, used to transmit OASIS data, and new grouper software used to assign a case mix will need to be revised/developed, tested, and produced before being made available to providers and vendors. If emergency clearance for these requested changes is obtained, current production schedules will allow for a summer release of the revised HAVEN software and the new grouper software and would allow for adequate staff training of the product and its appropriate use. It is in the public interest for the HHAs to be able to be ready to collect data timely.

HCFA is requesting OMB review and approval of this collection by April 21, 2000, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below by April 17, 2000. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Request: Revision of a currently approved collection; *Title of Information Collection:* Collection of OASIS Data for Prospective Payment System Purposes and for Masking Data; *HCFA Form Number:* HCFA–R–0245 (OMB approval #: 0938–0760); *Use:* We are requesting emergency clearance of our proposal to modify the currently approved OASIS forms HCFA–R–245D for purposes of case mix adjustment of payment rates under home health PPS and to modify the OASIS data assessment schedule to allow for the preservation of masking of personally identifiable information for the non-Medicare/non-Medicaid individuals; *Frequency:* On occasion; *Affected Public:* Businesses or other for-profit, Not-for-profit institutions, Federal Government; State, Local, or Tribal Government; *Number of Respondents:* 8,200; *Total Annual Responses:* 8,200; *Total Annual Burden Hours:* 967,600.

We have submitted a copy of this notice to OMB for its review of these information collections. A notice will be published in the **Federal Register** when approval is obtained.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, by April 17, 2000.

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26. 7500 Security Boulevard, Baltimore, MD 21244–1850. Fax Number: (410) 786–0262, Attn: Julie Brown HCFA–R–245

and,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Fax Number: (202) 395–6974 or (202) 395–5167, Attn: Allison Herron Eydt, HCFA Desk Officer.

Dated: April 4, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–9119 Filed 4–10–00; 9:38 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. CFDA 93.576]

Office of Refugee Resettlement Microenterprise Development

AGENCY: Office of Refugee Resettlement (ORR), ACF, DHHS.

ACTION: Notice of availability of FY 2000 discretionary funds for refugee microenterprise development.

SUMMARY: ORR invites eligible entities to submit competitive grant applications for microenterprise development for refugees.

Applications will be accepted pursuant to the Director's discretionary authority under section 412(c) of the Immigration and Nationality Act (INA) (8 U.S.C. 1522), as amended.

Applications will be screened and evaluated as indicated in this program announcement. Awards will be contingent on the outcome of the competition and the availability of funds.

DATES: The closing date for submission of applications is June 12, 2000. See Part IV of this announcement for more information on submitting applications.

FOR FURTHER INFORMATION CONTACT: Marta Brenden at (202) 205–3589, *MBrenden@ACF.DHHS.GOV.* Application materials are also available from Marta Brenden at the Office of Refugee Resettlement, 370 L'Enfant Promenade SW, Washington DC 20447 and on the ORR website at *www.acf.dhhs.gov/program/orr.*

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts:

Part I: Background, legislative authority, funding availability, CFDA Number, Applicant eligibility, project and budget periods, length of application, program purpose and scope, client eligibility, allowable activities, and treatment of program income.

Part II: General instructions for preparing a full project description.

Part III: The Review Process—Intergovernmental review, initial ACF screening, competitive review, funding reconsideration, and review criteria.

Part IV: The Application—Application materials, application development, application submission information, certifications, regulations and reporting.

Paperwork Reduction Act of 1995 (Pub. L. 104–13): Public reporting burden for this collection of information is estimated to average 25 hours, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. The following information collections are included in the program announcement: OMB Approval No. 0970–0139, ACF UNIFORM PROJECT DESCRIPTION (UPD) which expires 10/31/2000. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Part I

Background

ORR has supported the field of microenterprise development since 1991 with grants to various State governments, community economic development agencies, community action and other human service agencies, local Mutual Assistance Associations and voluntary agencies. Organizations with successful programs have typically been those with a long-term commitment to microenterprise and to its adaptation to the refugee experience. They have committed agency resources to support refugee programs, and their work in refugee microenterprise has been consistent with the overall agency mission. A public or private non-profit agency interested in receiving funding under this announcement must analyze its organizational capacity to work with refugees who are economically poor, have limited English language proficiency, and have neither assets nor American business experience. In fact, most newly arrived refugees do not qualify for commercial loans or for admission into mainstream microenterprise development programs for these reasons.

Refugees do, however, bring positive attributes to microenterprise projects: a diverse and rich array of business ideas, skills, experiences, and ambitions. These characteristics have been largely responsible for the success of the ORR initiative to date. During the last eight years, refugees have started or expanded over 800 micro-businesses, and over 89 percent of these businesses have survived. ORR grantees have provided over $3 million in financing to these entrepreneurs, and the loan repayment rate is close to 100 percent. By commonly accepted measures of performance, (business survival rates, loan default rates etc.) the ORR programs have excelled, frequently leading the field in achievement. More importantly, over 4000 refugees have gained new entrepreneurial skills and knowledge, and the additional business income is helping refugee families to achieve economic self-sufficiency.

Building on our experience of the last eight years, ORR seeks in this announcement to continue support to this field, particularly on behalf of those refugees who, because of language and cultural barriers, are unlikely to gain access to commercial loans or business training through other programs. To be successful in this competition, refugee-serving organizations must demonstrate their agency's capacity to provide the technical expertise to help refugees start or expand businesses. Economic development agencies must show how they will modify their existing programs to effectively serve refugees.

Legislative Authority—This program is authorized by section 412(c)(1)(A) of the Immigration and Nationality Act (INA)(8 U.S.C. 1522(c)(1)(A)) which authorizes the Director "to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed—(i) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services; (ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and (iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services." In addition, section 412(a)(4)(A)(i) authorizes the Director to make loans for the purpose of carrying out this section.

The FY 2000 Appropriation Act for the Department of Health and Human Services (Pub. L. 106–113) appropriates funds for refugee and entrant assistance activities authorized by these provisions of the INA.

Funding Availability

ORR expects to make available approximately $2.2 million for Microenterprise Development in amounts ranging from $100,000–$160,000 for about 15–20 awards.

The Director reserves the right to award less, or more, than the funds described, in the absence of worthy applications, or under such other circumstances as may be deemed to be in the best interest of the government.

CFDA Number '' 93.576

Applicant Eligibility

Eligible grantees are public and private non-profit organizations and agencies of State governments that are responsible for the refugee program under 45 CFR 400.5.

Project and Budget Periods

This announcement invites applications for project periods up to 3 years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 3 years. Applications for continuation grants funded under these awards beyond the one-year budget period but within the 3 year project period will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

Length of Application

Applicants are encouraged to limit program narratives to 25 pages (double-spaced on standard, letter-size paper, in 12 point font) plus no more than 25 pages of appended material. This limitation of 20 pages per program area should be considered as a maximum, and not necessarily a goal.

Microenterprise Development: Program Purpose and Scope

The purpose of microenterprise development is to assist refugees in becoming economically self-sufficient and to help refugee communities in developing employment and capital resources.

Applicants may request funds for microenterprise services generally to include business technical assistance or short-term training, credit in the form of microloans, the administrative costs of managing the project and, if applicable, a revolving microloan fund. Projects should be designed in a manner that is culturally and linguistically appropriate for the refugee population.

Projects should be designed with an understanding of the characteristics of the local refugee populations: employment rates, welfare status, length of time in the U.S., interest in micro-businesses, and English language proficiency. Applicants should also be familiar with the capital needs and capital market gaps for refugee entrepreneurs, and should demonstrate how refugees will gain access to business credit.

Successful applications will demonstrate an understanding of the economic opportunities in the community for refugees and have established working partnerships with the communities' refugee resettlement services network, with existing microenterprise organizations (where they are present) and with financial institutions.

ORR will not fund applications which propose to subgrant or contract all or most of the proposed activities under this initiative to an unrelated entity. This does not bar subgranting or contracting for specific services or activities.

Client Eligibility

Eligibility for refugee social services includes persons who meet all requirements of 45 CFR 400.43 (as amended by 65 FR 15409 (March 22, 2000)) and 45 CFR 401.2 (Cuban and Haitian entrants). The targeted refugee population for these programs may include refugees who are receiving public assistance or subsidies and/or who lack the financial resources, credit history, or personal assets to qualify for business loans or assistance through commercial institutions. Refugees may participate regardless of their date of arrival in the U.S. Grantees will be responsible for documenting refugee client eligibility.

Allowable Activities

Project components may include one-on-one business consultation and training, training in classroom settings, access to business credit, individual or peer group lending, and follow-up technical assistance to help stabilize or expand refugee businesses. ORR funds may also be used for the administrative costs associated with managing a microloan fund.

Microloans consist of small amounts of credit, generally in sums less that $15,000, extended to low-income entrepreneurs for start-up or very small microenterprises. Applicants may elect to establish cooperative relationships with one or more of the community's financial institutions to obtain access to commercial loan funds. Alternatively, ORR funds may be used for microloans to individual refugee entrepreneurs in sums not to exceed $15,000 (of ORR monies). These funds may be disbursed through individual loans or through peer lending mechanisms, through a revolving loan fund. Requests for ORR grant funds for a revolving loan fund may not exceed $50,000 in the first budget period. Grantees will be responsible for establishing written lending policies and procedures, and for collecting and servicing loan repayments.

ORR supports the use of commercial lending institutions for refugee borrowers to leverage the limited amount of ORR funds available for this purpose, and to provide borrowers with the opportunity to establish credit-worthy histories with traditional lenders. To that end, ORR does not encourage the use of below-market rates of interest for the loan funds. Conversely, grantees may not charge refugees interest rates that exceed four percentage points above the New York prime lending rate at the time of loan approval.

Microloans will have a maximum maturity of three years. They may be used for working capital, inventory, supplies, furniture, fixtures, machinery, tools, equipment, building renovation, and/or leasehold improvements.

Microloan funds may not be used for the following types of businesses:

- As venture capital for established businesses that are attempting major Expansion;
- For enterprises engaged in gambling or speculation;
- For any illegal activity or production, or for the service or distribution of illegal products;
- For purposes not related to microenterprise development, e.g., for the purchase of a personal-use automobile.

Treatment of Program Income

Projects with revolving loan funds may earn and retain program income in the form of interest (on individual loans or from loan loss reserves). Specifically, program income funds may be retained by the project to expand the pool of credit in accordance with 45 CFR 74.24 (b)(1), (b)(2) and (e) for non-profit organizations and 45 CFR 92.25 (g)(2) (for governmental entities). Similarly, repaid loan principal is to be treated as program income and placed in the revolving loan fund for re-lending. Program income may be retained by the grantee so long as the use of these funds furthers the objectives of the grant and is consistent with the Federal statute under which the grant was made.

Any fees or charges imposed on refugee clients by the grantee or its subcontractors or affiliates (e.g., loan processing or training fees) must be disclosed in the application and pre-approved by ORR.

Successful grantees will be expected to coordinate their policies and procedures for developing and administering refugee microenterprise projects with the existing refugee microenterprise services network. To ensure an exchange of technical and training information among programs, all grantees are encouraged to attend two ORR training meetings during each year of their participation in this program area. Grant funds may be used to offset the cost of attendance.

Part II: General instructions for preparing a full project description

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered to be relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested.

General Instructions

Cross-referencing should be used rather than repetition. ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. (Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.) Pages should be numbered and a table of contents should be included for easy reference.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived. For example, when applying for a grant to establish a neighborhood child care center, describe who will occupy the facility, who will use the facility, how the facility will be used, and how the facility will benefit the community which it will serve. For example, when applying for microenterprise development assistance, describe the prospective clients in terms of numbers, national origin, interest in microenterprise and what business opportunities are available to refugees in the community.

Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of microloans made. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

Identify the kinds of data to be collected, maintained, and/or disseminated. Note that clearance from the U.S. Office of Management and Budget might be needed prior to a ''collection of information'' that is ''conducted or sponsored'' by ACF. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

Organization Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Third-Party Agreements

Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding.

Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s); and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: Costs of tangible, non-expendable, personal property, having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, an applicant may use its own definition of equipment provided that such equipment would at least include all equipment defined above.

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgment that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application which contain this information.

Non-Federal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

Total Direct Charges, Total Indirect Charges, Total Project Costs

Self explanatory.

Part III: The Review Process

A. Intergovernmental Review: State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

Note: State/Territory Participation in the Intergovernmental Review Process Does not Signify Applicant Eligibility for Financial Assistance under a Program. A Potential Applicant must meet the Eligibility Requirements of the Program for Which it is Applying Prior to Submitting an Application to its SPOC, if Applicable, or to ACF.

The jurisdictions not listed no longer participate in the process but grant applicants are still eligible to apply for the grant even if your state, territory, commonwealth, etc. does not have a ''state single point of contact.'' Jurisdictions without ''state single points of contacts'' include: Alabama; Alaska; American Samoa; Colorado; Connecticut; Kansas; Hawaii; Idaho; Louisiana; Massachusetts; Minnesota; Montana; Nebraska; New Jersey; Ohio; Oklahoma; Oregon; Palau; Pennsylvania; South Dakota; Tennessee; Vermont; Virginia; and Washington.

This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to the Office of Management and Budget and the State in question. Changes to the list will only be made upon formal notification by the State. Also, this listing is published biannually in the Catalogue of Federal Domestic Assistance.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule. When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, 370 L'Enfant Promenade SW, 6th Floor, Washington DC, 20447 ATTN: Ms. Daphne Weeden.

A list of the Single Points of Contact for each State and Territory is included with the application materials for this announcement.

OMB State Single Point of Contact Listing

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone: (602) 280–1315, FAX: (602) 280–8144, e-mail: jonis@ep.state.az.us.

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412 Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206.

California

Grants Coordinator, Office of Planning and Research/State Clearinghouse, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone: (916) 323–7480, FAX: (916) 323–3018.

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Office of the Budget, 540 S. duPont Hi., Suite 5, Dover, Delaware 19901, Telephone: (302) 739–3326 FAX: (302) 739–5661.

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, NW—Suite 1200, Washington, DC 20005, Telephone: (202) 727–6537, FAX: (202) 727–161,7 e-mail: charlesnic@yahoo.com or cnichols-ogmd@dcgov.org.

Florida

Cherie L. Trainor, Coordinator, Florida State Clearinghouse, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399–2100, Telephone: (850) 922–5438 or (850) 414–5495, FAX: (850) 414–0479, e-mail: cherie.trainor@dca.state.fl.us.

Georgia

Debra S. Stephens, Coordinator, Georgia State Clearinghouse, 270 Washington Street, S.W.—8th Floor, Atlanta, Georgia 30334, Telephone: (404) 656–3855, FAX: (404) 656–7901, e-mail:ssda@mail.opb.state.ga.us.

Illinois

Virginia Bova, State Single Point of Contact, Illinois Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, Illinois 60601, Telephone: (312) 814–6028, FAX: (312) 814–1800.

Indiana

Frances Williams, State Budget Agency, 212 State House, Indianapolis, Indiana 46204–2796, Telephone: (317) 232–5619, FAX: (317) 233–3323.

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4809.

Kentucky

Kevin J. Goldsmith, Director, John-Mark Hack, Deputy Director, Sandra Brewer, Executive Secretary, Intergovernmental Affairs, Office of the Governor, 700 Capitol Avenue, Frankfort, Kentucky 40601, Telephone: (502) 564–2611, FAX: (502) 564–2849.

Maine

Joyce Benson, State Planning Office, 184 State Street, 38 State House Station, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489.

Maryland

Linda C. Janey, JD, Manager, Clearinghouse and Plan Review Unit, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2305, Telephone: (410) 767–4491, FAX: (410) 767–4480, e-mail: Linda@mail.op.state.md.us.

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 660 Plaza Drive—Suite 1900, Detroit, Michigan 48226, Telephone: (313) 961–4266, FAX: (313) 961–4869.

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, 455 North Lamar Street, Jackson, Mississippi 39202–3087, Telephone: (601) 359–6762, FAX: (601) 359–6764.

