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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.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Airspace Docket No. 00–ANM–08]**

### Revision of Class E Airspace, Duchesne, UT

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies the Duchesne, UT, Class E airspace to accommodate airspace required for the establishment of a new instrument approach to the Duchesne Municipal Airport, Duchesne, UT.

**EFFECTIVE DATE:** 0901 UTC, October 5, 2000.

**FOR FURTHER INFORMATION CONTACT:** Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 00–ANM–08, 1601 Lind Avenue SW, Renton, Washington, 98055–4056: telephone number: (425) 227–2527.

**SUPPLEMENTARY INFORMATION:**

### History

On June 20, 2000, the FAA proposed to amend Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by establishing Class E airspace at Duchesne, UT, in order to accommodate a new SIAP to the Duchesne Municipal Airport, Duchesne, UT (65 FR 38226). This amendment provides additional Class E5 airspace at Duchesne, UT, to meet current criteria standards associated with SIAP. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

### The Rule

This amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) revises Class E airspace extension at Duchesne, UT, in order to accommodate a new SIAP to the Duchesne Municipal Airport, Duchesne, UT. This amendment establishes Class E5 airspace at Duchesne, UT, to meet current criteria standards associated with the SIAP. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. This rule is designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under Instrument Flight Rules (IFR) at the Duchesne Municipal Airport and between the terminal and en route transition stages.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. 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 airspace designation listed in this document will be published subsequently in the Order.

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

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### Adoption of the Amendment

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

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

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

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

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, 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.*

* * * * *

**ANM UT E5 Duchesne, UT [Revised]**

Duchesne Municipal Airport, Duchesne, UT
(Lat. 40°11′31″N, long. 110°22′52″W)
Myton VORTAC
(Lat. 40°08′42″N, long. 110°07′40″W)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the Duchesne Municipal Airport; that airspace extending upwards from 1,200 feet above the surface within 7 miles north of and 5.3 miles south of the 104° and 284° radials extending from 12.2 miles east to 12.2 miles west of the Myton VORTAC.

* * * * *

Issued in Seattle, Washington, on August 31, 2000.

**Daniel A. Boyle,**

*Acting Manager, Air Traffic Division, Northwest Mountain Region.*

[FR Doc. 00–24142 Filed 9–20–00; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 97

**[Docket No. 30193; Amdt. No. 2011]**

### Standard Instrument Approach Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

**ADDRESSES:** Availability of matter incorporated by reference in the amendment is as follows:

*For Examination*

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

*For Purchase*

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

*By Subscription*

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

**SUPPLEMENTARY INFORMATION:** This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

## The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

## Conclusion

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

## List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (air).

Issued in Washington, DC on September 15, 2000.

**L. Nicholas Lacey,**

*Director, Flight Standards Service.*

## Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

**Authority:** 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

### §§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME,

LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

*. . . Effective Upon Publication*

*. . . Effective Upon Publication*

| FDC date | State | City | Airport | FDC No. | SIAP |
|---|---|---|---|---|---|
| 08/17/00 | OK | CLINTON | CLINTON-SHERMAN | FDC 0/9814 | NDB RWY 17R, AMDT 10... |
| 08/17/00 | OK | CLINTON | CLINTON-SHERMAN | FDC 0/9816 | GPS RWY 17R, ORIG... |
| 08/17/00 | OK | CLINTON | CLINTON-SHERMAN | FDC 0/9820 | VOR RWY 35L, AMDT 11B... |
| 08/17/00 | OK | CUSHING | CUSHING MUNI | FDC 0/9817 | NDB OR GPS RWY 35, AMDT 3B... |
| 08/17/00 | OK | DUNCAN | DUNCAN/HALLIBURTON FIELD | FDC 0/9860 | LOC RWY 35, AMDT 4A... |
| 08/17/00 | OK | DUNCAN | DUNCAN/HALLIBURTON FIELD | FDC 0/9867 | VOR RWY 35, AMDT 10B... |
| 08/17/00 | OK | DUNCAN | DUNCAN/HALLIBURTON FIELD | FDC 0/9868 | GPS RWY 35, ORIG... |
| 08/21/00 | IL | SPRINGFIELD | CAPITAL | FDC 0/0094 | VOR RWY 22, AMDT 20... |
| 08/21/00 | IL | SPRINGFIELD | CAPITAL | FDC 0/0095 | ILS RWY 4, AMDT 24A... |
| 08/21/00 | LA | HOUMA | HOUMA-TERREBONNE | FDC 0/0088 | NDB RWY 18, AMDT 4A... |
| 08/21/00 | ND | FARGO | HECTOR INTL | FDC 0/0083 | RNAV RWY 26, ORIG... |
| 08/21/00 | OK | CHICKASHA | CHICKASHA MUNI | FDC 0/0084 | VOR/DME RNAV RWY 35, AMDT 1... THIS REPLACES FDC 0/9774 |
| 08/21/00 | OK | CHICKASHA | CHICKASHA MUNI | FDC 0/0086 | GPS RWY 35, ORIG... THIS REPLACES FDC 0/9773 |
| 08/21/00 | OK | HOBART | HOBART MUNI | FDC 0/0048 | VOR RWY 35, AMDT 8... |
| 08/21/00 | OK | HOBART | HOBART MUNI | FDC 0/0049 | GPS RWY 35, ORIG... |
| 08/21/00 | OK | HOBART | HOBART MUNI | FDC 0/0050 | GPS RWY 17, ORIG... |
| 08/22/00 | KS | COFFEYVILLE | COFFEYVILLE MUNI | FDC 0/0164 | VOR/DME RNAV RWY 35, AMDT 3A... |
| 08/22/00 | KS | COFFEYVILLE | COFFEYVILLE MUNI | FDC 0/0165 | NDB OR GPS RWY 35, ORIG–A... |
| 08/22/00 | KS | IOLA | ALLEN COUNTY | FDC 0/0159 | GPS RWY 19, ORIG–A... |
| 08/22/00 | KS | IOLA | ALLEN COUNTY | FDC 0/0161 | NDB RWY 1, AMDT 1A... |
| 08/22/00 | KS | IOLA | ALLEN COUNTY | FDC 0/0162 | GPS RWY 1, ORIG–A... |
| 08/22/00 | LA | NEW ORLEANS | LAKEFRONT | FDC 0/0179 | VOR/DME OR GPS RWY 36L, AMDT 8... |
| 08/22/00 | LA | NEW ORLEANS | LAKEFRONT | FDC 0/0181 | ILS RWY 18R, AMDT 12A... |
| 08/22/00 | LA | NEW ORLEANS | LAKEFRONT | FDC 0/0182 | GPS RWY 18R, ORIG... |
| 08/22/00 | OK | EL RENO | EL RENO MUNI AIR PARK | FDC 0/0155 | VOR/DME RWY 35, AMDT 1... |
| 08/22/00 | TX | MARSHALL | HARRISON COUNTY | FDC 0/0185 | VOR/DME–A, AMDT 4C... |
| 08/22/00 | TX | MARSHALL | HARRISON COUNTY | FDC 0/0186 | GPS RWY 33, ORIG–C... |
| 08/23/00 | AK | BETHEL | BETHEL | FDC 0/0167 | LOC/DME BC RWY 36, AMDT 5... |
| 08/23/00 | IL | ROCKFORD | GREATER ROCKFORD | FDC 0/0152 | ILS RWY 1, AMDT 28... |
| 08/23/00 | IL | ROCKFORD | GREATER ROCKFORD | FDC 0/0153 | NDB OR GPS RWY 1, AMDT 25A... |
| 08/23/00 | IN | INDIANAPOLIS | INDIANAPOLIS METROPOLITAN | FDC 0/0129 | GPS RWY 33, ORIG... |
| 08/23/00 | MI | BENTON HARBOR | SOUTHWEST MICHIGAN REGIONAL | FDC 0/0158 | VOR RWY 27, AMDT 18A... |
| 08/23/00 | MI | GRAYLING | GRAYLING AAF | FDC 0/0205 | VOR RWY 14, AMDT 1A... |

| FDC date | State | City | Airport | FDC No. | SIAP |
|---|---|---|---|---|---|
| 08/23/00 | MT | LIVINGSTON | MISSION FIELD | FDC 0/0146 | VOR/DME OR GPS–B, AMDT 1... |
| 08/23/00 | MT | LIVINGSTON | MISSION FIELD | FDC 0/0150 | VOR OR GPS–A, AMDT 5... |
| 08/23/00 | NJ | NEWARK | NEWARK INTL | FDC 0/0124 | ILS RWY 4L, AMDT 12A... |
| 08/23/00 | NJ | NEWARK | NEWARK INTL | FDC 0/0190 | COPTER ILS/DME RWY 4L, AMDT 1A... |
| 08/23/00 | OK | OKLAHOMA CITY | CLARENCE E. PAGE MUNI | FDC 0/0209 | VOR/DME RNAV RWY 17R, AMDT 1... |
| 08/23/00 | OK | OKLAHOMA CITY | CLARENCE E. PAGE MUNI | FDC 0/0211 | VOR/DME RNAV RWY 35L, AMDT 1... |
| 08/23/00 | OK | OKLAHOMA CITY | CLARENCE E. PAGE MUNI | FDC 0/0221 | GPS RWY 35L, ORIG... |
| 08/23/00 | TN | ONEIDA | SCOTT MUNI | FDC 0/0119 | SDF RWY 23, AMDT 4... |
| 08/23/00 | TN | ONEIDA | SCOTT MUNI | FDC 0/0137 | NDB OR GPS RWY 23, AMDT 4A... |
| 08/23/00 | UT | SALT LAKE CITY | SALT LAKE CITY INTL | FDC 0/0235 | GPS RWY 17, ORIG–A... |
| 08/23/00 | WY | PINEDALE | RALPH WENZ FIELD | FDC 0/0172 | NDB OR GPS RWY 29, ORIG–A... |
| 08/24/00 | OK | TULSA | TULSA INTL | FDC 0/0273 | NDB RWY 36R, AMDT 19E... |
| 08/24/00 | TX | MARSHALL | HARRISON COUNTY | FDC 0/0280 | VOR/DME RNAV RWY 33, AMDT 1B... |
| 08/25/00 | MS | HOLLY SPRINGS | HOLY SPRINGS-MARSHALL COUNTY | FDC 0/0341 | VOR/DME OR GPS RWY 18, AMDT 6... |
| 08/28/00 | IA | CEDAR RAPIDS | THE EASTERN IOWA | FDC 0/0454 | GPS RWY 13, ORIG–A... |
| 08/28/00 | IA | CEDAR RAPIDS | THE EASTERN IOWA | FDC 0/0455 | GPS RWY 31, ORIG–B... |
| 08/28/00 | OK | OKLAHOMA CITY | CLARENCE E. PAGE MUNI | FDC 0/0450 | GPS RWY 17R, ORIG... |
| 08/28/00 | OK | OKLAHOMA CITY | SUNDANCE AIRPARK | FDC 0/0416 | VOR/DME RNAV RWY 35, ORIG... |
| 08/28/00 | OK | OKLAHOMA CITY | WILEY POST | FDC 0/0414 | VOR RWY 17L, AMDT 11... |
| 08/28/00 | OK | OKLAHOMA CITY | WILEY POST | FDC 0/0415 | VOR OR GPS–A, AMDT 2... |
| 08/28/00 | OK | OKMULGEE | OKMULGEE MUNI | FDC 0/0432 | NDB RWY 17, AMDT 3A... |
| 08/28/00 | TX | CORPUS CHRISTI | CORPUS CHRISTI INTL | FDC 0/0443 | GPS RWY 31, ORIG... |
| 08/29/00 | GA | CORNELIA | HABERSHAM COUNTY | FDC 0/0521 | VOR/DME OR GPS RWY 6, AMDT 5... |
| 08/29/00 | GA | TIFTON | HENRY TIFT MYERS | FDC 0/0513 | NDB OR GPS RWY 33, ORIG... |
| 08/29/00 | GA | TIFTON | HENRY TIFT MYERS | FDC 0/0523 | ILS RWY 33, ORIG–A... |
| 08/29/00 | GA | TIFTON | HENRY TIFT MYERS | FDC 0/0525 | VOR RWY 33, AMDT 11A... |
| 08/29/00 | NM | GALLUP | GALLUP MUNI | FDC 0/0485 | GPS RWY 6, ORIG... |
| 08/29/00 | NM | GALLUP | GALLUP MUNI | FDC 0/0486 | GPS RWY 24, ORIG... |
| 08/29/00 | OK | SAND SPRINGS | WILLIAM R. POGUE MUNI | FDC 0/0527 | GPS RWY 35, ORIG... |
| 08/30/00 | GA | CEDARTOWN | CORNELIUS-MOORE | FDC 0/0552 | VOR/DME RNAV OR GPS RWY 10, AMDT 2A... |
| 08/30/00 | GA | CEDARTOWN | CORNELIUS-MOORE | FDC 0/0554 | VOR OR GPS–A, AMDT 12A... |
| 08/30/00 | GA | CEDARTOWN | CORNELIUS-MOORE | FDC 0/0555 | VOR/DME RNAV OR GPS RWY 28, AMDT 2... |
| 08/30/00 | IA | CEDAR RAPIDS | THE EASTERN IOWA | FDC 0/0559 | VOR OR GPS RWY 27, AMDT 11A... |
| 08/30/00 | IA | CEDAR RAPIDS | THE EASTERN IOWA | FDC 0/0561 | ILS RWY 27, AMDT 4... |
| 08/30/00 | MI | MARQUETTE | SAWYER INTL | FDC 0/0558 | ILS RWY 1, ORIG... |
| 08/30/00 | NC | RALEIGH/DURHAM | RALEIGH-DURHAM INTL | FDC 0/0573 | ILS RWY 5R, AMDT 25B... |

| FDC date | State | City | Airport | FDC No. | SIAP |
|---|---|---|---|---|---|
| 08/30/00 | OH | COSHOCTON | RICHARD DOWNING | FDC 0/0567 | VOR OR GPS–A, AMDT 9... |
| 08/30/00 | PA | HAZELTON | HAZELTON MUNI | FDC 0/0580 | VOR RWY 28, AMDT 5C... |
| 08/30/00 | PA | HAZELTON | HAZELTON MUNI | FDC 0/0583 | VOR RWY 10, AMDT 10C... |
| 08/31/00 | AR | ASH FLAT | SHARP COUNTY REGIONAL | FDC 0/0645 | NDB RWY 3, AMDT 1A... |
| 08/31/00 | AR | ASH FLAT | SHARP COUNTY REGIONAL | FDC 0/0646 | GPS RWY 3, ORIG–A... |
| 08/31/00 | AR | CAMDEN | HARRELL FIELD | FDC 0/0667 | VOR/DME OR GPS RWY 36, AMDT 8... |
| 08/31/00 | GA | CORNELIA | HABERSHAM COUNTY | FDC 0/0633 | NDB RWY 6, AMDT 1B... |
| 08/31/00 | MD | CUMBERLAND | GREATER CUMBERLAND REGIONAL | FDC 0/0672 | NDB–A, AMDT 8A... |
| 08/31/00 | MD | CUMBERLAND | GREATER CUMBERLAND REGIONAL | FDC 0/0673 | LOC/DME RWY 23, AMDT 5E.. |
| 08/31/00 | MD | CUMBERLAND | GREATER CUMBERLAND REGIONAL | FDC 0/0674 | LOC–A, AMDT 3D... |
| 08/31/00 | MO | ST JOSEPH | ROSECRANS MEMORIAL | FDC 0/0659 | LOC BC RWY 17, AMDT 8A... |
| 08/31/00 | MO | ST JOSEPH | ROSECRANS MEMORIAL | FDC 0/0660 | NDB RWY 17, AMDT 8B... |
| 08/31/00 | MO | ST JOSEPH | ROSECRANS MEMORIAL | FDC 0/0661 | VOR/DME RNAV OR GPS RWY 17, AMDT 4B... |
| 08/31/00 | NM | GALLUP | GALLUP MUNI | FDC 0/0629 | LOC RWY 6, AMDT 3A... |
| 08/31/00 | NM | GALLUP | GALLUP MUNI | FDC 0/0631 | VOR RWY 6, AMDT 7... |
| 08/31/00 | OH | YOUNGSTOWN | YOUNGSTOWN ELSER METRO | FDC 0/0617 | VOR OR GPS–C, AMDT 1... |
| 08/31/00 | OK | SAND SPRINGS | WILLIAM R. POGUE MUNI | FDC 0/0593 | VOR OR GPS–A, AMDT 1A... |
| 08/31/00 | OK | SAND SPRINGS | WILLIAM R. POGUE MUNI | FDC 0/0594 | NDB RWY 35, AMDT 2... |
| 08/31/00 | PA | HAZELTON | HAZELTON MUNI | FDC 0/0627 | VOR RWY 28, AMDT 8C... |
| 09/01/00 | OH | CLEVELAND | BURKE LAKEFRONT | FDC 0/0698 | ILS RWY 24R, ORIG–A... |
| 09/04/00 | AR | PINE BLUFF | GRIDER FIELD | FDC 0/0712 | GPS RWY 35, ORIG–A... |
| 09/04/00 | AR | SEARCY | SEARCY MUNI | FDC 0/0716 | GPS RWY 19, AMDT 1A... |
| 09/04/00 | AR | STUTTGART | STUTTGART MUNI | FDC 0/0706 | GPS RWY 36, ORIG... |
| 09/04/00 | AR | STUTTGART | STUTTGART MUNI | FDC 0/0708 | GPS RWY 18, ORIG... |
| 09/04/00 | AR | STUTTGART | STUTTGART MUNI | FDC 0/0709 | NDB RWY 18, AMDT 10A... |
| 09/04/00 | GA | TIFTON | HENRY TIFT MYES | FDC 0/0714 | VOR OR GPS RWY 27, AMDT 9A... |
| 09/05/00 | KS | HUTCHINSON | HUTCHINSON MUNI | FDC 0/0813 | GPS RWY 3, ORIG... |
| 09/05/00 | KS | HUTCHINSON | HUTCHINSON MUNI | FDC 0/0814 | GPS RWY 21, ORIG... |
| 09/05/00 | KS | HUTCHINSON | HUTCHINSON MUNI | FDC 0/0816 | VOR/DME RWY 21, AMDT 6... |
| 09/05/00 | MA | HOPEDALE | HOPEDALE INDUSTRIAL PARK | FDC 0/0824 | GPS–A, ORIG... |
| 09/05/00 | TX | COLLEGE STATION | EASTERWOOD FIELD | FDC 0/0832 | LOC BC RWY 16, AMDT 5B... |
| 09/06/00 | KS | HUTCHINSON | HUTCHINSON MUNI | FDC 0/0858 | VOR RWY 3, AMDT 19A... |
| 09/06/00 | MN | MINNEAPOLIS | MINNEAPOLIS-ST PAUL INTL (WOLD-CHAMBERLAIN). | FDC 0/0889 | ILS RWY 30R, AMDT 10... |
| 09/06/00 | MO | ST LOUIS | LAMBERT-ST LOUIS INTL | FDC 0/0896 | VOR RWY 24, ORIG... |
| 09/06/00 | OK | TULSA | TULSA INTL | FDC 0/0898 | HI–NDB OR ILS RWY 36R, AMDT 3... |
| 09/06/00 | SD | ABERDEEN | ABERDEEN REGIONAL | FDC 0/0897 | GPS RWY 35, ORIG–A... |
| 09/06/00 | WI | GREEN BAY | AUSTIN STRAUBEL INTL | FDC 0/0915 | NDB RWY 6, AMDT 17... |
| 09/07/00 | CA | CHINO | CHINO | FDC 0/0949 | VOR OR GPS–B, AMDT 3A... |
| 09/07/00 | KS | EL DORADO | CAPTAIN JACK THOMAS/EL DORADO | FDC 0/0925 | GPS RWY 33, ORIG–A... |
| 09/07/00 | KS | WICHITA | WICHITA MID-CONTINENT | FDC 0/0961 | VOR/DME RNAV OR GPS RWY 19R, AMDT 1... |

| FDC date | State | City | Airport | FDC No. | SIAP |
|---|---|---|---|---|---|
| 09/07/00 | KS | WICHITA | WICHITA MID-CONTINENT | FDC 0/0964 | GPS RWY 19L, ORIG... |
| 09/07/00 | KS | WICHITA | WICHITA MID-CONTINENT | FDC 0/0966 | NDB OR GPS RWY 1R, AMDT 15... |
| 09/07/00 | KS | WICHITA | WICHITA MID-CONTINENT | FDC 0/0967 | VOR/DME RNAV OR GPS RWY 1L, AMDT 1A... |
| 09/07/00 | KS | WICHITA | WICHITA-MID CONTINENT | FDC 0/0956 | VOR OR GPS RWY 14, AMDT 1... |
| 09/07/00 | LA | BATON ROUGE | BATON ROUGE METROPOLITAN/RYAN FIELD. | FDC 0/0950 | VOR/DME RWY 22R, AMDT 8B... |
| 09/07/00 | LA | BATON ROUGE | BATON ROUGE METROPOLITAN/RYAN FIELD. | FDC 0/0951 | VOR OR GPS RWY 4L, AMDT 16B... |
| 09/07/00 | MN | INTERNATIONAL FALLS. | FALLS INTL | FDC 0/0953 | VOR OR GPS RWY 13, AMDT 13... |
| 09/07/00 | MN | INTERNATIONAL FALLS. | FALLS INTL | FDC 0/0958 | LOG BC RWY 13, AMDT 9... |
| 09/07/00 | NM | ROSWELL | ROSWELL INDUSTRIAL AIR CENTER | FDC 0/0945 | GPS RWY 35, ORIG–A... |
| 09/07/00 | OH | YOUNGSTOWN | YOUNGSTOWN ELSER METRO | FDC 0/0983 | GPS RWY 28, ORIG... |
| 09/08/00 | AZ | KINGMAN | KINGMAN | FDC 0/1048 | VOR/DME OR GPS RWY 21, AMDT 6A... |
| 09/08/00 | AZ | SHOW LOW | SHOW LOW MUNI | FDC 0/1046 | NDB OR GPS–A, ORIG–A... |
| 09/08/00 | AZ | TUCSON | TUCSON INTL | FDC 0/1047 | VOR OR TACAN OR GPS RWY 11L, ORIG... |
| 09/08/00 | KS | WICHITA | WICHITA MID-CONTINENT | FDC 0/1039 | GPS RWY 32, ORIG... |
| 09/08/00 | LA | OAKDALE | ALLEN PARISH | FDC 0/1031 | NDB RWY 35, ORIG–A... |
| 09/08/00 | MO | ST LOUIS | SPIRIT OF ST LOUIS | FDC 0/1054 | ILS RWY 8R, AMDT 13A... |
| 09/08/00 | MO | ST LOUIS | SPIRIT OF ST LOUIS | FDC 0/1055 | NDB RWY 8R, AMDT 11B... |
| 09/11/00 | VA | LYNCHBURG | LYNCHBURG REGIONAL/PRESTON GLENN FIELD. | FDC 0/1137 | ILS RWY 3, AMDT 15... |
| 09/11/00 | VA | LYNCHBURG | LYNCHBURG REGIONAL/PRESTON GLENN FIELD. | FDC 0/1138 | VOR OR GPS RWY 3, AMDT 11C... |
| 09/11/00 | VA | LYNCHBURG | LYNCHBURG REGIONAL/PRESTON GLENN FIELD. | FDC 0/1139 | VOR/DME RWY 21, AMDT 8A... |
| 09/11/00 | VA | LYNCHBURG | LYNCHBURG REGIONAL/PRESTON GLENN FIELD. | FDC 0/1140 | GPS RWY 21, ORIG–A... |
| 09/12/00 | CA | WATSONVILLE | WATSONVILLE MUNI | FDC 0/1211 | LOC RWY 2, AMDT 2C... |
| 09/12/00 | FL | CROSS CITY | CROSS CITY | FDC 0/1171 | VOR OR GPS RWY 31, AMDT 17... |
| 09/12/00 | OK | TULSA | TULSA INTL | FDC 0/1170 | NDB RWY 18L, AMDT 10A... |
| 09/13/00 | AL | TALLADEGA | TALLADEGA MUNI | FDC 0/1243 | VOR OR GPS–A, AMDT 6... |
| 09/13/00 | AL | TALLADEGA | TALLADEGA MUNI | FDC 0/1244 | VOR/DME RWY 3, AMDT 4A... |
| 09/13/00 | FL | JACKSONVILLE | JACKSONVILLE INTL | FDC 0/1271 | VOR OR GPS RWY 31, ORIG–B... |
| 09/13/00 | IL | CHICAGO | CHICAGO MIDWAY | FDC 0/1265 | ILS RWY 4R, AMDT 9A... |
| 09/13/00 | IL | CHICAGO | CHICAGO MIDWAY | FDC 0/1266 | ILS RWY 13C, AMDT 40... |
| 09/13/00 | IL | CHICAGO | CHICAGO MIDWAY | FDC 0/1267 | ILS RWY 31C, AMDT 5C... |
| 09/13/00 | IL | CHICAGO | CHICAGO MIDWAY | FDC 0/1268 | NDB OR GPS RWY 31C, AMDT 14B... |
| 09/13/00 | IL | CHICAGO | CHICAGO MIDWAY | FDC 0/1269 | NDB OR GPS RWY 4R, AMDT 12B... |
| 09/13/00 | IL | CHICAGO | CHICAGO MIDWAY | FDC 0/1270 | VOR/DME RNAV OR GPS RWY 22L, AMDT 3A... |
| 09/13/00 | LA | NEW ORLEANS | LAKEFRONT | FDC 0/1262 | VOR RWY 18R, AMDT 4... |
| 09/13/00 | NH | LACONIA | LACONIA MUNI | FDC 0/1275 | ILS RWY 8, ORIG–A... |
| 09/13/00 | TX | ANDREWS | ANDREWS COUNTY | FDC 0/1255 | GPS RWY 15, ORIG... |
| 09/13/00 | TX | PORT ISABEL | PORT ISABEL-CAMERON COUNTY | FDC 0/1260 | GPS RWY 13, ORIG... |

| FDC date | State | City | Airport | FDC No. | SIAP |
|---|---|---|---|---|---|
| 09/14/00 | IL | CHICAGO | CHICAGO-O'HARE INTL | FDC 0/1311 | ILS RWY 22L, AMDT 4C... |

[FR Doc. 00–24292 Filed 9–20–00; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 97

**[Docket No. 30192; Amdt. No. 2010]**

## Standard Instrument Approach Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

*For Examination*

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

*For Purchase*

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

*By Subscription*

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

**SUPPLEMENTARY INFORMATION:** This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

### The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

### Conclusion

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

### List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on September 15, 2000.

**L. Nicholas Lacey,**

*Director, Flight Standards Service.*

## Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

### §§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

*. . . Effective October 5, 2000*

Cleveland, OH, Cleveland-Hopkins Intl, ILS RWY 5R, Amdt 16
Providence, RI, Theodore Francis Green State, ILS RWY 5R, Amdt 17
Memphis, TN, Memphis Intl, ILS RWY 18C, Orig
Memphis, TN, Memphis Intl, ILS RWY 36C, Orig

*. . . Effective November 30, 2000*

Gulkana, AK, Gulkana, VOR RWY 14, Amdt 7
Gulkana, AK, Gulkana, NDB RWY 14, Orig, CANCELLED
Gulkana, AK, Gulkana, NDB–A, Orig
Vero Beach, FL, Vero Beach Muni, VOR RWY 11R, Amdt 13
Vero Beach, FL, Vero Beach Muni, VOR/DME RWY 29L, Amdt 3
Vero Beach, FL, Vero Beach Muni, NDB RWY 11R, Amdt 3
Vero Beach, FL, Vero Beach Muni, NDB RWY 29L, Amdt 1
Bolingbrook, IL, Clow Intl, VOR–A, Orig
Plainfield, IL, Clow Intl, VOR OR GPS–A, Amdt 2, CANCELLED
Rockford, IL, Greater Rockford, RADAR–1, Amdt 10
Anderson, IN, Anderson Muni-Darlington Field, NDB OR GPS RWY 30, Amdt 5C
Columbus, IN, Columbus Muni, NDB OR GPS RWY 23, Amdt 10A
Elkhart, IN, Elkhart Muni, VOR OR GPS RWY 27, Amdt 14A
Winamac, IN, Arens Field, VOR/DME–A, Amdt 6
Flemingsburg, KY, Fleming-Mason, LOC RWY 25, Orig-B
Baton Rouge, LA, Baton Rouge Metropolitan/Ryan Field, NDB RWY 31, Amdt 2
Frenchville, ME, Northern Aroostook Regional, GPS RWY 32, Orig, CANCELLED
Sault Ste Marie, MI, Chippewa County Intl, NDB OR GPS RWY 34, Amdt 4C
Traverse City, MI, Cherry Capital, GPS, RWY 36, Orig-A
Pine River, MN, Pine River Regional, NDB RWY 34, Amdt 1
Rochester, MN, Rochester International, VOR/DME OR GPS RWY 20, Amdt 13A
St Cloud, MN, St Cloud Regional, VOR/DME RWY 13, Amdt 8A
Fort Stockton, TX, Fort Stockton-Pecos County, VOR/DME OR GPS–A, Amdt 5A, CANCELLED
Norfolk, VA, Norfolk Intl, VOR/DME RNAV RWY 14, CANCELLED

[FR Doc. 00–24291 Filed 9–20–00; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 385

**[Docket No. RM00–12–000; Order No. 619]**

## Electronic Filing of Documents

Issued September 14, 2000.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is amending its rules of practice and procedure (18 CFR part 385) to permit the electronic filing of limited categories of documents in proceedings before the Commission on a voluntary basis. This measure is necessary to further the Commission's goal of reducing the amount of paper that participants in Commission proceedings must file. Increased use of electronic filing will reduce the burden and expense associated with paper filings, and help to make information available to the public in a faster and more efficient manner.