Missouri

Lois Pohl/Carol Meyer, Federal Assistance Clearinghouse, Office Of Administration, P.O. Box 809, Room 915, Jefferson Building, Jefferson City, Missouri 65102, Telephone: (573) 751–4834, FAX: (573) 522–4395.

Nevada

Heather Elliott, Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–6367, FAX: (702) 687–3983.

New Hampshire

Jeffrey H. Taylor Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, Office of State Planning, 2 ½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX: (603) 271–1728.

New Mexico

Nick Mandell, Local Government Division, Room 201, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–4991, FAX: (505) 827–4948.

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Marsha Roth, Albany, New York 12224, Telephone: (518) 474–1605, FAX: (518) 486–5617.

North Carolina

Chrys Baggett, Director, North Carolina State Clearinghouse, Office of the Secretary of Administration, 116 West Jones Street—Suite 5106, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571.

North Dakota

Jim Boyd, North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Department 105, Bismarck, North Dakota 58505–0170, Telephone: (701) 328–2094, FAX: (701) 328–2308.

Rhode Island

Kevin Nelson, Review Coordinator, Department of Administration, Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 222–2656, FAX: (401) 222–2083.

South Carolina

Omegia Burgess, State Single Point of Contact, Budget and Control Board, Office of State Budget, 1122 Ladies Street—12th Floor, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX: (803) 734–0645.

Texas

Tom Adams, Single Point of Contact, State of Texas, Governor's Office of Budget and Planning, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711–2428, Telephone: (512) 463–1771, FAX: (512) 936–2681, e-mail: tadams@governor.state.tx.us.

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, FAX: (801) 538–1547.

West Virginia

Judith Dryer, Chief Program Manager, West Virginia Development Office, Building #6, Room 645, State Capitol, Charleston, West Virginia 25305, Telephone: (304) 558–0350, FAX: (304) 558–0362.

Wisconsin

Jeff Smith, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–0267, FAX: (608) 267–6931.

Wyoming

Matthew Jones, State Single Point of Contact, Office of the Governor, 200 West 24th Street, State Capital, Room 124, Cheyenne, Wyoming 82002, FAX: (307) 632–3909

Territories

Guam

Mr. Giovanni T. Sgambelluri, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone: 011–671–472–2285, FAX: 011–671–472–2825.

Puerto Rico

Norma Burgos/Jose E. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (809) 727–4444 or (809) 723–6190, FAX: (809) 724–3270 or (809) 724–3103.

Northern Mariana Islands

Mr. Alvaro A. Santos, Executive Officer, Office of Management and Budget, Office of the Governor, Saipan, MP 96950, Telephone: (670) 664–2256, FAX: (670) 664–2272.

Please direct all questions and correspondence about intergovernmental review to: Ms. Jacoba T. Seman, Federal Programs Coordinator, Telephone: (670) 664–2289, FAX: (670) 664–2272

Virgin Islands

Nellon Bowry, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802.

Please direct all questions and correspondence about intergovernmental review to: Daisey Millen, Telephone: (809) 774–0750, FAX: (809) 776–0069.

B. Initial ACF Screening

Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was received by the closing date and submitted in accordance with the instructions in this announcement and (2) the applicant is eligible for funding.

C. Competitive Review and Evaluation Criteria

Applications which pass the initial ACF screening will be evaluated and rated by an independent review panel on the basis of specific evaluation criteria. The evaluation criteria were designed to assess the quality of a proposed project, and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to the evaluation criteria within the context of this program announcement.

D. Review Criteria

1. Objectives and Need for Assistance.

Quality of the description of the prospective refugee communities' profile with respect to welfare utilization, English language proficiency, length of time in the U.S., interest in microbusinesses, and the description of local capital needs and capital market gaps for refugee microentrepreneurs. (20 points).

2. Approach

Adequacy and appropriateness of the program approach or design: such as, project goals and structure (policies, procedures, activities); training and technical assistance; loan funds and lending criteria and fees, if included in the design; whether the business targets are start-ups, expansions, or both; partner agencies; and credit enhancements, such as loan loss reserves. (30 points).

3. Organization Profiles

Demonstrated organizational and management capacity including bilingual/bicultural competent services, and experience serving refugees and other economically disadvantaged populations; description of experience in organizational management including copies of the last two fiscal year financial statements, with balance sheets and income statements; description of experience in management of loan funds, including a projected monthly cash flow chart for the loan fund for the three year period beginning October 1, 2000; experience in collaboration with the specific refugee community(ies) and coalition building among refugee and non-refugee service providers. (15 points).

4. Results and Expected Benefits

Extent to which the expected outcomes and unit costs of the project are appropriate, consistent with reported nationwide performance in microenterprise projects, and reasonable in relation to the proposed activities; the impact of loan funds, business income, and business assets on clients' welfare status, if applicable. Projected outcomes for business income, business survivability and reductions in welfare utilization. (20 points).

5. Budget and Budget Justification

Appropriateness and reasonableness of the proposed budget to include the relative distribution of funds for administrative costs, training or technical assistance, and loan capital. Application should include project timelines and a narrative justification supporting each budget line item. (15 points).

Part IV: Application Submission

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ACF. Application materials including forms and instructions are available from the contact named under the **ADDRESSES** section in the preamble of this announcement.

Each application should include one signed original and two additional copies.

Each application narrative portion should not exceed 25 double-spaced pages in a 12-pitch font. Attachments and appendices should not exceed 25 pages and should be used only to provide supporting documentation such as maps, administration charts, position descriptions, resumes, and letters of intent for partnership agreements. Please do not include books or video tapes as they are not easily reproduced and are, therefore, inaccessible to the reviewers. Each page should be numbered sequentially, including the attachments or appendices.

A. Application Forms

Applicants for financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF 424A, Budget Information—Non-construction Programs; SF 424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. An application with an original signature and two copies is required.

B. Application Deadlines

The closing date for submission of applications is June 12, 2000. Mailed applications postmarked after the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee

Resettlement, Attention: Ms. Daphne Weeden.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applications handcarried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, the Office of Refugee Resettlement, 6th Floor, Aerospace Building, 901 D Street, SW, Washington, DC 20447 between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note ''Attention: Ms. Daphne Weeden.''

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mails service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

For Further Information on Application Deadlines Contact: Ms. Daphne Weeden, Administration for Children and Families, Office of Refugee Resettlement, 370 L'Enfant Promenade SW, 6th Floor, Washington, DC 20447, (202) 401–4577.

Standard Language Concerning the Certifications, Assurances, and Disclosure Required for Non-Construction Programs

Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications. Applicants must provide a certification regarding lobbying when applying for an award in excess of $100,000.

Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying. Applicants must sign and return the disclosure form, if applicable, with their applications.

Applicants must make the appropriate certification of their compliance with the Drug Free Workplace Act of 1988. By signing and submitting the application, the applicant is providing the certification and *need not mail back* the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for an award. By signing and submitting the application, the applicant is providing the certification *need not mail back* the certification with the applications.

Applicable Grant Administration Regulations: Applicable DHHS grant administration regulations can be found in 45 CFR Part 74 or 92.

Reporting Requirements: Grantees are required to file the Financial Status Report (SF–269) and Program Performance Reports on a semi-annual basis. Funds issued under these awards must be accounted for and reported upon separately from all other grant activities. Although ORR does not expect the proposed projects to include evaluation activities, it does expect grantees to maintain adequate records to track and report on project outcomes. The official receipt point for all reports and correspondence is the ORR Grants Officer, Ms. Daphne Weeden, Administration for Children and Families/Office of Refugee Resettlement, 370 L'Enfant Promenade SW, 6th Floor, Washington, DC 20447, Telephone: (202) 401–4577. An original and one copy of each report shall be submitted within 30 days of the end of each reporting period directly to the Grants Officer. The mailing address is: Ms. Daphne Weeden, Administration for Children and Families, Office of Refugee Resettlement, 370 L'Enfant Promenade SW, 6th Floor, Washington, DC 20447. A final Financial and Program Report shall be due 90 days after the budget expiration date or termination of grant support.

Dated: April 6, 2000.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 00–9113 Filed 4–11–00; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project

Phase I of the National Evaluation of the Comprehensive Community Mental Health Services for Children and Their Families Program (0930–0171—Extension, revision). The core and comparison studies of the evaluation collect information on child and family demographics, child mental health status, and service system development. In the core study, data were collected from children and families at intake into services, 6 months later, and every 12 months thereafter while the children remain in services. In the comparison study component, information is collected at intake, 6 months, 12 months, 24 months, and annually thereafter. In both studies, data were collected annually from grantees' administrators and providers.

SAMHSA's Center for Mental Health Services (CMHS) is seeking OMB approval for a 4-month extension of approval for the comparison study of this evaluation of integrated child mental health service systems funded by CMHS to allow sufficient follow-up data to be collected. The comparison study of the evaluation collects information on child and family demographics, and child mental health status and social functioning. The table below summarizes burden for this extension.

Respondent	Average number of respondents	Average number of responses	Average hours per response	Total burden
Currently approved				1493
Caregivers	701	.43	.56	169
Youth	420	.30	1.16	146
Administrators/providers	0	0	0	0
Total	1121			315

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: April 5, 2000.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 00–9108 Filed 4–11–00; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–1020–XU; GP0–0185]

AGENCY: Bureau of Land Management, Spokane District, DOI.

NOTICE: Notice of Field Tour of the Eastern Washington Resource Advisory Council.

ACTION: Field Tour of the Eastern Washington Resource Advisory Council; April 20, 2000, in Spokane, Washington.

SUMMARY: The Eastern Washington Resource Advisory Council will take a field tour on April 20, 2000. The tour will start at 8:30 a.m., at the Spokane District Office of the Bureau of Land Management, 1103 N. Fancher Road, Spokane, Washington 99212–1275. The Council will visit the Rock Creek Acquisition in Adams and Whitman Counties, Washington. Topics to be addressed included wildlife-based recreation issues. The tour will conclude no later than 4:00 p.m. The tour is open to the public but no transportation will be provided.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Spokane District Office, 1103 N. Fancher Road, Spokane, Washington 99212; or call 509–536–1200.

Dated: April 6, 2000.

Gary J. Yeager,

Acting District Manager.

[FR Doc. 00–9049 Filed 4–11–00; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–935–1430–ET; COC–28584, COC–28576, COC–28620]

Public Land Order No. 7441; Partial Revocation of Secretarial Orders Which Established Power Site Reserve No. 92 and Power Site Classification No. 32; Opening of Land Under Section 24 of the Federal Power Act; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes two Secretarial orders insofar as they affect 1,910.36 acres of public lands withdrawn for the Bureau of Land Management's Power Site Reserve No. 92 and Power Site Classification No. 32. This order also opens, subject to Section 24 of the Federal Power Act, 7 acres of National Forest System land in Power Site Reserve No. 32 to disposal. These actions will allow for consummation of pending land exchanges. All the lands have been open to mineral leasing and, under the provisions of the Mining Claims Rights Restoration Act of 1955, to mining.

EFFECTIVE DATE: May 12, 2000.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Orders dated December 30, 1909, and April 29, 1922, which established Power Site Reserve No. 92 and Power Site Classification No. 32, respectively, are hereby revoked insofar as they affect the following described public lands:

New Mexico Principal Meridian

T. 49 N., R. 9 E.,
Sec. 10, E½SW¼ and SE¼;
Sec. 11, SW¼SW¼;
Sec. 13, SE¼SE¼NE¼, E½E½NE¼SE¼, SW¼NW¼SE¼, and SE¼SE¼;
Sec. 14, N½;
Sec. 15, N½NE¼NE¼, SW¼NE¼NE¼, and NW¼NE¼;
Sec. 24, E½NE¼.
T. 49 N., R. 10 E.,
Sec. 19, lots 3, 9, 10, and lots 12 to 15, inclusive, NW¼NE¼, S½NE¼, NE¼NW¼, E½SW¼SW¼, SE¼SW¼, and S½SE¼;
Sec. 30, NE¼NE¼.
T. 50 N., R. 8 E.,
Sec. 10, NE¼ and NW¼SE¼;
Sec. 13, NE¼SW¼;
Sec. 14, SE¼NE¼;
Sec. 16, W½NE¼.
T. 50 N., R. 9 E.,
Sec. 19, NW¼NW¼ and NE¼SE¼;
Sec. 32, N½NE¼.

The areas described aggregate 1,910.36 acres in Fremont and Chaffee Counties.

2. At 9 a.m. on May 12, 2000, the lands described in paragraph 1, will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received on or prior to 9 a.m on May 12, 2000, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The State of Colorado has waived their preference right for public highway or material sites as provided by

the Act of June 10, 1920, Section 24, as amended, 16 U.S.C. 818 (1994).

4. The lands described in paragraph 1 have been open to mining under the provisions of the Mining Claims Rights Restoration Act of 1955, 30 U.S.C. 621 (1994). However, since the act applies only to lands withdrawn for power purposes, provisions of the act are no longer applicable. The lands have been and will remain open to mineral leasing.

5. By virtue of the authority vested in the Secretary of the Interior by the Act of June 10, 1920, Section 24, as amended, 16 U.S.C. 818 (1994), and pursuant to the determination by the Federal Energy Regulatory Commission in DVCO–553–000, it is ordered as follows:

At 9 a.m. on May 12, 2000, the following described National Forest System land withdrawn by the Secretarial Order dated July 2, 1910, which established Power Site Reserve No. 32, will be opened to such forms of disposition as may by law be made of National Forest System lands, subject to the provisions of Section 24 of the Federal Power Act as specified by the Federal Energy Regulatory Commission determination DVCO–553–000 and subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law:

Roosevelt National Forest

Sixth Principal Meridian

T. 4 S., R. 78W.,

Sec. 26, that portion of lot 16 west of Highway No. 9.

The area described contains 7 acres of National Forest System land in Summit County.

6. The land described in paragraph 5 has been and will remain open to mineral leasing and to location and entry under the provisions of the Mining Claims Rights Restoration Act of 1955, 30 U.S.C. 621 (1994).

Dated: March 21, 2000.

Sylvia V. Baca,

Assistant Secretary of the Interior.

[FR Doc. 00–9020 Filed 4–11–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–924–1430–ET; MTM 024829]

Public Land Order No. 7440; Revocation of Department of the Air Force Withdrawals; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes, in their entirety, two public land orders which withdrew public lands for the use of the United States Air Force for military and communication site purposes. The lands are no longer needed for military purposes and the revocation is needed to permit development of a recreation area and interpretative site. This action will open 66.37 acres to surface entry, mining, and mineral leasing. The lands have been and will remain open to disposal of mineral materials under the Act of July 31, 1947, 30 U.S.C. 601–604 (1994).

EFFECTIVE DATE: May 12, 2000.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–896–5052.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 1758 and Public Land Order No. 2186, as corrected by Public Land Order No. 2230, which withdrew public lands for use of the Department of the Air Force for military and communication site purposes, are hereby revoked in their entirety:

Principal Meridian, Montana

T. 17 N., R. 20 E.,

Sec. 19, NE¼, that part described as beginning at a point which is S. 23°13′33″ E., 6880.73 feet from the northwest corner of sec. 18, T. 17 N., R. 20 E., thence N. 37°16′10″ W., 65.56 feet; N. 52°43′50″ E., 100.00 feet; S. 37°16′10″ E., 30.00 feet to a point which is S. 24°01′12″ E., 6826.53 feet from the northwest corner of sec. 18; S. 37°16′10″ E., 70.00 feet; S. 52°43′50″ W., 100.00 feet; N. 37°16′10″ W., 34.44 feet to the point of beginning. S½, that part described as beginning at a point N. 16°27′ W., 1314.22 feet from the southeast corner of said sec. 19, thence S. 0°12′ W., 118.97 feet; N. 89°48′ W., 624.26 feet; N. 44°48′ W., 323.12 feet; N. 89°48′ W., 157.00 feet; S. 58°12′ W., 338.35 feet; N. 89°48′ W., 503.00 feet; S. 72°12′ W., 508.00 feet; N. 89°48′ W., 420.00 feet; N. 65°48′ W., 433.76 feet; N. 0°12′ E., 535.00 feet; N. 59°12′ E., 540.00 feet; S. 77°48′ E., 535.00 feet; N. 73°12′ E., 692.00 feet; S. 89°48′ E., 830.00 feet; S. 0°12′ W., 188.48 feet; S. 89°48′ E., 621.67 feet; S. 0°12′ W., 790.00 feet to the point of beginning.

Sec. 20, NE¼NE¼, that part described as follows: Tract No. F, Part 1: Beginning at a point N. 44°22′00″ E., 5986.83 feet from the southwest corner of said sec. 20; thence N. 8°16′30″ W., 298.00 feet; N. 81°43′30″ E., 796.60 feet; S. 8°16′30″ E., 320.00 feet; S. 81°43′30″ W., 496.60 feet; S. 8°16′30″ E., 100.00 feet; S 81°43′30″ W., 300.00 feet; N. 8°16′30″ W., 122.00 feet to the point of beginning.

The areas described aggregate 66.37 acres in Fergus County.

2. At 9 a.m. on May 12, 2000, the lands shall be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on May 12, 2000, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on May 12, 2000, the lands shall be opened to location and entry under the United States mining laws and to the operation of the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: March 20, 2000.

Sylvia V. Baca,

Assistant Secretary of the Interior.

[FR Doc. 00–9021 Filed 4–11–00; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–650–1430–ET; CACA 2642 01]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 22,331.83 acres of public lands in Kern County to protect the Desert Tortoise Natural Area. This notice closes the

lands for up to 2 years from surface entry and mining. The lands will remain open to mineral leasing and the Materials Act of 1947. Up to 3,206.52 acres of non-federally owned lands would be subject to this withdrawal if they are acquired by the United States in the future by exchange, donation, or purchase. The Desert Tortoise Natural Area was originally withdrawn, for a term of 20 years, by Public Land Order number 5694, which expired on February 4, 2000. The Bureau of Land Management has determined that the lands should be withdrawn for an additional 20 years, which is the purpose of this proposed action.

DATES: Comments and requests for a public meeting must be received by July 11, 2000.

ADDRESSES: Comments and meeting requests should be sent to the Field Manager, BLM Ridgecrest Field Office (CA–650), 300 South Richmond Road, Ridgecrest, California 93555.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office, 916–978–4675 or Janet Eubanks, BLM California District Office, 909–697–5376.

SUPPLEMENTARY INFORMATION: On March 13, 2000, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public lands from location and entry under the mining laws, subject to valid existing rights:

Public Lands

Mount Diablo Meridian, California

T. 30 S., R. 38 E.,
Sec. 13, lots 1, 2, 9, 10, and 11, E½SE¼, and 90.11 acres of S½ lying easterly of Koehn Dry Lake per Dependent Resurvey approved July 30, 1971;
Sec. 23, lots 6, 7, 8, 11, and 12, E½SE¼ , and unnumbered lots with 5.72, 19.06, 21.29 and 37.04 acres;
Sec. 24, lots 1 to 3, inclusive, and lots 5 to 16, inclusive;
Sec. 25;
Sec. 26, lots 1, 2, 4, and 5, E½, and SW¼;
Sec. 34, S½;
Sec. 35;
Sec. 36, NE¼NE¼, S½NE¼, W½, NW¼NE¼SE¼, S½NW¼SE¼, E½NW¼SW¼SE¼, S½SW¼SE¼, and SE¼SE¼.
T. 31 S., R. 38 E.,
Secs. 1 to 4, inclusive;
Sec. 5, S½;
Sec. 8;
Sec. 9, N½, SE¼, N½NE¼SW¼SW¼, N½NE¼NW¼SW¼, and E½SW¼;
Sec. 10;
Sec. 11, N½, SW¼, NW¼SE¼, S½SE¼SE¼, S½N½SE¼SE¼, S½NE¼SE¼, and W½SW¼SE¼;
Sec. 12;
Sec. 13, E½NE¼, S½NW¼NE¼, W½NW¼NW¼NE¼, W½E½NW¼NW¼NE¼, E½NE¼NW¼, E½NW¼NW¼, NW¼NW¼NW¼, N½SW¼NW¼, SW¼SW¼SW¼NW¼, SE¼NE¼SE¼SW¼, E½E½NW¼SE¼SW¼, NW¼NW¼SE¼SW¼, SW¼SW¼SE¼SW¼, E½SW¼SE¼SW¼, S½SE¼SW¼SE¼, NW¼SE¼SE¼, SW¼SW¼SE¼SE¼, SE¼SE¼SE¼, and E½E½SW¼SE¼SE¼;
Sec. 14;
Sec. 15, E½, SW¼, SE¼NW¼, W½NE¼NW¼, N½NW¼NW¼, SW¼NW¼SW¼NW¼, SE¼NE¼SW¼ NW¼, and S½SW¼NW¼;
Sec. 16, E½, E½W½, NW¼NW¼, NE¼NE¼SW¼NW¼, S½NW¼SW¼NW¼, N½S½SW¼/ NW¼, E½W½SW¼, NW¼NW¼SW¼, and NW¼SW¼SW¼;
Sec. 17, N½;
Sec. 18, lots 3 and 4, E/12, and E½NW¼;
Sec. 19, N½N½ of lot 1 of the NW¼, S½ of lot 1 of the NW¼, lots 1 and 2 of the SW¼ and E½;
Sec. 20;
Sec. 21, NW¼NE¼, SE¼SW¼NE¼, SE¼SE¼NE¼, N½SE¼NE¼, NW¼NW¼, SE¼NW¼, N½NE¼SW¼, NW¼SW¼, SE¼SW¼, E½NE¼SE¼, E½E½NW¼NE¼SE¼, E½NW¼SE¼, NW¼NW¼SE¼, W½SW¼SW¼SE¼, SE¼SW¼SE¼, E½W½SE¼SE¼, and E½SE¼SE¼;
Sec. 22;
Sec. 23, W½SW¼, SE¼SW¼, and S½NE¼SW¼;
Secs. 24 and 26;
Sec. 27, NE¼NE¼, E½NW¼NE¼, SW¼NW¼NE¼, SW¼NE¼, W½NE¼NE¼NW¼,W½NE¼NW¼, S½SE¼NW¼NE¼, S½N½NW¼NW¼, S½S½NW¼NW¼, N½SW¼NW¼, N½S½SW¼NW¼, SE¼SW¼SW¼NW¼, SW¼SE¼NW¼, N½SW¼, SW¼SW¼, and SE¼;
Secs. 28 to 30, inclusive;
Sec. 31, lots 1 and 2 of the NW¼, lots 1 and 2 of the SW¼, N½NE¼, SE¼NE¼, N½SE¼, and SW¼SE¼SE¼;
Sec. 32;
Sec. 33, N½NE¼, W½W½SW¼NE¼, E½E½SW¼NE¼, N½SE¼NE¼, N½NE¼NW¼, N½S½NE¼NW¼, SE¼SW¼NE¼NW¼, NW¼NW¼, S½NW¼, E½NE¼SW¼, W½W½NE¼SW¼, NW¼NW¼SW¼, S½NW¼SW¼, N½SW¼SW¼, SW¼SW¼SW¼, N½SE¼SW¼, W½SW¼SE¼SW¼, W½NW¼NE¼SE¼, W½SE¼, and N½SE¼SE¼;
Sec. 34.
T. 32 S., R. 38 E.,
Sec. 4 and 6;
Sec. 5, lots 15, 28, 31, 41, 49, 51, 99, 103, 113, 119, 136, 142, 170, 191, 200, 218 and 223 of Tract No. 2714, as per map filed December 7, 1962 in Book 13 Pages 94 to 98, inclusive of maps in the office of the county recorder of said county.

The areas described aggregate 22,331.83 acres in Kern County.

In addition, if any of the non-federally owned lands within the area described below are acquired by the United States in the future by exchange, donation, or purchase, those lands will be subject to this withdrawal:

Non-Federally Owned Lands

Mount Diablo Meridian, California

T. 30 S., R. 38 E.,
Sec. 36, NW¼NE¼, E½NE¼SE¼, SW¼NE¼SE¼, N½NW¼SE¼, NE¼SW¼SE¼, and W½NW¼SW¼SE¼.
T. 31 S., R. 38 E.,
Sec. 9, S½NE¼NW¼SW¼, NW¼NW¼SW¼, S½NW¼SW¼, S½NE¼SW¼SW¼, NW¼SW¼SW¼, and S½SW¼SW¼;
Sec. 11, N½NE¼SE¼, E½SW¼SE¼, and N½N½SE¼SE¼;
Sec. 13, NE¼NW¼NE¼, E½E½NW¼NW¼NE¼, SW¼NE¼, W½NE¼NW¼, SW¼NW¼NW¼, SE¼SW¼NW¼, N½SW¼SW¼NW¼, SE¼SW¼SW¼NW¼, SE¼NW¼, N½SW¼, SW¼SW¼, N½NE¼SE¼SW¼, SW¼NE¼SE¼SW¼, W½E½NW¼SE¼SW¼, SW¼NW¼SE¼SW¼, NW¼SW¼SE¼SW¼, SE¼SE¼SW¼, N½SE¼, N½SW¼SE¼, SW¼SW¼SE¼, N½SE¼SW¼SE¼, NW¼SW¼SE¼SE¼, W½E½SW¼SE¼SE¼ and NE¼ SE¼ SE¼;
Sec. 15, E½NE¼NW¼, S½NW¼NW¼, N½N½SW¼NW¼, SE¼NW¼SW¼NW¼, SW¼NE¼SW¼NW¼;
Sec. 16, N½NW¼SW¼NW¼, NW¼NE¼SW¼NW¼, S½NE¼SW¼NW¼, S½S½SW¼NW¼, SW¼NW¼SW¼, and SW¼SW¼SW¼;
Sec. 17, S½;
Sec. 18, lots 1 and 2;
Sec. 19, lot 2 of the NW¼ and S½N½ of lot 1 of the NW¼;
Sec. 21, NE¼NE¼, W½SW¼NE¼, NE¼SW¼NE¼, SW¼SE¼NE¼, NE¼NW¼, SW¼NW¼, SW¼SW¼, S½NE¼SW¼, W½NW¼NE¼SE¼, W½E½NW¼NE¼SE¼, SW¼NE¼SE¼, SW¼NW¼SE¼, N½SW¼SE¼, E½SW¼SW¼SE¼, and W½W½SE¼SE¼;
Sec. 23, N½, N½NE¼SW¼, and SE¼;
Sec. 27, W½NW¼NE¼, SE¼NE¼, E½NE¼NE¼NW¼, N½SE¼NE¼NW¼, N½N½NW¼NW¼, N½S½NW¼NW¼, SW¼SW¼SW¼NW¼, S½SE¼SW¼NW¼, N½SE¼NW¼, SE¼SE¼NW¼, and SE¼SW¼;
Sec. 31, SW¼NE¼, SW¼SE¼, N½SE¼SE¼, and SE¼SE¼SE¼;
Sec. 33, W½E½SW¼NE¼, E½W½SW¼NE¼, S½SE¼NE¼, S½SE¼NE¼NW¼, SW¼SW¼NE¼NW¼, E½W½NE¼SW¼, NE¼NW¼SW¼, SE¼SW¼SW¼, E½SW¼SE¼SW¼,

SE¼SE¼SW¼, E½NW¼NE¼SE¼, NE¼NE¼SE¼, S½NE¼SE¼, and S½SE¼SE¼.

T. 32 S., R. 38 E.,

Sec. 5, lot 2 of the N½, portion of lot 1 of the NW¼, portion of lot 1 of the NE¼, N½S½, and a portion of the S½S½, excluding lots 15, 28, 31, 41, 49, 51, 99, 103, 113, 119, 136, 142, 170, 191, 200, 218 and 223 of Tract No. 2714, as per map filed December 7, 1962 in Book 13 Pages 94 to 98, inclusive of maps in the office of the county recorder of said county.

The areas described aggregate 3,201.52 acres in Kern County.

The purpose of the proposed withdrawal is to assure long term protection and preservation of the public lands and lands proposed to be acquired in the Desert Tortoise Natural Area.

Until July 11, 2000, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Field Manager, Bureau of Land Management, Ridgecrest Field Office.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Field Manager, Ridgecrest Field Office by July 11, 2000. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the public lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are those which are compatible with the use of the lands, as determined by BLM.

Dated: March 27, 2000.

David McIlnay,

Chief, Branch of Lands.

[FR Doc. 00–9022 Filed 4–11–00; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of the Peabody Museum at Harvard University, Cambridge, MA, which meets the definition of ''object of cultural patrimony'' under section 2 of the Act.

The cultural item consists of a memorial totem pole, approximately 20 feet in length, bearing the Brown Bear crest.

Until 1899, the pole stood in front of the Hoots-Hit house on the beach at Old Cape Fox village, Alaska. The clan leader of the house at that time was Big Thomas. The totem pole was removed from Cape Fox by the Harriman Alaska Expedition in July 1899 when the expedition's steamer anchored near the village. Later, Charles Palache who was a member of the expedition solicited the pole from Edward Harriman as a gift to the Peabody Museum.

Consultation evidence indicates that at the time of collection by the Harriman Alaska Expedition the pole depicting the Brown Bear crest was considered the communal property of the Teikweidi of the Saanya Kwaan, and could not have been alienated, appropriated, or conveyed by any individual.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that pursuant to 43 CFR 10.2 (d)(4), this cultural item has ongoing historical, traditional, and cultural importance central to the Teikweidi of the Saanya Kwaan, and could not have been alienated, appropriated, or conveyed by any individual. Officials of the Peabody Museum of Archaeology and Ethnology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between this item and the Cape Fox Corporation of the Saanya Kwaan on behalf of the Teikweidi.

This notice has been sent to officials of the Cape Fox Corporation and the Organized Village of Saxman. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact Barbara Isaac, Coordinator for Repatriation, Peabody Museum of Archaeology and Ethnology, 11 Divinity Avenue, Cambridge, MA 022138, telephone: (617) 496–3702, before May 12, 2000. Repatriation of this object to the Cape Fox Corporation of the Saanya Kwaan may begin after that date if no additional claimants come forward.

Dated: April 4, 2000.

Muriel Crespi,

Acting Departmental Consulting Archeologist, Archeology and Ethnography Program.

[FR Doc. 00–8997 Filed 4–11–00; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–825–826 (Final)]

Certain Polyester Staple Fiber From Korea And Taiwan

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: April 5, 2000.

FOR FURTHER INFORMATION CONTACT: Jozlyn Kalchthaler (202–205–3457), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On March 30, 2000, the Department of Commerce notified the Commission of its final determinations. The Commission must make its final determinations in antidumping investigations within 45 days after notification of Commerce's final determinations, or in this case by May 15, 2000. The Commission is revising its schedule to conform with this statutory deadline.

The Commission's new schedule for the investigations is as follows: the Commission will make its final release of information on April 28, 2000; and final party comments are due on May 2, 2000.

For further information concerning these investigations see the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rule.

By order of the Commission.

Issued: April 5, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–9114 Filed 4–11–00; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Proposed Collection; Comment Request

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: National Endowment for the Humanities (NEH) is soliciting public comments on the proposed information collection described below. The proposed information collection will be sent to the Office of Management and Budget (OMB) for review, as required by the provisions of the Paperwork Reduction Act of 1995.

DATES: Comments on this information collection must be submitted on or before June 12, 2000.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Room 311, Washington, D.C. 20506, or by email to: *sdaisey@neh.gov*. Telephone: 202–606–8494.

SUPPLEMENTARY INFORMATION: The National Endowment for the Humanities will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This notice is soliciting comments from members of the public and affected agencies. NEH is particularly interested in comments which help the agency to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; 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 submissions of responses.

This Notice also lists the following information:

Type of Review: Extension of a currently approved collection.

Agency: National Endowment for the Humanities.

Title of Proposal: Generic Clearance Authority for the National Endowment for the Humanities.

OMB Number: 3136–0134.

Affected Public: Applicants to NEH grant programs, reviewers of NEH grant applications, and NEH grantees.

Total Respondents: 20,563.

Frequency of Collection: On occasion.

Total Responses: 20,569.

Average Time per Response: Varied according to type of information collection.

Estimated Total Burden Hours: 91,301 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request. The will also become a matter of public record.