**EFFECTIVE DATE:** This final rule is effective on November 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Brooks Carter, Office of the Chief Information Officer, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 501–8145.

Wilbur Miller, Office of the General Counsel, 888 First Street, NE., Washington, DC 20426, (202) 208–0953.

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending 18 CFR part 385 to allow for electronic filing of documents in certain circumstances. This measure is necessary to further the Commission's goal of reducing the amount of paper that participants in Commission proceedings must file. Increased use of electronic filing will reduce the burden and expense associated with paper filings, and help to make information available to the public in a faster and more efficient manner.

## II. Background

In order to increase the efficiency with which it carries out its program responsibilities, the Commission is implementing measures to use information technology to reduce the amount of paperwork required in proceedings before the Commission. This rulemaking is a step in the process of replacing paper with electronic filings by allowing participants in Commission proceedings to submit certain types of documents electronically, on a voluntary basis, without also filing paper copies.

Both the legislative and executive branches of the Federal government have set as goals the substitution of electronic means of communication and information storage for paper means. For example, the Government Paperwork Elimination Act directs agencies to provide for the optional use and acceptance of electronic documents and signatures, and electronic record-keeping, where practical, by October 2003.[1] Similarly, Office of Management and Budget Circular A–130 requires agencies to employ electronic information collection techniques where such means will reduce the burden on the public, increase efficiency, reduce costs, and help provide better service.[2]

On October 1, 1999, the Commission commenced a pilot project in which participants who volunteered to do so submitted specified categories of documents electronically in addition to paper copies. Commission staff worked closely with participants in the pilot to address technical and technological issues that arose during the pilot. The Commission's experience with the pilot has shown that the best course of action is, with respect to limited types of documents, to begin now accepting electronic submissions in lieu of paper on a voluntary basis. Over time, the

[1] Pub. L. 105–277, sections 1702–1704.

[2] Circular A–130, Para. 8.a.1(k).

Commission expects to expand the types of documents it accepts electronically.

**III. Discussion**

Currently, the Commission's rules require the submission of the original and fourteen copies of submissions under 18 CFR part 385 [3] or, in hydropower cases, eight copies.[4] This rulemaking will, for limited categories of documents, allow participants to submit documents via the Internet in lieu of all paper copies. The choice whether to make an electronic submission belongs to the participant making the submission; paper copies will still be accepted. Participants choosing to submit electronic documents will not have to comply with requirements for submitting paper copies.

This rule provides that the Secretary shall issue instructions indicating the categories of documents that may be filed via the Internet. Initially, these instructions will allow electronic submission only of protests under §§ 343.3 and 385.211 of the Commission's regulations, and of comments on certain filings made with the Commission. Although the term ''comments'' is not precisely defined in the Commission's regulations, in practice the Commission receives a variety of submissions denoted as ''comments.'' These include, for example, comments on applications or filings, technical conferences, environmental documents, and settlements. At this time, the Secretary's instructions will permit filing via the Internet of comments other than those on rulemakings and settlements, and those submitted in connection with matters set for hearing. The Commission expects gradually to expand the categories of submissions that it will accept in electronic form. The Secretary is authorized by this rule to add new categories of documents in situations where no new requirements will be imposed upon the electronic filer. Electronic filings that involve placing additional or changed requirements upon submitters, such as enhanced security requirements, will be the subject of future rulemakings.

It is important to note that participants will not be able to submit via the Internet filings that contain both a document that is permitted to be filed electronically and one that is not. The Commission at times receives documents that contain, for example, both a notice of intervention and comments or a protest. Because the Secretary's initial instructions under this rulemaking will not include notices of intervention, such a combined filing could not be made via the Internet. The protest or comments would have to be submitted separately to employ Internet filing.

Although the Commission will not at this time be accepting electronic submission of comments on rulemakings in lieu of paper copies, it encourages rulemaking commenters to submit electronic versions of their comments to *comments.rm@ferc.fed.us.* Paper copies of rulemaking comments must still be submitted.

This final rule does not supersede any pre-existing filing requirements. The procedures for electronic submissions contained in 18 CFR 385.2011 remain unaffected and paper copies required under those procedures will still be required. This final rule also does not alter the Commission's policy against submissions via facsimile transmission.

In order to ease the burden on participants wishing to submit electronic documents, the Commission will accept such submissions in a variety of formats, which will be listed in instructions issued by the Secretary. Participants may submit documents in Portable Document Format (PDF), but are not required to do so. The Commission, upon receiving an electronic document, will convert it to PDF and then to Tagged Image File Format (TIFF). Both the PDF and TIFF images will be made available to the public through the Commission's Records and Information Management System (RIMS). Because the Commission is not requiring documents to be submitted in PDF, different users, when they view or print out a document, will find different page breaks. For this reason, it will be necessary for participants in Commission proceedings, when citing to a document that was submitted electronically, to cite to pages contained in the PDF image found on RIMS. If a submitter files both a paper copy of a document and an electronic version that complies with the provisions of this rule, the PDF image of the electronic version contained on RIMS, rather than the paper version, will be the one to which participants should refer for citation purposes.

The Secretary will issue detailed instructions for electronic submissions. In summary, participants wishing to submit documents electronically will be able to do so through the Commission's web site, using a user ID and password. Users will be able to create their own IDs and passwords. Information that users submit to obtain a password will be used only to authenticate the identity of the filer, and not for any other purpose. The user then can submit the document by following the on-screen instructions. Submission of a document electronically will produce three acknowledgments, all of which the user will receive by e-mail. The first will be a simple acknowledgment of receipt that the user will receive immediately. The second, which also will be received after a minimal delay, will contain a link to the PDF image that either will have been filed by the submitter or created automatically by the Commission's computer system. The user will be able to access this image to verify that the Commission has received the submitted document. The third acknowledgment, which the user will receive after a short delay, will indicate whether the Secretary has approved the document for electronic filing and will contain a link to the TIFF image. At the same time this third acknowledgment is sent, the document will be sent to RIMS for posting in both PDF and TIFF forms. There will be a short delay, after the third acknowledgment, before the document is available on RIMS.

In order to determine the level of signature technology necessary for adequate security, Commission staff has conducted an assessment of the risks involved with electronic submission of the documents covered in the instructions to be issued by the Secretary at this time.[5] The electronic submissions allowed by this rulemaking present a very low security risk. The submission of comments does not involve transfers of funds. There is no financial or legal liability involved, although one may result from actions taken or required by the Commission in response to a filed document. A few filings may contain privileged or confidential information, but the Commission will not at this time accept electronic submissions that contain information for which the submitter requests confidential treatment. Electronically filed comments will be made available via the Commission's Internet site. Since the filings are public, there is minimal risk of dispute over the content of the filing at a later date. There also would be little reason for an intruder to alter or falsify a filing, because the intrusion would be easily identified and remedied. Because of the low level of risk associated with this

[3] 18 CFR 385.2004.

[4] 18 CFR 4.34.

[5] The Office of Management and Budget has directed agencies to assess the risks involved in determining the appropriate level of security for electronic filing. *See* 65 FR 25508, Section 2 (May 2, 2000).

rulemaking, the Commission concludes that a user name/password system is an appropriate level of authentication for these filings.

With respect to time of receipt, this rule provides that a document is received when the Commission receives the last byte of information. An electronic submission governed by a due date must be received by the time at which a paper document would have to be received, generally close of business on the due date.[6] Documents received after close of business will be considered to have been received on the following business day. The Commission is aware of the difficulties that go hand-in-hand with technological improvements. The Secretary has sufficient authority under 18 CFR 375.302 to grant extensions of time for good cause shown.

The Commission is issuing this rulemaking as a final rule, without a period for public comment. Under 5 USC 553(b), notice and comment procedures are unnecessary for rulemakings that concern only matters of agency practice and procedure. This rulemaking fits that description. In addition, the rulemaking is limited in scope because of the limited categories of submissions to which it applies, and it is entirely voluntary, imposing no requirements on any participant.

## IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) requires agencies to prepare certain statements, descriptions and analyses of rules that will have a significant impact on a substantial number of small entities.[7] The Commission is not required to make such analyses if a rule would not have such an effect.

The Commission certifies that this rule will not have such an impact on small entities. Most companies regulated by the Commission do not fall within the RFA's definition of small entity.[8] Further, the filing requirements of small entities are not significantly impacted by this rule, and the rule in any event is voluntary and imposes no requirements upon any entities.

## V. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.[9] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Among these are rules that are clarifying, corrective, or procedural, or that do not substantively change the effect of the regulations being amended.[10] This rule is procedural in nature and therefore falls under this exception; consequently, no environmental consideration is necessary.

## VI. Information Collection Statement

The Office of Management and Budget's (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule.[11] Respondents subject to the filing requirements of this Rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. This final rule does not contain a new or amended information collection(s) subject to the Paperwork Reduction Act of 1995.[12] The modifications contained in this rule do not impose any additional compliance burden on persons dealing with the Commission. All parties will still be permitted to file comments on paper, exactly as they do today. Accordingly, pursuant to OMB regulations, the Commission is providing notice of this amendment to its procedures to OMB.

*Public Reporting Burden:* Because of the voluntary nature of this rule, it is difficult at this time to determine how many will participate in submitting documents via the Internet as opposed to paper. Commission Staff has estimated that the Commission receives over 20,000 filings per year concerning comments, protests and motions to intervene. However, as noted earlier, motions to intervene are not the subject of this rule. We anticipate that in the first year, 25% of the filings will be submitted electronically, 50% in the second year and 80% in the third year. However, because many of the filings are by one-time filers, the likelihood of exceeding 80% may not be achieved.

The implementation of this option will make it easier for the public to participate in the Commission's proceedings and is an important step in the Commission's efforts to streamline and improve the Commission's decision-making process. The electronic submission of comments will reduce expenses involved with paper filings and service, such as copying, mailing and messenger costs. Furthermore, this procedure will allow for the on-line review of comments filed with the Commission by the staff and by the public. In addition, the Commission is implementing the requirements of the Government Paperwork Elimination Act. Participants who file electronically will no longer have to file an original and, in most cases, fourteen copies for these categories of documents.

For information on this amendment to the Commission's rules, or suggestions on efforts to alleviate the burden through the use of electronic filing, please send your comments to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 (Attention: Michael Miller, Office of the Chief Information Officer, (202) 208–1415, or *mike.miller@ferc.fed.us*) or send comments to the Office of Management and Budget (Attention: Desk Officer for the Federal Energy Regulatory Commission (202) 395–3087, fax: 395–7285). In addition, comments on reducing the burden and/or improving the collections of information should also be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Federal Energy Regulatory Commission, 725 17th Street, NW., Washington, DC 20503.

## VII. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.fed.us*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

- CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.
- CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

[6] *See* 18 CFR 375.101, 375.105.

[7] 5 U.S.C. 601–612.

[8] 5 U.S.C. 601(3) provides the definition of small business concern.

[9] Order No. 486, Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[10] 18 CFR 380.4(a)(2)(ii).

[11] 5 CFR 1320.12.

[12] 44 U.S.C. 3501 *et seq.*

• RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208–2222 (E-Mail to *WebMaster@ferc.fed.us*) or the Public Reference at (202) 208-1371 (E-Mail to *public.referenceroom@ferc.fed.us*).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

## VIII. Effective Date and Congressional Notification

This regulation becomes effective on November 1, 2000. The Commission has concluded that this rule is not a ''major rule'' as defined in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996. The provisions of 5 U.S.C. 801, regarding Congressional review of rulemakings, do not apply to this rulemaking because it concerns agency procedure and practice and will not substantially affect the rights and obligations of non-agency parties. 5 U.S.C. 804(3)(C).

## List of Subjects in 18 CFR Part 385

Administrative practice and procedure; Electric Power; Penalties; Pipelines; Reporting and recordkeeping requirements.

By the Commission.

**David P. Boergers,**

*Secretary.*

In consideration of the foregoing, the Commission revises part 385, subpart T, Chapter I, Title 18, Code of Federal Regulations, as follows:

## PART 385—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 385 continues to read as follows:

**Authority:** 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. Section 385.2001 is revised to read as follows:

### § 385.2001 Filings (Rule 2001).

(a) Filings with the Commission. (1) Except as otherwise provided in this chapter, any document required to be filed with the Commission must comply with Rules 2001 to 2005 and must be submitted to the Secretary by:

(i) Mailing the document to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426;

(ii) Hand delivering the document to Room 1A, 888 First Street, NE., Washington, DC; or

(iii) In the case of qualified documents as defined in Rule 2003(c)(2), by filing via the Internet pursuant to Rule 2003(c) at the following URL: *www.ferc.fed.us.*

**Note:** Help for filing via the Internet is available by phone at 202–208–0258 or e-mail at efiling@ferc.fed.us.

(2) Any document is considered filed, if in paper form, on the date stamped by the Secretary or, in the case of a document filed via the Internet, on the date indicated in the acknowledgment that will be sent immediately upon the Commission's receipt of a submission, unless the document is subsequently rejected. Any document received after regular business hours is considered filed on the next regular business day.

(b) Rejection. (1) If any filing does not comply with any applicable statute, rule, or order, the filing may be rejected, unless the filing is accompanied by a motion requesting a waiver of the applicable requirement of a rule or order and the motion is granted.

(2) If any filing is rejected, the document is deemed not to have been filed with the Commission.

(3) Where a document is rejected under paragraph (b)(1) of this section, the Secretary, or the office director to whom the filing has been referred, will notify the submitter and indicate the deficiencies in the filing and the reason for the rejection.

(4) If a filing does not comply with any applicable requirement, all or part of the filing may be stricken. Any failure to reject a filing which is not in compliance with an applicable statute, rule, or order does not waive any obligation to comply with the requirements of this chapter.

3. Section 385.2003 is revised to read as follows:

### § 385.2003 Specifications (Rule 2003).

(a) *All filings.* Any filing with the Commission must be:

(1) Typewritten, printed, reproduced, or prepared using a computer or other word or data processing equipment;

(2) Have double-spaced lines with left margins not less than 1½ inch wide, except that any tariff or rate filing may be single-spaced;

(3) Have indented and single-spaced any quotation that exceeds 50 words; and

(4) Use not less than 10 point font.

(b) Filing by paper.

(1) Any filing with the Commission made in paper form must be:

(i) Printed or reproduced, with each copy clearly legible;

(ii) On letter-size unglazed paper that is 8 to 8½ inches wide and 10½ to 11 inches long; and

(iii) Bound or stapled at the left side only, if the filing exceeds one page.

(2) Any log, graph, map, drawing, or chart submitted as part of a filing will be accepted on paper larger than provided in paragraph (b)(1) of this section, if it cannot be provided legibly on letter-size paper.

(c) Filing via the Internet.

(1) A document filed with the Commission via the Internet must:

(i) Be a qualified document;

(ii) Be filed in accordance with instructions issued by the Secretary and made available on the Commission's web site at *www.ferc.fed.us/efi/doorbell.htm.*

(2) For purposes of Internet filings, qualified documents shall be those categories of documents listed in instructions to be issued by the Secretary. The Secretary is authorized to issue and amend a list of qualified documents only to the extent that no additional requirements are placed upon submitters of electronic documents beyond those contained in the Commission's regulations.

(3) Documents requiring privileged or protected treatment by the Commission may not be filed via the Internet.

(4) Qualified documents may not be combined with other documents in an electronic filing. (Example: A protest that is a qualified document and a notice of intervention that is not may not be filed electronically as one document. The protest must be filed electronically as a separate document.)

(5) For purposes of statutes or regulations governing timeliness, a document filed via the Internet will be deemed to have been received by the Commission at the time the last byte of the document is received by the Commission.

(d) Citation form. Any filing with the Commission should comply with the rules of citation, except Rule 1.1, set forth in the most current edition of A Uniform System of Citation, published by The Harvard Law Review Association. Citations to specific pages

of documents filed via the Internet should use the page numbers appearing in the PDF (Portable Document Format) version of the document available on the Commission's web site.

4. Section 385.2004 is revised to read as follows:

**§ 385.2004 Original and copies of filings (Rule 2004).**

Any person filing under this chapter must provide an original of the filing and fourteen exact copies, unless otherwise required by statute, rule, or order. The provisions of this section and of § 4.34(h) of this Chapter do not apply in the case of a document properly filed via the Internet under Rule 2003(c).

5. Section 385.2005 is revised by adding paragraph (c) as follows:

**§ 385.2005 Subscription and verification (Rule 2005).**

* * * * *

(c) Electronic signature. In the case of a document filed via the Internet pursuant to Rule 2003(c), the typed characters representing the name of a person shall be sufficient to show that such person has signed the document for purposes of this section.

[FR Doc. 00–24200 Filed 9–20–00; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

### 20 CFR Part 655

**RIN 1205–AB27**

### Attestations by Facilities Temporarily Employing H–1C Nonimmigrant Aliens as Registered Nurses

**AGENCY:** Employment and Training Administration, Labor, in concurrence with the Wage and Hour Division, Employment Standards Administration, Labor.

**ACTION:** Interim final rule; compliance with information and recordkeeping requirements.

**SUMMARY:** The Employment and Training Administration (ETA) and the Employment Standards Administration (ESA) of the Department of Labor (DOL or Department) are announcing that a collection of information has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 for the Interim Final Rule (IFR) for Attestations by Facilities Temporarily Employing H–1C Nonimmigrant Aliens as Registered Nurses. This notice announces the OMB approval number and expiration date.

**DATES:**

*Effective Date:* The interim rule published at 65 FR 51138 continues to be effective September 21, 2000.

*Compliance Date:* Affected parties must comply with the information and recordkeeping requirements in §§ 655.1101(b), (c) and (f); 655.1110; 655.1111(e); 655.1112(c)(2) and (4); 655.1113(d); 655.1114(e); 655.1115(b) and (d); 655.1116; 655.1117(b); 655.1150(b), and 655.1205(b), which have been approved by the Office of Management and Budget, as of September 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** Michael Ginley, Director, Office of Enforcement Policy, Wage and Hour Division, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone: 202–693–0071 (this is not a toll-free number); Dale Ziegler, Chief, Division of Foreign Labor Certifications, Office of Workforce Security, Employment and Training Administration, U.S. Department of Labor, Room C–4318, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone: 202–693–3010 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On August 22, 2000, ETA and ESA jointly published an IFR governing the filing and enforcement of attestations by facilities seeking to employ aliens as registered nurses in health professional shortage areas on a temporary basis under H–1C visas. The Department submitted the information collection request included in the IFR to OMB using emergency procedures and requested approval by the effective date of the IFR which is September 21, 2000 (65 FR 51138). The information and recordkeeping requirements needing OMB approval are found in §§ 655.1101(b), (c) and (f); 655.1110; 655.1111(e); 655.1112(c) (2) and (4); 655.1113(d); 655.1114(e); 655.111(b) and (d); 655.1116; 655.1117(b); 655.1150(b) and 655.1205(b).

On September 14, 2000, OMB approved the information collection request under emergency provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*) and 5 CFR 1320. The control number assigned to this information collection request by OMB is 1205–0415. The approval will expire on February 28, 2001.

Signed at Washington, DC, this 15th day of September, 2000.

**Raymond Bramucci,**

*Assistant Secretary for Employment and Training, Employment and Training Administration.*

**John R. Fraser,**

*Deputy Administrator, Wage and Hour Division, Employment Standards Administration.*

[FR Doc. 00–24252 Filed 9–20–00; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Parts 1 and 602

**[TD 8902]**

**RIN 1545–AW22**

### Capital Gains, Partnership, Subchapter S, and Trust Provisions

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to sales or exchanges of interests in partnerships, S corporations, and trusts. The regulations interpret the look-through provisions of section 1(h), added by section 311 of the Taxpayer Relief Act of 1997 and amended by sections 5001 and 6005(d) of the Internal Revenue Service Restructuring and Reform Act of 1998, and explain the rules relating to the division of the holding period of a partnership interest. The regulations affect partnerships, partners, S corporations, S corporation shareholders, trusts, and trust beneficiaries.

**DATES:** *Effective Date:* These regulations are effective September 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** Jeanne M. Sullivan or David J. Sotos (202) 622–3050 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control number 1545–1654. Responses to these collections of information are required to verify compliance with section 1(h) and to determine that the tax on capital gains has been computed correctly.

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 control number assigned by the Office of Management and Budget.

The estimated annual burden per respondent/recordkeeper is 10 minutes.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS reports Clearance Officer, OP:FS:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to this 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.

## Background

Section 311 of the Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788, 831) (the 1997 Act), as modified by sections 5001 and 6005(d) of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206 (112 Stat. 685, 787, 800) (the 1998 Act), reduced the maximum statutory tax rates for long-term capital gains of individuals in general and provided regulatory authority to apply the rules to sales and exchanges of interests in pass-thru entities and to sales and exchanges by pass-thru entities. On August 9, 1999, the IRS published in the **Federal Register** a notice of proposed rulemaking (REG–106527–98, 64 FR 43117) relating to the taxation of capital gains in the case of sales or exchanges of interests in partnerships, S corporations, and trusts. The regulations interpreted rules added by the 1997 Act and amended by the 1998 Act, and provided guidance relating to the division of the holding period of a partnership interest. The IRS received no requests to speak at a public hearing that was scheduled for November 18, 1999, and canceled the hearing. Written comments were received in response to the notice of proposed rulemaking. After consideration of the comments, the proposed regulations under sections 1(h), 741, and 1223 are adopted, as revised by this Treasury decision. The comments received and revisions made are discussed below.

## Explanation of Revisions and Summary of Comments

### *1. Look-Through Capital Gain*

#### a. In General

Section 1(h) provides maximum capital gains rates in three categories: 20-percent rate gain, 25-percent rate gain, and 28-percent rate gain. Twenty percent rate gain is net capital gain from the sale or exchange of capital assets held for more than one year, reduced by the sum of 25-percent rate gain and 28-percent rate gain. Twenty-five percent rate gain is limited to unrecaptured section 1250 gain. Twenty-eight percent rate gain includes capital gains and losses from the sale or exchange of collectibles (as defined in section 408(m) without regard to section 408(m)(3)) held for more than one year and certain other types of gain.

Capital gain attributable to the sale or exchange of an interest in a pass-thru entity held for more than one year generally is in the 20-percent rate gain category. However, the proposed regulations provide that, when a taxpayer sells or exchanges an interest in a partnership, S corporation, or trust that holds collectibles, rules similar to the rules under section 751(a) apply to determine the capital gain that is attributable to certain unrealized gain in the collectibles. Furthermore, under the proposed regulations, rules similar to the rules under section 751(a) also apply to determine the capital gain attributable to certain unrealized gain in section 1250 property held by a partnership when a taxpayer sells or exchanges an interest in a partnership that holds such property.

#### b. Net Collectibles Loss

Twenty-eight percent rate gain is the excess (if any) of (i) the sum of collectibles gain and section 1202 gain, over (ii) the sum of collectibles loss, the net short-term loss, and the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year. One commentator suggested that, when an interest in a partnership, S corporation, or trust is transferred, net collectibles loss as well as net collectibles gain in property held by such an entity should be taken into account in determining a taxpayer's overall collectibles gain or collectibles loss. The Treasury Department (Treasury) and the IRS believe that the proposed regulations are consistent with the rule in section 1(h)(6)(B), which, in providing look-through treatment with respect to collectibles, refers only to ''gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles * * * '' Accordingly, the comment is not adopted in the final regulations.

#### c. Limitations With Respect to Section 1231 Property

Section 1(h)(7)(B) limits the amount of unrecaptured section 1250 gain recognized as a consequence of sales, exchanges, and conversions described in section 1231(a)(3)(A) to the taxpayer's net section 1231 gain (as defined in section 1231(c)(3)) for the taxable year. The proposed regulations provide that, upon a partner's transfer of a partnership interest, the partner's allocable share of section 1250 capital gain (as defined in § 1.1(h)–1(b)(3)) is not treated as section 1231 gain for purposes of applying the limitation in section 1(h)(7)(B). There has been some confusion regarding whether the section 1(h)(7)(B) limitation applies to all unrecaptured section 1250 gain, including section 1250 capital gain recognized on the transfer of a partnership interest.

Because the transfer of an interest in a partnership is not described in section 1231(a)(3)(A), the limitation provided in section 1(h)(7)(B) is not applicable with respect to such transfers. Accordingly, under the final regulations (and consistent with the proposed regulations), where a partner sells an interest in a partnership, the partner must take into account the entire allocable share of section 1250 capital gain in determining the unrecaptured section 1250 gain under section 1(h)(7)(A), without regard to the limitation set forth in section 1(h)(7)(B).

#### d. Redemption of a Partnership Interest

Some practitioners have expressed concern that the look-through capital gains provisions of the proposed regulations apply to the redemption of a partnership interest. To apply the regulations in the context of redemptions, it would be necessary to import the concepts utilized in section 751(b). Treasury and the IRS believe that this would not be advisable. Accordingly, these regulations do not apply to any transaction that is treated as a redemption of a partnership interest for Federal income tax purposes.

#### e. Allocating Section 704(c) Gain and Loss

Certain commentators requested that the final regulations provide guidance with respect to the proportionate part of the section 704(c) built-in gain or loss that is transferred to the purchaser when a section 704(c) partner sells a portion of a partnership interest. This issue is

relevant because, in determining a taxpayer's share of collectibles gain or section 1250 capital gain on the sale of a partnership interest, it is necessary to calculate how much of such gain would be allocated with respect to the partnership interest sold if the underlying collectibles or section 1250 property held by the partnership were sold for their fair market value. In making this determination where a partner sells only a portion of its interest in a partnership, it is necessary to determine how much section 704(c) gain relating to collectibles or section 1250 property is allocable to the portion of the partnership interest that is sold. Although relevant, Treasury and the IRS believe that this issue is beyond the scope of these regulations. Accordingly, this comment is not addressed in these regulations.

f. Look-Through Capital Gain Where the Pass-Thru Entity Has a Short-Term Holding Period in Collectibles

The final regulations modify the proposed regulations to provide that a pass-thru entity's holding period in the collectibles is not relevant in determining whether long-term capital gain recognized on the sale of an interest in the entity is collectibles gain (taxable at a 28-percent rate). Consistent with the purpose of the look-through provisions contained in section 1(h), these regulations characterize a transferor's long-term capital gain recognized on the sale of the interest in a pass-thru entity by reference to the entity's underlying assets that give rise to such gain. Where a transferor recognizes long-term capital gain on the sale of an interest in a partnership, S corporation, or trust, it would be anomalous to provide the transferor with a better tax result if the entity has a short-term holding period in collectibles than if the entity has a long-term holding period in such property. This rule is not relevant with respect to section 1250 property. Because all depreciation with respect to section 1250 property held for one year or less is treated as additional depreciation under section 1250(b)(1), such amounts will be treated as unrealized receivables under section 751(c) and thus will give rise to ordinary income under section 751(a) upon a disposition of the partnership interest.

*2. Determination of Holding Period in a Partnership*

a. In General

The proposed regulations provide rules relating to the allocation of a divided holding period with respect to an interest in a partnership. These rules generally provide that the holding period of a partnership interest will be divided if a partner acquires portions of an interest at different times or if an interest is acquired in a single transaction that gives rise to different holding periods under section 1223. Under the proposed regulations, the holding period of a portion of a partnership interest generally is determined based on a fraction that is equal to the fair market value of the portion of the partnership interest to which the holding period relates (determined immediately after the acquisition) over the fair market value of the entire partnership interest.

Under the proposed regulations, a selling partner generally cannot identify and use the actual holding period for a portion of the partner's interest. However, the proposed regulations provide that a selling partner is permitted to identify the portion of a partnership interest sold with its holding period if the partnership is a publicly traded partnership (as defined under section 7704(b)), the partnership interest is divided into identifiable units with ascertainable holding periods, and the selling partner can identify the portion of the interest transferred.

b. Contributions of Cash by Existing Partners

The proposed regulations include an example of a pro rata contribution of cash by partners that results in a divided holding period in those partners' interests in the partnership. Commentators suggested that it is inappropriate to provide for a divided holding period where an existing partner contributes cash to the partnership, particularly where the contribution is pro rata by all of the partners. According to these commentators, such an approach may unfairly convert portions of long-term appreciation of partnership assets into a short-term capital gain on the sale of a long held partnership interest. (This conversion occurs regardless of whether the partner sells all or a portion of a partnership interest.)

The conversion of long-term appreciation in partnership assets into short-term capital gain upon the sale of a partnership interest as a result of cash contributions to the partnership is largely the product of partners having unitary bases in their partnership interests. See Rev. Rul. 84–53 (1984–1 C.B. 159) (a partner has a single basis in a partnership interest). Under this rule, gain attributable to previously contributed or acquired assets may be allocated to the short-term portion of a partnership interest even though the value of the short-term portion is no greater than the amount of cash contributed to the partnership. If basis from contributed cash or property could be traced to a segregated interest in the partnership, this conversion of long-term capital appreciation into short-term capital gain would not occur. Larger problems would arise, however, in the context of partnership taxation if a partner were allowed to have a divided basis in a partnership interest.

An aggregate approach to determining the holding period of an interest in a partnership would make it more likely that a contribution of cash would not give rise to a short-term holding period. Under an aggregate approach, one could trace contributed funds into the partnership and determine whether a new holding period was created by reference to whether the funds were used for capital expenditures (in which circumstance, a short-term holding period generally would be appropriate) or for operating expenditures of the partnership (in which circumstance, no new holding period should be created). On the other hand, to the extent that a partnership interest is a capital asset that is distinct from the partnership's assets (an entity approach), its holding period and basis should be determined independently and should not be affected by the partnership's use of the contributed funds. In choosing the entity approach in the proposed regulations, Treasury and the IRS concluded that tracing funds to their ultimate use in the partnership is not an administrable means of determining whether a contribution to a partnership creates a new holding period.

Furthermore, the proposed regulations are consistent with general rules relating to the holding period of capital and section 1231 assets. Where a capital asset (including a capital asset held for one year or less) or property described in section 1231 is contributed to a partnership, section 1223(1) requires the tacking of the holding period in the partnership interest, whether the partners make pro rata contributions of property or instead make non-pro rata contributions that increase the proportionate interests of one or more partners.

In addition, the proposed regulations avoid inappropriate results that may occur if cash contributions are ignored after the formation of a partnership. If cash contributions were ignored, it would be possible for partners to form shelf partnerships with nominal cash contributions in order to start their holding period in the interests, where the majority of cash would not be

contributed (and significant operating assets of the partnership would not be acquired) until some time in the future. This clearly would not be a proper result.

Based upon the foregoing, Treasury and the IRS continue to believe that the approach taken in the proposed regulations is appropriate. However, in response to comments, Treasury and the IRS have provided one exception, and explicitly grant authority for another, where the contribution of cash will not create a new holding period in a partnership interest.

If a partner makes cash contributions and receives cash distributions from a partnership during the one-year period before sale of all or a portion of the interest in the partnership, Treasury and the IRS believe it is appropriate that the net cash contribution to the partnership determine the portion of the interest that is held for one year or less. Therefore, the final regulations provide that, if a partner makes one or more cash contributions and receives one or more cash distributions with respect to the partnership during the one-year period ending on the date of the sale or exchange of all or a portion of the partner's interest in the partnership, in applying the rules for determining the partner's holding period in its partnership interest with respect to cash contributions, the partner may reduce the cash contributions made during the year by cash distributions received on a last-in-first-out basis, treating all cash distributions as if they were received by the partner immediately before the sale or exchange. This rule also applies in determining the holding period of a partnership interest where gain or loss is recognized under section 731(a) upon a distribution by the partnership.

In addition, the final regulations include authority for the Secretary to provide, in published guidance, additional exceptions to the general holding period rules with respect to other cash contributions, including *de minimis* cash contributions, to a partnership. Treasury and the IRS request comments as to the appropriate level for a *de minimis* exception.

c. Treatment of Deemed Cash Contributions Under Section 752(a)

Section 752(a) provides that an increase in a partner's share of partnership liabilities, or an increase in a partner's individual liabilities by reason of the partner's assumption of partnership liabilities, shall be treated as a contribution of money by the partner to the partnership. Some practitioners have questioned whether a partner's deemed contribution of cash under section 752(a) will give rise to a new holding period in that partner's interest in the partnership. A deemed contribution of cash resulting from a shift among partners in their share of liabilities or as a result of a partnership incurring new debt does not expand the net asset base of the partners represented by their interests in the partnership. Accordingly, it is inappropriate to create a new holding period as a result of such deemed contributions. However, to the extent that a partner actually assumes a debt of the partnership, thus causing an increase in the net asset base of the partnership, the creation of a new holding period with respect to a portion of the partner's interest is appropriate.

In addressing a similar issue, the capital account rules regarding the treatment of liabilities under § 1.704–1(b)(2)(iv)(c) attempt to measure the increase or decrease in a partner's economic interest in the partnership resulting from the assumption of liabilities by either the partner or the partnership. Those rules provide:

> * * * (1) money contributed by a partner to a partnership includes the amount of any partnership liabilities that are assumed by such partner (other than [certain] liabilities * * * that are assumed by a distributee partner [in connection with a distribution of property by the partnership]) but does not include increases in such partner's share of partnership liabilities (see section 752(a)), and (2) money distributed to a partner by a partnership includes the amount of such partner's individual liabilities that are assumed by the partnership (other than [certain] liabilities * * * that are assumed by the partnership [in connection with a contribution of property to the partnership]) but does not include decreases in such partner's share of partnership liabilities (see section 752(b)) * * *

This rule is incorporated in the final regulations. The final regulations provide that deemed contributions and distributions of cash under sections 752(a) and (b) will be disregarded in determining a partner's holding period in its partnership interest to the same extent that such amounts are disregarded under § 1.704–1(b)(2)(iv)(c). (Deemed distributions under section 752(b) are relevant as a result of the cash netting rule added in these final regulations.)

d. Contribution of Section 751 Assets

Commentators noted that, if a partner has a short-term holding period in a partnership interest on account of the contribution of assets described in section 751(c) or (d) (section 751 assets), the rules of section 751(a) in conjunction with the proposed regulations cause the section 751 assets to be counted twice if a partnership interest is sold within 12 months of the contribution, once in applying section 751(a) to treat part of the amount received as ordinary income, and again in determining the selling partner's short-term capital gain. In response to these comments, the final regulations provide that, if a partner recognizes ordinary income or loss on account of section 751 assets, either under section 751(a) as a result of the sale of all or part of the partnership interest or as a result of the sale by the partnership of the section 751 assets, the section 751 assets shall be disregarded in determining the division of the holding period of an interest in a partnership upon a sale of such partnership interest during the one-year period following the contribution. This rule does not apply if, in the absence of the rule, a partner would not be treated as having held any portion of the interest for more than one year. Accordingly, if a partner's only contributions to a partnership are contributions of section 751 assets or section 751 assets and cash within the prior one-year period, the adjustment will not be available, and the partner appropriately will be treated as having a short-term holding period with respect to the entire interest.

A similar rule disregarding the contribution of section 751 assets does not apply in determining the holding period of a partnership interest with respect to gain or loss recognized under section 731 upon a distribution by a partnership. Properly coordinating the holding period rules with gain or loss determinations under section 751(b) would be inordinately complex. In addition, where, within a one-year period, a partner contributes section 751 assets to a partnership and receives a cash distribution large enough to require the recognition of gain, it is likely that the contribution and distribution will constitute a disguised sale of the section 751 assets to the partnership under section 707(a)(2)(B), thus rendering the holding period rules irrelevant since the sale of an asset to a partnership does not affect the holding period of an interest in the partnership.

e. Treatment of Recapture and Other Unrealized Receivables

An example in the proposed regulations treats the portion of a contributed asset that would be recaptured as ordinary income under section 1245 upon disposition as non-section 1231 property for purposes of the tacked holding period rule in section 1223(1). Some commentators have raised questions regarding the position taken in this example. For

purposes of these regulations, Treasury and the IRS believe that it is appropriate to characterize all properties and potential gain treated as unrealized receivables under section 751(c) and the regulations thereunder as separate assets that are not capital assets or property described in section 1231. Accordingly, while the example in the proposed regulations has been eliminated, a specific rule has been added in the final regulations to provide for such a result. This rule is consistent with the rule added in the final regulations regarding the holding period exception for contributed section 751 assets. As discussed above, that rule will disregard the contribution of section 751 assets (including properties and potential gain treated as unrealized receivables under section 751(c)) in computing the holding period of a partnership interest where the interest is sold within one year after contribution. Accordingly, while section 1245 recapture (and similar items treated as unrealized receivables) will be treated as a separate asset that is not a capital or section 1231 asset, the asset will not give rise to a short-term holding period where a partnership interest is sold. This rule also is similar to the rule contained in § 1.755–1(a), which provides that properties and potential gain treated as unrealized receivables under section 751(c) are considered separate ordinary income assets for purposes of allocating basis adjustments under section 755.

f. Identification of Publicly Traded Partnership Units

The proposed regulations provide that a selling partner may use the actual holding period of the portion of a partnership interest sold if the partnership is a ''publicly traded partnership'' (as defined under section 7704(b)), the partnership interest is divided into identifiable units with ascertainable holding periods, and the selling partner can identify the portion of the interest transferred. Commentators suggested that it may be appropriate to provide that a partner must be consistent in electing, for holding period purposes, to identify units of a publicly traded partnership that are sold or exchanged in order to avoid distortion in the total long-term and short-term capital gain recognized. This suggestion is adopted in the final regulations.

g. Conversion From General Partnership to Limited Partnership

A commentator requested clarification that a partner's holding period in its partnership interest carries over when a partnership converts from a general partnership to a limited partnership, as described in Rev. Rul. 84–52 (1984–1 C.B. 157). The ruling concludes that, pursuant to section 1223(1), there will be no change to the holding period of any partner's interest in the partnership as a result of such a conversion. The final regulations do not change the result set forth in Rev. Rul. 84–52.

h. Other Miscellaneous Issues

The proposed regulations contain an example which, consistent with Rev. Rul. 84–53, states that a partner has a single basis in its partnership interest. Certain commentators suggested that the principle that a partner has a single basis in its partnership interest should be set forth in regulations, rather than simply relying on Rev. Rul. 84–53. The rules set forth in these regulations address only holding period and character issues. In illustrating the operation of certain of these rules, the example accurately reflects current law. Treasury and the IRS believe that the inclusion of a separate rule providing that a partner has a single basis in its partnership interest is unnecessary and is beyond the scope of these regulations.

Finally, it was suggested that the final regulations cross-reference section 83(f), which provides that in determining the holding period of property to which section 83(a) applies, only the holding period during which rights are transferable or are not subject to a substantial risk of forfeiture shall be included. Treasury and the IRS currently are studying the extent to which section 83(a) applies to the issuance of certain partnership interests (*i.e.,* a profits interest in a partnership) in exchange for services. Section 83(f) is relevant to the extent that section 83(a) applies with respect to a partnership interest. However, in order to avoid any implication that section 83(a) applies to all partnership interests issued in exchange for services, a cross reference to section 83(f) has not been included in the final regulations.

## Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant impact on a substantial number of small businesses. This certification is based upon the fact that the economic burden imposed on taxpayers by the collection of information and recordkeeping requirements of these regulations is insignificant. For example, the estimated average annual burden per respondent is 10 minutes. Therefore, a Regulatory Flexibility Analysis is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

## Drafting Information

The principal authors of these regulations are Jeanne M. Sullivan and David J. Sotos of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from Treasury and the IRS participated in their development.

## List of Subjects

*26 CFR Part 1*

Income taxes, Reporting and recordkeeping requirements.

*26 CFR Part 602*

Reporting and recordkeeping requirements.

## Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

## PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 * * *

Section 1.1(h)–1 is also issued under 26 U.S.C. 1(h); * * *

**Par. 2.** Section 1.1(h)–1 is added to read as follows:

### § 1.1(h)–1 Capital gains look-through rule for sales or exchanges of interests in a partnership, S corporation, or trust.

(a) *In general.* When an interest in a partnership held for more than one year is sold or exchanged, the transferor may recognize ordinary income (*e.g.,* under section 751(a)), collectibles gain, section 1250 capital gain, and residual long-term capital gain or loss. When stock in an S corporation held for more than one year is sold or exchanged, the transferor may recognize ordinary income (*e.g.,* under sections 304, 306, 341, 1254), collectibles gain, and residual long-term capital gain or loss. When an interest in a trust held for more than one year is

sold or exchanged, a transferor who is not treated as the owner of the portion of the trust attributable to the interest sold or exchanged (sections 673 through 679) (a non-grantor transferor) may recognize collectibles gain and residual long-term capital gain or loss.

(b) *Look-through capital gain*—(1) *In general.* Look-through capital gain is the share of collectibles gain allocable to an interest in a partnership, S corporation, or trust, plus the share of section 1250 capital gain allocable to an interest in a partnership, determined under paragraphs (b)(2) and (3) of this section.

(2) *Collectibles gain*—(i) *Definition.* For purposes of this section, *collectibles gain* shall be treated as gain from the sale or exchange of a collectible (as defined in section 408(m) without regard to section 408(m)(3)) that is a capital asset held for more than 1 year.

(ii) *Share of collectibles gain allocable to an interest in a partnership, S corporation, or a trust.* When an interest in a partnership, S corporation, or trust held for more than one year is sold or exchanged in a transaction in which all realized gain is recognized, the transferor shall recognize as collectibles gain the amount of net gain (but not net loss) that would be allocated to that partner (taking into account any remedial allocation under § 1.704–3(d)), shareholder, or beneficiary (to the extent attributable to the portion of the partnership interest, S corporation stock, or trust interest transferred that was held for more than one year) if the partnership, S corporation, or trust transferred all of its collectibles for cash equal to the fair market value of the assets in a fully taxable transaction immediately before the transfer of the interest in the partnership, S corporation, or trust. If less than all of the realized gain is recognized upon the sale or exchange of an interest in a partnership, S corporation, or trust, the same methodology shall apply to determine the collectibles gain recognized by the transferor, except that the partnership, S corporation, or trust shall be treated as transferring only a proportionate amount of each of its collectibles determined as a fraction that is the amount of gain recognized in the sale or exchange over the amount of gain realized in the sale or exchange. With respect to the transfer of an interest in a trust, this paragraph (b)(2) applies only to transfers by non-grantor transferors (as defined in paragraph (a) of this section). This paragraph (b)(2) does not apply to a transaction that is treated, for Federal income tax purposes, as a redemption of an interest in a partnership, S corporation, or trust.

(3) *Section 1250 capital gain*—(i) *Definition.* For purposes of this section, *section 1250 capital gain* means the capital gain (not otherwise treated as ordinary income) that would be treated as ordinary income if section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent.

(ii) *Share of section 1250 capital gain allocable to interest in partnership.* When an interest in a partnership held for more than one year is sold or exchanged in a transaction in which all realized gain is recognized, there shall be taken into account under section 1(h)(7)(A)(i) in determining the partner's unrecaptured section 1250 gain the amount of section 1250 capital gain that would be allocated (taking into account any remedial allocation under § 1.704–3(d)) to that partner (to the extent attributable to the portion of the partnership interest transferred that was held for more than one year) if the partnership transferred all of its section 1250 property in a fully taxable transaction for cash equal to the fair market value of the assets immediately before the transfer of the interest in the partnership. If less than all of the realized gain is recognized upon the sale or exchange of an interest in a partnership, the same methodology shall apply to determine the section 1250 capital gain recognized by the transferor, except that the partnership shall be treated as transferring only a proportionate amount of each section 1250 property determined as a fraction that is the amount of gain recognized in the sale or exchange over the amount of gain realized in the sale or exchange. This paragraph (b)(3) does not apply to a transaction that is treated, for Federal income tax purposes, as a redemption of a partnership interest.

(iii) *Limitation with respect to net section 1231 gain.* In determining a transferor partner's net section 1231 gain (as defined in section 1231(c)(3)) for purposes of section 1(h)(7)(B), the transferor partner's allocable share of section 1250 capital gain in partnership property shall not be treated as section 1231 gain, regardless of whether the partnership property is used in the trade or business (as defined in section 1231(b)).

(c) *Residual long-term capital gain or loss.* The amount of residual long-term capital gain or loss recognized by a partner, shareholder of an S corporation, or beneficiary of a trust on account of the sale or exchange of an interest in a partnership, S corporation, or trust shall equal the amount of long-term capital gain or loss that the partner would recognize under section 741, that the shareholder would recognize upon the sale or exchange of stock of an S corporation, or that the beneficiary would recognize upon the sale or exchange of an interest in a trust (pre-look-through long-term capital gain or loss) minus the amount of look-through capital gain determined under paragraph (b) of this section.

(d) *Special rule for tiered entities.* In determining whether a partnership, S corporation, or trust has gain from collectibles, such partnership, S corporation, or trust shall be treated as owning its proportionate share of the collectibles of any partnership, S corporation, or trust in which it owns an interest either directly or indirectly through a chain of such entities. In determining whether a partnership has section 1250 capital gain, such partnership shall be treated as owning its proportionate share of the section 1250 property of any partnership in which it owns an interest, either directly or indirectly through a chain of partnerships.

(e) *Notification requirements.* Reporting rules similar to those that apply to the partners and the partnership under section 751(a) shall apply in the case of sales or exchanges of interests in a partnership, S corporation, or trust that cause holders of such interests to recognize collectibles gain and in the case of sales or exchanges of interests in a partnership that cause holders of such interests to recognize section 1250 capital gain. See § 1.751–1(a)(3).

(f) *Examples.* The following examples illustrate the requirements of this section:

*Example 1. Collectibles gain.* (i) *A* and *B* are equal partners in a personal service partnership *(PRS). B* transfers *B*'s interest in *PRS* to *T* for $15,000 when *PRS*'s balance sheet (reflecting a cash receipts and disbursements method of accounting) is as follows:

| | ASSETS | |
|---|---|---|
| | Adjusted basis | Market value |
| Cash | $3,000 | $3,000 |
| Loans Owed to Partnership | 10,000 | 10,000 |
| Collectibles | 1,000 | 3,000 |
| Other Capital Assets | 6,000 | 2,000 |
| Capital Assets | 7,000 | 5,000 |
| Unrealized Receivables | 0 | 14,000 |
| Total | 20,000 | 32,000 |

| | LIABILITIES AND CAPITAL | |
|---|---|---|
| | Adjusted basis | Market value |
| Liabilities | 2,000 | 2,000 |
| Capital: | | |
| A | 9,000 | 15,000 |
| B | 9,000 | 15,000 |
| Total | 20,000 | 32,000 |

(ii) At the time of the transfer, *B* has held the interest in *PRS* for more than one year, and *B*'s basis for the partnership interest is $10,000 ($9,000 plus $1,000, *B*'s share of partnership liabilities). None of the property owned by *PRS* is section 704(c) property. The total amount realized by *B* is $16,000, consisting of the cash received, $15,000, plus $1,000, *B*'s share of the partnership liabilities assumed by *T*. See section 752. *B*'s undivided one-half interest in *PRS* includes a one-half interest in the partnership's unrealized receivables and a one-half interest in the partnership's collectibles.

(iii) If *PRS* were to sell all of its section 751 property in a fully taxable transaction for cash equal to the fair market value of the assets immediately prior to the transfer of *B's* partnership interest to *T*, *B* would be allocated $7,000 of ordinary income from the sale of *PRS*'s unrealized receivables. Therefore, *B* will recognize $7,000 of ordinary income with respect to the unrealized receivables. The difference between the amount of capital gain or loss that the partner would realize in the absence of section 751 ($6,000) and the amount of ordinary income or loss determined under § 1.751–1(a)(2) ($7,000) is the partner's capital gain or loss on the sale of the partnership interest under section 741. In this case, the transferor has a $1,000 pre-look-through long-term capital loss.

(iv) If *PRS* were to sell all of its collectibles in a fully taxable transaction for cash equal to the fair market value of the assets immediately prior to the transfer of *B's* partnership interest to *T*, *B* would be allocated $1,000 of gain from the sale of the collectibles. Therefore, *B* will recognize $1,000 of collectibles gain on account of the collectibles held by *PRS*.

(v) The difference between the transferor's pre-look-through long-term capital gain or loss (−$1,000) and the look-through capital gain determined under this section ($1,000) is the transferor's residual long-term capital gain or loss on the sale of the partnership interest. Under these facts, *B* will recognize a $2,000 residual long-term capital loss on account of the sale or exchange of the interest in *PRS*.

*Example 2. Special allocations.* Assume the same facts as in *Example 1*, except that under the partnership agreement, all gain from the sale of the collectibles is specially allocated to *B*, and *B* transfers *B*'s interest to *T* for $16,000. All items of income, gain, loss, or deduction of *PRS*, other than the gain from the collectibles, are divided equally between *A* and *B*. Under these facts, *B*'s amount realized is $17,000, consisting of the cash received, $16,000, plus $1,000, *B's* share of the partnership liabilities assumed by *T*. See section 752. *B* will recognize $7,000 of ordinary income with respect to the unrealized receivables (determined under § 1.751–1(a)(2)). Accordingly, *B*'s pre-look-through long-term capital gain would be $0. If *PRS* were to sell all of its collectibles in a fully taxable transaction for cash equal to the fair market value of the assets immediately prior to the transfer of *B's* partnership interest to *T*, *B* would be allocated $2,000 of gain from the sale of the collectibles. Therefore, *B* will recognize $2,000 of collectibles gain on account of the collectibles held by *PRS*. *B* will recognize a $2,000 residual long-term capital loss on account of the sale of *B's* interest in *PRS*.

*Example 3. Net collectibles loss ignored.* Assume the same facts as in *Example 1*, except that the collectibles held by *PRS* have an adjusted basis of $3,000 and a fair market value of $1,000, and the other capital assets have an adjusted basis of $4,000 and a fair market value of $4,000. (The total adjusted basis and fair market value of the partnership's capital assets are the same as in *Example 1*.) If *PRS* were to sell all of its collectibles in a fully taxable transaction for cash equal to the fair market value of the assets immediately prior to the transfer of *B*'s partnership interest to *T*, *B* would be allocated $1,000 of loss from the sale of the collectibles. Because none of the gain from the sale of the interest in *PRS* is attributable to unrealized appreciation in the value of collectibles held by *PRS*, the net loss in collectibles held by *PRS* is not recognized at the time *B* transfers the interest in *PRS*. *B* will recognize $7,000 of ordinary income (determined under § 1.751–1(a)(2)) and a $1,000 long-term capital loss on account of the sale of B's interest in *PRS*.

*Example 4. Collectibles gain in an S corporation.* (i) A corporation (*X*) has always been an S corporation and is owned by individuals *A*, *B*, and *C*. In 1996, *X* invested in antiques. Subsequent to their purchase, the antiques appreciated in value by $300. *A* owns one-third of the shares of *X* stock and has held that stock for more than one year. *A*'s adjusted basis in the *X* stock is $100. If *A* were to sell all of *A*'s *X* stock to *T* for $150, *A* would realize $50 of pre-look-through long-term capital gain.

(ii) If *X* were to sell its antiques in a fully taxable transaction for cash equal to the fair market value of the assets immediately before the transfer to *T*, *A* would be allocated $100 of gain on account of the sale. Therefore, *A* will recognize $100 of collectibles gain (look-through capital gain) on account of the collectibles held by *X*.