John W. Roberts,

Deputy Chairman.

[FR Doc. 00–9041 Filed 4–11–00; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Company, Zion Nuclear Power Station, Units 1 and 2; Notice of Receipt and Availability for Comment of the Post Shutdown Decommissioning Activities Report and Notice of Public Meeting

The U.S. Nuclear Regulatory Commission (the Commission) is in receipt of and is making available for public comment, the Post-Shutdown Decommissioning Activities Report (PSDAR) for Zion Nuclear Power Station, Units 1 and 2 (ZNPS), located in Zion, Illinois.

ZNPS has been shut down since February 1997. Commonwealth Edison Company (ComEd) certified the permanent shutdown on February 13, 1998, and on March 9, 1998, certified that all fuel had been removed from the reactor vessels. In accordance with 10 CFR 50.82(a)(2), upon docketing of the certifications, the facility operating license no longer authorizes ComEd to operate the reactor or to load fuel into the reactor vessel. By letter dated February 14, 2000, ComEd submitted its PSDAR to the Commission in accordance with the requirements of 10 CFR 50.82.

In the PSDAR, ComEd has identified the planned decommissioning activities and schedule for ZNPS, provided an estimate of expected costs, and discussed the reasons for concluding that the environmental impacts associated with site-specific decommissioning activities are bounded by the appropriate previously issued environmental impact statements. ComEd has chosen to put ZNPS in a safe storage condition until 2013 at which time decontamination and dismantlement activities are scheduled to begin.

The Commission staff will conduct a public meeting at the Zion-Benton High School, 3901 21st Street, Zion, Illinois on April 26, 2000 to provide an opportunity for members of the public to raise issues and concerns related to the ZNPS PSDAR. The meeting is scheduled for 7 p.m.–10 p.m., and will be moderated by Dr. Donald Moon and Mr. Peter Cioni. This meeting is a formal part of the decommissioning process. There will be an opportunity for members of the public to ask questions of the NRC staff and ComEd representatives and to make comments related to the PSDAR. The meeting will be transcribed. For more information, contact Dino C. Scaletti, Project Directorate IV & Decommissioning, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–1104.

The PSDAR is available for public inspection at the Commission's Public Document Room located at the Gelman Building, 2120 L Street, NW, Washington, DC, and is accessible electronically from the ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Electronic Reading Room).

Dated at Rockville, Maryland, this 5th day of April 2000.

For the Nuclear Regulatory Commission.

Dino C. Scaletti,

Senior Project Manager, Decommissioning Section, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–9060 Filed 4–11–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–321 and 50–366]

Southern Nuclear Operating Company and Edwin I. Hatch Nuclear Plant; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Process

Southern Nuclear Operating Company (SNC) has submitted an application for renewal of operating licenses DPR–57and NPF–5 for an additional 20 years of operation at the Edwin I. Hatch Nuclear Plant, Units 1 and 2 (Hatch). Hatch is located in Appling County, Georgia. The application for renewal was submitted by letter dated February 29, 2000, pursuant to 10 CFR Part 54. A notice of receipt of application, including the environmental report (ER), was published in the **Federal Register** on March 10, 2000 (65 FR 13061). A notice of acceptance for docketing of the application for renewal of the facility operating license was published in the **Federal Register** on April 3, 2000 (65 FR 17543). The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement in support of the review of the license renewal application and to provide the public an opportunity to participate in the environmental scoping process as defined in 10 CFR 51.29.

In accordance with 10 CFR 54.23 and 10 CFR 51.53(c), SNC submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR Part 51 and is available for public inspection at the Commission's Public Document Room in the Gelman Building, 2120 L Street, N.W., Washington, DC, 20003–1527. In addition, the Appling County Library, located at 242 East Parker Street, Baxley, GA, 31513, has agreed to make the ER available for public inspection.

This notice advises the public that the NRC intends to gather the information necessary to prepare a plant-specific supplement to the Commission's ''Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants,'' (NUREG–1437) in support of the review of the application for renewal of the Hatch operating licenses for an additional 20 years. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. 10 CFR 51.95 requires that the NRC prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with the National Environmental Policy Act (NEPA) and the NRC's regulations found in 10 CFR Part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in this scoping process by members of the public and local, State, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action which is to be the subject of the supplement to the GEIS.

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth.

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.

d. Identify any environmental assessments and other environmental impact statements (EISs) that are being or will be prepared that are related to but are not part of the scope of the supplement to the GEIS being considered.

e. Identify other environmental review and consultation requirements related to the proposed action.

f. Indicate the relationship between the timing of the preparation of environmental analyses and the Commission's tentative planning and decision-making schedule.

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies.

h. Describe how the supplement to the GEIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in the scoping process:

a. The applicant, Southern Nuclear Operating Company.

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.

d. Any affected Indian tribe.

e. Any person who requests or has requested an opportunity to participate in the scoping process.

f. Any person who intends to petition for leave to intervene.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Notice of opportunity for a hearing regarding the renewal application was the subject of the aforementioned **Federal Register** notice of acceptance for docketing. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold a public meeting for the Hatch license renewal supplement to the GEIS. The scoping meeting will be held at the small auditorium at the Southeastern Technical Institute 3001 East First Street, Vidalia, Georgia, on Wednesday, May 10, 2000. There will be two sessions to accommodate interested parties. The first session will convene at 1:30 p.m. and will continue until 4:30 p.m. The second session will convene at 7 p.m. with a repeat of the overview portions of the meeting and will continue until 10:00 p.m. Both meetings will be transcribed and will include (1) an overview by the NRC staff of the National Environmental Policy Act (NEPA) environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; (2) an overview by SNC of the proposed action, Hatch license renewal, and the environmental impacts as outlined in the ER; and (3) the opportunity for interested Government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Persons may register to attend or present oral comments at the meeting on the NEPA scoping process by contacting Mr. James H. Wilson by telephone at 1 (800) 368–5642, extension 1108, or by Internet to the NRC at hatcheis@nrc.gov no later than May 5, 2000. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Wilson's attention no later than May 5, 2000, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scoping process for the supplement to the GEIS to Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop T–6 D 59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. To be considered in the scoping process, written comments should be postmarked by June 9, 2000. Electronic comments may be sent by the Internet to the NRC at *hatcheis@nrc.gov.* Electronic submissions should be sent no later than June 9, 2000, to be considered in the scoping process. Comments will be available electronically and accessible through the NRC's Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The summary will also be available for inspection through the PERR link. The staff will then prepare and issue for comment the draft supplement to the GEIS, which will be the subject of separate notices and a separate public meeting. Copies will be available for public inspection at the above-mentioned addresses, and one copy per request will be provided free of charge. After receipt and consideration of the comments, the NRC will prepare a final supplement to the GEIS, which will also be available for public inspection.

Information about the proposed action, the supplement to the GEIS, and the scoping process may be obtained from Mr. Wilson at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 4th day of April 2000.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 00–9058 Filed 4–11–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG–1093 (which should be mentioned in all correspondence concerning this draft guide), is titled ''Guidance and Examples for Identifying 10 CFR 50.2 Design Bases.'' This guide is being developed to provide a better understanding of the term ''design bases'' as defined in 10 CFR 50.2. This better understanding is to help the industry and the NRC staff implement the regulations that use the term design bases. This guide proposes the endorsement of the Nuclear Energy Institute document, Appendix B, ''Guidelines and Examples for Identifying 10 CFR 50.2 Design Bases,'' to NEI 97–04, ''Design Bases Program Guidelines.''

This draft guide has not received complete staff approval and does not represent an official NRC staff position.

Comments may be accompanied by relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by June 15, 2000.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://www.nrc.gov). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905; e-mail *CAG@NRC.GOV.* Electronic copies of this draft guide, under Accession Number ML003691412, are available in NRC's Public Electronic Reading Room, which can also be accessed through NRC's web site, <*WWW.NRC.GOV*>. For information about the draft guide and the related documents, contact Mr. S.L. Magruder at (301) 415–3139; e-mail SLM1@NRC.GOV.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by fax to (301)415–2289, or by e-mail to <DISTRIBUTION@NRC.GOV>. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them. (5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 31st day of March 2000.

For the Nuclear Regulatory Commission.

Charles E. Ader,

Director, Program Management, Policy Development & Analysis Staff Office of Nuclear Regulatory Research.

[FR Doc. 00–9059 Filed 4–11–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24378; File No. 812–11884]

The Manufacturers Life Insurance Company of North America, et al., Notice of Application

April 5, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of Application for an order under Section 6(c) of the Investment Company Act of 1940 (the

''1940 Act'' or ''Act'') granting exemptions from the provisions of Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act, and Rule 22c–1 thereunder, to permit the recapture of credits applied to purchase payments made under certain deferred variable annuity contracts.

SUMMARY OF APPLICATION: Applicants seek an order to permit the recovery of certain credits applied to purchase payments made under: (i) Certain deferred variable annuity contracts (''Contracts'') that The Manufacturers Life Insurance Company of North America (''Manulife North America'') issues through The Manufacturers Life Insurance Company of North America Separate Account A (''the Account''), and (ii) contracts that Manulife North America may issue in the future through the Account, any of its other separate accounts, or any separate accounts that it may establish in the future (''Manulife North America Future Accounts'') and that The Manufacturers Life Insurance Company of New York) ''Manulife New York'') may issue in the future through The Manufacturers Life Insurance Company of New York Separate Account A (''the Variable Account''), any of its other separate accounts or any separate accounts that it may establish in the future) ''Manulife New York Future Accounts''; collectively with the Manulife North America Future Accounts, the ''Future Accounts''), which contracts are substantially similar in all material respects to the Contracts (''Future Contracts''). Applicants also request that the order extend to any other National Association of Securities Dealers, Inc. (''NASD'') member broker-dealer controlling, controlled by, or under common control with the Insurance Companies, whether existing or created in the future, that serves as a distributor or principal underwriter of the Contracts or any Future Contracts offered through the Accounts or any Future Accounts (collectively, ''Affiliated Broker-Dealers'').

APPLICANTS: The Manufacturers Life Insurance Company of North America, The Manufacturers Life Insurance Company of New York (collectively, ''the Insurance Companies''), The Manufacturers Life Insurance Company of North America Separate Account A, The Manufacturers Life Insurance Company of New York Separate Account A (collectively, ''the Accounts''), Manufacturers Securities Services, LLC (''MSS''), and any of the Insurance Companies' other separate accounts or separate accounts that the Insurance Companies may establish in the future (''Future Accounts'') to support Future Contracts issued by the Insurance Companies (collectively, ''Applicants'').

FILING DATE: The application was filed on December 14, 1999, and amended on March 29, 2000.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 on April 27, 2000 and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o Betsy A. Seel, Esq., Manulife Financial, 73 Tremont Street, Boston, Massachusetts 02108; copy to John W. Blouch, Esq., Jones & Blouch L.L.P., 1025 Thomas Jefferson St., NW, Suite 410 East, Washington, DC 20007–0805.

FOR FURTHER INFORMATION CONTACT: Paul G. Cellupica, Senior Counsel, or Keith Carpenter, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. Manulife North America is a stock life insurance company organized under the laws of Delaware in 1979. Its principal business is offering variable annuity contracts in 48 states (excluding New York), the District of Columbia and Puerto Rico. The ultimate parent of Manulife North America is The Manufacturers Life Insurance Company, a Canadian stock life insurance company (''Manulife''). Manulife Financial Corporation is the holding company of Manulife and its subsidiaries, collectively known as Manulife Financial.

2. Manulife New York is a stock life insurance company organized under the laws of New York in 1992. Its principal business is offering variable annuity contracts in New York. Manulife New York is a wholly-owned subsidiary of Manulife North America.

3. The Account was established in 1984 by Manulife North America as a separate account under Delaware law and is registered with the Commission as a unit investment trust under the Act. The Account funds the variable benefits available under the Contracts and other variable annuity contracts issued by Manulife North America. The offering of the Contracts by Manulife North America is registered under the Securities Act of 1933. That portion of the assets of the Account that is equal to the reserves and other contract liabilities with respect to the Account is not chargeable with liabilities arising out of any other business of Manulife North America. Any income, gains or losses, realized or unrealized, from assets allocated to the Account are, in accordance with the various contracts, credited to or charged against the Account without regard to other income, gains or losses of Manulife North America.

4. The Variable Account was established in 1992 by Manulife New York as a separate account under New York law and is registered with the Commission as a unit investment trust under the Act. The Variable Account funds the variable benefits available under the contracts issued by Manulife New York. That portion of the assets of the Variable Account that is equal to the reserves and other contract liabilities with respect to the Variable Account is not chargeable with liabilities arising out of any other business of Manulife New York. Any income, gains or losses, realized or unrealized, from assets allocated to the Variable Account are, in accordance with the various contracts, credited to or charged against the Variable Account without regard to other income, gains or losses of Manulife New York.

5. MSS is a Delaware limited liability company controlled by Manulife North America and is the principal underwriter of the Contracts. MSS is also the principal underwriter of certain contracts issued by Manulife New York. MSS is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the NASD. Sales of the Contracts are made by registered representatives of broker-dealers authorized by MSS to sell the Contracts. Such registered representatives are also licensed insurance agents of Manulife North America.

6. The Contracts are flexible purchase payment individual deferred combination fixed and variable annuity contracts. They may be issued pursuant to either non-qualified retirement plans or plans qualifying for special income tax treatment such as individual retirement accounts and annuities, pension and profit-sharing plans for corporations and sole proprietorships or partnerships, tax sheltered annuities, and state and local government deferred compensation plans.

7. The minimum initial purchase payment for a Contract is $10,000. The minimum subsequent purchase payment is $30. Manulife North America may limit total Contract purchase payments to $1,000,000.

8. Upon receipt of a purchase payment from a Contract owner, Manulife North America adds a payment enhancement or credit to the owner's Contract (the ''Credit''). Manulife North America funds Credits from its general account assets and allocates Credits among investment options in the same proportion as the applicable purchase payment. The Credit depends upon the cumulative amount of purchase payments and is payable as a percentage of specific purchase payments as set forth in the chart below. A higher Credit percentage may be applied to an initial purchase payment where the Contract owner has executed a letter of intent to make total purchase payments within 13 months of the Contract date sufficient to achieve one of the higher breakpoints shown below (''Letter of Intent'').

[In percent]

Cumulative purchase payments	Credit rates		
	Guaranteed rate (contracts issued prior to January 1, 1999)	Promotional rate* (contracts issued on or after January 1, 1999 but prior to June 21, 1999)	Promotional rate* (contracts issued on or after June 21, 1999)
Less than $500,000	3.0	4.0	5.0
$500,000 or more but less than $2,500,000	4.0	5.0	5.5
$2,500,000 or more	5.0	6.0	6.0

*Promotional Credit rates are being offered for initial and subsequent purchase payments with respect to all Contracts issued on or after January 1, 1999, with the higher promotional rates applicable to Contracts issued after June 21, 1999. The promotional Credits may be terminated at any time and, if terminated, will not be applied to initial or subsequent purchase payments made after the date of termination except in the context of a Letter of Intent. The promotional rates applicable to the initial purchase payment under a Letter of Intent will continue in effect for the 13-month Letter of Intent completion period regardless of a termination generally of the promotional rates during such period.

9. Manulife North America recovers certain Credits from a Contract owner under the following circumstances: (i) Any Credit applied if the owner returns the Contract for a refund during the 10-day ''free look'' period; (ii) any Credits applied within 12 months preceding the date of death that results in payment of a death benefit; and (iii) any ''Excess Credits'' (defined below) applied to purchase payments made pursuant to a Letter of Intent where total purchase payments received within 13 months from the Contract date do not equal or exceed the applicable breakpoint for the Credits applied. In the event of such recovery, the Contract owner retains any earnings attributable to the Credit or Excess Credit allocated to his or her account value. If there is a decline in the value of accumulation units for an investment to which a Credit or Excess Credit has been allocated, Manulife North America retains the right to recover the original amount of the Credit or Excess Credit. The recovery of Credits or Excess Credits will be effected by canceling accumulation units equal in value to the full amounts to be recovered, the number of such units to be calculated at the accumulation unit value next determined. Amounts recovered will be withdrawn from each investment option in the same proportion that the value of the investment account of each investment option bears to the Contract value.