(iii) The difference between the transferor's pre-look-through long-term capital gain or loss ($50) and the look-through capital gain determined under this section ($100) is the transferor's residual long-term capital gain or loss on the sale of the S corporation stock. Under these facts, *A* will recognize $100 of collectibles gain and a $50 residual long-term capital loss on account of the sale of *A*'s interest in *X*.

*Example 5. Sale or exchange of partnership interest where part of the interest has a short-term holding period.* (i) *A*, *B*, and *C* form an equal partnership (*PRS*). In connection with the formation, *A* contributes $5,000 in cash and a capital asset with a fair market value of $5,000 and a basis of $2,000; *B* contributes $7,000 in cash and a collectible with a fair market value of $3,000 and a basis of $3,000; and *C* contributes $10,000 in cash. At the time of the contribution, *A* had held the contributed property for two years. Six months later, when *A*'s basis in *PRS* is $7,000, *A* transfers *A*'s interest in *PRS* to *T* for $14,000 at a time when *PRS*'s balance sheet (reflecting a cash receipts and disbursements method of accounting) is as follows:

| | ASSETS | |
|---|---|---|
| | Adjusted basis | Market value |
| Cash | $22,000 | $22,000 |
| Unrealized Receivables | 0 | 6,000 |
| Capital Asset | 2,000 | 5,000 |
| Collectible | 3,000 | 9,000 |
| Capital Assets | 5,000 | 14,000 |
| Total | 27,000 | 42,000 |

(ii) Although at the time of the transfer *A* has not held *A*'s interest in *PRS* for more than one year, 50 percent of the fair market value of *A*'s interest in *PRS* was received in exchange for a capital asset with a long-term holding period. Therefore, 50 percent of *A*'sinterest in *PRS* has a long-term holding period. See § 1.1223–3(b)(1).

(iii) If *PRS* were to sell all of its section 751 property in a fully taxable transaction immediately before *A*'s transfer of the partnership interest, *A* would be allocated $2,000 of ordinary income. Accordingly, *A* will recognize $2,000 ordinary income and $5,000 ($7,000–$2,000) of capital gain on account of the transfer to *T* of *A*'s interest in *PRS*. Fifty percent ($2,500) of that gain is long-term capital gain and 50 percent ($2,500) is short-term capital gain. See § 1.1223–3(c)(1).

(iv) If the collectible were sold or exchanged in a fully taxable transaction immediately before *A*'s transfer of the partnership interest, *A* would be allocated $2,000 of gain attributable to the collectible. The gain attributable to the collectible that is allocable to the portion of the transferred interest in *PRS* with a long-term holding period is $1,000 (50 percent of $2,000). Accordingly, *A* will recognize $1,000 of collectibles gain on account of the transfer of *A*'s interest in *PRS*.

(v) The difference between the amount of pre-look-through long-term capital gain or loss ($2,500) and the look-through capital gain ($1,000) is the amount of residual long-term capital gain or loss that *A* will recognize on account of the transfer of *A*'s interest in *PRS*. Under these facts, *A* will recognize a residual long-term capital gain of $1,500 and a short-term capital gain of $2,500.

(g) *Effective date.* This section applies to transfers of interests in partnerships, S corporations, and trusts that occur on or after September 21, 2000.

**Par. 3.** Section 1.741–1 is amended by adding paragraphs (e) and (f) to read as follows:

**§ 1.741–1 Recognition and character of gain or loss on sale or exchange.**

(e) For rules relating to the capital gain or loss recognized when a partner sells or exchanges an interest in a partnership that holds appreciated collectibles or section 1250 property with section 1250 capital gain, see § 1.1(h)–1. This paragraph (e) applies to transfers of interests in partnerships that occur on or after September 21, 2000.

(f) For rules relating to dividing the holding period of an interest in a partnership, see § 1.1223–3. This paragraph (f) applies to transfers of partnership interests and distributions of property from a partnership that occur on or after September 21, 2000.

**Par. 4.** Section 1.1223–3 is added under the undesignated centerheading ''General Rules for Determining Capital Gains and Losses'' to read as follows:

**§ 1.1223–3 Rules relating to the holding periods of partnership interests.**

(a) *In general.* A partner shall not have a divided holding period in an interest in a partnership unless—

(1) The partner acquired portions of an interest at different times; or

(2) The partner acquired portions of the partnership interest in exchange for property transferred at the same time but resulting in different holding periods (*e.g.,* section 1223).

(b) *Accounting for holding periods of an interest in a partnership*—(1) *General rule.* The portion of a partnership interest to which a holding period relates shall be determined by reference to a fraction, the numerator of which is the fair market value of the portion of the partnership interest received in the transaction to which the holding period relates, and the denominator of which is the fair market value of the entire partnership interest (determined immediately after the transaction).

(2) *Special rule.* For purposes of applying paragraph (b)(1) of this section to determine the holding period of a partnership interest (or portion thereof) that is sold or exchanged (or with respect to which gain or loss is recognized upon a distribution under section 731), if a partner makes one or more contributions of cash to the partnership and receives one or more distributions of cash from the partnership during the one-year period ending on the date of the sale or exchange (or distribution with respect to which gain or loss is recognized under section 731), the partner may reduce the cash contributions made during the year by cash distributions received on a last-in-first-out basis, treating all cash distributions as if they were received immediately before the sale or exchange (or at the time of the distribution with respect to which gain or loss is recognized under section 731).

(3) *Deemed contributions and distributions.* For purposes of paragraphs (b)(1) and (2) of this section, deemed contributions of cash under section 752(a) and deemed distributions of cash under section 752(b) shall be disregarded to the same extent that such amounts are disregarded under § 1.704–1(b)(2)iv)(c).

(4) *Adjustment with respect to contributed section 751 assets.* For purposes of applying paragraph (b)(1) of this section to determine the holding period of a partnership interest (or portion thereof) that is sold or exchanged, if a partner receives a portion of the partnership interest in exchange for property described in section 751(c) or (d) (section 751 assets) within the one-year period ending on the date of the sale or exchange of all or a portion of the partner's interest in the partnership, and the partner recognizes ordinary income or loss on account of such a section 751 asset in a fully taxable transaction (either as a result of the sale of all or part of the partner's interest in the partnership or the sale by the partnership of the section 751 asset), the contribution of the section 751 asset during the one-year period shall be disregarded. However, if, in the absence of this paragraph, a partner would not be treated as having held any portion of the interest for more than one year (*e.g.,* because the partner's only contributions to the partnership are contributions of section 751 assets or section 751 assets and cash within the prior one-year period), this adjustment is not available.

(5) *Exception.* The Commissioner may prescribe by guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) a rule disregarding certain cash contributions (including contributions of a de minimis amount of cash) in applying paragraph (b)(1) of this section to determine the holding period of a partnership interest (or portion thereof) that is sold or exchanged.

(c) *Sale or exchange of all or a portion of an interest in a partnership*—(1) *Sale or exchange of entire interest in a partnership.* If a partner sells or exchanges the partner's entire interest in a partnership, any capital gain or loss recognized shall be divided between long-term and short-term capital gain or loss in the same proportions as the holding period of the interest in the partnership is divided between the portion of the interest held for more than one year and the portion of the interest held for one year or less.

(2) *Sale or exchange of a portion of an interest in a partnership*—(i) *Certain publicly traded partnerships.* A selling partner in a publicly traded partnership (as defined under section 7704(b)) may use the actual holding period of the portion of a partnership interest transferred if—

(A) The ownership interest is divided into identifiable units with ascertainable holding periods;

(B) The selling partner can identify the portion of the partnership interest transferred; and

(C) The selling partner elects to use the identification method for all sales or exchanges of interests in the partnership after September 21, 2000. The selling partner makes the election referred to in this paragraph (c)(2)(i)(C) by using the actual holding period of the portion of the partner's interest in the partnership first transferred after September 21, 2000 in reporting the transaction for federal income tax purposes.

(ii) *Other partnerships.* If a partner has a divided holding period in a partnership interest, and paragraph (c)(2)(i) of this section does not apply, then the holding period of the transferred interest shall be divided between long-term and short-term capital gain or loss in the same proportions as the long-term and short-term capital gain or loss that the transferor partner would realize if the entire interest in the partnership were transferred in a fully taxable transaction immediately before the actual transfer.

(d) *Distributions*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, a partner's holding period in a partnership interest is not affected by distributions from the partnership.

(2) *Character of capital gain or loss recognized as a result of a distribution from a partnership.* If a partner is required to recognize capital gain or loss as a result of a distribution from a partnership, then the capital gain or loss recognized shall be divided between long-term and short-term capital gain or loss in the same proportions as the long-term and short-term capital gain or loss that the distributee partner would realize if such partner's entire interest in the partnership were transferred in a fully taxable transaction immediately before the distribution.

(e) *Section 751(c) assets.* For purposes of this section, properties and potential gain treated as unrealized receivables under section 751(c) shall be treated as separate assets that are not capital assets

as defined in section 1221 or property described in section 1231.

(f) *Examples.* The provisions of this section are illustrated by the following examples:

*Example 1. Division of holding period—contribution of money and a capital asset.* (i) *A* contributes $5,000 of cash and a nondepreciable capital asset *A* has held for two years to a partnership (*PRS*) for a 50 percent interest in *PRS. A's* basis in the capital asset is $5,000, and the fair market value of the asset is $10,000. After the exchange, *A*'s basis in *A*'s interest in *PRS* is $10,000, and the fair market value of the interest is $15,000. *A* received one-third of the interest in *PRS* for a cash payment of $5,000 ($5,000/$15,000). Therefore, *A's* holding period in one-third of the interest received (attributable to the contribution of money to the partnership) begins on the day after the contribution. *A* received two-thirds of the interest in *PRS* in exchange for the capital asset ($10,000/$15,000). Accordingly, pursuant to section 1223(1), *A* has a two-year holding period in two-thirds of the interest received in *PRS.*

(ii) Six months later, when *A*'s basis in *PRS* is $12,000 (due to a $2,000 allocation of partnership income to *A*), *A* sells the interest in *PRS* for $17,000. Assuming *PRS* holds no inventory or unrealized receivables (as defined under section 751(c)) and no collectibles or section 1250 property, *A* will realize $5,000 of capital gain. As determined above, one-third of *A*'s interest in *PRS* has a holding period of one year or less, and two-thirds of *A*'s interest in *PRS* has a holding period equal to two years and six months. Therefore, one-third of the capital gain will be short-term capital gain, and two-thirds of the capital gain will be long-term capital gain.

*Example 2. Division of holding period—contribution of section 751 asset and a capital asset. A* contributes inventory with a basis of $2,000 and a fair market value of $6,000 and a capital asset which *A* has held for more than one year with a basis of $4,000 and a fair market value of $6,000, and *B* contributes cash of $12,000 to form a partnership (*AB*). As a result of the contribution, one-half of *A*'s interest in *AB* is treated as having been held for more than one year under section 1223(1). Six months later, *A* transfers one-half of *A*'s interest in *AB* to *C* for $6,000, realizing a gain of $3,000. If *AB* were to sell all of its section 751 property in a fully taxable transaction immediately before *A*'s transfer of the partnership interest, *A* would be allocated $4,000 of ordinary income on account of the inventory. Accordingly, *A* will recognize $2,000 of ordinary income and $1,000 of capital gain ($3,000–$2,000) on account of the transfer to *C.* Because *A* recognizes ordinary income on account of the inventory that was contributed to *AB* within the one year period ending on the date of the sale, the inventory will be disregarded in determining the holding period of *A*'s interest in *AB.* All of the capital gain will be long-term.

*Example 3. Netting of cash contributions and distributions.* (i) On January 1, 2000, *A* holds a 50 percent interest in the capital and profits of a partnership (*PS*). The value of *A*'s *PS* interest is $900, and *A*'s holding period in the entire interest is long-term. On January 2, 2000, when the value of *A*'s *PS* interest is still $900, *A* contributes $100 to *PS.* On June 1, 2000, *A* receives a distribution of $40 cash from the partnership. On September 1, 2000, when the value of *A*'s interest in *PS* is $1,350, *A* contributes an additional $230 cash to *PS*, and on October 1, 2000, *A* receives another $40 cash distribution from *PS. A* sells *A*'s entire partnership interest on November 1, 2000, for $1,600. *A*'s adjusted basis in the *PS* interest at the time of the sale is $1,000.

(ii) For purposes of netting cash contributions and distributions in determining the holding period of *A*'s interest in *PS*, *A* is treated as having received a distribution of $80 on November 1, 2000. Applying that distribution on a last-in-first-out basis to reduce prior contributions during the year, the contribution made on September 1, 2000, is reduced to $150 ($230–$80). The holding period then is determined as follows: Immediately after the contribution of $100 on January 2, 2000, *A*'s holding period in *A*'s *PS* interest is 90 percent long-term ($900/($900 + $100)) and 10 percent short-term ($100/($900 + $100)). The contribution of $150 on September 1, 2000, causes 10 percent of *A*'s partnership interest ($150/($1,350 + $150)) to have a short-term holding period. Accordingly, immediately after the contribution on September 1, 2000, *A*'s holding period in *A*'s *PS* interest is 81 percent long-term (.90 × .90) and 19 percent short-term ((.10 × .90) + .10). Accordingly, $486 ($600 × .81) of the gain from *A*'s sale of the *PS* interest is long-term capital gain, and $114 ($600 × .19) is short-term capital gain.

*Example 4. Division of holding period when capital account is increased by contribution. A, B, C,* and *D* are equal partners in a partnership (*PRS*), and the fair market value of a 25 percent interest in *PRS* is $100. *A, B, C,* and *D* each contribute an additional $100 to partnership capital, thereby increasing the fair market value of each partner's interest to $200. As a result of the contribution, each partner has a new holding period in the portion of the partner's interest in *PRS* that is attributable to the contribution. That portion equals 50 percent ($100/$200) of each partner's interest in *PRS.*

*Example 5. Sale or exchange of a portion of an interest in a partnership. (i) A, B,* and *C* form an equal partnership (*PRS*). In connection with the formation, *A* contributes $5,000 in cash and a capital asset (capital asset 1) with a fair market value of $5,000 and a basis of $2,000; *B* contributes $7,000 in cash and a capital asset (capital asset 2) with a fair market value of $3,000 and a basis of $3,000; and *C* contributes $10,000 in cash. At the time of the contribution, *A* had held the contributed property for two years. Six months later, when *A*'s basis in *PRS* is $7,000, A transfers one-half of *A*'s interest in *PRS* to *T* for $7,000 at a time when *PRS*'s balance sheet (reflecting a cash receipts and disbursements method of accounting) is as follows:

| | ASSETS | |
|---|---|---|
| | Adjusted basis | Market value |
| Cash | $22,000 | $22,000 |
| Unrealized Receivables | 0 | 6,000 |
| Capital Asset 1 | 2,000 | 5,000 |
| Capital Asset 2 | 3,000 | 9,000 |
| Capital Assets | 5,000 | 14,000 |
| Total | 27,000 | 42,000 |

(ii) Although at the time of the transfer *A* has not held *A*'s interest in *PRS* for more than one year, 50 percent of the fair market value of *A*'s interest in *PRS* was received in exchange for a capital asset with a long-term holding period. Therefore, 50 percent of *A*'s interest in *PRS* has a long-term holding period.

(iii) If *PRS* were to sell all of its section 751 property in a fully taxable transaction immediately before *A*'s transfer of the partnership interest, *A* would be allocated $2,000 of ordinary income. One-half of that amount ($1,000) is attributable to the portion of *A*'s interest in *PRS* transferred to *T.* Accordingly, *A* will recognize $1,000 oridnary income and $2,500 ($3,500–$1,000) of calital gain on account of the transfer to *T* of one-half of *A*'s interest in *PRS.* Fifty percent ($1,250) of that gain is long-term capital gain and 50 percent ($1,250) is short-term capital gain.

*Example 6. Sale of units of interests in a partnership.* A publicly traded partnership (*PRS*) has ownership interests that are segregated into identifiable units of interest. *A* owns 10 limited partnership units in *PRS* for which *A* paid $10,000 on January 1, 1999. On August 1, 2000, *A* purchases five additional units for $10,000. At the time of purchase, the fair market value of each unit has increased to $2,000. *A*'s holding period for one-third ($10,000/$30,000) of the interest in *PRS* begins on the day after the purchase of the five additional units. Less than one year later, *A* sells five units of ownership in *PRS* for $11,000. At the time, *A*'s basis in the 15 units of *PRS* is $20,000, and *A*'s capital gain on the sale of 5 units is $4,333 (amount realized of $11,000—one-third of the adjusted basis or $6,667). For purposes of determining the holding period, *A* can designate the specific units of *PRS* sold. If *A* properly identifies the five units sold as five of the ten units for which *A* has a long-term holding period and elects to use the identification method for all subsequent sales or exchanges of interests in the partnership by using the actual holding period in reporting the transaction on *A*'s federal income tax return, the capital gain realized will be long-term capital gain.

*Example 7. Disproportionate distribution.* In 1997, *A* and *B* each contribute cash of $50,000 to form and become equal partners in a partnership (*PRS*). More than one year later, *A* receives a distribution worth $22,000 from *PRS*, which reduces *A*'s interest in *PRS* to 36 percent. After the distribution, *B* owns 64 percent of *PRS.* The holding periods of *A* and *B* in their interests in *PRS* are not affected by the distribution.

*Example 8.* Gain or loss as a result of a distribution—(i) On January 1, 1996, *A*

contributes property with a basis of $10 and a fair market value of $10,000 in exchange for an interest in a partnership (*ABC*). On September 30, 2000, when *A*'s interest in *ABC* is worth $12,000 (and the basis of *A*'s partnership interest is still $10), *A* contributes $12,000 cash in exchange for an additional interest in *ABC*. *A* is allocated a loss equal to $10,000 by *ABC* for the taxable year ending December 31, 2000, thereby reducing the basis of *A*'s partnership interest to $2,010. On February 1, 2001, *ABC* makes *a* cash distribution to *A* of $10,000. *ABC* holds no inventory or unrealized receivables. (assume that *A* is allocated no gain or loss for the taxable year ending December 31, 2001, so that the basis of *A*'s partnership interest does not increase or decrease as a result of such allocations.)

(ii) The netting rule contained in paragraph (b)(2) of this section provides that, in determining the holding period of *A*'s interest in *ABC*, the cash contribution made on September 30, 2000, must be reduced by the distribution made on February 1, 2001. Accordingly, for purposes of determining the holding period of *A*'s interest in *ABC*, *A* is treated as having made a cash contribution of $2,000 ($12,000–$10,000) to *ABC* on September 30, 2000. *A*'s holding period in one-seventh of *A*'s interest in *ABC* ($2,000 cash contributed over the $14,000 value of the entire interest (determined as if only $2,000 were contributed rather than $12,000)) begins on the day after the cash contribution. *A* recognizes $7,990 of capital gain as a result of the distribution. See section 731(a)(1). One-seventh of the capital gain recognized as a result of the distribution is short-term capital gain, and six-sevenths of the capital gain is long-term capital gain. After the distribution, *A*'s basis in the interest in *PRS* is $0, and the holding period for the interest in *PRS* continues to be divided in the same proportions as before the distribution.

(g) *Effective date.* This section applies to transfers of partnership interests and distributions of property from a partnership that occur on or after September 21, 2000.

## PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

**Par. 5.** The authority citation for part 602 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

**Par. 6.** In § 602.101, paragraph (b) is amended by adding an entry in numerical order to the table to read as follows:

**§ 602.101 OMB Control numbers.**

* * * * *

(b) * * *

| CFR part or section where identified and described | Current OMB control No. |
|---|---|
| 1.1(h)–1(e) | 1545–1654 |

* * * * *

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

Approved: August 29, 2000.

**Jonathan Talisman,**

*Acting Assistant Secretary of the Treasury.*

[FR Doc. 00–24038 Filed 9–20–00; 8:45 am]

BILLING CODE 4830–01–U

## ENVIRONMENTAL PROTECTION AGENCY

## 48 CFR Parts 1503 and 1552

**[FRL–6874–7]**

## Acquisition Regulation

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is issuing this rule to amend the EPA Acquisition Regulation (EPAAR) to add a contract clause to Agency contracts whereby contractors, under contracts exceeding $1,000,000, display EPA Office of the Inspector General Hotline posters within contractor work areas, unless the Contractor has its own internal reporting mechanism and program, such as a hotline.

**EFFECTIVE DATE:** November 20, 2000.

**FOR FURTHER INFORMATION CONTACT:** Larry Wyborski, U.S. Environmental Protection Agency, Office of Acquisition Management (3802R), 1200 Pennsylvania Avenue, NW Washington DC 20460, (202) 564–4369, wyborski.larry@epamail.epa.gov

**SUPPLEMENTARY INFORMATION:**

### A. Background Information

The proposed rule was published in the **Federal Register** (65 FR 25899–25900) on May 4, 2000, providing for a 60 day comment period.

Interested parties were afforded the opportunity to participate in the making of this rule. The following is a summary of the comments received and the Agency disposition of those comments.

1. *Comment:* The Defense Acquisition Regulation Supplement regulations for hotline posters promote contractor self-governance and ethical behavior by allowing contractor hotlines and corresponding contractor hotline posters to be used in lieu of Government hotlines and posters.

1. *Response:* EPA believes this comment has merit and is beneficial to the proposed rule. We will add language similar to the DoD regulations to our final rule which will allow contractor hotlines to be promoted in lieu of the Office of Inspector General hotlines, as long as a contractor has its own internal reporting mechanism and program, such as a hotline. If a contractor lacks its own internal reporting mechanism and program, posting of the EPA Office of Inspector General Hotline will be required. EPA will retain a lower reporting requirement threshold than DoD (contracts valued at $1,000,000 or more, rather than $5,000,000 or more), since analysis of EPA contract awards revealed that only a small percentage of EPA contracts would be subject to the hotline poster requirement if the $5,000,000 threshold was used by EPA.

2. *Comment:* We believe the posting of multiple agency hotline posters would be confusing to contractor staff.

2. *Response:* In an attempt to avoid having multiple agency hotline posters, representatives responsible for drafting the Federal Acquisition Regulation recently met but were unable to reach a consensus on the contents of a Government-wide Office of Inspector General Hotline clause. Different agencies have different requirements for such a clause. EPA will pattern its clause after the DoD (and Department of Veterans Affairs) clause. This will give contractors flexibility by allowing them to defer to their own established business ethics hotlines and internal processes, if an internal hotline process is available.

### B. Executive Order 12866

This is not a significant regulatory action for purposes of Executive Order 12866; therefore, no review is required at the Office of Information and Regulatory Affairs, within the Office of Management and Budget (OMB).

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not contain information collection requirements for the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq*).

### D. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA 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 impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of this rule on small entities, small entity is defined as: (1) A small business that meets the definition of a small business found in the Small Business Act and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This direct final rule does not have a significant impact on a substantial number of small entities. The requirements under the rule impose no reporting, recordkeeping, or compliance costs on small entities.

**E. Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) Public Law 104–4, establishes requirements for Federal agencies to assess their regulatory actions on State, local and Tribal governments and the private sector. This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Any private sector costs for this action relate to paperwork requirements and associated expenditures, which would be far below the level established for UMRA applicability. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

**F. Executive Order 13045**

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (6 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 disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not a significant rule as defined by Executive Order 12866, and because it does not involve decisions on environmental health or safety risks.

**G. Executive Order 13084**

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian Tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay for 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 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 rule does not significantly or uniquely affect the communities of Indian Tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

**H. 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 the Agency decides not to use available and applicable voluntary consensus standards.

This rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

**I. Executive Order 13132**

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'' are 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 effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The rule amends the EPA Acquisition Regulation to add a contract clause to agency contracts whereby contractors, under contracts exceeding $1,000,000, and under certain circumstances, are required to display EPA Office of the Inspector General Hotline posters within contractor work areas. Thus, the

requirements of Section 6 of the Executive Order do not apply to this rule.

**J. Submission to Congress and the General Accounting Office**

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 Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**Authority:** The provisions of this regulation are issued under 5 U.S.C. 301; section 205(c), 63 Stat. 390, as amended 40 U.S.C. 486(c).

**List of Subjects in 48 CFR Parts 1503 and 1552**

Government procurement.

Therefore, 48 CFR Chapter 15 is amended as set forth below:

1. The authority citation for parts 1503 and 1552 continues to read as follows:

**Authority:** Sec. 205(c), 63 Stat. 390 as amended, 40 U.S.C. 486(c).

2. Subpart 1503.5, Contractor Responsibility to Avoid Improper Business Practices, is added as follows:

**Subpart 1503.5—Contractor Responsibility to Avoid Improper Business Practices.**

Sec.

1503.500–70 Policy.
1503.500–71 Procedures.
1503.500–72 Contract clause.

**1503.500–70 Policy.**

Government contractors must conduct themselves with the highest degree of integrity and honesty. Contractors should have standards of conduct and internal control systems that:

(a) Are suitable to the size of the company and the extent of their involvement in Government contracting.

(b) Promote such standards.

(c) Facilitate timely discovery and disclosure of improper conduct in connection with Government contracts, and

(d) Ensure corrective measures are promptly instituted and carried out.

**1503.500–71 Procedures.**

(a) A contractor's system of management controls should provide for:

(1) A written code of business ethics and conduct and an ethics training program for all employees;

(2) Periodic reviews of company business practices, procedures, policies and internal controls for compliance with standards of conduct and the special requirements of Government contracting;

(3) A mechanism, such as a hotline, by which employees may support suspected instances of improper conduct, and instructions that encourage employees to make such reports;

(4) Internal and/or external audits, as appropriate.

(5) Disciplinary action for improper conduct;

(6) Timely reporting to appropriate Government officials of any suspected or possible violation of law in connection with Government contracts or any other irregularities in connection with such contracts; and

(7) Full cooperation with any Government agencies responsible for either investigation or corrective actions.

(b) Contractors who are awarded an EPA contract of $1 million or more must display EPA Office of Inspector General Hotline Posters unless the contractor has established an internal reporting mechanism and program, as described in paragraph (a) of this section.

**1503.500–72 Contract clause.**

As required by EPAAR 1503.500–71(b), the contracting officer shall insert the clause at 1552.203–71, Display of EPA Office of Inspector General Hotline Poster, in all contracts valued at $1,000,000 or more, including all contract options.

4. Part 1552 is amended by adding section 1552.203–71 to read as follows:

**1552.203–71 Display of EPA Office of Inspector General Hotline Poster**

As prescribed in 1503.500–72, insert the following clause in all contracts valued at $1,000,000 or more including all contract options.

**DISPLAY OF EPA OFFICE OF INSPECTOR GENERAL HOTLINE POSTER (AUG 2000)**

(a) For EPA contracts valued at $1,000,000 or more including all contract options, the contractor shall prominently display EPA Office of Inspector General Hotline posters in contractor facilities where the work is performed under the contract.

(b) Office of Inspector General hotline posters may be obtained from the EPA Office of Inspector General, ATTN: OIG Hotline (2443), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, or by calling (202) 260–5113.

(c) The Contractor need not comply with paragraph (a) of this clause if it has established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and provided instructions that encourage employees to make such reports.

Dated: September 7, 2000.

**Judy S. Davis,**

*Acting Director, Office of Acquisition Management.*

[FR Doc. 00–24316 Filed 9–20–00; 8:45 am]

BILLING CODE 6560–50–U

# Proposed Rules

Federal Register

Vol. 65, No. 184

Thursday, September 21, 2000

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 1218

**[FV–00–706–PR]**

## Blueberry Promotion, Research, and Information Order; Amendment No. 1 to Revise the Name of the Program

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The purpose of this rule is to seek comments on changing the title of the Blueberry Promotion, Research, and Information Order to the ''Promotion, Research, and Information Order for Cultivated Blueberries'' and the title for the U.S.A. Blueberry Council (USABC) to the ''U.S.A. Cultivated Blueberry Council (USACBC).'' In addition, this rule would change every reference to blueberries in the Order to ''cultivated blueberries.'' The purpose of these changes is to help avoid confusion in the industry regarding the types of blueberries covered by the program.

**DATES:** Comments must be received by November 20, 2000.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule to: Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs (FV), Agricultural Marketing Service (AMS), USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0244. Comments should be submitted in triplicate and will be made available for public inspection at the above address during regular business hours. Comments may also be submitted electronically to: malinda.farmer@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. A copy of this rule may be found at: www.ams.usda.gov/fv/rpdocketlist.htm.

**FOR FURTHER INFORMATION CONTACT:** Margaret B. Irby, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, S.W., Room 2535–S, Washington, D.C. 20250–0244; telephone (202) 720–5057, fax (202) 205–2800, or e-mail *margaret.irby@usda.gov.*

**SUPPLEMENTARY INFORMATION:**

*Legal authority.* The Blueberry Promotion, Research, and Consumer Information Order (Order) [7 CFR Part 1218] became effective on August 16, 2000 [65 FR 43961, July 17, 2000]. It was issued under the Commodity Promotion, Research, and Information Act of 1996 (Act) [7 U.S.C. 7401–7425].

### Question and Answer Overview

*Why Does the U.S. Department of Agriculture (USDA or the Department) Want to Change the Name of the Program and the USABC?*

USDA has become aware of confusion in parts of the industry over which type of blueberries will be covered by the program. Changing the title of the program, the title of the USABC, and references to blueberries in the Order to ''cultivated blueberries'' will help eliminate this confusion, while keeping all other provisions of the program the same.

*Will USDA Consider Other Names?*

Yes. USDA will consider other names as long as they meet the goal of alleviating the potential for confusion.

*Will Anything Else Change About the Program?*

No. The program as published on July 17, 2000 in the **Federal Register** remains the same.

*Will this Proposed Rule Delay the Appointment of the USABC or the Beginning of the Collection of Assessments Under the Program?*

No. The appointment process will begin soon after the Order becomes effective, and assessments will begin on January 1, 2001.

### Executive Orders 12866 and 12988

This rule has been determined ''not significant'' for purposes of Executive Order (E.O.) 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

In addition, this rule has been reviewed under E.O.12988, Civil Justice Reform. The rule is not intended to have retroactive effect. Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or state law authorizing promotion or research relating to an agricultural commodity.

Under Section 519 of the Act, a person subject to the Order may file a petition with the Secretary of Agriculture (Secretary) stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with the law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within two years after the effective date of the Order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Secretary will issue a ruling on a petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's final ruling.

### Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agency is required to examine the impact of the proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. AMS has examined the impact of this proposed rule on small entities.

There are approximately 2,000 producers, 200 first handlers, 50 importers, and 4 exporters of blueberries subject to the program. Most of the producers would be classified as small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.201]. Most importers and first handlers would not be classified as small businesses, and while most exporters are large, we assume that some are small. The SBA defines small agricultural handlers as those whose

annual receipts are less than $5 million, and small agricultural producers are defined as those having annual receipts of not more than $500,000 annually.

This proposed amendment to the Order is being issued as a result of comments received during the initial comment period on the first proposed rule. Comments were received in favor of and against changing the name of the proposed blueberry program. After further analysis, we are proposing a change to the name of the program to clarify that the program is for the promotion of cultivated blueberries. The goal of this action is to eliminate confusion among industry members and consumers.

The Act authorizes generic programs of promotion, research, and information for agricultural commodities. Congress found that it is in the national public interest and vital to the welfare of the agricultural economy of the United States to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, government-supervised, generic commodity promotion programs.

This rule is intended to amend the Order to revise the name of the program and change references to blueberries in the Order to ''cultivated blueberries.'' All other provisions of the Order as published on July 17, 2000, in the **Federal Register** [65 FR 43961] will remain the same. The amendment is not considered a substantial change that will impact the cultivated blueberry industry.

The proposed amendment to the Order would not impose additional recordkeeping requirements on first handlers, producers, or importers or exporters of cultivated blueberries. Therefore, recordkeeping and reporting requirements for the promotion, research, and information program for cultivated blueberries would remain unchanged by the proposed amendment.

There are no relevant federal rules that duplicate, overlap, or conflict with the proposed rule.

We have performed this Initial Regulatory Flexibility Analysis regarding the impact of this proposed amendment to the Order on small entities, and we invite comments concerning potential effects of the proposed amendment.

## Background

Under the Order, the USABC will begin collecting assessments on domestic and imported cultivated blueberries in 2001. The funds will be used to expand markets for cultivated blueberries in the United States and abroad. The USABC, which will be appointed by the Secretary of Agriculture (Secretary), will operate under the supervision of the USDA's Agricultural Marketing Service (AMS).

Although the Order states that the program covers only cultivated blueberries and not native blueberries, there has been some confusion in parts of the industry because the title of the program and the name of the Council do not specifically reference cultivated blueberries.

Two comments were received regarding this issue and summarized in the February 15, 2000, proposed rule [65 FR 7657] which contains an analysis of comments on the national research and promotion program for blueberries. The commenters requested that, throughout the proposal and in the Council's title, the term ''blueberry'' be changed to ''cultivated blueberry.'' The commenters stated that the generic use of the term ''blueberry'' was misleading as to the specific type of blueberry and industry segment represented by the proposed Council. The commenters noted that the wild blueberry industry promotes its product as unique from the cultivated blueberry. Though this request for a name change was originally not accepted by USDA, it has come to our attention that such a name change could help to avoid confusion in the industry regarding the types of blueberries covered by the program. Therefore, USDA is proposing that the official title of the program be changed to the ''Promotion, Research and Information Order for Cultivated Blueberries'' and that the title for the USABC be changed to the ''U.S.A. Cultivated Blueberry Council.'' In addition, this rule would change all references to ''blueberries'' in the Order to ''cultivated blueberries.''

We welcome written comments on the proposed changes.

## List of Subjects in 7 CFR Part 1218

Administrative practice and procedure, Advertising, Blueberries, Consumer information, Marketing agreements, Blueberry promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, we are proposing to amend chapter XI of title 7 of the Code of Federal Regulations as follows:

## PART 1218—PROMOTION, RESEARCH, AND INFORMATION ORDER FOR CULTIVATED BLUEBERRIES

1. The authority citation for part 1218 continues to read as follows:

**Authority:** 7 U.S.C. 7401–7425.

2. The heading for part 1218 is revised to read as set forth above.

3. Revise the heading of Subpart A to read as follows:

### Subpart A—Promotion, Research, and Information Order for Cultivated Blueberries

4. Revise § 1218.2 to read as follows:

#### § 1218.2 Cultivated Blueberries.

*Cultivated blueberries* means blueberries grown in or imported into the United States of the genus Vaccinium *Corymbosum* and *Ashei,* including the northern highbush, southern highbush, rabbit eye varieties, and any hybrid, and excluding the lowbush (native) blueberry Vaccinium *Angustifolium.*

#### § 1218.3 [Amended]

5. In § 1218.3 the words ''U.S.A. Blueberry Council'' are removed and the words ''U.S.A. Cultivated Blueberry Council'' are added in its place and ''USABC'' is removed and ''USACBC'' is added in its place.

#### §§ 1218.6, 1218.7 and 1218.9 [Amended]

6. In §§ 1218.6, 1218.7, and 1218.9 the word ''blueberries'' is removed and the words ''cultivated blueberries'' are added in its place wherever it appears.

#### § 1218.10 [Amended]

7. In § 1218.10 the word ''blueberries'' is removed and the words ''cultivated blueberries'' are added in its place wherever it appears, and the word ''blueberry'' is removed and the words ''cultivated blueberry'' are added in its place wherever it appears.

#### § 1218.11 [Amended]

8. In § 1218.11 the word ''blueberries'' is removed and the words ''cultivated blueberries'' are added in its place wherever it appears.

#### § 1218.13 [Amended]

9. In § 1218.13 the words ''Blueberry Promotion Research, and Information Order'' are removed and the words ''Promotion, Research, and Information Order for Cultivated Blueberries'' are added in their place.

#### §§ 1218.15, 1218.16, 1218.17, and 1218.18 [Amended]

10. In §§ 1218.15, 1218.16, 1218.17, and 1218.18 the word ''blueberries'' is removed and the words ''cultivated blueberries'' are added in its place wherever it appears.

#### § 1218.23 [Amended]

11. In § 1218.23 ''USABC'' is removed and ''USACBC'' is added in its place

and ''U.S.A. Blueberry Council'' is removed and ''U.S.A. Cultivated Blueberry Council'' is added in its place.

**§ 1218.40 [Amended]**

12. The undesignated center heading preceding § 1218.40 is revised to read as follows:

**U.S.A. Cultivated Blueberry Council**

**§ 1218.40 [Amended]**

13. In § 1218.40 the word ''blueberries'' is removed and the words ''cultivated blueberries'' are added in its place wherever it appears, the words ''U.S.A. Blueberry Council'' are removed and the words ''U.S.A. Cultivated Blueberry Council'' are added in its place wherever it appears, and ''USABC'' is removed and ''USACBC'' is added in its place wherever it appears.

**§§ 1218.41, 1218.42, 1218.43, 1218.44, 1218.45, 1218.46, 1218.47, 1218.48, 1218.50, 1218.51, 1218.55, 1218.56, 1218.62, 1218.70, 1218.73, 1218.75, and 1218.77 [Amended]**

14. In §§ 1218.41, 1218.42, 1218.43, 1218.44, 1218.45, 1218.46, 1218.47, 1218.48, 1218.50, 1218.51, 1218.55, 1218.56, 1218.62, 1218.70, 1218.73, 1218.75, and 1218.77 ''USABC'' is removed and ''USACBC'' is added in its place wherever it appears.

**§§ 1218.52, 1218.53, 1218.54 and 1218.60 [Amended]**

15. In §§ 1218.52, 1218.53, 1218.54, and 1218.60 the word ''blueberries'' is removed and the words ''cultivated blueberries'' are added in its place whever it appears, and ''USABC'' is removed and ''USACBC'' is added in its place wherever it appears.

**§§ 1218.71 and 1218.72 [Amended]**

16. In §§ 1218.71 and 1218.72 the word ''blueberries'' is removed and the words ''cultivated blueberries'' are added in its place wherever it appears.

Dated: September 15, 2000.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00–24219 Filed 9–20–00; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

## Animal and Plant Health Inspection Service

## 9 CFR Parts 71 and 85

**[Docket No. 98–023–1]**

## Interstate Movement of Swine Within a Production System

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to establish an alternative to the current requirements for moving swine interstate. Under this alternative, persons may move swine interstate without meeting individual swine identification and certain other requirements if they move the swine within a single swine production system, and if swine producers participating in that system sign agreements with the Animal and Plant Health Inspection Service and involved State governments to monitor the health of animals moving within the swine production system and to facilitate traceback of these animals if necessary. This action would facilitate the interstate movement of swine while continuing to provide protection against the interstate spread of swine diseases. This action would affect persons engaged in swine production who regularly move swine interstate in their business operations.

**DATES:** We invite you to comment on this docket. We will consider all comments that we receive by November 20, 2000.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 98–023–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 98–023–1.

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

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

**FOR FURTHER INFORMATION CONTACT:** Dr. Arnold Taft, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road, Unit 43, Riverdale, MD 20737–1231; (301) 734–4916.

**SUPPLEMENTARY INFORMATION:**

### Background

The swine production industry has dramatically changed its business practices and operating procedures over the last generation. Fifty years ago swine production facilities were mainly small operations that typically produced a small number of swine (up to a few hundred). Often the same premises would breed swine, farrow them, wean the offspring, and feed them until they reached slaughter weight. Today, market economies have resulted in specialization that has created separate operations, often on separate premises, for the three stages of swine production—sow herds, nursery herds, and growing or finishing herds. Piglets are born and weaned in a sow herd, moved to a nursery herd for several weeks, then moved to a growing herd where they are fed until they reach slaughter weight after about 180 days.

A single producer may own all three types of facilities, or may have standing relationships with facilities owned by another producer. The result is that swine may move through all three types of herds, often crossing State lines in the process, either without changing ownership, or changing ownership but remaining under the control of a single producer. This swine production model is distinctly different from the commercial model reflected in the current Animal and Plant Health Inspection Service (APHIS) regulations for interstate movement of swine. When those regulations were written, swine (other than valued breeding stock) were generally moved interstate only when a change in ownership occurred, usually when they were shipped to slaughter. Today, millions of swine move interstate while they are raised for slaughter or breeding under a swine production system, and while they remain under the control of a single owner or a group of contractually related owners. In response to these changes in commercial practice, APHIS is reexamining its regulations for moving swine interstate, including requirements for swine identification and health certificates, to determine what requirements should apply to

swine moving interstate within a swine production system.

The regulations in subchapter C of chapter I, title 9, Code of Federal Regulations, govern the interstate movement of animals to prevent the dissemination of livestock and poultry diseases in the United States. Parts 71 and 85 (referred to below as the regulations) are included in subchapter C. Part 71 relates to the interstate transportation of animals, poultry, and animal products and includes animal identification requirements for swine moving interstate. Part 85 imposes requirements to control the spread of pseudorabies and includes health certificate and other requirements for the interstate movement of swine. The requirements of parts 71 and 85 that are relevant to this proposed rule are summarized in the following chart. This chart does not include the current requirements for swine moved interstate solely for slaughter, or to livestock markets for sale to slaughter, since this proposed rule would not change those requirements.

| Section | Purpose of interstate movement | Type of swine to be moved | Requirements for interstate movement |
|---|---|---|---|
| § 71.19(a) | Slaughter and non-slaughter. | Other than § 71.19(c), which covers swine moved as a group from the premises where they were born directly to slaughter. | Official identification applied no later than the first of the following events: Point of first commingling in interstate movement with swine from another source; upon unloading in interstate commerce at any livestock market; upon transfer of ownership in interstate commerce; or upon arrival in interstate commerce at the final destination. |
| § 85.7(b)(1) | Nonslaughter | Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies, moved interstate from a qualified pseudorabies negative herd directly to a feedlot, quarantined feedlot, or quarantined herd. | No identification requirement. |
| § 85.7(b)(2) | Nonslaughter | Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies, moved interstate from any herd directly to a feedlot, quarantined feedlot, or quarantined herd. | Accompanied by a certificate that is delivered to the consignee that describes the identification required by § 71.19 and states that each animal: (A) was subjected to an official pseudorabies serologic test within 30 days prior to the interstate movement and was found negative, the test date, and the name of the laboratory that conducted the test; or (B) is part of a currently recognized qualified pseudorabies negative herd, and the date of the last qualifying test; or (C) is part of a pseudorabies controlled vaccinated herd and is one of the offspring that was subjected to the official pseudorabies serologic test, and the date of the last test to maintain that status. |
| § 85.7(b)(3) | Nonslaughter | Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies, moved interstate from any herd directly to a feedlot, quarantined feedlot, or quarantined herd, when moved from a State which requires the State animal health official to be immediately notified of any suspected or confirmed case of pseudorabies in that State and which requires that exposed or infected livestock be quarantined. | Accompanied by an owner-shipper statement and a certificate that are delivered to the consignee; the certificate describes the identification required by § 71.19; and approval for the interstate movement has been issued by the State animal health official of the State of destination prior to movement. |
| § 85.7(c) | Nonslaughter | Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies, moved interstate from any herd to any destination. | Accompanied by a certificate that is delivered to the consignee that describes the identification required by § 71.19 and states that each animal: (A) was subjected to an official pseudorabies serologic test within 30 days prior to the interstate movement and was found negative, the test date, and the name of the laboratory that conducted the test; or (B) is part of a currently recognized qualified pseudorabies negative herd, and the date of the last qualifying test; or (C) is part of a pseudorabies controlled vaccinated herd and is one of the offspring that was subjected to the official pseudorabies serologic test, and the date of the last test to maintain that status. |
| § 85.8(a) | Nonslaughter | Swine not known to be infected with or exposed to pseudorabies, moved interstate from a qualified negative gene-altered vaccinated herd directly to a feedlot or quarantined feedlot. | No requirement. |

| Section | Purpose of interstate movement | Type of swine to be moved | Requirements for interstate movement |
|---|---|---|---|
| § 85.8(b) ..... | Nonslaughter ..... | All other movements from a qualified negative gene-altered vaccinated herd of swine not known to be infected with or exposed to pseudorabies. | Accompanied by a certificate that is delivered to the consignee that describes the identification required by § 71.19 and that states: (A) the swine are from a qualified negative gene-altered vaccinated herd; (B) the date of the herd's last qualifying test; and (C) if the swine to be moved are official gene-altered pseudorabies vaccinates, the official gene-altered pseudorabies vaccine used in the herd. |

Currently, under § 71.19, swine moved in interstate commerce, except for certain swine moving directly to slaughter, must be individually identified by means approved by the APHIS Administrator and listed in § 71.19(b). Under § § 85.7 and 85.8, swine moved in interstate commerce must also meet requirements to prevent the spread of pseudorabies. With a few exceptions, § § 85.7 and 85.8 require that swine moved interstate be accompanied by a certificate that contains certain statements about the animals' pseudorabies status.

This proposed rule would not replace the requirements described above; swine producers (owners of sow farms, nurseries, and finishing operations) could continue to move swine interstate in accordance with these requirements. We are proposing to amend parts 71 and 85 by providing an alternative to these requirements. This alternative could be used by any swine producer who moves swine interstate in the course of operations. Under the proposed alternative, producers could move swine interstate without meeting the requirements for individual identification and certification. However, State animal health officials in both the sending and receiving States would have to agree to allow the movement of swine according to this proposed alternative by signing a swine production health plan, described below. Movement under this proposed alternative would not be allowed to or from States that do not agree to the proposed provisions. In those States that do not agree to this proposed alternative, swine moving interstate would have to move in accordance with the current requirements for individual animal identification and certification.

We anticipate that the proposed alternative would be used primarily for the movement of swine being raised for slaughter, but breeder swine would also be allowed to move under the proposed alternative. However, the proposed alternative would not apply to the final movement of swine to slaughter or to livestock markets for sale to slaughter; such swine would have to meet the current requirements for individual animal identification and certification. We do not propose to allow this new alternative for swine moving in slaughter channels because the alternative is designed for swine moving within a production system where they are under control of a single owner, or a group of contractually connected owners. When swine move to slaughter, they come under the control of a larger and diverse group of markets, transporters, brokers, etc., that do not have consistent and unified control over the animals—a necessary ingredient of the proposed alternative described below.

If this proposal is adopted, producers, under this alternative could move swine interstate from sow farms to nurseries to growing or finishing operations without individually identifying the animals or obtaining health certificates for them if they meet the following requirements, discussed in detail below:

- The producers have a written *swine production health plan* (SPHP) signed by the producer(s), the acrredited veterinarian(s) for the premises, APHIS, and the States in which the swine production system has premises.

- One or more *accredited veterinarians* identified in the SPHP will regularly visit each premises in the swine production system to inspect and test swine and will continually monitor the health of the swine in the swine production system. Swine may only be moved interstate if they have been found free from signs of any communicable disease during the most recent inspection of the premises by the swine production system accredited veterinarian.

- The SPHP describes a *records system* maintained by the producers to document that health status.

- Prior to each interstate movement of swine between premises within a production system, an *interstate swine movement report* must be sent to APHIS, the accredited veterinarian for the premises, and the sending and receiving States documenting the number, type, and health status of the swine being moved.

**Swine Production Health Plan**

A central feature of this proposal would be the SPHP. In effect, the SPHP would be an enduring agreement maintained on file with swine producers, affected States, and APHIS, that takes the place of individual health certificates or State permits that would otherwise be required to accompany the movement of swine.

The SPHP would be a written plan developed for all premises in a swine production system to maintain the health of the swine and detect signs of communicable disease. The SPHP would have to identify all premises that are part of the swine production system and provide for an accredited veterinarian to perform regular inspections of all premises and swine on the premises at intervals no greater than 30 days. The SPHP would also provide that, upon request, APHIS representatives and State animal health officials will have access to any premises in a swine production system to inspect animals and review records. The SPHP would also have to authorize access for the accredited veterinarian(s) hired by the producer and identified in the SPHP, since the accredited veterinarian(s) would be the person(s) primarily responsible for monitoring and documenting the health of the swine through a system of regular visits to inspect and test the swine. The SPHP would also have to document any specific animal health requirements of a State that is a signatory to the SPHP; for instance, if a State requires that swine moved into that State be tested for particular diseases, or that herds be monitored in particular ways, the SPHP would have to contain those requirements. Additionally, the SPHP would have to describe the recordkeeping system of the swine production system. The SPHP would not be valid unless it is signed by all producers in the swine production system, the swine production system accredited veterinarian(s), an APHIS representative, and the State animal health official from each State in which the swine production system has premises. To aid enforcement and compliance, the SPHP would also have

to include a declaration by all producers in the swine production system acknowledging that failure to abide by the provisions of the SPHP and the applicable provisions of the regulations constitutes a basis for the cancellation of the SPHP.

As noted above, the SPHP would not be valid unless it is signed by each producer participating in the swine production system, the swine production system accredited veterinarian(s), an APHIS representative, and the State animal health official from each State in which the swine production system has premises. The State animal health official is defined by § 71.1 and § 85.1 as the official responsible for a State's livestock and poultry disease control and eradication programs.

The requirement that a State animal health official must sign and approve each SPHP gives States the opportunity to decide whether or not to allow swine to move from or into their States under the proposed alternative, which eliminates the requirements for a health certificate and individual animal identification. This system would give individual State governments the opportunity to discuss the contents of SPHP's with the owners of swine production systems. This would ensure that each SPHP contains swine health maintenance procedures that will safeguard against health concerns that are of particular importance to that State and ensure that the SPHP is an effective substitute for other paperwork the State might have formerly required, *e.g.,* State certificates of veterinary inspection or health certificates. If a State animal health official does not sign an SPHP, swine in that production system could only move into that State with the paperwork and individual identification currently required by parts 71 and 85.

A State or swine production system could withdraw from an SPHP by giving written notice to the other signatories. Withdrawal shall become effective upon the date specified by the State animal health official or the swine production system in the written notice, but for shipments in transit, withdrawal shall become effective 7 days after the date of such notice. This 7-day delay is proposed to allow arrival of shipments in transit. If one State withdraws from an SPHP signed by other States, a swine production system could not move swine into or from the withdrawing State under the conditions of the canceled SPHP, but the SPHP would remain in effect for the swine production system's premises in other States.

An SPHP could be canceled by the Administrator if the swine production system fails to abide by requirements in the SPHP or other requirements of our regulations. If the Administrator cancels an SPHP, swine in that production system could only move interstate under the other requirements of the regulations, which in many cases would require individual animal identification and health certificates. Finally, the swine production system itself could also cancel an SPHP it has signed at any time, or withdraw one or more of its premises from the SPHP.

**Role of Accredited Veterinarian**

The SPHP would have to identify one or more accredited veterinarians who would be under contract with the swine production system to visit all premises within the swine production system at least once every 30 days to conduct general health assessments of the animals. There may be several accredited veterinarians identified in the SPHP, since different veterinarians may serve different premises. These regular visits by the accredited veterinarian(s) would be the primary means of ensuring that swine on a particular premises are maintained in continuing good health, and, therefore, could be safely moved interstate under this alternative. The accredited veterinarian(s) would have to document the health status of swine on a premises with regard to pseudorabies, among other diseases, in records created by the accredited veterinarian and kept by the producer; *e.g.,* a herd inventory with notations documenting the health of the inventoried animals. These records and the proposed interstate swine movement report (ISMR), discussed below, will serve to document the health of animals, rather than individual health certificates.

**Records System**

The system of records that would be required is a crucial part of this proposal. It must be effective enough to replace the current requirement for individual identification of swine. Individual swine identification is an important tool used in efforts to trace the movement of diseased swine and identify premises affected by the disease. In order for a records system to substitute for individual animal identification, records of the operations on the premises (*e.g.,* the way animals are assigned to pens and the extent to which different lots are commingled) must allow any animal to be traced back to its previous premises without benefit of individual animal identification. The receiving premises must not commingle swine received from different premises in a manner that prevents identification of the premises that sent particular swine or groups of swine. We propose that this may be achieved by use of permanent premises or individual identification mark on animals, by keeping groups of animals received from one premises physically separate from animals received from other premises, or by any other effective means. APHIS would not approve an SPHP unless it described a records system that would adequately document the health of animals on a premises and allow traceback of animals from one premises to another.

We would not dictate the exact type of recordkeeping system that must be used, but the system chosen would need to allow complete traceback of any animal to the previous premises. There are several approaches producers might take to maintain an adequate records system. First, they might choose to use permanent premises or individual animal identification, coupled with shipping records that record the movements of each animal. (While individual animal identification would not be required by this proposal, it could be employed by swine production systems that choose to use it.) Alternatively, all animals on a premises might be marked with a permanent premises identification mark. When the animals are moved to another premises, this mark would indicate which premises they came from. Another approach could be to move animals in intact groups and maintain the groups separately on the new premises, with appropriate records indicating where each group of animals originated. This proposal would allow producers to use any of these approaches or any other effective system that maintains records adequate to trace animals back to their earlier premises.

We also propose to require producers to maintain in their recordkeeping systems copies of the SPHP and all ISMR's that relate to their premises, as well as copies of any reports that the accredited veterinarian issues documenting the health status of the swine on the premises. These records would have to be kept for 3 years after their creation, to provide a historical record in case it is necessary for APHIS to investigate violations of the regulations.

**Interstate Swine Movement Report**

We also propose that the swine production system would have to notify its accredited veterinarian(s), APHIS, and State regulatory officials in the States of origin and destination when

swine are ready to be moved interstate. The producer would do this by sending these signatories an ISMR prior to each time swine are moved interstate. APHIS is exploring the possibility that, in some cases, the ISMR could be in electronic rather than a paper form, making it very easy for a producer to meet the ISMR requirement. The ISMR would have to contain the name of the swine production system; the name, location, and premises identification number of the premises from which the swine are to be moved and the premises to which the swine will be moved; the date of movement; and the number, age, and type (*e.g.,* feeder pigs, market hogs, culled sows and boars) of swine to be moved. The ISMR would also have to contain a description of any individual or group identification associated with the swine, the name of the accredited veterinarian who regularly inspects animals on the premises, the pseudorabies status under part 85 of the herd from which the swine are moved, and an accurate statement that swine on the premises have been inspected and found free from signs of communicable disease by the accredited veterinarian within the past 30 days.