10. The free look period is the 10-day period during which an owner may return a Contract after it has been delivered. Upon such return, the owner receives a full refund of the Contract value, less any debt and any Credit. No withdrawal charge applies to the refund. The refund amount may be more or less than the owner's purchase payment, unless the applicable state law requires that the full amount of the purchase payment be refunded.

11. The Contract's death benefit provision states that a death benefit will be paid to the Contract owner's specified beneficiary (or a surviving Contract owner, if any) if the Contract owner dies before annuity payments begin. The death benefit during the first nine Contract years will be the greater of: (a) The Contract value less any Credits applied in the 12-month period prior to the date of death, or (b) the excess of (i) the sum of all purchase payments over (ii) the sum of any partial withdrawals. After the ninth Contract year, the death benefit will be the greater of: (a) The Contract value less any Credits applied in the 12-month period prior to the date of death; (b) the excess of (i) the sum of all purchase payments over (ii) the sum of any amounts deducted in connection with partial withdrawals; or (c) the death benefit on the last day of the ninth Contract year, plus the sum of all purchase payments made and any amount deducted in connection with partial withdrawals since then. If there is any debt under the Contract, the death benefit equals the death benefit as described above less such debt.

12. Manulife North America applies a higher Credit percentage to an initial purchase payment where the Contract owner has executed a Letter of Intent to make total purchase payments within 13 months of the Contract date sufficient to achieve such higher Credit percentage. If the total purchase payments received within such 13-month period do not equal or exceed the amount of the breakpoint for such higher Credit percentage, Manulife North America may recover the ''Excess Credit,'' that is, the amount by which the Credit applied to the Contract exceeds the Credit that would have been applied to the actual purchase payments made had the Contract owner not submitted a Letter of Intent. The Contract owner bears the risk that, if the Letter of Intent is not fulfilled, the value of the Contract may be less than it would have been if the owner had not executed a Letter of Intent. If the amount recovered exceeds the Contract value, Manulife North

America will terminate the Contract without value.

13. Contract owners may allocate their purchase payments among a number of sub-accounts of the Account. Each sub-account invests in shares of a corresponding portfolio of Manufacturers Investment Trust (the ''Trust''), an open-end management investment company registered under the Act. Manulife North America may, subject to compliance with applicable law, add other sub-accounts, eliminate or combine existing sub-accounts or transfer assets in one sub-account to another sub-account established by Manulife North America or an affiliated company.

14. The Contracts provide for various withdrawal and annuity payout options, as well as transfer privileges among sub-accounts, dollar cost averaging, and other features. The Contracts provide for the following charges: (i) a withdrawal or contingent deferred sales charge (''CDSC'') as a percentage of amounts withdrawn attributable to purchase payments that have been in the Contract less than ten complete years, with the applicable percentage charge declining from a maximum of 8.5% in years one and two to 0.0% in year ten and thereafter; (ii) a $40 annual administration fee; (iii) a daily administration fee in an amount equal on an annual basis to 0.30% of the value of each variable investment account, deducted from each sub-account; (iv) a daily mortality and expense risks charge in an amount equal on an annual basis to 1.25% of the value of each variable investment account, deducted from each sub-account; and (v) any applicable state or local premium taxes up to 3.5%, depending on the owner's state of residence or the state in which the Contract was sold. In addition, assets invested in portfolios of the Trust are charged with the annual operating expenses of those portfolios. The CDSC is not applied against Credits or Excess Credits.

Applicants' Legal Analysis

1. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request that the Commission, pursuant to Section 6(c) of the Act, grant the exemptions requested below with respect to the Contracts, and any Future Contracts funded by the Accounts or Future Accounts, that are issued by the Insurance Companies and underwritten or distributed by MSS or Affiliated Broker-Dealers. Applicants undertake that Future Contracts will be substantially similar in all material respects to the Contracts. Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Applicants seek exemption pursuant to Section 6(c) from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder to the extent deemed necessary to permit Manulife North America to issue Contracts and Future Contracts, and Manulife New York to issue Future Contracts, that provide for the issuance of Credits upon the receipt of purchase payments and the subsequent recovery of: (i) Any Credit applied if an owner returns a Contract or a Future Contract for a refund during the free look period; (ii) any Credits applied within 12 months preceding the date of death that results in payment of a death benefit; and (iii) any Excess Credits applied to purchase payments made pursuant to a Letter of Intent where total purchase payments received within 13 months from the Contract or Future Contract date do not equal or exceed the amount of the applicable breakpoint for the Credit applied.

3. Applicants represent that it is not administratively feasible to track asset-based charges against Credits in the Accounts after the Credits have been applied. Accordingly, the asset-based charges applicable to the Accounts will be assessed against the entire amounts held in the Accounts, including Credits, during the free look period, the 12-month recovery periods with respect to death benefits, and the 13-month period for fulfillment of a Letter of Intent. As a result, during such period, the aggregate asset-based charges assessed against an owner's annuity account value will be higher than they would have been if the owner's annuity account value did not include any Credits.

4. Subsection (i) of Section 27 of the Act provides that Section 7 does not apply to any registered separate account variable insurance contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of the subsection. Paragraph (2) provides that it shall be unlawful for such a separate account or sponsoring insurance company to sell a contract funded by the registered separate account unless such contract is a redeemable security. Section 2(a)(32) defines a ''redeemable security'' as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent thereof.

5. Applicants submit that the recovery of Credits and Excess Credits in the circumstances set forth in the Application do not deprive an owner of his or her proportionate share of the issuer's current net assets. Applicants state that an owner's interest in the Credit allocated to his or her annuity account value upon receipt of an initial purchase payment is not vested until the applicable free look period has expired without return of the Contract. Similarly, Applicants state that an owner's interest in Credits allocated to his or her annuity account within 12 months preceding the date of death resulting in payment of a death benefit, or in the Excess Credit allocated to such account within 13 months preceding the fulfillment of a Letter of Intent, also is not vested. Until the right to recovery has expired and any Credit or Excess Credit has vested, Applicants submit that Manulife North America retains the right and interest therein. Thus, Applicants argue that when Manulife North America recovers any Credit or Excess Credit, it is merely retrieving its own assets. The owner is not deprived of a proportionate share of the Account's assets because the owner's interest in such Credit or Excess Credit has not vested. Moreover, according to Applicants, Manulife North America does not recover any earnings attributable to Credits or Excess Credits.

6. Applicants further submit that permitting an owner to retain a Credit upon the exercise of the free look return provision, or a Credit allocated within 12 months of the date of death, or an Excess Credit under circumstances of non-fulfillment of a Letter of Credit, would be unfair and would deny the Insurance Companies a reasonable measure of protection against anti-selection. Anti-selection can generally be described as a risk that Contract owners obtain an undue advantage based on elements of fairness to the Insurance Companies and the actuarial and other factors they take into account in designing the Contracts. The risk here is that, rather than spreading purchase payments over a number of years, an owner might seek to manipulate Contract provisions in a manner that

leaves the Insurance Companies little time to recover the cost of the Credit or Excess Credit. For example, permitting an owner to retain a Credit upon the exercise of the free look return would encourage the purchase of Contracts for a quick profit upon return rather than with the intention of making a long-term investment. Similarly, an owner would have an incentive to make a very large purchase payment shortly before death or to execute a Letter of Intent with no intention of fulfilling it in order to obtain Credits or Excess Credits the cost of which the Insurance Companies would be unable to recover. As stated above, the amounts recovered will equal the Credits or Excess Credits provided by the Insurance Companies from general account assets, and any gains attributable thereto will remain a part of the owner's Contract value. For the foregoing reasons, Applicants submit that the provisions for recovery of Credits and Excess Credits under the Contracts do not violate Section 2(a)(32) and 27(i)(2)(A) of the 1940 Act. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from Sections 2(a)(32) and 27(i)(2)(A), to the extent deemed necessary, to permit the issuance and subsequent recovery of Credits and Excess Credits under the circumstances described in the Application with respect to Contracts and Future Contracts, without the loss of relief from Section 27 provided by Section 27(i).

7. Section 22(c) of the Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company to accomplish the same purposes as contemplated by Section 22(a). Rule 22c–1 thereunder prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. The Insurance Companies' recovery of Credits and Excess Credits as]described in the Application might arguably be viewed as involving the redemption of redeemable securities for a price other than one based on the current net asset value of the Accounts.

8. Applicants believe that the recovery of the Credits and Excess Credits does not violate Section 22(c) of the Act or Rule 22c–1. Such recovery does not involve either of the harms that Rule 22c–1 was intended to eliminate or reduce, namely: (i) The dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or repurchase at a price above it, and (ii) other unfair results, including speculative trading practices.

9. Applicants submit that the recovery of Credits and Excess Credits does not pose such a threat of dilution. In effecting recoveries, the Insurance Companies will redeem interests in an owner's Contract at a price determined on the basis of the current net asset value of the sub-accounts(s) to which the owner's Contract value is allocated. The amounts recovered will equal the Credits or Excess Credits that the Insurance Companies have paid our of general account assets. The owners will be entitled to retain any investment gains attributable to the Credits or Excess Credits, and the amounts of such gains will be determined on the basis of the current net asset values of the applicable sub-accounts. Under these circumstances, in Applicants' view, the recovery of the Credits or Excess Credits does not involve dilution. Applicants further submit that the second harm that Rule 22c–1 was designed to address, namely speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recovery of Credits or Excess Credits.

10. Applicants contend that, because neither of the harms that Rule 22c–1 was meant to address are found in the recovery of Credits or Excess Credits, Rule 22c–1 and Section 22(c) should not be construed as applicable thereto. However, to avoid any uncertainly in this regard, Applicants request an exemption from the provisions of Section 22(c) and Rule 22c–1 to the extent deemed necessary to permit them to recover Credits and Excess Credits under the Contracts and Future Contracts as described in the Application.

11. Applicants submit that their request for an order that applies to Future Accounts and Future Contracts that are substantially similar in all material respects to the Contracts and underwritten or distributed by MSS or Affiliated Broker-Dealers is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Investors will not receive any benefit or additional protection if Applicants are required repeatedly to seek exemptive relief presenting no issue under the Act that has not already been addressed in the Application. Having Applicants file additional applications would impair Applicants' ability effectively to take advantage of business opportunities as they arise. Applicants undertake that Future Contracts funded by the Accounts or by Future Accounts which seek to rely on the order issued pursuant to this Application will be substantially similar in all material respects to the Contracts.

Conclusion

Applicants submit, based on the grounds summarized above, that their exemptive request meets the standards set out in Section 6(c) of the Act, namely, that the exemptions requested are necessary or appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provision of the Act, and that, therefore, the Commission should grant the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–9037 Filed 4–11–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42621; File No. SR–DTC–00–6]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Revising the By-Laws

April 5, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), [1] notice is hereby given that on March 31, 2000, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been primarily prepared by DTC. The Commission is publishing this notice and order to solicit comments on the proposed rule

[1] 15 U.S.C. 78s(b)(1).

change from interested persons and to grant accelerated approval on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to revise DTC's By-Laws.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to revise DTC's By-Laws in order to take advantage of changes to the New York Banking Law that provide greater flexibility and to conform DTC's By-Laws to the By-Laws of DTC's parent, The Depository Trust and Clearing Corporation.[3] The principal changes will:

- Allow annual stockholder's meetings to take place in April instead of in March;
- Allow annual stockholder's meetings to take place wherever the Board of Directors shall determine instead of just in New York City;
- Provide that once a quorum is reached at a Board meeting, the Board of Directors can continue conducting business at that Board meeting as long as at least one-third of the directors are present;
- Allow DTC's Board of Directors to fix the number of directors from time to time rather than require the stockholders to do so; and
- Delete references to Senior Executive Vice Presidents, Executive Vice Presidents, and Senior Vice Presidents because the title of Managing Director is replacing those titles.

DTC believes that the proposed rule change is consistent with the requirements of Section 17 of the Act[4] and the rules and regulations thereunder applicable to DTC because the proposed rule change make changes to DTC's By-Laws but does not affect participant's rights with respect to fair representation.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no adverse impact on competition by reason of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments from DTC participants or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(C) of the Act[5] requires that the rules of a clearing agency assure the fair representation of its shareholders or members and participants in the selection of its directors. The Commission believes that DTC's proposal is consistent with this obligation because the proposed changes should not affect DTC's participant's right or ability to be fairly represented in the selection of DTC's directors or in the administration of DTC's affairs.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice of filing because such approval will allow DTC to immediately amend its By-Laws so that DTC's and DTCC's By-Laws are consistent.

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, N.W., Washington, D.C. 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 provision of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings also will be available for inspection and copying at DTC's principal office. All submissions should refer to File No. SR–DTC–00–6 and should be submitted by May 3, 2000.

V. Order

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–00–6) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–9079 Filed 4–11–00; 8:45 am]

BILLING CODE 8010–01–M

[2] The Commission had modified parts of these statements.

[3] The changes to DTC's By Laws are attached as Exhibit 2 to DTC's filing, which is available through the Commission's Public Reference Section or through DTC.

[4] 15 U.S.C. 78q–1.

[5] 15 U.S.C. 78q–1(b)(3)(C).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42622; File No. SR– NSCC–00–2]

Self-Regulatory Organizations; National Securities Clearing Corporations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Revising the By-Laws

April 5, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] notice is hereby given that on March 31, 200, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been primarily prepared by NSCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval on the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to revise NSCC's By-Laws.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to revise NSCC's By-Laws in order to take advantage of changes to the New York Business Corporation Law that provide greater flexibility and to conform NSCC's By-Laws to the By-Laws of NSCC's parent, The Depository Trust and Clearing Corporation.[3] The principal changes will:

• Allow annual stockholder's meetings to take place in April instead of in March;

• Allow annual stockholder's meetings to take place wherever the Board of Directors shall determine instead of just in New York City;

• Provide that once a quorum is reached at a Board meeting, the Board of Directors can continue conducting business at the Board meeting as long as at least one-third of the directors are present;

• Allow NSCC's Board of Directors to fix the number of directors from time to time rather than require the stockholders to do so; and

• Delete references to Senior Executive Vice Presidents, Executive Vice Presidents, and Senior Vice Presidents because the title of Managing Director is replacing those titles.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17 of the Act[4] and the rules and regulations thereunder applicable to NSCC because the proposed rule change make changes to NSCC's By-Laws but does not affect participants' rights with respect to fair representation.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any other written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(C) of the Act[5] requires that the rules of a clearing agency assure the fair representation of its shareholders or members and participants in the selection of its directors. The Commission believes that NSCC's proposal is consistent with this obligation because the proposed changes should not affect NSCC's participants' right or ability to be fairly represented in the selection of NSCC's directors or in the administration of NSCC's affairs.

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice of filing because such approval will allow NSCC to immediately amend its By-laws so that NSCC's and DTCC's By-Laws are consistent.

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, N.W., Washington, D.C. 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at NSCC's principal office. All submissions should refer to File No. SR–NSCC–00–2 and should be submitted by May 3, 2000.

V. Order

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–00–2) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–9078 Filed 4–11–00; 8:45 am]

BILLING CODE 8010–01–M

[2] The Commission has modified parts of these statements.

[3] The changes to NSCC's By Laws are attached as Exhibit A to NSCC's filing, which is available through the Commission's Public Reference Section or through NSCC.

[4] 15 U.S.C. 78q–1.

[5] 15 U.S.C. 78q–1(b)(3)(C).

[6] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice #3267]

Secretary of State's Arms Control and Nonproliferation Advisory Board; Notice of Closed Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app 2 § 10(a)(2)(1996), the Secretary of State announces the following Arms Control and Nonproliferation Advisory Board (ACNAB) meetings:

Date	Location
April 12, 2000	Department of State, Washington, DC.
May 8–9, 2000	Department of State, Washington, DC.
June 5–6, 2000	Department of State, Washington, DC.
July 19–20, 2000	SANDIA, Albuquerque, NM.
August 28–29, 2000	Department of State, Washington, DC.
September 21–22, 2000.	Livermore National Laboratory, Livermore, CA.
October 26–27, 2000	Department of State, Washington, DC.
November 2–3, 2000	Patrick Air Force Base, Cocoa Beach, FL.
December 5–6, 2000	Department of State, Washington, DC.

Pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app 2 § 10(d)(1996), and in accordance with Executive Order 12958, in the interest of national defense and foreign policy, it has been determined that these Board meetings will be closed to the public, since the ACNAB members will be reviewing and discussing classified matters.

The purpose of this Advisory Board is to advise the President and the Secretary of State on scientific, technical, and policy matters affecting arms control. The Board will review specific arms control and nonproliferation issues. Members will be briefed on current U.S. policy and issues regarding negotiations such as the Convention on Conventional Weapons and the Chemical and Biological Weapons Convention.

The Board deeply regrets the short notice which was necessitated by a medical emergency. For more information concerning the meetings, please contact Robert Sherman, Executive Director, Arms Control and Nonproliferation Advisory Board, at (202) 647–1192.

Dated: April 6, 2000.

Robert Sherman,

Executive Director, Secretary of State's Arms Control and Nonproliferation Advisory Board, U.S. Department of State.

[FR Doc. 00–9081 Filed 4–7–00; 3:54 pm]

BILLING CODE 4710–27–P

DEPARTMENT OF STATE

[Public Notice 3264]

Advisory Committee on International Communications and Information Policy; Meeting Notice

The Department of State is announcing a special meeting of its Advisory Committee on International Communications and Information Policy. The Committee provides a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communication services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country interests.

This special meeting will take the format of a hearing to solicit and receive testimony on the subject of ''best practices'' used by telecommunications regulators, competition authorities, and legislatures, etc. outside the United States that facilitate competition in the provision of telecommunications services and/or networks.

The purpose of the Advisory Committee soliciting this testimony is to develop a list of these best policies implemented by countries outside the United States that will be helpful to the Department of State and the U.S. Government more broadly in recognizing and promoting pro-competitive telecommunications practices abroad. The intent is that these will provide concrete examples of where and how telecommunications competition has been implemented successfully. These ''best practices'' may take the form of the adoption of general policies, particular sets of rules, particular pricing regimes, specific enforcement intiatives, a particular form of regulation or specific transition requirement in moving from a monopoly situation to a competitive environment.

The target audience from whom the Advisory Committee would like to solicit this testimony includes the telecommunications and information technology industries, consumer groups, academia, lawyers, and consultants, as well as from the general public.

The Advisory Committee requests that interested parties provide written submissions, not to exceed two pages for each best practice (not counting attachments), that answer the following questions:

Best Practice

1. What is the best practice? (Describe it. What competitive issues does it address? How has the practice been pro-competitive?)
2. Who implemented the practice and how transferable does the submitter think it will be to other countries?
3. What next steps can be taken to improve this practice?
4. Identify your name, organization, and contact information (phone number and e-mail address). Please state whether someone from your organization is willing to attend the meeting scheduled for May 15, 2000 at the Department of State in Washington to briefly present this suggestion (3–5 minute presentation depending upon the number of suggestions submitted).

Written material must be submitted electronically to the Executive Secretary of the Advisory Committee, Timothy C. Finton, at <fintontc@state.gov> no later than 5:00 p.m. (Eastern Daylight Time) on Wednesday, May 3. Additionally, hardcopies of submissions may be mailed to Timothy C. Finton at EB/CIP, Room 4826, U.S. Department of State, 2201 C Street, NW., Washington, DC to be received by May 3.

The meeting will be held on Monday, May 15, 2000, from 9:30 a.m.–11:30 a.m. in Room 1107 of the Main Building of the U.S. Department of State, located at 2201 ''C'' Street, NW., Washington, DC 20520.

Members of the public may attend these meetings up to the seating capacity of the room. While the meeting is open to the public, admittance to the State Department Building is only by means of a pre-arranged clearance list. In order to be placed on the pre-clearance list, please provide your name, title, company, social security number, date of birth, and citizenship to Timothy C. Finton at <fintontc@state.gov>. All attendees for this meeting must use the 23rd Street entrance. One of the following valid ID's will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID. Non-U.S. Government attendees must be escorted by State Department personnel at all times when in the State Department building.

For further information, contact Timothy C. Finton, Executive Secretary of the Committee, at (202) 647–5385 or <fintontc@state.gov>.

Dated: April 4, 2000.

Timothy C. Finton,

Executive Secretary of the Advisory Committee on International Communications and Information Policy, Department of State.

[FR Doc. 00–9102 Filed 4–11–00; 8:45 am]

BILLING CODE 4710–45–U

DEPARTMENT OF STATE

[Public Notice No. 3266]

Advisory Committee on International Economic Policy Open Meeting Notice

The Advisory Committee on International Economic Policy (ACIEP) will meet from 9 a.m. to 1 p.m. on Tuesday, June 13, 2000, in Room 1107, U.S. Department of State, 2201 C Street, NW, Washington, DC 20520. The meeting will be hosted by Committee Chairman R. Michael Gadbaw and Under Secretary of State for Economic, Business, and Agricultural Affairs Alan P. Larson.

The ACIEP serves the U.S. Government in a solely advisory capacity concerning issues and problems in international economic policy. The objective of the ACIEP is to provide expertise and insight on these issues that are not available within the U.S. Government.

Topics for the June 13 meeting will be:

- Priority Democracies: Colombia, Indonesia, Nigeria, Ukraine.
- U.S.-EU Summit Issues.
- G–8 Summit Preview.
- Updates on:

— Sanctions
— Biotechnology
— China—WTO Accession
— Other Current Foreign Policy Issues

The public may attend these meetings as seating capacity allows. The media is welcome but discussions are off the record. Admittance to the Department of State building is by means of a pre-arranged clearance list. In order to be placed on this list, please provide your name, title, company or other affiliation if appropriate, social security number, date of birth, and citizenship to the ACIEP Executive Secretariat by fax (202) 647–5936 (Attention: Carol Thompson) or email: (thompsonce@state.gov) by June 6th. On the date of the meeting, persons who have registered should come to the 23rd Street entrance. One of the following valid means of identification will be required for admittance: a U.S. driver's license with photo, a passport, or a U.S. Government ID.

For further information about the meeting, contact Carol Thompson, ACIEP Secretariat, U.S. Department of State, Bureau of Economic and Business Affairs, Room 3638, Main State, Washington, DC 20520.

The ACIEP is creating a working group comprised of experts in fields such as science, academia, agriculture, consumer interests, environment, and industry to examine issues regarding new agricultural technologies, including biotechnology. This group will generate recommendations on international aspects of new agricultural technologies and will report back to the full committee. The group will be comprised of approximately 20 people.

Those interested in participating in the working group should send a resume/CV by April 28 to: Agricultural Office, Attention: S. Kenny, Department of State, 2201 C St NW, Room 3526, Washington, DC 20520, Fax: 202–647–1894, Email: kennyse@state.gov, thompsonce@state.gov.

Dated: April 5, 2000.

William J. McGlynn,

Executive Secretary of the Advisory Committee on International Economic Policy, U.S. Department of State.

[FR Doc. 00–9103 Filed 4–11–00; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2000–7205]

Management of High-Speed Commercial Vessel Traffic

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Coast Guard is holding a public meeting to solicit comments on the impact of high-speed commercial vessels, both ferries and cargo vessels, on the users of the navigable waters of the United States. The growth of fast ferries in some metropolitan areas is increasing because these ferries appear to be viable options to highway commuting. Likewise, the logistical preference for ''just in time'' supply increases the likelihood that operation of fast cargo vessels will grow. By their speed and potential numbers, high-speed commercial vessels introduce another dimension into the conventional mix of slower commercial vessels, fishing vessels, and recreational vessels.

Some mariners already believe the waterways to be too congested with existing vessels. The Coast Guard hopes to receive input from all stakeholders on this issue so it can determine if there is a need for regulatory and other policy action that will enhance waterways safety for all vessels. It is particularly interested in which options should be dealt with locally, and which have regional or national implications. It will consider all comments received from this meeting and those submitted to the docket to formulate policy on the management of national waterways.

DATES: The public meeting is scheduled for Tuesday, May 2, 2000, from 8:30 a.m. to 4 p.m.; but will conclude before 4 p.m. if we finish early. Comments and related material must reach the Docket Management Facility on or before July 2, 2000.

ADDRESSES: The public meeting will take place at the Executive Inn, Bayside Room, 1755 Embarcadero, Oakland, CA.

To make sure your comments and related materials enter the docket just once, please submit them by just one of the following means:

(1) By mail to the Docket Management Facility [USCG–2000–7205], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: For questions on this public meeting, contact Lieutenant Commander George H. Burns III, Office of Waterways Management Safety and Security (G–MWP–2), Coast Guard, telephone 202–267–0550, e-mail *GBurns@comdt.uscg.mil.* We request that those attending the meeting contact LCDR Burns to ensure that adequate space is available. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, phone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage your participation by attending the meeting or by submitting comments and related material on this subject or in response to the questions in this notice. If you submit written comments, please include your name and address, and identify this notice [USCG–2000–7205] and the reason for each comment. You may submit your comments and material by mail, delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the Facility at the address under **ADDRESSES**. If you want acknowledgement of receipt of your comments, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received whether submitted in writing to the docket or presented during the meeting.

Background and Purpose

The number of users competing for space on navigable waterways of the U.S. has increased. Commercial vessels have grown in size and number of transits; the inshore fishing fleet continues to be strong; and confidence in our economy has prompted more people to buy recreational craft. Operations of high-speed commercial vessels are also gaining in popularity nationwide. By all accounts, the market in the U.S. for fast ferries is active and growing. San Francisco Bay, Seattle, New York, Boston, and Washington, D.C., all have growing or planned operations of such ferries. The use of these ferries, especially in the nation's coastal metropolitan areas, is likely to be the next attempted solution for traffic gridlock shore-side. Further, fast cargo vessels are under construction for intra-port, coastal, and transoceanic routes.

Detailed Coast Guard policy to address issues of waterway management associated with high-speed commercial vessels is in its formative stages. The Coast Guard wants to work with our partners in industry, our advisory committees, and other stakeholders in the use of waterways to frame our policy. High-speed commercial vessels will pose great challenges, but the Coast Guard views the development and financial success of these vessels as a genuine benefit of new technology. Operation of these vessels may enhance the quality of life for the general public, as well as ensure the continued development of the nation's maritime transportation system.

Obvious issues of safety, waterway capacity, and congestion will need to be properly addressed. In addition to policy made at the national level, we expect the active participation by local Harbor Safety Committees in the achievement of appropriate management controls for risks due to operation of high-speed commercial vessels. Coast Guard field units will work closely with local industry and other waterway users to deal effectively with these vessels. In general, well-trained, -equipped and -crewed vessels, whose operators engage in a participatory partnership with the Coast Guard and other waterway users, may benefit from less governmental supervision. We envision local Harbor Safety Committees as ideal linchpins in the coordination of national and local approaches to managing risks due to operation of these vessels.

Questions

1. What are the most practical, immediate navigational and other operational challenges faced by operators of high-speed commercial vessels? What measures (public, private, local, national) would have the most impact on meeting those challenges?

2. What are the likely impacts of wakes of high-speed commercial vessels?

3. How many high-speed commercial vessels are passenger ferries that need to operate on reliable schedules? How does reduced visibility, such as fog, affect them?

4. Taking account of your vessel's characteristics, what do you, as an operator of a high-speed commercial vessel, believe to be a safe speed relative to stopping-distance in clear or restricted visibility, or during darkness?

5. Has the operation of high-speed commercial vessels improved the competitiveness or the financial well-being of your company?

6. What is your projection for growth in the number of high-speed commercial vessels where your vessel operates?

7. While operating a conventional commercial vessel, have you experienced any navigational problems when encountering high-speed commercial vessels? What problems?

8. What are the most critical issues for recreational boating raised by high-speed commercial vessels? Have you, as a recreational boater, encountered any navigational problems when encountering such vessels?

9. Would you change any Inland Rules of the Road to account for the operation of high-speed commercial vessels? For example, would you change the Rules on steering and sailing or those on lights or shapes? Would a distinctive light or system of lights be helpful? Which of these would be best?

10. Is there a need for special policies or rules on waterway management for high-speed commercial vessels? If so, which should the policies or rules be—local, regional, or national?

11. Does the safe operation of high-speed commercial vessels call for consistency of treatment at the regional or national level? If so, which issues of waterway management in particular call for it?

12. Is there a role for local coordinating bodies (such as Harbor Safety Committees) of the marine transportation system in developing policy or in managing waterways for the operation of high-speed commercial vessels? If so, what role do you envision?

13. What operational measures would enhance the safety of high-speed commercial vessels, while facilitating their use? These measures could entail—

a. Fewer restrictions rather than more;
b. Voluntary or mandatory traffic lanes;
c. Controls based on traffic load at certain periods of the day;
d. Controls based on port-specific traffic conditions or patterns;
e. Slow-down zones for high-speed cargo vessels entering port from sea; or
f. Participation in Vessel Traffic Management.

Information on Services for Individuals with Disabilities

For information on facilities or services for people with disabilities, or to request special assistance at the meeting, contact Lieutenant Commander George H. Burns III, Office of Waterways Management Safety and Security (G-MWP–2), Coast Guard, telephone 202–267–0550, e-mail *GBurns@comdt.uscg.mil* as soon as possible.

Dated: April 7, 2000.

Joseph J. Angelo,

Director of Standard, Marine Safety and Environmental Protection.

[FR Doc. 00–9116 Filed 4–7–00; 4:16 pm]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Prince George's, and Charles Counties, Maryland

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Prince George's and Charles Counties, Maryland.

FOR FURTHER INFORMATION CONTACT: Ms. Pamela S. Stephenson, Environmental Protection, Specialist, Federal Highway Administration, The Rotunda, Suite 220, 711 West 40th Street, Baltimore, Maryland 21211, Telephone: (410) 962–4342, ext. 145.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Maryland State Highway Administration (SHA) and the US Army Corps of Engineers, will prepare a combined Tier I/Tier II Environment Impact Statement (EIS) for the US 301 Transportation Study-Southern Corridor. The study limits encompass a total of 39 miles within both the US 301 corridor, from the Governor Nice Bridge crossing of the Potomac River to the

301/MD5 interchange at T.B., and the MD 5 corridor from T.B. to the Capital Beltway (I–95/I–495). Within the Southern Corridor limits, there are four definable areas: the MD 5 corridor, LaPlata corridors, US 301 south of LaPlata to the Governor Nice Bridge and US 301 through the Waldorf area.

The EIS for this study will combine two tiered levels of documentation. Tier I documentation will be completed for the MD 5 and the LaPlata corridors, as well as for US 301 south of LaPlata to the Governor Nice Bridge. Tier II (or traditional NEPA studies) documentation will be completed for US 301 through the Waldorf area, due to the more immediate need for improvements in this area.

Existing and projected growth population and development is resulting in severe traffic congestion throughout southern Maryland, especially within Waldorf area. The roadways within and adjacent to the Waldorf area will soon reach capacity during peak travel periods and will be unable to accommodate increasing traffic volumes. This study will evaluate improvements, which will address safety problems and accommodate existing and projected travel demand. Alternatives for the Waldorf area will include the No-Build, Transportation Systems Management (TSM)/ Transportation Demand Management (TDM) measures, Existing road upgrades and Bypass Alternative(s) east and west of existing US 301. The goal is to receive Location Approval on one or a combination of alternative for this area.

For the remaining corridors (MD 5, LaPlata, and south of LaPlata to the Governor Nice Bridge), the current level of traffic congestion is less acute. SHA has identified these corridors, where development is likely to occur and where preservation of right-of-way (within the specific corridor) may be needed to maintain options for future transportation improvements. The goal is to receive approval on a selected corridor(s), which will permit the use of federal funds for the purpose of hardship and protective right-of-way acquisition. The goal is to receive approval on a selected corridor(s), which will permit the use of federal funds for the purpose of hardship and protective right-of-way acquisition. This would ensure that land for implementing transportation options would still be available in this corridor(s) when the anticipated need for future improvements becomes more apparent.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens and citizen groups who have previously expressed or are known to have an interest in this proposal. A Public Hearing is tentively scheduled for the Fall of 2000. The draft EIS will be available for public and agency review and comment prior to a Public Hearing. Public notice will be given of the availability of the Draft EIS for review and of the time and place of this hearing.