**Relationship of Proposed Action to Universal Animal Identification Initiatives**

The United States Department of Agriculture and the Food and Drug Administration are currently supporting various initiatives to encourage livestock industries to expand individual identification of animals, in order to assist these agencies in their programs addressing food safety and animal health issues. Agencies addressing these issues often find it useful to be able to trace an animal back from slaughter, through all its intermediate locations, to its farm of origin. One way to provide this tool is to apply a unique identification to each animal soon after birth, and maintain databases of records documenting the movement of each animal until the time of its slaughter or other disposal.

APHIS is involved in testing this lifelong animal identification approach by means of several projects and pilots with groups such as the Livestock Conservation Institute, the dairy industry's National Farm Animal Identification and Records project, various State governments, and other industry associations. However, the current proposal provides an alternative means to reach the same goal, *i.e.,* to provide a way to trace swine from slaughter back to the farm of origin, when necessary. To ensure that such traceback is possible, the proposal uses a combination of individual animal identification (required when swine make their final interstate movement to slaughter) along with other records and forms discussed in this proposal (*e.g.,* swine production system records and interstate swine movement reports). APHIS remains committed to supporting voluntary industry efforts to adopt universal individual animal identification, but also supports providing alternative tools that provide the information needed for successful traceback of animals.

*Executive Order 12866 and Regulatory Flexibility Act*

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The Regulatory Flexibility Act (5 U.S.C. 603 *et seq.*) requires agencies to analyze the economic effects of our rules on small entities. Our analysis follows.

This proposed rule would offer an alternative to the current requirements for moving swine interstate.[1] Under the proposal, producers within a single production system (*e.g.,* owners of sow farms, nurseries, and growing or finishing operations) could move swine interstate without meeting the current identification and certification requirements if they: (1) Sign a swine health production plan with APHIS and the sending and receiving States; (2) have an accredited veterinarian visit the premises at least once every 30 days to assess and document the general health of the animals; (3) maintain a recordkeeping system sufficiently adequate to enable APHIS or State inspectors to trace an animal back to its herd of origin; and (4) notify the accredited veterinarian, APHIS, and State regulatory officials in the States of origin and destination when swine are ready to be moved interstate. The proposal would not mandate a specific type of recordkeeping system; those in the production system would be free to choose their own system of records, as long as APHIS determines that the system meets the requirements of § 71.19(h)(6) and effectively documents animal health and allows for animal traceback. Also, the formal written agreement would have to be approved and signed by the producers participating in the swine production system, APHIS, and the relevant States.

The primary economic benefits to producers would be that they could avoid the costs of individually identifying animals and obtaining individual animal health certificates for each shipment. Recordkeeping costs under the current requirements and under this proposed alternative would be comparable, although some different records (copies of SPHP's and ISMR's) would be maintained under the proposed alternative.

The proposed rule would benefit U.S. swine producers who move their animals interstate within a single production system. Currently, such systems are used primarily by the largest producers. Producers would be able to realize the benefits of this rule with little or no additional cost, since many have most of the major elements of the proposed recordkeeping system (records indicating the source and disposition of swine and identifying which swine are grouped together) already in place.

As an example of the potential cost savings for producers from not having to individually identify animals, we estimate that the material cost for each identification eartag is about 5 cents and that it takes one person 1 hour to attach about 250 eartags. For a large producer who moves 1 million swine interstate each year with an eartag, the annual savings if the producer no longer uses eartags would be about $50,000 in materials and about $40,000 in labor (assuming a labor rate of $10/hr.). Health certificates are typically issued on a per shipment basis, with one certificate issued for all swine in a truckload. For a producer who moves 1 million swine interstate each year, the annual cost of obtaining health certificates is about $140,000 (assuming 250 swine per shipment and a veterinarian fee of $35 per shipment).[2] Under the proposal, individual identification and health certificates would be replaced by the records kept in accordance with the SPHP and the ISMR's issued for interstate movements attesting that the swine had been found healthy by an accredited veterinarian

[1] The proposal would not apply to swine moving to slaughter; those animals would have to continue to meet the current requirements for individual identification and certification, as applicable.

[2] Producers, especially the larger ones, typically obtain health certificates from accredited veterinarians who are unaffiliated with APHIS or the State agricultural agencies. The veterinarian fee of $35 is an estimate based on telephone consultation with several accredited veterinarians; such fees can vary depending on individual circumstances. In come cases, veterinarians charge no fee for issuing a health certificate, especially when they are dealing with producers for whom they provide services on a regular, routine basis.

within the 30 days preceding the interstate movement.

The requirement in the SPHP that an accredited veterinarian must visit the premises at least once every 30 days to assess the general health of the animals would not constitute an additional burden for producers, since most are already visited by a veterinarian on that basis.

As indicated above, the swine production system would eliminate the need for producers to obtain health certificates from accredited veterinarians on an individual shipment basis, a situation which, on the surface, would seem to have a negative impact on the entity's income. However, most accredited veterinarians generate little or no income from issuing health certificates, charging either a nominal fee or no fee at all, especially when they are dealing with producers for whom they provide services on a regular, routine basis. This change should allow them to make more productive use of their time by allowing them to schedule regular health maintenance visits to a facility, rather than visiting when called, possibly at inconvenient times, to issue certificates just prior to movement. This change would also give producers more flexibility in scheduling movements of swine.

*Effects on Small Entities*

The proposed rule would primarily benefit U.S. swine producers who move their animals interstate within a single production system. Currently, such systems are used primarily by the largest producers, most of whom do not appear to be small in size by U.S. Small Business Administration (SBA) criteria. The SBA considers a hog farm or feedlot small if its annual receipts are $0.5 million or less. We estimate that, of the 114,380 hog and pig operations in the United States, no more than about 4 percent (or 4,575) currently participate in multi-State production systems and, of those that do participate, most rank among the industry's largest producers.[3] Census data from the National Agricultural Statistics Service (NASS) indicate that, in 1997, the per farm average value of pigs and hogs sold for the top 4 percent of U.S. farms was in excess of $0.5 million.[4] NASS' data suggests, therefore, that many of the producers that currently participate in interstate production systems are not small by SBA standards.

The proposed rule could encourage more small producer participation in the future, since it would provide them with an economic incentive to network together into one production system. For some small producers, especially those operating on thin profit margins, this opportunity to reduce costs via production networks could make the difference between economic viability and insolvency. At this time, however, there is no basis to conclude that the number of small producers who might form networks in the future would be substantial.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

*Executive Order 12372*

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

*Executive Order 12988*

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

*Paperwork Reduction Act*

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 98–023–1. Please send a copy of your comments to: (1) Docket No. 98–023–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would create three new information collection and recordkeeping requirements. The first is the swine production health plan (SPHP) for each participating swine production system. This written plan would be jointly developed and signed by all the swine producers moving swine within a production system, APHIS, and the involved State animal health officials. This plan would be written when a swine production system is established under the regulations and might be amended by mutual consent from time to time.

This proposed rule would also require that swine producers submit a report, the interstate swine movement report, each time swine are moved interstate from one premises to another. This report would list the number and types of animals moved, identify the premises they are moved from and to, and give the date of movement and certain other information about the swine production system. We expect that an online system will be developed in the near future that will allow a producer to enter the necessary data in an electronic form and automatically route it to the required report recipients.

This proposed rule would also require a system of records each participating producer would have to keep to document the health of animals in the herd and the movement of animals between premises in the swine production system. This record system is needed to ensure that only healthy animals are moved and to allow State or APHIS officials to trace animals back to their premises of origin when necessary.

Except for developing the SPHP, most of this burden involves keeping records or submitting reports of movement data that are already kept by producers in one form or another for normal business purposes. Producers who choose to operate under the proposed system would be freed from two other information collection and recordkeeping burdens that apply under the existing regulations—individual animal identification and health certificates required by parts 71 and 85.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

[3] Sources: Agricultural Statistics, 1999. The hog and pig operation count is as of December 1, 1998.

[4] See 1997 Census of Agriculture, Vol. 1, Part 51, United States. As used here, the word ''top'' refers to those farms with the highest number of animals sold.

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, 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 information collection on those who are to respond (such as 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).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 3 minutes per response.

*Respondents:* Swine producers operating within swine production systems.

*Estimated annual number of respondents:* 2,000.

*Estimated annual number of responses per respondent:* 51.

*Estimated annual number of responses:* 51,000.

*Estimated total annual burden on respondents:* 4,500 hours.

It should also be noted that for the purpose of these calculations, we used only the total annual hours necessary to generate the Interstate Swine Movement Reports (4,500 hours), and not the initial 4,000 hours needed to complete the Swine Production Health Plans. The creation of a Swine Production Health Plan is not an annual activity; it is generated only once and then kept on file.

Copies of this information collection can be obtained from: Ms. Laura Cahall, APHIS' Information Collection Coordinator, at (301) 734–5360.

**List of Subjects**

*9 CFR Part 71*

Animal diseases, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

*9 CFR Part 85*

Animal diseases, Livestock, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we propose to amend 9 CFR parts 71 and 85 as follows:

## PART 71—GENERAL PROVISIONS

1. The authority citation for part 71 would be revised to read as follows:

**Authority:** 21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

2. In § 71.1, the following definitions would be added in alphabetical order:

**§ 71.1 Definitions.**

* * * * *

*Interstate swine movement report.* A paper or electronic document signed by a producer moving swine giving notice that a group of animals is being moved across State lines in a swine production system. This document must contain the name of the swine production system, the name, location, and premises identification number of the premises from which the swine are to be moved, the name, location, and premises identification number of the premises to which the swine are to be moved, the date of movement, and the number, age, and type of swine to be moved. This document must also contain a description of any individual or group identification associated with the swine, the name of the swine production system accredited veterinarians, the pseudorabies status under part 85 of this chapter of the herd from which the swine are to be moved, and an accurate statement that swine on the premises from which the swine are to be moved have been inspected by the swine production system accredited veterinarian(s) within 30 days prior to the interstate movement and consistent with the dates specified by the premises' swine production health plan and found free from signs of communicable disease.

* * * * *

*Swine production health plan.* A written agreement developed for one or more premises in a swine production system designed to maintain the health of the swine and detect signs of communicable disease. The plan must identify all premises that are part of the swine production system and must provide for regular inspections of all premises and swine on the premises, at intervals no greater than 30 days, by the swine production system accredited veterinarian(s). The plan must also describe the recordkeeping system of the swine production system. The plan must also list any specific animal health requirements of States that are signatory to the plan. The plan will not be valid unless it is signed by all of the producers participating in the swine production system, the swine production system accredited veterinarian(s), an APHIS representative, and the State animal health official from each State in which the swine production system has premises. In the plan, the producer moving the swine must acknowledge that he or she has been informed of and understands that failure to abide by the provisions of the plan and the applicable provisions of this part and part 85 constitutes a basis for the cancellation of the swine production health plan.

*Swine production system.* A swine production enterprise that consists of multiple sites of production, *i.e.,* sow herds, nursery herds, and growing or finishing herds, that are connected by ownership or contractual relationships, between which swine move while remaining under the control of a single owner or a group of contractually connected owners.

*Swine production system accredited veterinarian.* An accredited veterinarian who is named in a swine production health plan for a premises within a swine production system and who performs inspection of such premises and animals and other duties related to the movement of swine in a swine production system.

* * * * *

3. Section 71.19 would be amended as follows:

a. In paragraph (a)(1), introductory text, by removing the words ''paragraph (c)'' and adding in their place the words ''paragraphs (c) and (h)''.

b. By adding new paragraphs (h) and (i).

**§ 71.19 Identification of swine in interstate commerce.**

* * * * *

(h) *Swine moving interstate within a swine production system.* Swine within a swine production system are not required to be individually identified when moved in interstate commerce under the following conditions:

(1) The swine may be moved interstate only to another premises owned and operated by the same swine production system.

(2) The swine production system must operate under a valid swine production health plan, in which both the sending and receiving States have agreed to allow the movement.

(3) The swine must have been found free from signs of any communicable disease during the most recent inspection of the premises by the swine production system accredited veterinarian(s).

(4) Prior to the movement of any swine, the producer(s) moving swine must deliver the required interstate swine movement report to the following individuals identified in the swine production health plan:

(i) The APHIS representative;

(ii) The swine production system accredited veterinarian for the premises from which the swine are to be moved; and,

(iii) The State animal health officials for the sending and receiving States, and any other State employees designated by the State animal health officials.

(5) The receiving premises must not commingle swine received from different premises in a manner that prevents identification of the premises that sent the swine or groups of swine. This may be achieved by use of permanent premises or individual identification marks on animals, by keeping groups of animals received from one premises physically separate from animals received from other premises, or by any other effective means.

(6) Each premises must maintain, for 3 years after their date of creation, records that will allow an APHIS representative or State animal health official to trace any animal on the premises back to its earlier premises and its herd of origin, and must maintain copies of each swine production health plan signed by the producer, all interstate swine movement reports issued by the producer, and all reports the swine production system accredited veterinarian(s) issue documenting the health status of the swine on the premises.

(7) Each premises must allow APHIS representatives and State animal health officials access to the premises upon request to inspect animals and review records.

(i) *Cancellation of and withdrawal from a swine production health plan.* The following procedures apply to cancellation of, or withdrawal from, a swine production health plan:

(1) A State animal health official may cancel his or her State's participation in a swine production health plan by giving written notice to all swine producers, APHIS representatives, accredited veterinarians, and other State animal health officials listed in the plan. Withdrawal shall be effective upon the date specified by the State animal health official in the notice, but for shipments in transit, withdrawal shall become effective 7 days after the date of such notice. Upon withdrawal of a State, the swine production health plan shall continue to operate among the other States and parties signatory to the plan.

(2) A swine production system may cancel a swine production health plan, or withdraw one or more of its premises from participation in the plan, upon giving written notice to the Administrator and to the accredited veterinarians and State animal health officials listed in the plan. Withdrawal shall be effective upon the date specified by the swine production system in the written notice, but for shipments in transit withdrawal shall become effective 7 days after the date of such notice.

(3) The Administrator may cancel a swine production health plan by giving written notice to all swine producers, accredited veterinarians, and State animal health officials listed in the plan. The Administrator shall cancel a swine production health plan after determining that swine movements within the swine production system have occurred that were not in compliance with the swine production health plan or with other requirements of this chapter. Before a swine health production plan is canceled, an APHIS representative will inform a representative of the swine production system of the reasons for the proposed cancellation. The swine production system may appeal the proposed cancellation in writing to the Administrator within 10 days after being informed of the reasons for the proposed cancellation. The appeal must include all of the facts and reasons upon which the swine production system relies to show that the reasons for the proposed cancellation are incorrect or do not support the cancellation. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. However, cancellation of the disputed swine production health plan shall become effective pending final determination in the proceeding if the Administrator determines that such action is necessary to protect the public's health, interest, or safety. Such cancellation shall become effective upon oral or written notification, whichever is earlier, to the swine production system representative. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. This cancellation shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

## PART 85—PSEUDORABIES

1. The authority citation for part 85 would be revised to read as follows:

**Authority:** 21 U.S.C. 111, 112, 113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

### § 85.7 [Amended]

2. Section 85.7 would be amended as follows:

a. In paragraph (b)(3)(i) introductory text, by removing the phrase ''The swine'' and adding in its place the phrase ''Unless the swine are moving interstate in a swine production system in compliance with § 71.19(h) of this chapter, the swine''.

b. In paragraph (b)(3)(ii), by removing the phrase ''The swine are accompanied by a certificate'' and adding in its place the phrase ''Unless the swine are moving interstate in a swine production system in compliance with § 71.19(h) of this chapter, the swine are accompanied by a certificate''.

c. In paragraph (c)(1), by removing the phrase ''The swine are accompanied by a certificate'' and adding in its place the phrase ''Unless the swine are moving interstate in a swine production system in compliance with § 71.19(h) of this chapter, the swine are accompanied by a certificate''.

3. Section 85.8 would be amended by removing the period at the end of paragraph (a)(3) and adding in its place ''; or''; and by adding a new paragraph (a)(4) to read as follows:

### § 85.8 Interstate movement of swine from a qualified negative gene-altered vaccinated herd.

(a) * * *

(4) The swine are moved interstate in a swine production system in compliance with § 71.19(h) of this chapter.

* * * * *

Done in Washington, DC, this 14th day of September 2000.

**Bobby R. Acord,**

*Acting, Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00–24132 Filed 9–20–00; 8:45 am]

BILLING CODE 3410–34–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–CE–88–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; DG Flugzeugbau GmbH Models DG–500 Elan Series, DG–500M, and DG–500MB Sailplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to certain DG Flugzeugbau (DG Flugzeugbau) GmbH

Models DG–500 Elan Series, DG–500M, and DG–500MB sailplanes. The proposed AD would require you to visually inspect the elevator control system for proper movement, obtain and incorporate a repair scheme if improper movement is found, and modify and install resin thickened cottonflock reinforcements to the elevator control system as a way to increase the stiffness of the elevator control support stand. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the Federal Republic of Germany. The actions specified by the proposed AD are intended to detect and correct improper movement in the elevator control system and to increase the stiffness of the elevator control support stand. Without accomplishing these actions, the pilot's capability to use full elevator control deflection could be limited, which could require increased force in moving the elevator control with a consequent potentially uncontrolled flight condition.

**DATES:** The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before October 9, 2000.

**ADDRESSES:** Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–88–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from DG Flugzeugbau GmbH, Postbox 41 20, D–76646 Bruchsal, Federal Republic of Germany; telephone: +49 7257–890; facsimile: +49 7257–8922. This information also may be examined at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

*How Do I Comment on the Proposed AD?*

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

*Are There any Specific Portions of the Proposed AD I Should pay Attention to?*

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

We are re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov.*

*How Can I Be Sure FAA Receives My Comment?*

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 99–CE–88–AD.'' We will date stamp and mail the postcard back to you.

## Discussion

*What Events Have Caused This Proposed AD?*

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, recently notified FAA that an unsafe condition may exist on certain DG Flugzeugbau GmbH Models DG–500 Elan Series, DG–500M, and DG–500MB sailplanes. The LBA reports an incident where a Model DG–500 sailplane experienced notably higher elevator control stiffness during an aerobatic flight. This situation was the result of the outer aluminum tube moving and slipping within the elevator control support stand.

*What Are the Consequences If the Condition Is Not Corrected?*

If the elevator control support stand permits the outer aluminum tube to move, the pilot's capability to use full elevator control deflection could be limited, which could require increased force in moving the elevator control. This could lead to an uncontrolled flight condition.

## Relevant Service Information

*Is There Service Information That Applies to This Subject?*

DG Flugzeugbau has issued Technical Note (TN) No. 348/12 and 843/12, dated October 6, 1999.

*What Are the Provisions of This Service Bulletin?*

The service bulletin includes procedures for:

—visually inspecting the elevator control system for proper movement; and

—modifying and installing resin thickened cottonflock reinforcements to the elevator control system as a way to increase the stiffness of the elevator control support stand.

*What Action Did the LBA Take?*

The LBA classified this service bulletin as mandatory and issued German AD Number 1999–341, dated November 18, 1999, in order to assure the continued airworthiness of these sailplanes in Germany.

*Was This in Accordance With the Bilateral Airworthiness Agreement?*

These sailplane models are manufactured in Germany and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept FAA informed of the situation described above.

## The FAA's Determination and an Explanation of the Provisions of the Proposed AD

*What Has FAA Decided?*

The FAA has examined the findings of the LBA; reviewed all available information, including the service information referenced above; and determined that:

—the unsafe condition referenced in this document exists or could develop on other DG Flugzeugbau GmbH

Models DG–500 Elan Series, DG–500M, and DG–500MB sailplanes of the same type design;

—The actions specified in the previously-referenced service information should be accomplished on the affected sailplanes; and

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

*What Does the Proposed AD Require?*

This proposed AD would require you to:

—Visually inspect the elevator control system for proper movement;

—Obtain and incorporate a repair scheme if improper movement is found; and

—Modify and install resin thickened cottonflock reinforcements to the elevator control system as a way to increase the stiffness of the elevator control support stand.

**Cost Impact**

*How Many Sailplanes Does the Proposed AD Impact?*

We estimate that the proposed AD affects 10 sailplanes in the U.S. registry.

*What Is the Cost Impact of the Proposed AD on Owners/Operators of the Affected Sailplanes?*

We estimate the following costs to accomplish the proposed inspection and modification:

| Labor cost | Parts cost per sailplane | Total cost per sailplane | Total cost on U.S. sailplane operators |
|---|---|---|---|
| 3 workhours × $60 per hour = $180. | $25 | $205 | $2,050 |

**Compliance Time of the Proposed AD**

*What Is the Compliance Time of the Proposed AD?*

The compliance time of this proposed AD is to accomplish the inspection ''within the next 30 calendar days after the effective date of this AD'' and to accomplish the modification ''within the next 120 days after the effective date of this AD.''

*Why Is the Compliance Time Presented in Calendar Time Instead of Hours Time-in-Service (TIS)?*

We have established the compliance in calendar time instead of hours time-in-service (TIS) because the unsafe condition described by the proposed AD is not directly related to sailplane operation. The chance of this situation occurring is the same for a sailplane with 10 hours time-in-service (TIS) as it would be for a sailplane with 500 hours TIS. A calendar time for compliance will assure that the unsafe condition is addressed on all sailplanes in a reasonable time period.

*Why are the Compliance Times of the German AD Different Than the Compliance Times in the Proposed AD?*

The German AD requires the inspection before next flight and the modification within 45 days of the effective date of the German AD. We do not have justification to require the proposed inspection before next flight. We use compliance times such as this when we have identified an urgent safety of flight situation. We believe that 30 calendar days will give the owners or operators of the affected sailplanes enough time to have the proposed inspection accomplished without compromising the safety of the sailplanes.

The 120-calendar day compliance time for the proposed modification gives the owners/operators of the affected sailplanes enough time to adequately schedule the work to coincide with other maintenance activities.

**Regulatory Impact**

*Does This Proposed AD Impact Various Entities?*

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

*Does This Proposed AD Involve a Significant Rule or Regulatory Action?*

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

**DG Flugzeugbau GMBH:** Docket No. 99–CE–88–AD

(a) *What sailplanes are affected by this AD?* This AD affects Models DG–500 Elan Series, DG–500M, and DG-500MB sailplanes, all serial numbers up to and including 5E203, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above sailplanes on the U.S. Register must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct improper movement in the elevator control system and to increase the stiffness of the elevator control support stand. Without accomplishing these actions, the pilot's capability to use full elevator control deflection could be limited, which could require increased force in moving the elevator control with a consequent potentially uncontrolled flight condition.

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

| Action | Compliance time | Procedures |
|---|---|---|
| (1) Visually inspect the push rod guide to ensure that the outer aluminum tube of the guide does not move. | Within the next 30 days after the effective date of this AD, and prior to accomplishing the modification required in paragraph (d)(3) of this AD. The second inspection is not required if the modification is incorporated immediately after the initial inspection. | Follow the inspection procedures in the Instruction section of DG Flugzeugbau Technical Note (TN) 348/12 (applicable to the model DG–500 Elan Series) or TN 843/12 (applicable to the models DG–500M and DG–500MB), both dated October 6, 1999. |
| (2) If any movement is detected in the outer aluminum tube as specified in this AD and the referenced service information, accomplish the following:<br>(i) Obtain a repair scheme from the manufacturer at the address presented in paragraph (h) of this AD; and.<br>(ii) Incorporate this repair scheme ..... | Required prior to further flight after the inspection when the discrepancy is found. | In accordance with the repair scheme obtained from the manufacturer. |
| (3) Modify and install resin thickened cottonflock reinforcements to the elevator control system as a way to increase the stiffness of the elevator control support stand. | Within the next 120 days after the effective date of this AD. | Follow the modification procedures in the Working Instructions No. 1 for TN 348/12 (843/12), dated September 28, 1999. The instructions are referenced in DG Flugzeugbau Technical Note (TN) 348/12 (applicable to the model DG–500 Elan Series) or TN 843/12 (applicable to the models DG–500M and DG–500MB), both dated October 6, 1999. |

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

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

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

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

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

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from DG Flugzeugbau, Postbox 41 20, D–76646 Bruchsal, Federal Republic of Germany. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

**Note 2:** The subject of this AD is addressed in German AD 1999–341, dated November 18, 1999.

Issued in Kansas City, Missouri, on September 11, 2000.

**Michael Gallagher,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–23862 Filed 9–20–00; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 99–ANM–10]**

## Proposed Modification of Class E Airspace, St. George, UT

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** This action proposes to modify the Class E airspace at St. George, UT. A new Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 34 at St. George Municipal Airport has made this proposal necessary. Additional Class E controlled airspace from 700 feet and 1,200 feet above the earth is required to contain aircraft executing the RNAV RWY 34 SIAP with a Terminal Arrival Area (TAA) design to St. George Municipal Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at St. George Municipal Airport, St. George, UT.

**DATES:** Comments must be received on or before November 6, 2000.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 99–ANM–10, 1601 Lind Avenue SW, Renton, Washington 98055–4056.

The official docket nay be examined in the Office of the Regional Counsel for the Northwest Mountain Region at the same address.

As informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

**FOR FURTHER INFORMATION CONTACT:** Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 99–ANM–10, 1601 Lind Avenue SW, Renton, Washington 98055–4056; telephone number: (425) 227–2527.

**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. 99–ANM–10.'' 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 the light of comments received. All comments submitted will be available for examination at the address listed above 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 NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW, Renton, Washington 98055–4056. 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 Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by modifying Class E airspace at St. George, UT. A new RNAV SIAP to RWY 34 at St. George Municipal Airport has made this proposal necessary. Additional controlled airspace from 700 feet and 1,200 feet above the surface is required to contain aircraft executing the RNAV RWY 34 SIAP with a TAA design to St. George Municipal Airport. The FA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. The intended effect of this proposal is designed to provide for the safe and efficient use of the navigable airspace. This proposal would promote safe flight operations under IFR at the St. George Municipal Airport and between the terminal and en route transition stages.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. 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 airspace designation listed in this document would be published subsequently in the Order.

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

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

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

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

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

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

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, 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.*

* * * * *

**ANM UT E5 St. George, UT [Revised]**

St. George Municipal Airport, UT
(Lat. 37°05′29″N., long. 113°35′35″W.)
St. George VOR/DME
(Lat. 37°05′17″N., long. 113°35′31″W.)

That airspace extending upward from 700 feet above the surface within a 8.3 miles northeast and 5.3 miles southwest of the St. George VOR/DME 131° and 311° radials extending from 6.1 miles northwest to 16.1 miles southeast, and within 5.9 miles each side of the St. George VOR/DME 183° radial extending from the VOR/DME to 18.2 miles south; and that airspace extending upward from 1,200 feet above the surface within the 30 mile radius of lat. 36°48′87″N., long. 113°35′62″W., extending clockwise from the 256° bearing to the 076° bearing, and within 30 miles radius of lat. 36°48′89″N., long. 113°43′10″W., extending clockwise from the 076° bearing to the 166° bearing of lat. 36°48′87″N., long. 113°35′62″W., and within 30 miles radius of lat. 36°48′86″N., long. 113°29′40″W., extending counterclockwise from the 256° bearing to the 166° bearing of lat. 36°48′87″N., long. 113°35′62″W; excluding that portion of airspace within the Colorado City, AZ, 700 and 1,200 feet Class E airspace area; that portion of airspace within the Mesquite, NV, 700 feet Class E airspace; that portion of airspace for V–235 southeast of the Mormon Mesa VORTAC: that portion of airspace for V–235 northeast of the Mormon Mesa VORTAC; that portion of airspace for V–21 northeast of the Mormon Mesa VORTAC.