Project scoping activities include formation of the US 301 Task Force, with representatives of Federal, State and Local governments, elected officials, local area civic, environmental and business leaders, and land owners. A series of Task Force environmental and business leaders, and land owners. A series of Task Force Informational Workshops and Public Hearings were held on June 17, June 19, and July 9, 1996, in Bowie, Waldorf and Upper Marlboro, respectively. The meeting reviewed the history of the US 301 Task Force and its goals and also presented its preliminary recommendations consisting of the integration of new local land use policies, transportation demand strategies and transit and highway options. Since that time, a series of Public Workshops were held on September 14, September 15, and September 23, 1999 to share with the public conceptual improvements for the Waldorf area and identify the corridors for future improvement for the LaPlata area and MD 5 corridor.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestion are invited from all interested parties. Comments or questions concerning these proposed actions and EIS should be directed to FHWA at the address provide above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Issued on: March 22, 2000.

Pamela S. Stephenson,

Environmental Protection Specialist, Baltimore, Maryland.

[FR Doc. 00–9026 Filed 4–11–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–1999–5381]

Implementation Information for Ferry Boat Discretionary Program Funds

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; issuance of final selection criteria for FY 2001 and beyond.

SUMMARY: This document provides implementation information on the Ferry Boat Discretionary (FBD) program for fiscal year 2001 and beyond. A memorandum with this information will be issued each year of the program to division offices soliciting candidate projects from State transportation agencies for FBD program funding.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Wasley, Office of Program Administration, (202) 366–4658; or Mr. Harold Aikens, Office of the Chief Counsel, (202) 366–0764; Federal Highway Administration, 400 Seventh Street SW., Washington D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. Dockets, Room PL–401, by using the universal resource locator (URL) *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the **Federal Register**'s home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

The solicitation memorandum will be available each year of the program on the FHWA web site at: *http://www.fhwa.dot.gov/discretionary.*

Background

On April 26, 1999, at 64 FR 20350, the FHWA solicited comments on the selection criteria to be used by the FHWA for evaluating candidate projects for the FBD program for FY 2001 and beyond. These are the same general selection criteria that the FHWA has used for several years to evaluate candidates for this discretionary program.

Discussion of Comments

No comments or views were received in response to this invitation to submit written comments to the selection criteria to be used by the FHWA in docket number FHWA–1999–5381 by June 25, 1999.

The FHWA, therefore, will continue to use these same basic selection criteria for FY 2001 and beyond for the FBD discretionary program. A selection criterion may be added for an individual year that reflects a special emphasis area, but for the most part the selection criteria will remained unchanged.

Authority: 23 U.S.C. 129(c) and 315; and 49 CFR 1.48.

Issued on: April 3, 2000.

Kenneth R. Wykle,

Federal Highway Administrator.

The text of the FHWA implementation information to accompany solicitation memoranda for FBD projects for FY 2001 and beyond follows:

Ferry Boat Discretionary Program: Program Information

Background

The Ferry Boat Discretionary (FBD) Program, which provides a special funding category for the construction of ferry boats and ferry terminal facilities, was created by Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Public Law 102–240). Section 1207 of the Transportation Equity Act for the 21st Century (TEA–21) (Public Law 105–178) reauthorized the FBD funding category through FY 2003.

Statutory References

23 U.S.C. 129(c); sec 1064, Pub. L. 102–240, 105 Stat. 1914 (1991)(ISTEA); sec. 1207, Pub. L. 105–178, 112 Stat. 107 (1998) (TEA–21).

FUNDING
[In millions of dollars]

Fiscal Year	1998	1999	2000	2001	2002	2003
Competitive	30	18	18	18	18	18
NHS Set-aside	20	20	20	20	20	20

The TEA–21 provides $30 million in fiscal year 1998 and $38 million in each of fiscal years 1999 through 2003 for the construction of ferry boats and ferry terminals in accordance with 23 U.S.C. 129(c). The TEA–21 requires that $20 million from each of fiscal years 1999 through 2003 be set-aside for marine highway systems that are part of the National Highway System for use by the States of Alaska ($10 million), New Jersey ($5 million), and Washington ($5 million). As a result, for each of fiscal years 1999 through 2003, the amount of FBD funding available for open competition among all States is $18 million with a non-competitive amount of $20 million set-aside for Alaska, New Jersey, and Washington.

The $18 million available for open competition is also impacted by any obligation limitation imposed on the Federal-aid highway program under the provisions of TEA–21 section 1102(f), Redistribution of Certain Authorized Funds. Under this provision, any funds authorized for the program for the fiscal year, which are not available for obligation due to the imposition of an obligation limitation, are not allocated for the FBD program, but are redistributed to the States by formula as STP funds.

After these reductions, it is expected that approximately $14 million will be available for candidate projects each of fiscal years 2000 through 2003. This available funding may also increase or decrease each year depending on the obligation limitation calculation and on the estimated receipts to the Highway Trust Fund.

Federal Share

In accordance with section 1064(b) of the ISTEA, the Federal share of the costs for any project eligible under this program is 80 percent.

Obligation Limitation

The FBD discretionary funds are subject to obligation limitation; however, 100 percent obligation authority is normally provided with the allocation of funds for the selected projects. The obligation limitation reduces the available funding for the program under the provisions of the TEA–21 section 1102(f) discussed above.

For FY 1999, obligation of the FBD funds was controlled by a special requirement included in the FY 1999 Omnibus Appropriations Act (Public Law 105–277). The Act limited the obligation of FBD funds during FY 1999 to $38 million. Consequently, there was not enough obligation authority to cover both fiscal years 1998 and 1999 funding allocated to the States. Therefore, distribution of the FY 1999 obligation authority was on an ''as needed'' basis during FY 1999.

For FY 2000, a proportional share of obligation authority accompanied allocated funds.

Eligibility

As specified in section 1064(b) of the ISTEA, this program is for the construction of ferry boats and ferry terminal facilities in accordance with 23 U.S.C. 129. Proposals should meet the basic eligibility criteria in 23 U.S.C. 129(c).

Competitive FBD funds are available for improvements to ferry boats or ferry boat terminals where:

- The ferry facility is providing a link on a public road (other than Interstate) or the ferry facility is providing passenger only ferry service.
- The ferry and/or ferry terminal to be constructed or improved is either publicly owned, publicly operated, or a public authority has majority ownership interest where it is demonstrated that the ferry operation provides substantial public benefits.
- The ferry does not operate in international water except for Hawaii, Puerto Rico, Alaska, and for ferries between a State and Canada.

The set-aside discretionary funds for marine highway systems for use by the States of Alaska, New Jersey, and Washington are available for the construction or refurbishing of ferry boats and ferry terminals and their approaches that are part of the NHS. In general, a proposed project must meet the eligibility criteria set forth in 23 U.S.C. 129(b) and (c), with the following requirements specifically applying to location of the projects and the type of activity eligible for funding:

- For a ferry facility that provides a direct link on the NHS, both the ferry boat (must transport four wheel vehicles) and the ferry terminals, including approaches, are eligible for funding.

• For a ferry facility that lies at the end of an approved connector to the NHS, only the ferry terminal (can serve either vehicle or passengers) and approach is eligible for funding. The ferry boats serving the ferry terminal are not eligible for funding.

Selection Criteria

Several criteria are used to evaluate the submitted candidates for selection for the competitive portion of the FBD program. Although there are no statutory criteria and FHWA has not established regulatory criteria for selection of FBD projects, the following criteria are considered in the evaluation of candidates for this program:

• Expeditious completion of project—Consideration is given to requests that will expedite the completion of a viable project. This is a project's ability to expeditiously complete usable facilities within the limited funding amounts available.

• Leveraging of private or other public funding—Because the annual requests for funding far exceed the available FBD funds, commitment of other funding sources to complement the requested FBD funding is an important factor.

• Amount of FBD funding—The requested amount of funding is a consideration. Realizing the historically high demand of funding under this program, modest sized requests for funding (generally less than $2 million) to allow more States to receive funding under this program are given added consideration.

• State priorities—For States submitting more than one project, consideration is given to the individual States priorities.

• National geographic distribution of funding within the FBD program—Consideration is given to selecting projects over time among all the States competing for funding.

Because the concept of equity was important in the development of TEA–21, project selection will also consider national geographic distribution among all of the discretionary programs as well as congressional direction or guidance provided on specific projects or programs.

Solicitation Procedure

Each year, usually around March, a memorandum is sent from the FHWA Headquarters Office of Program Administration to the FHWA division offices requesting the submission of candidate projects for the following fiscal year's funding. The FHWA division offices provide this solicitation request to the State transportation departments, who are the only agencies that can submit candidates. The State transportation departments coordinate with local agencies within their respective States in order to develop viable candidate projects. The State transportation departments submit the candidate applications to the FHWA division offices, who send them in to the Office of Program Administration. Candidate projects are due in FHWA Headquarters on a specific date in July (usually around the middle of July).

The specific timetable for the solicitation process for any particular fiscal year is provided in the solicitation memorandum.

The candidate project applications are reviewed and evaluated by the Office of Program Administration and an allocation plan is prepared for presentation of the candidate projects to the Office of the Federal Highway Administrator, where the final selection of projects for funding is made. The announcement of the selected projects and the allocation of funds is usually accomplished by the middle of November.

Set-aside FBD funds are allocated directly to the three named States with no solicitation.

Submission Requirements

Only State transportation departments may submit applications for funding under this program. Although there is not a prescribed format for a project submission, the following information must be included to properly evaluate the candidate projects. The applications must be submitted electronically in either Word Perfect or MS Word format. With the exception of the project area map, all of the following must be included to consider the application complete. Those applications that do not include these items are considered incomplete and will be returned.

1. State(s) in which the project is located. If more than one State, indicate which State is the applicant.

2. County(ies) in which the project is located.

3. U.S. Congressional District No.(s) in which the project is located.

4. U.S. Congressional Member's Name(s) for each District.

5. Facility or Project Name commonly used to describe the facility or project.

6. Service Termini and Ports—Describe the ferry boat operation including the name of water crossing. A statement must be included for ferry boat operations carrying motorized vehicles, describing the link in the roadway system. Clearly identify any ''passenger only'' ferry service, and explain how the ferry service is linked to public transportation or is part of a transit system. Also, for each project indicate if the project is part of an existing link or service, or if it is new service. Also identify if the ferry operates in domestic, foreign, or international waters.

7. Ownership/Operation—Specify which of the following apply (a, b, or c):

(a) The boat or terminal is publicly-owned. The term ''publicly-owned'' means that the title for the boat or terminal must be vested in a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality.

(b) The boat or terminal is publicly-operated. The term ''publicly-operated'' means that a public entity operates the boat or terminal.

(c) The boat or terminal is ''majority publicly-owned'' (as opposed to public owned). This means that more than 50 percent of the ownership is vested in a public entity. If so, does it provide substantial public benefits? Documentation of substantial public benefits, concurred in by the division office, is required for ferry facilities that are in majority public ownership.

8. Current and Future Traffic—Provide a general description of the type and nature of traffic, both current and future (projected) average daily traffic and/or average daily passenger volumes, on the ferry route if available. If the ferry links public roads or is a link on a highway route, provide the functional classification of the public road or route that the project is located. The general description could include information on year round or seasonal service; commuter, recreational or visitor ridership; traffic generators and attractions.

9. Proposed Work—Describe the project work that is to be completed under this particular request, and whether this is a complete project or part of a larger project.

10. Amount of Federal FBD Discretionary Funds Requested—Indicate the total cost of the proposed work along with the amount of FBD funds being requested for FY 2001 (the maximum Federal share for this program is 80 percent). The State may request partial funding (less than the 80 percent maximum), committing a larger portion of State or local funds. If the State is willing to accept partial funding of the request, that should be indicated. Partial funding along with the commitment of other funds (see item 11 below) will be used to determine leveraging of funds, and allow funding

to more projects, since the requests far exceed the funding available.

11. Commitment of Other Funds—Indicate the amounts and sources of any private or other public funding being provided as part of this project. Only indicate those amounts of funding that are firm and documented commitments from the entity controlling the funds.

12. Previous FBD Discretionary Funding—Indicate the amount and Federal fiscal year of any previous FBD discretionary funds received for this project, terminals or ferry boats operating on this route or transit system. Only include previous FBD discretionary funds, not other funding sources.

13. Future Funding Needs—Indicate the estimated future funding needs for the ferry boat operation, including vessels and terminals, if known. Also, provide estimated time schedules for implementing future projects.

14. Project Purpose and Benefits—Each State's request for ferry boat discretionary funds must describe the project benefits and purpose. This information should not be lengthy, it should be in short and concise (three to five) statements. Layman's language should be used to the extent possible so as to be understood by a reader that is not closely familiar with the highway and ferry boat operations. This information will also be used for briefings and bulletins.

15. Project Area Map—A readable location/vicinity map showing the ferry route and terminal connections is helpful if available. The map may be submitted electronically along with the candidate application or separately as a hard copy (black and white, letter or legal paper size).

State Transportation Agency Responsibilities

1. Coordinate with State and local agencies within the State to develop viable candidate projects.

2. Ensure that the applications for candidate projects meet the submission requirements outlined above.

3. Establish priorities. If the State submits more than one candidate project, we request that the State rank the projects according to the State's overall needs and priorities.

4. Submit the applications to the local FHWA division office, in advance of the established FHWA Headquarters deadline (contained in the FHWA Headquarter's solicitation memorandum). The Division's request for candidate projects should allow enough time to meet the responsibilities outlined below and any additional coordination as mutually agreed upon.

FHWA Division Office Responsibilities

1. Provide the solicitation memorandum and this program information to the State transportation agency.

2. Request candidate projects be submitted by the State to the FHWA division office to meet submission deadline established in the solicitation memorandum.

3. Review all candidate applications submitted by the State prior to sending them to FHWA Headquarters to ensure that they are eligible, complete and meet the submission requirements.

4. Submit the candidate applications to FHWA Headquarters by the established submission deadline.

FHWA Headquarters Program Office Responsibilities

1. Solicit candidates from the States through annual solicitation memorandum.

2. Review candidate project submissions and compile program and project information for preparation of allocation plan.

3. Submit allocation plan to the Office of the Federal Highway Administrator for use in making final project selections.

4. Allocate funds for the selected projects.

FHWA Headquarters Program Office Contact

Mr. Jack Wasley, Highway Engineer, Office of Program Administration, Phone: (202) 366–4658, Fax: (202) 366–3988, E-mail: *jack.wasley@fhwa.dot.gov.*

[FR Doc. 00–9080 Filed 4–11–00; 8:45 am]
BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2000–7204]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD) intentions to request approval for three years of an existing information collection entitled ''Request for Transfer of Ownership, Registry, and Flag, or Charter, Lease, or Mortgage of U.S. Citizen Owned Documented Vessels,''

DATES: Comments should be submitted on or before June 12, 2000.

FOR FURTHER INFORMATION CONTACT: Raymond R. Barberesi, Director, Office of Sealift Support, MAR–630, Maritime Administration, 400 Seventh Street, SW, Room 7307, Washington, D.C. 20590, telephone number—202–366–2323 or 202–493–2180. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: ''Request for Transfer of Ownership, Registry, and Flag, or Charter, Lease, or Mortgage of U.S. Citizen Owned Documented Vessels''.

Type of Request: Approval of an existing information collection.

OMB Control Number: 2133–0006.

Form Number: MA–29, MA–29A, MA–29B (Note: MA–29A is only used in cases of a National Emergency.)

Expiration Date of Approval: Three years from the date of approval.

Summary of Collection of Information: In accordance with Section 9 of the Shipping Act, 1916, as amended, the Maritime Administration is required to approve the sale, transfer, charter, lease, or mortgage of U.S. documented vessels to non-citizens, or the transfer of such vessels to foreign registry and flag, or the transfer of foreign flag vessels by their owners as required by various contractual requirements.

Need and Use of the Information: This information collection requires a vessel owner to submit an application for a prospective foreign transfer of a U.S.-flag vessel. This information will assist in the determination of whether the vessel proposed for transfer will initially require retention under the U.S.-flag statutory regulation. In such instances, the application is reviewed and cleared for approval by specialists within MARAD and the Department of Defense, U.S. TRANSCOM.

Description of Respondents: Respondents are vessel owners who have applied for foreign transfer of U.S.-flag vessels.

Annual Responses: 100 responses.

Annual Burden: 200 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW, Washington, D.C. 20590. Comments may also be submitted by electronic means via the Internet at *http://dmses.dot.gov/submit.* Specifically, address whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., EDT. Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at http://dms.dot.gov.

By Order of the Maritime Administrator.

Dated: April 6, 2000.

Joel C. Richard.

Secretary.

[FR Doc. 00–9042 Filed 4–11–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33822]

Tuscola and Saginaw Bay Railway Company—Acquisition and Operation Exemption—Grand Trunk Western Railroad Incorporated, and Central Michigan Railway Company

Tuscola and Saginaw Bay Railway Company (TSBY), a Class III common carrier, has filed a verified notice of exemption under 49 CFR 1150.41 for its acquisition of a Grand Trunk Western Railroad Incorporated (GTW) rail line extending from milepost 105.0 to milepost 109.46, in Owosso, MI, including a short connecting track extending from milepost 63.9 (approximately milepost 107.5 on the first segment) to milepost 64.4, in Owosso, a total distance of approximately 4.96 miles (Owosso Trackage).[1] Additionally, as part of the exemption, TSBY's seeks to continue operations on the Durand-Owosso Line as follows: (1) Over GTW's line between milepost 94.0 and milepost 97.5, in Durand; (2) over Central Michigan Railway Company's (CMGN) main line between milepost 97.5, in Durand, and milepost 105, in Owosso; and (3) within CMGN's San Yard, between milepost 105 and milepost 106, in Owosso. The total distance of TSBY's operations on the Durand-Owosso Line is approximately 12 miles.[2]

Apparently unaware until recently that further regulatory authorization was needed, TSBY did not file its verified notice of exemption with the Board until March 30, 2000. Thus, the effective date of the exemption is April 6, 2000 (7 days after the exemption was filed).

If the verified 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 does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33822, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Kevin M. Sheys, Esq., Oppenheimer Wolff Donnelly & Bayh LLP, 1350 Eye Street, N.W., Suite 200, Washington, DC 20005–3324.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: April 4, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary,

[FR Doc. 00–8946 Filed 4–11–00; 8:45 am]

BILLING CODE 4915–00–P

[1] TSBY states that it acquired the Owosso Trackage pursuant to a Real Estate Purchase Contract dated October 28, 1997, and that the acquisition was completed on January 5, 1998. TSBY further states that it has been operating the Owosso Trackage in conjunction with other TSBY lines radiating out of Owosso since 1982 and that it will continue to operate the Owosso Trackage.

[2] TSBY represents that it has been conducting only overhead operations on the Durand-Owosso Line pursuant to an Operating Agreement with the Michigan Department of Transportation dated September 19, 1985, as amended, but that its operation of the Durand-Owosso Line also dates to 1982. In 1995, TSBY attempted to obtain a modified certificate of public convenience and necessity pursuant to the provisions of 49 CFR 1150, Subpart C, to operate the Owosso Trackage and the Durand-Owosso Line. *See Tuscola and Saginaw Bay Railway Company, Inc., Modified Certificate,* Finance Docket No. 32743 (ICC served Oct. 12, 1995).

DEPARTMENT OF THE TREASURY

Treasury Inspector General for Tax Administration

Proposed Collection: Confirmation Letter 001 (Levy)

AGENCY: Treasury Inspector General for Tax Administration (TIGTA), Office of Audit.

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 TIGTA is soliciting comments concerning Confirmation Letter 001 (Levy).

DATES: Written comments should be received by June 12, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Roger K. Layman, Treasury Inspector General for Tax Administration, Room 6109, 1111 Constitution Avenue, NW, Washington, DC. 20224, Fax (202) 622–5089, Internet *Roger.Layman@tigta.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Roger K. Layman, (202) 622–5969, Treasury Inspector General for Tax Administration, Room 6109, 1111 Constitution Avenue, NW, Washington DC. 20224, Fax (202) 622–5089, Internet *Roger.Layman@tigta.treas.gov.*

SUPPLEMENTARY INFORMATION:

Title: Confirmation Letter 001 (Levy).

OMB Number: 1591–0001.

Abstract: Using a confirmation letter, TIGTA will request information from taxpayers to determine the accuracy of IRS records. Confirmation letters will be sent to taxpayers to verify that they were notified of levy action as required by law. Use of the confirmation letters satisfies General Accounting Office auditing standards for obtaining sufficient, competent, and relevant evidence to afford a reasonable basis for the auditors' judgements and conclusions.

Current Action: There are no changes being made to Confirmation Letter 00l, Levy at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and businesses.

Estimated Number of Respondents: 120.

Estimated Time for Response: 15 minutes.

Estimated Total Annual Burden Hours: 30.

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 a 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.

The following paragraphs apply to all of the collections of information covered by this notice.

The agency may not conduct or sponsor, and a person is not required to response 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.

Dated: February 9, 2000.

Margaret E. Begg,

Director, Office of Management and Policy, Treasury Inspector General for Tax Administration, Office of Audit.

[FR Doc. 00–9027 Filed 4–11–00; 8:45 am]

BILLING CODE 4810–25–U

DEPARTMENT OF THE TREASURY

Treasury Inspector General for Tax Administration

Proposed Collection: Confirmation Letter 002 (Lien)

AGENCY: Treasury Inspector General for Tax Administration (TIGTA), Office of Audit.

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 TIGTA is soliciting comments concerning Confirmation Letter 002 (Lien).

DATES: Written comments should be received by June 12, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Roger K. Layman, Treasury Inspector General for Tax Administration, Room 6109, 1111 Constitution Avenue, NW, Washington DC. 20224, Fax (202) 622–5089, Internet *Roger.Layman@tigta.treas.gov*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Roger K. Layman, (202) 622–5969, Treasury Inspector General for Tax Administration, Room 6109, 1111 Constitution Avenue, NW, Washington DC. 20224, Fax (202) 622–5089, Internet *Roger.Layman@tigta.treas.gov.*

SUPPLEMENTARY INFORMATION:

Title: Confirmation Letter 002 (Lien).

OMB Number: 1591–0002.

Abstract: Using a confirmation letter, TIGTA will request information from taxpayers to determine the accuracy of IRS records. Confirmation letters will be sent to taxpayers to verify that they were notified of lien action as required by law. Use of the confirmation letters satisfies General Accounting Office auditing standards for obtaining sufficient, competent, and relevant evidence to afford a reasonable basis for the auditors' judgements and conclusions.

Current Action: There are no changes being made to Confirmation Letter 002, Lien at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and businesses.

Estimated Number of Respondents: 120.

Estimated Time for Response: 15 minutes.

Estimated Total Annual Burden Hours: 30.

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 a 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.

The following paragraphs apply to all of the collections of information covered by this notice.

The agency may not conduct or sponsor, and a person is not required to response 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.

Dated: February 9, 2000.

Margaret E. Begg,

Director, Office of Management and Policy, Treasury Inspector General for Tax Administration, Office of Audit.

[FR Doc. 00–9028 Filed 4–11–00; 8:45 am]

BILLING CODE 4810–25–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 7018 and 7018–A

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 7018, Employer's Order Blank for Forms, and Form 7018–A, Employer's Order Blank for 2000 Forms.

DATES: Written comments should be received on or before June 12, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 7018, Employer's Order Blank for Forms, and Form 7018-A, Employer's Order Blank for 2000 Forms.

OMB Number: 1545–1059.

Form Number: Forms 7018 and 7018–A.

Abstract: Forms 7018 and 7018–A allow taxpayers who must file information returns a systematic way to order information tax forms materials.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 1,668,000.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 83,400.

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: April 5, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–9005 Filed 4–11–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8811

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 8811, Information Return for Real Estate Mortgage Investment Conduits (REMICs) and Issuers of Collateralized Debt Obligations.

DATES: Written comments should be received on or before June 12, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, Room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Information Return for Real Estate Mortgage Investment Conduits (REMICs) and Issuers of Collateralized Debt Obligations.

OMB Number: 1545–1099.

Form Number: 8811.

Abstract: Current regulations require real estate mortgage investment conduits (REMICs) to provide Forms 1099 to true holders of interests in these investment vehicles. Because of the complex computations required at each level and the potential number of nominees, the ultimate investor may not receive a Form 1099 and other information necessary to prepare their tax return in a timely fashion. Form 8811 collects information for publishing by the IRS so that brokers can contact REMICs to request the financial information and timely issue Forms 1099 to holders.

Current Actions: There are no changes being made to Form 8811 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 1,000.

Estimated Time Per Response: 5 hr., 7 min.

Estimated Total Annual Burden Hours: 5,110.

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: April 3, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–9006 Filed 4–11–00; 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 June 12, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: 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: April 5, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–9007 Filed 4–11–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–63–88; IA–140–86; REG–209785–95]

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 regulations, EE–63–88 (Final and temporary regulations) Taxation of Fringe Benefits and Exclusions From Gross Income for Certain Fringe Benefits; *IA–140–86* (Temporary) Fringe Benefits; Listed Property; and REG–209785–95 (Final) Substantiation of Business Expenses (§§ 1.61–2, 1.132–5, and 1.274–5).

DATES: Written comments should be received on or before June 12, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title: EE–63–88* (Final and temporary regulations) Taxation of Fringe Benefits and Exclusions From Gross Income for Certain Fringe Benefits; *IA–140–86* (Temporary) Fringe Benefits; Listed Property; and *REG–209785–95* (Final) Substantiation of Business Expenses.

OMB Number: 1545–0771.

Regulation Project Number: EE–63–88; IA–140–86; and REG-209785–95.

Abstract: EE–63–88—This regulation provides guidance on the tax treatment of taxable and nontaxable fringe benefits and general and specific rules for the valuation of taxable fringe benefits in accordance with Code sections 61 and 132. The regulation also provides guidance on exclusions from gross income for certain fringe benefits. *IA–140–86*—This regulation provides guidance relating to the requirement that any deduction or credit with respect to business travel, entertainment, and gift expenses be substantiated with adequate records in accordance with Code section 274(d). The regulation also provides guidance on the taxation of fringe benefits and clarifies the types of records that are generally necessary to substantiate any deduction or credit for listed property. *REG–209785–95*—This regulation provides that taxpayers who deduct, or reimburse employees for, business expenses for travel, entertainment, gifts, or listed property are required to maintain certain records, including receipts, for expenses of $75 or more.

Current Actions: There are no changes to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for profits institutions, farms and Federal, state, local or tribal governments.

Estimated Number of Respondents: 28,582,150.

Estimated Time Per Respondent: 1 hr., 20 min.

Estimated Total Annual Burden Hours: 37,922,688.

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: April 4, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–9008 Filed 4–11–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI–34–94]

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, FI–34–94(TD 8653), Hedging Transactions by Members of a Consolidated Group (§§ 1.1221–2(d)(2)(iv), 1.1221–2(e)(5), and 1.1221–2(g)(5)(ii)).

DATES: Written comments should be received on or before June 12, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Hedging Transactions by Members of a Consolidated Group.

OMB Number: 1545–1480.

Regulation Project Number: FI–34–94.

Abstract: This regulation deals with the character and timing of gain or loss from certain hedging transactions entered into by members of a consolidated group of corporations. The regulation applies when one member of the group hedges its own risk, hedges the risk of another member, or enters into a risk-shifting transaction with another member.

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: 17,100.

Estimated Time Per Respondent: 4 hours, 27 minutes.

Estimated Total Annual Burden Hours: 76,050.

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: April 5, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–9009 Filed 4–11–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0045]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 12, 2000.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0045.''

SUPPLEMENTARY INFORMATION:

Title: VA Request for Determination of Reasonable Value (Real Estate), VA Form 26–1805.

OMB Control Number: 2900–0045.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–1805 is used to collect data necessary for VA compliance with the requirements of Title 38, U.S.C., 3710 (b)(4), (5), and (6). These requirements prohibit the VA guaranty or making of any loan unless the suitability of the security property for dwelling purposes is determined, the loan amount does not exceed the reasonable value, and if the loan is for purposes of alteration, repair, or improvements, the work substantially improves the basic livability of the property. The data supplied by persons and firms completing VA Form 26–1805 is used by VA personnel to identify and locate properties for appraisal and to make assignments to appraisers. VA is required to notify potential veteran-purchasers of such properties of the VA-established reasonable value. VA will also use VA Form 26–1843, Certificate of Reasonable Value, (included in the VA Form 1805 Package) as a notice to requesters of the reasonable (appraised) value or an authorized lender will issue a notice of value in connection with the Lender Appraisal Processing Program.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1999, on pages 72143 and 72144.

Affected Public: Individuals or households.

Estimated Annual Burden: 60,000 hours.

Estimated Average Burden Per Respondent: 12 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 300,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0045'' in any correspondence.

Dated: March 17, 2000.

By direction of the Secretary:

Sandra S. McIntyre,

Management Analyst, Information Management Service.

[FR Doc. 00–9115 Filed 4–11–00; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 65, No. 71

Wednesday, April 12, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X; Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14

Correction

In rule document 00–5531 beginning on page 12924, in the issue of Friday, March 10, 2000, make the following correction:

§1615.32 [Corrected]

On page 12927, in the third column, in §1615.32(a)(1), in the first line, ''124–1986'' should read ''124–1996 ''.

[FR Doc. C0–5531 Filed 4–11–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

48 CFR Part 241

[DFARS Case 99–D309]

Defense Federal Acquisition Regulation Supplement; Authority Relating to Utility Privatization

Correction

In rule document 00–766 beginning on page 2058, in the issue of Thursday, January 13, 2000, make the following corrections:

241.1032 [Corrected]

1. On page 2059, in the first column, in section 241.103, the section twist should be removed from the section heading.

2. On the same page, in the same column, in section 241.103, in the first line, ''office '' should read ''officer''.

[FR Doc. C0–766 Filed 4–11–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2030–031 and 11832–000]

Portland General Electric Company and the Confederated Tribes of the Warm Springs Reservation of Oregon; Notice of Meeting

Correction

In notice document 00–7024 beginning on page 15323 in the issue of Wednesday, March 22, 2000, the docket numbers are corrected to read as set forth above.

[FR Doc. C0–7024 Filed 4–11–00; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Correction

In notice document 00–7515 beginning on page 16234, in the issue of Monday, March 27, 2000, make the following correction:

On page 16235, in the first column, above the name, add ''Dated: March 22, 2000''.

[FR Doc. C0–7515 Filed 4–11–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ANM–13]

RIN 2120–AA66

Modification of Multiple Federal Airways in the Vicinity of Bellingham, WA

Correction

In rule document 00–2771, beginning on page 8271, in the issue of Friday, February 18, 2000, make the following correction:

§71.1 [Corrected]

On page 8272, in the second column, in the first line, '' **V–1495 [Revised]**'' should read ''**V–495 [Revised]** ''.

[FR Doc. C0–2771 Filed X–XX–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 210

RIN 1510-AA81

Federal Government Participation in the Automated Clearing House

Correction

In rule document 00–8636 beginning on page 18866, in the issue of Friday, April 7, 2000, make the following corrections:

1. On page 18866, in the first column, under the **DATES:** heading, in the first line and the sixth line, ''May 8, 2000'' should read ''April 7, 2000''.

[FR Doc. C0–8636 Filed X–XX–00; 8:45 am]

BILLING CODE 1505–01–D

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Water quality standards—
Human health and aquatic life water quality criteria applicable to Rhode Island, Vermont, District of Columbia, Kansas, and Idaho; withdrawn; published 4-12-00

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Penile inflatable implant; premarket approval requirement; published 4-12-00

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Correction; published 4-12-00

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