* * * * *

Issued in Seattle, Washington, on August 31, 2000.

**Daniel A. Boyle,**

*Acting Manager, Air Traffic Division, Northwest Mountain Region.*

[FR Doc. 00–24143 Filed 9–20–00; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF COMMERCE

## Bureau of Economic Analysis

## 15 CFR Part 801

**[Docket No. 000720214–0214–01]**

**RIN 0691–AA39**

## International Services Surveys: BE–93 Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons

**AGENCY:** Bureau of Economic Analysis, Commerce.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice sets forth proposed rules to amend the reporting requirements for the BE–93, Annual Survey of Royalties, License Fees, and Other Receipts and Payments for

Intangible Rights Between U.S. and Unaffiliated Foreign Persons.

The BE–93 survey is conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act. The data are needed to support U.S. trade policy initiatives, compile the U.S. international transactions accounts and the national income and product accounts, assess U.S. competitiveness in international trade in services, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

BEA proposes to raise the exemption level for the BE–93 survey to $2 million in covered receipts or payments, from $500,000 on the previous (1999) survey. Raising the exemption level will reduce respondent burden, particularly for small companies.

**DATES:** Comments on these proposed rules will receive consideration if submitted in writing on or before November 20, 2000.

**ADDRESSES:** Mail comments to the Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington DC 20230, or hand delivered to room M–100, 1441 L Street, NW., Washington, DC 20005. Comments will be available for public inspection in room 7005, 1441 L Street, NW., between 8:30 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** R. David Belli, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9800.

**SUPPLEMENTARY INFORMATION:** These proposed rules amend 15 CFR part 801 by revising paragraph 801.9(b)(5)(ii) to set forth revised reporting requirements for the BE–93, Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons. The survey is conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act (P.L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101–3108, as amended). Section 3103(a) of the Act provides that ''The President shall, to extent he deems necessary and feasible— * * * (1) conduct a regular data collection program to secure current information * * * related to international investment and trade in services * * *'' In Section 3 of Executive Order 11961, as amended by Executive Order 12518, the President delegated the authority under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The BE–93 is an annual survey of U.S. royalty and license fee transactions for intangible rights with unaffiliated foreign persons. The data are needed to support U.S. trade policy initiatives, compile the U.S. international transactions accounts and national income and product accounts, assess U.S. competitiveness in international trade in services, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

Under the proposed rule, reporting in the BE–93 annual survey would be required from all U.S. persons whose total receipts from, or total payments to, unaffiliated foreign persons for intangible rights exceeded $2 million during the reporting year. The proposed exemption level is an increase from the current level of $500,000. The increase is intended to reduce respondent burden, particularly for small companies. The data collected on the BE–93 are disaggregated by country and by type of intangible right.

## Executive Order 12866

These proposed rules are not significant for purposes of E.O. 12866.

## Executive Order 13132

These proposed rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

## Paperwork Reduction Act

These proposed rules contain a collection of information requirement subject to the Paperwork Reduction Act. A request for review of the forms has been submitted to the Office of Management and Budget under section 3507 of the Paperwork Reduction Act.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid OMB Control Number.

Public reporting burden for this collection of information is estimated to vary from less than one hour to 25 hours, with an overall average burden of 4 hours. This includes time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0017, Washington, DC 20503 (Attention PRA Desk Officer for BEA).

## Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. While the survey does not collect data on total sales or other measures of the overall size of businesses that respond to the survey, historically the respondent universe has been comprised mainly of major U.S. corporations. With the proposed increase in the exemption level for the survey from $500,000 to $2 million in covered receipts or payments, even fewer small businesses can be expected to be subject to reporting than in the past. Of those smaller businesses that must report, most will tend to have specialized operations and activities and thus will be likely to report only one type of royalty or license transaction, often limited to transactions with a single partner country; therefore, the burden on them can be expected to be small.

## List of Subjects in 15 CFR Part 801

Economic statistics, Balance of payments, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: September 15, 2000.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 801, as follows:

## PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR Part 801 continues to read as follows:

**Authority:** 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; E.O. 11961 3 CFR, 1977 Comp., p. 860 as amended by E.O. 12013 3 CFR, 1977 Comp., p. 147; E.O. 12318 3 CFR, 1981 Comp., p. 173; and E.O. 12518 3 CFR, 1985 Comp., p. 348.

2. Section 801.9 is amended by revising paragraph (b)(5)(ii) to read as follows:

**§ 801.9 Reports required.**

(b) * * *

(5) * * *

(ii) *Exemption.* A U.S. person otherwise required to report is exempt if total receipts and total payments of the types covered by the form are each $2 million or less in the reporting year. If the total of either covered receipts or payments is more than $2 million in the reporting year, a report must be filed.

* * * * *

[FR Doc. 00–24216 Filed 9–20–00; 8:45 am]

BILLING CODE 3510–06–M

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## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

### 15 CFR Part 801

**[Docket No. 000609170–0170–01]**

**RIN 0691–AA38**

## International Services Surveys: BE–82, Annual Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons

**AGENCY:** Bureau of Economic Analysis, Commerce.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document sets forth proposed rules to revise regulations to present the reporting requirements for the BE–82, Annual Survey of Financial Services Transactions Between U.S. Financial Services Providers an Unaffiliated Foreign Persons.

The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The BE–82 survey is mandatory and is conducted annually, in which years the BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons is not conducted, by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act hereinafter ''the Act,'' and under Section 5408 of the Omnibus Trade and Competitiveness Act of 1988. The first annual survey conducted under these proposed rules will cover transactions in fiscal year 2000. BEA will send the survey to potential respondents in January of the year 2001; responses will be due by March 31, 2001. The last annual survey was conducted for 1998. The annual survey will obtain data used to update universe data, collected on the BE–80 benchmark survey, on trade in financial services, by type and by country, between U.S. financial services providers and unaffiliated foreign persons. Data from the BE–82 survey (and the benchmark survey, the BE–80) are needed to monitor trade in financial services, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on financial services, conduct trade promotion, improve the ability of U.S. businesses to identify and evaluate market opportunities, and for other Government uses.

BEA proposes to raise the exemption level for the BE–82 survey to $10 million in covered sales or purchases transactions, from $5 million on the previous (1998) survey. Raising the exemption level will reduce burden, particularly for small companies. BEA also proposes to combine private placement services with underwriting services, combine foreign exchange brokerage services with other brokerage services, and create a separate category for electronic funds transfers. The changes in the types of services to be reported separately mirror changes introduced in the 1999 BE–80 benchmark survey. Finally, BEA has restated the definition of ''financial services provider'' using the nomenclature of the new North American Industry Classification System that has replaced the U.S. Standard Industrial Classification System.

The changes in the types of services to be reported separately reflect BEA's experience in collecting data on financial services transactions over the past 6 years. Data collected for both private placement and foreign exchange brokerage services have been very small and do not justify the continuation of separate reporting. Electronic funds transfer services, in contract, appear to account for a large fraction of both total receipts and total payments for ''other financial services,'' in which electronic funds transfers were previously included.

**DATES:** Comments on these proposed rules will receive consideration if submitted in writing on or before November 20, 2000.

**ADDRESSES:** Mail comments to the Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand deliver comments to room M–100, 1441 L Street, NW., Washington, DC 20005. Comments will be available for public inspection in room 7005, 1441 L Street, NW., between 8:30 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** R. David Belli, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9800.

**SUPPLEMENTARY INFORMATION:** These proposed rules amend 15 CFR Part 801 to set forth revised reporting requirements for the BE–82, Annual Survey of Financial Services Transactions Between Financial Services Providers and Unaffiliated Foreign Persons. The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), and under Section 5408 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4908). Section 4(a) of the Act (22 U.S.C. 3103(a)) provides that ''The President shall, to the extent he deems necessary and feasible—* * * (1) conduct a regular data collection program to secure current information * * * related to international investment and trade in services * * *; and (5) publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection * * *'' In Section 3 of Executive Order 11961, the President delegated authority granted under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The major purposes of the survey are to monitor trade in financial services, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on

financial services, conduct trade promotion, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

As proposed, BEA will conduct the BE–82 survey in years in which a BE–80 benchmark survey, or census, is not conducted. The last survey was conducted for 1998. The survey will update the data provided on the universe of financial services transactions between U.S. financial services providers and unaffiliated foreign persons. Reporting is required from U.S. financial services providers who have sales to or purchases from unaffiliated foreign persons in all covered financial services combined in excess of $10 million during the reporting year. Financial services providers meeting this criteria must supply data on the amount of their sales or purchases for each covered type of service, disaggregated by country. U.S. financial services providers that have covered transactions of less than $10 million during the reporting year are asked to provide voluntary estimates of their total sales and purchases of each type of financial service.

**Executive Order 13132**

These proposed rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

**Executive Order 12866**

These proposed rules are not significant for purposes of E.O. 12866.

**Paperwork Reduction Act**

These proposed rules contain a collection of information requirement subject to the Paperwork Reduction Act (PRA) and have been submitted to the Office of Management and Budget for review under the PRA.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid Office of Management and Budget Control Number.

The survey, as proposed, is expected to result in the filing of reports, containing mandatory or voluntary data, from about 375 respondents. The average burden for completing the BE–82—both the mandatory and voluntary sections—is estimated to be 7 hours. Thus, the total respondent burden of the survey is estimated at 2,600 hours (375 respondents times 7 hours average burden). The actual burden will vary from reporter to reporter, depending upon the number and variety of their financial services transactions and the ease of assembling the data. Thus, it may range from 4 hours for a reporter that has a small number and variety of transactions and easily accessible data, or that reports only in the voluntary section of the form, to 150 hours for a very large reporter that engages in a large number and variety of financial services transactions and has difficulty in locating and assembling the required data. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are requested concerning: (a) 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; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230, and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0062, Washington, DC 20503 (Attention PRA Desk Officer for BEA).

**Regulatory Flexibility Act**

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. The information collection excludes most small businesses from mandatory reporting. Companies that engage in international financial services transactions tend to be quite large. In addition, the reporting threshold for this survey is set at a level that will exempt most small businesses from reporting. The BE–82 annual survey will be required only from U.S. persons with sales to, or purchases from, unaffiliated foreign persons in excess of $10 million during the reporting year, in all covered financial services transactions combined; the exemption level for the previous annual survey, covering 1998, was $5 million. Thus, the exemption level will exclude most small businesses from mandatory coverage. Of those smaller businesses that must report, most will tend to have specialized operations and activities, so they will likely report only one type of transaction; therefore, the burden on them should be small.

**List of Subjects in 15 CFR Part 801**

Balance of payments, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: September 15, 2000.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 801, as follows:

## PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR Part 801 continues to read as follows:

**Authority:** 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; E.O. 11961, 3 CFR, 1977 Comp., p. 86 as amended by E.O. 12013, 3 CFR, 1977 Comp., p. 147; E.O. 12318, 3 CFR, 1981 Comp., p. 173; and E.O. 12518 3 CFR, 1985 Comp., p. 348.

2. Section 801.9 is amended by revising paragraph (b)(7) to read as follows:

### § 801.9 Reports required.

(b) * * *

(7) BE–82, Annual Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons:

(i) A BE–82, Annual Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, will be conducted covering companies' 1995 fiscal year and every year thereafter except when a BE–80 Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, is conducted (see § 801.11). All legal authorities, provisions, definitions, and requirements contained in § 801.1 through § 801.8 are applicable to this survey. Additional rules and regulations for the BE–82 survey are given in paragraphs (b)(7)(i)(A) through (D) of this section. More detailed instructions are given on the report from itself.

(A) *Who must report*—(*1*) Mandatory reporting. Reports are required from

each U.S. person who is a financial services provider or intermediary, or whose consolidated U.S. enterprise includes a separately organized subsidiary or part that is a financial services provider or intermediary, and who had transactions (either sales or purchases) directly with unaffiliated foreign persons in all financial services combined in excess of $10,000,000 during its fiscal year covered by the survey. The $10,000,000 threshold should be applied to financial services transactions with unaffiliated foreign persons by all parts of the consolidated U.S. enterprise combined that are financial services providers or intermediaries. Because the $10,000,000 threshold applies separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both sales and purchases.

(*i*) The determination of whether a U.S. financial services provider or intermediary is subject to this mandatory reporting requirement may be judgmental, that is, based on the judgement of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

(*ii*) Reporters who file pursuant to this mandatory reporting requirement must provide data on total sales and/or purchases of each of the covered types of financial services transactions and must disaggregate the totals by country.

(*2*) *Voluntary reporting.* If, during the fiscal year covered, sales or purchases of financial services by a firm that is a financial services provider or intermediary, or by a firm's subsidiaries or parts combined that are financial services providers or intermediaries, are $10,000,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service. Provision of this information is voluntary. Because the $10,000,000 threshold applies separately to sales and purchases, this voluntary reporting option may apply only to sales, only to purchases, or to both sales or purchases.

(B) *BE–82 definition of financial services provider.* Except for Monetary Authorities (*i.e.,* Central Banks), the definition of financial services provider used for this survey is identical in coverage to Sector 52—Finance and Insurance—of the North American Industry Classification System, United States, 1997. For example, companies and/or subsidiaries and other separable parts of companies in the following industries are defined as financial services providers: Depository credit intermediation and related activities (including commercial banking, holding companies, savings institutions, check cashing, and debit card issuing); nondepository credit intermediation (including credit card issuing, sales financing, and consumer lending); securities, commodity contracts, and other financial investments and related activities (including security and commodity futures brokers, dealers, exchanges, traders, underwriters, investment bankers, and providers of securities custody services); insurance carries and related activities (including agents, brokers, and service providers); investment advisors and managers and funds, trusts, and other financial vehicles (including mutual funds, pension funds, real estate investment trusts, investors, stock quotation services, etc.).

(C) *Covered types of services.* The BE–82 survey covers the same types of financial services transactions that are covered by the BE–80 benchmark survey, as listed in § 801.11(c)

(D) *What to file.* (*1*) The BE–82 survey consists of Forms BE–82 (A) and BE–82(B). Before completing a form BE–82 (B), a consolidated U.S. enterprise (including the top parent and all of its subsidiaries and parts combined) must complete Form BE–82(A) to determine its reporting status. If the enterprise is subject to the mandatory reporting requirement, or if it is exempt from the mandatory reporting requirement but chooses to report data voluntarily, either a separate Form BE–82(B) for each separately organized financial services subsidiary or part of a consolidated U.S. enterprise, or a single BE–82(B) representing the sum of all covered transactions by all financial services subsidiaries or parts of the enterprise combined.

(*2*) Reporters who receive the BE–82 survey from BEA, but that are not reporting data in either the mandatory or voluntary section of any BE–82(B), must return the Exemption Claim, attached to Form BE–82 (A), to BEA.

(*ii*) [Reserved]

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[FR Doc. 00–24214 Filed 9–20–00; 8:45 am]

BILLING CODE 3510–06–M

**DEPARTMENT OF COMMERCE**

**Bureau of Economic Analysis**

**15 CFR Part 806**

**[Docket No. 000817239–0239–01]**

**RIN 0691–AA37**

## Direct Investment Surveys: BE–577, Direct Transactions of U.S. Reporter With Foreign Affiliate

**AGENCY:** Bureau of Economic Analysis, Commerce.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document sets forth proposed rules to amend the reporting requirements for the quarterly BE–577, Direct Transactions of U.S. Reporter With Foreign Affiliate.

The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The BE–577 survey is a mandatory survey and is conducted quarterly by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act. BEA will send BE–577 survey forms to potential respondents each quarter; responses will be due within 30 days after the close of each fiscal quarter, except for the final quarter of the fiscal year, when reports should be filed within 45 days. The survey is a cut-off sample survey that obtains data on transactions and positions between U.S.-owned foreign business enterprises and their U.S. parents.

The change proposed by BEA in the reporting requirements to be implemented in these proposed rules is to reduce respondent burden, particularly for small companies, by increasing the exemption level for the survey—the level below which reports are not required—from $20 million to $30 million in total assets, sales or gross operating revenues, or net income (positive or negative) of the U.S.-owned foreign business enterprise. Raising the exemption level lowers the number of reports that otherwise would have to be filed, thus reducing respondent burden. BEA is also proposing changes in the content of survey that, on balance, do not affect respondent burden.

**DATES:** Comments on these proposed rules will receive consideration if submitted in writing on or before November 20, 2000.

**ADDRESSES:** Mail comments to the Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand deliver comments to room M–100, 1441 L Street, NW, Washington, DC 20005. Comments will be available for public inspection in Room 7005, 1441 L Street, NW, between 8:30 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** R. David Belli, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9800.

**SUPPLEMENTARY INFORMATION:** These proposed rules amend 15 CFR Part 806.14 to set forth reporting requirements for the BE–577, Direct Transactions of U.S. Reporter With Foreign Affiliate. The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108) hereinafter, ''the Act.'' Section 4(a) of the Act requires that with respect to United States direct investment abroad, the President shall, to the extent he deems necessary, and feasible—

(1) Conduct a regular data collection program to secure current information on international capital flows and other information related to international investment and trade in services, including (but not limited to) such information as may be necessary for computing and analyzing the United States balance of payments, the employment and taxes of United States parents and affiliates, and the international investment and trade in services position of the United States; and

(2) Conduct such studies and surveys as may be necessary to prepare reports in a timely manner on specific aspects of international investment and trade in services which may have significant implications for the economic welfare and national security of the United States.

In Section 3 of Executive Order 11961, the President delegated authority granted under the Act as concerns direct investment to the Secretary of Commerce, who has redelegated it to BEA.

The quarterly survey of U.S. direct investment abroad collects data on transactions and positions between U.S.-owned foreign business enterprises and their U.S. parents. The BE–577 is a cut-off sample survey that covers all foreign affiliates above a size-exemption level. The sample data are used to derive universe estimates in nonbenchmark years by extrapolating forward similar data reported in the BE–10, Benchmark Survey of U.S. Direct Investment Abroad, which is taken every five years. The data are used in the preparation of the U.S international transactions accounts, the input-output accounts, and the national income and product accounts. The data are needed to measure the size and economic significance of U.S. direct investment abroad, measure changes in such investment, and assess its impact on the U.S. and foreign economies. The data are disaggregated by country and industry of foreign affiliate.

BEA maintains a continuing dialogue with respondents and with data users, including its own internal users through the Bureau's Source Data Improvement and Evaluation Program, to ensure that, as far as possible, the required data serve their intended purposes and are available from existing records, that instructions are clear, and that unreasonable burdens are not imposed. In reaching decisions on what questions to include in the survey, BEA considered the Government's need for the data, the burden imposed on respondents, the quality of the likely responses (*e.g.,* whether the data are readily available on respondents' books), and BEA's experience in previous quarterly surveys. Because BEA's proposed changes to the BE–577 are minimal and to a large extent mirror those introduced in connection with the 1999 BE–10 benchmark survey, additional consultations outside the agency, beyond those held last year in conjunction with the benchmark survey design, were not conducted.

BEA is proposing to increase the exemption level for reporting on the BE–577 quarterly survey from $20 million to $30 million. The exemption level is the level of a foreign affiliate's assets, sales, or net income at or below which a Form BE–577 is not required. Thus, if a foreign business is owned 10 percent or more by the U.S. parent, but its total assets, sale or gross operating revenues, and net income all are $30 million (positive or negative) or less, the U.S. parent will not have to report it. The exemption level for the BE–577 survey was last raised following the 1994 benchmark survey and was effective with the quarterly survey covering the second quarter of 1995. The proposed changes would be effective commencing with the reports for the first quarter of 2001.

BEA is proposing a few changes to the report forms themselves. BEA proposes to extend the use of the North American Industry Classification System (NAICS) to the BE–577 survey. NAICS is already being used on all BEA surveys of foreign direct investment in the United States and BEA used NAICS to collect industry information on the 1999 BE–10 benchmark survey of U.S. direct investment abroad. BEA also proposes to modify the detail on affiliated services by type of service by dropping the category for communication services in the by-type breakdown and adding the presumably larger management and consulting and research and development categories. BEA is also proposing improvements in the clarity of the instructions. The changes in format and content of the survey, on balance, do not affect respondent burden.

A copy of the proposed form may be obtained from: Office of the Chief, Direct Investment Abroad Branch, International Investment Division (BE–69(A)), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–5566.

**Executive Order 12866**

These proposed rules are not significant for purposes of E.O. 12866.

**Executive Order 13132**

These proposed rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

**Paperwork Reduction Act**

These proposed rules contain a collection of information requirement subject to the Paperwork Reduction Act (PRA) and have been submitted to the Office of Management and Budget for review under the PRA.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid Office of Management and Budget control number.

The survey, as proposed, is expected to result in the filing of about 12,500 foreign affiliate reports by an estimated 1,500 U.S. parent companies. A parent company must file one form per affiliate. The respondent burden for this collection of information is estimated to vary from 0.5 hour to 4 hours per response, with an average of 1.25 hours per response, including time for reviewing instructions, searching existing data sources, gathering and

maintaining the data needed, and completing and reviewing the collection of information. Because reports are filed 4 times per year, 50,000 responses annually are expected. Thus the total annual respondent burden of the survey is estimated at 62,500 hours (12,500 respondents times 4 times 1.25 hours average burden).

Comments are requested concerning: (a) 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; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0004, Washington, DC 20503 (Attention PRA Desk Officer for BEA).

**Regulatory Flexibility Act**

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. Few, if any, small U.S. businesses are subject to the reporting requirements of this survey. Although the BE–577 survey does not itself collect data on the size of the U.S. companies that must respond, data collected on related BEA surveys indicate that the U.S. companies that have direct investment abroad tend to be quite large. The exemption level for the BE–577 survey is set in terms of the size of a U.S. company's foreign affiliates (foreign companies owned 10 percent or more by the U.S. company); if a foreign affiliate has assets, sales, or net income greater than the exemption level, it must be reported. Usually, the U.S. parent company that is required to file the report is many times larger than its largest foreign affiliate.

Small U.S. businesses tend to have few, if any, foreign affiliates and the foreign affiliates that they do own are small. With the proposed increase in the exemption level for the BE–577 survey from $20 million to $30 million (stated in terms of the foreign affiliate's assets, sales, and net income), even fewer small U.S. businesses will be required to file reports for their foreign affiliates. The estimated annual cost of a U.S. business reporting for five or fewer foreign affiliates is estimated to be less than $1,000. Therefore, based on the forgoing, this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 15 CFR Part 806**

Balance of payments, Economic statistics, U.S. investment abroad, Penalties, Reporting and recordkeeping requirements.

Dated: August 10, 2000.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 806 as follows:

## PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 continues to read as follows:

**Authority:** 5 U.S.C. 301; 22 U.S.C. 3101–3108; and E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147); E.O. 12318 (3 CFR, 1981 Comp., p. 173); and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

**§ 806.14 [Amended]**

2. Section 806.14 (e) is amended by deleting ''$20,000,000'' and inserting ''$30,000,000'' in its place.

[FR Doc. 00–24217 Filed 9–20–00; 8:45 am]

BILLING CODE 3510–06–M

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## DEPARTMENT OF COMMERCE

## Bureau of Economic Analysis

## 15 CFR Part 806

**[Docket No. 000714208–0208–01]**

**RIN 0691–AA40**

## Direct Investment Surveys: BE–11, Annual Survey of U.S. Direct Investment Abroad

**AGENCY:** Bureau of Economic Analysis, Commerce.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document sets forth proposed rules to amend the reporting requirements for the BE–11, Annual Survey of U.S. Direct Investment Abroad.

The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The BE–11 survey is a mandatory survey and is conducted annually by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act. BEA will send the annual survey to potential respondents in March of each year; responses will be due by May 31. The last BE–11 annual survey was conducted for 1998. (A BE–11 survey is not conducted in a year, such as 1999, when a BE–10 Benchmark Survey of U.S. Direct Investment Abroad is conducted.) The survey is a cut-off sample survey that obtains financial and operating data covering the overall operations of nonbank U.S. parent companies and their nonbank foreign affiliates.

Changes proposed by BEA in the reporting requirements to be implemented in these proposed rules include reduction of respondent burden, particularly for small companies, by increasing the exemption level for reporting on the BE–11B(SF) short form and the BE–11C form from $20 million to $30 million; increasing the exemption level for reporting on the BE–11B(LF) long form from $50 million to $100 million; and requiring U.S. Reporters with total assets, sales or gross operating revenues, and net income less than or equal to $100 million (positive or negative) to report only selected items on the BE–11A form.

Raising the exemption level lowers the number of reports that otherwise must be filed, thus reducing respondent burden. BEA is also proposing to extend the North American Industry Classification System to the annual survey, and to make other changes in the format and content of the survey; these changes, on balance, do not materially affect respondent burden.

**DATES:** Comments on these proposed rules will receive consideration if submitted in writing on or before November 20, 2000.

**ADDRESSES:** Mail comments to the Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand delivery comments to room M–100, 1441 L Street, NW, Washington, DC 20005. Comments will be available for public inspection in Room 7005, 1441 L Street, NW, between 8:30 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** R. David Belli, Chief, International

Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9800.

**SUPPLEMENTARY INFORMATION:** These proposed rules amend 15 CFR Part 806.14 to set forth the reporting requirements for the BE–11, Annual Survey of U.S. Direct Investment Abroad. The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), hereinafter, ''the Act.'' Section 4(a) of the Act requires that with respect to United States direct investment abroad, the President shall, to the extent he deems necessary and feasible—

(1) Conduct a regular data collection program to secure current information on international capital flows and other information related to international investment and trade in services, including (but not limited to) such information as may be necessary for computing and analyzing the United States balance of payments, the employment and taxes of United States parents and affiliates, and the international investment and trade in services position of the United States; and

(2) Conduct such studies and surveys as may be necessary to prepare reports in a timely manner on specific aspects of international investment which may have significant implications for the economic welfare and national security of the United States.

In Section 3 of Executive Order 11961, the President delegated authority granted under the Act as concerns direct investment to the Secretary of Commerce, who has redelegated it to BEA.

The annual survey of U.S. direct investment abroad provides a variety of measures of the overall operations of U.S. parent companies and their foreign affiliates, including total assets, sales, net income, employment and employee compensation, research and development expenditures, and exports and imports of goods. The BE–11 is a cut-off sample survey that covers all foreign affiliates (and their U.S. parent companies) above a size-exemption level. The sample data are used to derive universe estimates in nonbenchmark years by extrapolating forward similar data reported in the BE–10, Benchmark Survey of U.S. Direct Investment Abroad, which is taken every five years. The data are needed to measure the size and economic significance of direct investment abroad, measure changes in such investment, and assess its impact on the U.S. and foreign economies. The data are disaggregated by country and industry of the foreign affiliate and by industry of the U.S. parent.

As proposed, the survey will consist of an instruction booklet, a claim for not filing the BE–11, and the following report forms:

1. Form BE–11A—Report for nonbank U.S. Reporters;
2. Form BE–11B(LF) (Long Form)—Report for majority-owned nonbank foreign affiliates with assets, sales, or net income greater than $100 million (positive or negative);
3. Form BE–11B(SF) (Short Form)—Report for majority-owned nonbank foreign affiliates with assets, sales, or net income greater than $30 million, but not greater than $100 million (positive or negative); and
4. Form BE–11C—Report for minority-owned nonbank foreign affiliates with assets, sales, or net income greater than $30 million (positive or negative).

BEA maintains a continuing dialogue with respondents and with data users, including its own internal users through the Bureau's Source Data Improvement and Evaluation Program, to ensure that, as far as possible, the required data serve their intended purposes and are available from existing records, that instructions are clear, and that unreasonable burdens are not imposed. In reaching decisions on what questions to include in the survey, BEA considered the Government's need for the data, the burden imposed on respondents, the quality of the likely response (*e.g.,* whether the data are readily available on respondent's books), and BEA's experience in previous annual surveys. Because BEA's proposed changes to the BE–11 are minimal and mirror those introduced in conjunction with the 1999 BE–10 benchmark survey, additional consultations outside the agency, beyond those held last year in conjunction with the benchmark survey design, were not conducted.

Changes proposed by BEA from the last annual survey include reduction of respondent burden, particularly for small companies, by (1) increasing the exemption level for reporting on the BE–11B(SF) short form and BE–11C form from $20 million to $30 million; (2) increasing the exemption level for reporting on the BE–11B(LF) long form from $50 million to $100 million; and (3) requiring U.S. Reporters with total assets, sales or gross operating revenues, and net income less than or equal to $100 million (positive or negative) to report only selected items on the BE–11A form. The exemption level is the level of a foreign affiliate's assets, sales, or net income below which a Form BE–11B(LF) or (SF) or BE–11C is not required. The exemption levels for the BE–11 survey were last raised following the 1994 benchmark survey and were effective with the annual survey covering the year 1995.

For fiscal year 2002 only, these proposed rules will require the largest nonbank foreign affiliates owned between 10 and 20 percent to be reported on Form BE–11C, along with affiliates owned between 20 and 50 percent. In all years, reporting on Form BE-11C is required if an affiliate is owned between 20 and 50 percent by all U.S. Reporters combined and if its assets, sales, or net income exceed $30 million (positive or negative). Primarily to reduce reporting burden of the survey, affiliates owned less than 20 percent do not have to be reported annually. However, U.S. direct investment abroad is defined by law to include all foreign business enterprises owned 10 (not 20) percent or more, directly or indirectly, by a U.S. person. BEA conducts periodic benchmark surveys of U.S. direct investment abroad (the BE–10), covering all foreign affiliates owned 10 percent or more. A benchmark survey for the year 1999 is now being conducted; the next survey will cover the year 2004. In order to maintain reliable estimates of data for the universe of all foreign affiliates in nonbenchmark years, reporting for the largest affiliates owned between 10 and 20 percent is needed for at least one year between benchmark surveys. Although the U.S. ownership percentages in these affiliates are low, some of the affiliates are very large and have a sizable impact on the estimates. Under these proposed rules, submission of Form BE–11C for nonbank foreign affiliates owned directly and/or indirectly, at least 10 percent by one U.S. Reporter, but less than 20 percent by all U.S. Reporters of the affiliate combined, and for which assets, sales, or net income exceed $100 million (positive or negative) would be required for fiscal year 2002 only. A similar requirement was imposed in the 1987, 1992, and 1997 annual surveys, which fell between earlier benchmark surveys.

BEA is proposing a few changes to the report forms themselves. BEA proposes to extend the use of the North American Classification System (NAICS) to the annual survey. NAICS is the new industry classification system of the United States, Canada, and Mexico; in the United States, it supplants the 1987 Standard Industrial Classification. Among other improvements, NAICS

better reflects new and emerging industries, industries involved in the production of advanced technologies, and the growth and diversification of services industries. BEA used NAICS to collect industry information on the 1999 BE–10 benchmark survey of U.S. direct investment abroad.

In addition to the change in industry classification, BEA proposes to add equity ownership, interest received, and interest paid to the BE–11B(LF); expand the owner's equity section on the BE–11B(LF); reduce the detail collected on the composition of external finances of the foreign affiliate on the BE–11B(LF); and delete production royalty payments on the BE–11B(LF). Most of the proposed changes will conform the BE–11 more closely to the BE–10 benchmark survey for 1999. Finally, BEA is proposing improvements in the layout of the survey forms, and in the placement and clarity of instructions. The design follows that used for the BE–10 benchmark survey. The changes in the format and content of the survey forms, on balance, do not affect respondent burden.

A copy of the proposed forms may be obtained from: Office of the Chief, Direct Investment Abroad Branch, International Investment Division (BE–69(A)), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–5566.

**Executive Order 12866**

These proposed rules are not significant for purposes of E.O. 12866.

**Executive Order 13132**

These proposed rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

**Paperwork Reduction Act**

These proposed rules contain a collection of information requirement subject to the Paperwork Reduction Act (PRA) and have been submitted to the Office of Management and Budget for review under the PRA.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid Office of Management and Budget control number.

The survey, as proposed, is expected to result in the filing of reports from about 1,500 respondents. The respondent burden for this collection of information is estimated to vary from 4 to 3,000 hours per response, with an average of 68.4 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus the total respondent burden of the survey is estimated at 102,600 hours (1,500 respondents times 68.4 hours average burden).

Comments are requested concerning: (a) 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; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0053, Washington, DC 20503 (Attention PRA Desk Officer for BEA).

**Regulatory Flexibility Act**

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. Few, if any, small U.S. businesses are subject to the reporting requirements of this survey. U.S. companies that have direct investments abroad tend to be quite large. The exemption level for the BE–11 survey is set in terms of the size of a U.S. company's foreign affiliates (foreign companies owned 10 percent or more by the U.S. company); if a foreign affiliate has assets, sales, or net income greater than the exemption level, it must be reported on Form BE–11B(LF), BE–11B(SF), or BE–11C. Usually, the U.S. parent company that is required to file the report is many times larger than its largest foreign affiliate. With the proposed increase in the exemption level for the BE–11 survey from $20 million to $30 million, even fewer small U.S. businesses will be required to file. To further reduce the reporting burden on small businesses, U.S. Reporters with total assets, sales or gross operating revenues, and net income less than or equal to $100 million (positive or negative) are required to report only selected items on the BE–11A form for U.S. Reporters in addition to forms they may be required to file for their foreign affiliates.

**List of Subjects in 15 CFR Part 806**

Balance of payments, Economic statistics, U.S. investment abroad, Penalties, Reporting and recordkeeping requirements.

Dated: September 15, 2000.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 806 as follows:

## PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 continues to read as follows:

**Authority:** 5 U.S.C. 301; 22 U.S.C. 3101–3108; and E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147); E.O. 12318 (3 CFR, 1981 Comp., p. 173); and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 806.14(f)(3)(i), (f)(3)(ii), (f)(3)(iii), and (f)(3)(iv)(A) through (C), are revised to read as follows:

**§ 806.14 U.S. direct investment abroad.**

* * * * *

(b) * * *

(3) * * *

(i) Form BE–11A (Report for U.S. Reporter) must be filed by each nonbank U.S. person having a foreign affiliate reportable on Form BE–11B(LF), BE–11B(SF), or BE–11C. If the U.S. reporter is a corporation, Form BE–11A is required to cover the fully consolidated U.S. domestic business enterprise.

(A) If for a nonbank U.S. Reporter any one of the following three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes—was greater than $100 million (positive or negative) at the end of, or for, the Reporter's fiscal year, the U.S. Reporter must file a complete Form BE–11A. It must also file a Form BE–11B(LF), BE–11B(SF), or BE–11C, as applicable, for each nonexempt foreign affiliate.

(B) If for a nonbank U.S. Reporter no one of the three items listed in paragraph (f)(3)(i)(A) of this section was greater than $100 million (positive or negative) at the end of, or for, the Reporter's fiscal year, the U.S. Reporter is required to file on Form BE–11A only items 1 through 27 and Part IV. It must also file a Form BE–11B(LF), BE–

11B(SF), or BE–11C, as applicable, for each nonexempt foreign affiliate.

(ii) Form BE–11B(LF) or (SF) (Report for Majority-owned Foreign Affiliate).

(A) A BE–11B(LF) (Long Form) is required to be filed for each majority-owned nonbank foreign affiliate of a nonbank U.S. Reporter for which any one of the three items— total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than $100 million (positive or negative) at the end of, or for, the affiliate's fiscal year.

(B) A BE–11B(SF) (Short Form) is required to be filed for each majority-owned nonbank foreign affiliate of a nonbank U.S. Reporter for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than $30 million (positive or negative), but for which no one of these items was greater than $100 million (positive or negative), at the end of, or for, the affiliate's fiscal year.

(iii) Form BE–11C (Report for Minority-owned Foreign Affiliate) must be filed for each minority-owned nonbank foreign affiliate that is owned at least 20 percent, but not more than 50 percent, directly and/or indirectly, by all U.S. Reporters of the affiliate combined, and for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than $30 million (positive or negative) at the end of, or for, the affiliate's fiscal year. In addition, for the report covering fiscal year 2002 only, a Form BE–11C must be filed for each minority-owned nonbank foreign affiliate that is owned, directly or indirectly, at least 10 percent by one U.S. Reporter, but less than 20 percent by all U.S. Reporters of the affiliate combined, and for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than $100 million (positive or negative) at the end of, or for, the affiliate's fiscal year.

(iv) * * *

(A) None of the three items listed in paragraph (f)(3)(ii)(A) of this section exceeds $30 million (positive or negative).

(B) For fiscal year 2002 only, it is less than 20 percent owned, directly or indirectly, by all U.S. Reporters of the affiliate combined and none of the three items listed in paragrarph (f)(3)(ii)(A) of this section exceeds $100 million (positive or negative).

(C) For fiscal years other than 2002, it is less than 20 percent owned, directly or indirectly, by all U.S. Reporters of the affiliate combined.

* * * * *

[FR Doc. 00–24215 Filed 9–20–00; 8:45 am]

BILLING CODE 3510–06–M

## DEPARTMENT OF JUSTICE

### Bureau of Prisons

### 28 CFR Part 550

**[BOP–1099–P]**

**RIN 1120–AA95**

## Inmate Drug Testing Programs

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Bureau of Prisons is proposing to revise and consolidate its regulations on inmate alcohol testing and urine surveillance. This revision is intended to eliminate unnecessary regulations and to provide for greater flexibility in the use of drug testing technology.

**DATES:** Comments due by November 20, 2000.

**ADDRESSES:** Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

**FOR FURTHER INFORMATION CONTACT:** Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

**SUPPLEMENTARY INFORMATION:** The Bureau of Prisons is proposing to consolidate its regulations on alcohol testing (28 CFR part 550, subpart A) and urine surveillance (28 CFR part 550, subpart D). Current regulations on alcohol testing were published in the **Federal Register** on May 20, 1980 (45 FR 33940); current regulations on urine surveillance were published in the **Federal Register** on August 26, 1997 (62 FR 45292).

The existence of separate regulations governing alcohol testing and urinalysis testing reflects, in part, the different test methods traditionally available for detecting alcohol and other drug usage. While breathalyzer devices were commonly used in alcohol testing, urinalysis was the preferred method for detecting other drug usage. Advances in drug testing technology have increased the number of test methods suitable for use. The Bureau's regulations on urine surveillance need to be adjusted accordingly.

The Bureau is therefore revising its regulations on alcohol testing and urine surveillance as one consolidated regulation on drug testing programs. Consolidating these regulations is appropriate not only for the sake of eliminating unnecessary regulations but also for the sake of consistency with the treatment of alcohol abuse in the Bureau's regulations on drug abuse treatment programs (28 CFR part 550, subpart F).

Rather than specify the particular testing methods to be used, the revised regulations state that the Warden is to be responsible for selecting the method or methods of drug testing from the list of approved drug test methods compiled by the Bureau's Central Office. Having a compiled list of approved drug test methods provides for flexibility in the choice of methods. Documentation as to the validity of the tests and instructions for their use are to be maintained by the Bureau's Central Office as a matter of internal administrative management.

The current regulations defining refusal to participate are keyed solely to urinalysis procedures and are unnecessarily prescriptive, citing two hours as to the length of time given to produce the urine sample or specifying that staff shall offer the inmate eight ounces of water at the start of the two-hour period.

These provisions are revised to specify that staff supervising the drug test are to be the same gender as the inmate being tested if supervising the drug test involves an observation of intimate body parts or bodily functions (for example, the production of a urine sample). Inmates will be subject to disciplinary action in accordance with the provisions governing inmate discipline (28 CFR part 541, subpart B) if they refuse to participate or test positive for prohibited drug use. Refusal to participate can be demonstrated verbally or by actions. For example, if an inmate states that he or she will not take the test, staff may charge the inmate with Prohibited Act Code 110, refusing to provide a urine sample or to take part in other drug-abuse testing. Examples of an inmate refusing to participate by action include an inmate who tampers with a drug test or who fails to provide a urine sample despite being given a reasonable opportunity to do so. The Bureau's internal guidance on defining ''reasonable opportunity'' retains instructions formerly cited in the regulations as to the availability of water (at least eight ounces) and the length of time (at least two hours) given to produce a urine sample. Staff are to document the circumstances pertaining to the inmate's refusal to participate.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to

the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. Comments received after the expiration of the comment period will be considered to the extent practicable. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

**Executive Order 12866**

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

**Executive Order 12612**

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Regulatory Flexibility Act**

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

**Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

**Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

**Plain Language Instructions**

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Sarah Qureshi at the address listed above.

**List of Subjects in 28 CFR Part 550**

Prisoners.

**Kathleen Hawk Sawyer,**

*Director, Bureau of Prisons.*

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(o), we propose to amend part 550 in subchapter C of 28 CFR, chapter V as set forth below.

**SUBCHAPTER C—INSTITUTIONAL MANAGEMENT**

## PART 550—DRUG PROGRAMS

1. The authority citation for 28 CFR part 550 continues to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 3521–3528, 3621, 3622, 3624, 4001, 4042, 4046, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 21 U.S.C. 848; 28 U.S.C. 509, 510; Title V, Pub. L. 91–452, 84 Stat. 933 (18 U.S.C. Chapter 223); 28 CFR 0.95–0.99.

### Subpart B—[Removed and Reserved]

2. Subpart B, consisting of § 550.10, is removed and reserved.

3. Subpart D is revised to read as follows:

### Subpart D—Inmate Drug Testing Programs

Sec.
550.30 Purpose and scope.
550.31 Procedures.

### Subpart D—Inmate Drug Testing Programs

**§ 550.30 Purpose and scope.**

The Bureau of Prisons maintains a comprehensive surveillance program to detect the use of drugs, including alcohol, by inmates. This surveillance program includes random sample monitoring, testing of individual inmates suspected of using drugs, and testing of individual inmates or groups of inmates who are considered to be at risk for using drugs.

**§ 550.31 Procedures.**

(a) *Test methods.* The Warden is responsible for selecting the method or methods of drug testing from the list of approved drug test methods compiled by the Bureau's Central Office.

(b) *Test supervision.* Staff are responsible for directly supervising the drug test. If supervision of the drug test involves observation of intimate body parts or bodily functions (for example, the production of a urine sample), staff supervising the test must be the same gender as the inmate being tested.

(c) *Refusal to participate.* An inmate who refuses to participate in a drug test is subject to disciplinary action in accordance with 28 CFR part 541, subpart B. Refusal to participate can be demonstrated verbally or by actions. For example, an inmate who states that he or she will not take the test is refusing to participate. Examples of an inmate refusing to participate by actions include an inmate who tampers with his or her drug test or an inmate who fails to provide a urine sample despite being given a reasonable opportunity to do so. Staff are to document the circumstances pertaining to the inmate's refusal to participate.

(d) *Test results.* An inmate testing positive for prohibited drug use is subject to disciplinary action in accordance with 28 CFR part 541, subpart B.

[FR Doc. 00–24261 Filed 9–20–00; 8:45 am]
BILLING CODE 4410–05–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[UT–001–0033; FRL–6873–9]**

## Clean Air Act Promulgation of Extension of Attainment Dates for $PM_{10}$ Nonattainment Areas; Utah

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to grant a one-year extension of the attainment date for the Salt Lake County, Utah nonattainment area for particulate matter with an aerodynamic diameter

less than or equal to a nominal 10 micrometers ($PM_{10}$). EPA is also proposing to grant two one-year extensions of the attainment date for the Utah County, Utah $PM_{10}$ nonattainment area. Salt Lake and Utah Counties failed to attain the National Ambient Air Quality Standards (NAAQS) for $PM_{10}$ by the applicable attainment date of December 31, 1994. The action is based on EPA's evaluation of air quality monitoring data and extension requests submitted by the State of Utah. EPA is also making the determination that Salt Lake County, Utah attained the $PM_{10}$ NAAQS as of December 31, 1995 and Utah County, Utah attained the $PM_{10}$ NAAQS as of December 31, 1996. Both areas are continuing to attain the $PM_{10}$ NAAQS. The intended effect of this action is to approve requests from the Governor of Utah in accordance with section 188(d) of the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before October 23, 2000.

**ADDRESSES:** Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of the state documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114–4820.

**FOR FURTHER INFORMATION CONTACT:** Cindy Rosenberg, EPA, Region VIII, (303) 312–6436.

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever ''we,'' ''us,'' or ''our'' are used, we mean the Environmental Protection Agency (EPA).

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## I. Background

### *A. Designation and Classification of $PM_{10}$ Nonattainment Areas*

Areas meeting the requirements of section 107(d)(4)(B) of the CAA were designated nonattainment for $PM_{10}$ by operation of law and classified ''moderate'' upon enactment of the 1990 Clean Air Act Amendments. See generally, 42 U.S.C. 7407(d)(4)(B). These areas included all former Group I $PM_{10}$ planning areas identified in 52 FR 29383 (August 7, 1987) as further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the national ambient air quality standards (NAAQS) for $PM_{10}$ prior to January 1, 1989.[1] A **Federal Register** notice announcing the areas designated nonattainment for $PM_{10}$ upon enactment of the 1990 Amendments, known as ''initial'' $PM_{10}$ nonattainment areas, was published on March 15, 1991 (56 FR 11101) and a subsequent **Federal Register** document correcting the description of some of these areas was published on August 8, 1991 (56 FR 37654). *See* 40 CFR 81.345 (codified air quality designations and classifications for Utah).

All initial moderate $PM_{10}$ nonattainment areas had the same applicable attainment date of December 31, 1994. Section 188(d) provides the Administrator the authority to grant up to two one-year extensions to the attainment date provided certain requirements are met as described below. States containing initial moderate $PM_{10}$ nonattainment areas were required to develop and submit to EPA by November 15, 1991, a SIP revision providing for, among other things, implementation of reasonably available control measures (RACM), including reasonably available control technology (RACT), and a demonstration of whether attainment of the $PM_{10}$ NAAQS by the December 31, 1994 attainment date was practicable. See section 189(a).

### *B. How Does EPA Make Attainment Determinations?*

All $PM_{10}$ nonattainment areas are initially classified ''moderate'' by operation of law when they are designated nonattainment. See section 188(a). Pursuant to sections 179(c) and 188(b)(2) of the Act, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, $PM_{10}$ nonattainment areas attained the NAAQS by that date. Determinations under section 179(c)(1) of the Act are to be based upon an area's ''air quality as of the attainment date.'' Section 188(b)(2) is consistent with this requirement.

Generally, we will determine whether an area's air quality is meeting the $PM_{10}$ NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring sites (NAMS) in the nonattainment area and entered into the Aerometric Information Retrieval System (AIRS). Data entered into the AIRS has been determined to meet federal monitoring requirements (see 40 CFR 50.6, 40 CFR part 50, appendix J, 40 CFR part 53, 40 CFR part 58, appendix A & B) and may be used to determine the attainment status of areas. We will also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS. All data are reviewed to determine the area's air quality status in accordance with our guidance at 40 CFR part 50, appendix K.

Attainment of the annual $PM_{10}$ standard is achieved when the annual arithmetic mean $PM_{10}$ concentration over a three year period (for example, 1993, 1994, 1995 for areas with a December 31, 1995 attainment date) is equal to or less than 50 micrograms per cubic meter ($\mu g/m^3$). Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with $PM_{10}$ concentrations greater than 150 $\mu g/m^3$. The 24-hour standard is attained when the expected number of days with levels above 150 $\mu g/m^3$ (averaged over a three year period) is less than or equal to one. Three consecutive years of air quality data is generally necessary to show attainment of the 24-hour and annual

[1] Many of these other areas were identified in footnote 4 of the October 31, 1990 **Federal Register** document.

standard for $PM_{10}$. See 40 CFR part 50 and appendix K.

*C. What Are the CAA Requirements for an Attainment Date Extension That Apply to Utah?*

The Act provides the Administrator the discretion to grant up to two one-year extensions of the attainment date for a moderate $PM_{10}$ nonattainment area provided certain criteria are met. The CAA sets forth two criteria that a moderate nonattainment area must satisfy in order to obtain an extension: (1) The State has complied with all the requirements and commitments pertaining to the area in the applicable implementation plan; and (2) The area has no more than one exceedance of the 24-hour $PM_{10}$ standard in the year preceding the extension year, and the annual mean concentration of $PM_{10}$ in the area for the year preceding the extension year is less than or equal to the standard. See section 188(d).

The authority delegated to the Administrator to extend attainment dates for moderate $PM_{10}$ nonattainment areas is discretionary. Section 188(d) of the Act provides that the Administrator ''may'' extend the attainment date for areas that meet the minimum requirements specified above. The provision doesn't dictate or compel that we grant extensions to such areas.

We have stated in guidance that in exercising this discretionary authority for $PM_{10}$ nonattainment areas, we will examine the air quality planning progress made in the moderate area. We will be disinclined to grant an attainment date extension unless a State has, in substantial part, addressed its moderate $PM_{10}$ nonattainment area planning obligations. In order to determine whether the State has substantially met these planning requirements we will review the State's application for the attainment date extension to determine whether the State has: (1) Adopted and substantially implemented control measures that represent RACM/RACT in the moderate nonattainment area; and (2) Demonstrated that the area has made emission reductions amounting to RFP toward attainment of the $PM_{10}$ NAAQS as defined in section 171(1) of the Act. RFP for $PM_{10}$ nonattainment areas is defined in section 171(1) of the Act as annual incremental emission reductions to ensure attainment of the applicable NAAQS ($PM_{10}$) by the attainment date.

If the State doesn't have the requisite number of years of clean air quality data to show attainment and doesn't apply or qualify for an attainment date extension, the area will be reclassified to serious by operation of law under section 188(b)(2) of the Act. If an extension to the attainment date is granted, at the end of the extension year we will again determine whether the area has attained the $PM_{10}$ NAAQS. If the requisite three consecutive years of clean air quality data needed to determine attainment are not met for the area, the State may apply for a second one-year extension of the attainment date. In order to qualify for the second one-year extension of the attainment date, the State must satisfy the same requirements listed above for the first extension. We will also consider the State's $PM_{10}$ planning progress for the area in the year for which the first extension was granted. If a second extension is granted and the area doesn't have the requisite three consecutive years of clean air quality data needed to demonstrate attainment at the end of the second extension, no further extensions of the attainment date can be granted. Once a final determination to this effect is made by us through the **Federal Register**, the area will be reclassified as serious by operation of law. See section 188(d).

## II. EPA's Proposed Action

*A. What Is EPA Proposing To Approve?*

In response to requests from the Governor of Utah, we are proposing to grant a one-year attainment date extension for the Salt Lake County, Utah $PM_{10}$ nonattainment area and two one-year attainment date extensions for the Utah County, Utah $PM_{10}$ nonattainment area in order to address CAA requirements. The effect of these actions would be to extend the attainment date for the Salt Lake County, Utah $PM_{10}$ nonattainment area from December 31, 1994 to December 31, 1995 and the attainment date for the Utah County, Utah $PM_{10}$ nonattainment area from December 31, 1994 to December 31, 1995 and from December 31, 1995 to December 31, 1996. The proposed action to extend the attainment date for Salt Lake County is based on monitored air quality data for the national ambient air quality standard (NAAQS) for $PM_{10}$ from the years 1992–94 and the action for Utah County is based on data from the years 1992–94 and 1993–1995. In addition, based on quality-assured data meeting the requirements of 40 CFR part 50, appendix K, we are proposing to find that, as of December 31, 1995, Salt Lake County attained the $PM_{10}$ NAAQS, and that, as of December 31, 1996, Utah County attained the $PM_{10}$ NAAQS. Both areas are continuing to attain the $PM_{10}$ NAAQS. If we finalize this proposal, consistent with CAA section 188, the areas will remain moderate $PM_{10}$ nonattainment areas and avoid the additional planning requirements that apply to serious $PM_{10}$ nonattainment areas.

This action should not be confused with a redesignation to attainment under CAA section 107(d) because Utah hasn't submitted a maintenance plan as required under section 175(A) of the CAA or met the other CAA requirements for redesignation. The designation status in 40 CFR part 81 will remain moderate nonattainment for both areas until such time as Utah meets the CAA requirements for redesignations to attainment.

We are soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

*B. What is The History Behind this Proposal?*

As initial moderate $PM_{10}$ nonattainment areas, both Salt Lake and Utah Counties were required by CAA section 188 to attain the $PM_{10}$ NAAQS by December 31, 1994. As noted above, section 188 of the CAA requires EPA to determine whether such moderate areas have attained the NAAQS or not within six months of the attainment date. In the event an area doesn't attain the NAAQS by the attainment date, section 188 also allows States to request and EPA to approve attainment date extensions if certain criteria are met. On May 11, 1995, the State of Utah requested a one-year extension of the attainment date for both Salt Lake and Utah Counties. On October 18, 1995, we indicated that we were granting the requested one-year extensions. We also indicated in a letter dated January 25, 1996 that we would publish a rulemaking action on the extension requests ''in the very near future,'' but we didn't do so. Nor did we publish determinations in the **Federal Register** that the areas had not attained the NAAQS as of December 31, 1994. On March 27, 1996, the State of Utah requested a second one-year extension of the attainment date for Utah County. We didn't publish a determination in the **Federal Register** that Utah County had not attained the NAAQS as of December 31, 1995.

EPA is now proposing to extend the attainment date from December 31, 1994 to December 31, 1995 for the Salt Lake County $PM_{10}$ nonattainment area and the Utah County $PM_{10}$ nonattainment area. EPA is also proposing to extend the attainment date for the Utah County

$PM_{10}$ nonattainment area for an additional year—until December 31, 1996. As we explain more fully below, we believe these extensions are warranted under CAA section 188(d). In addition, we are finding that the Salt Lake County $PM_{10}$ nonattainment area attained the $PM_{10}$ NAAQS as of December 31, 1995 and the Utah County $PM_{10}$ nonattainment area attained the $PM_{10}$ NAAQS as of December 31, 1996.

**III. Basis for EPA's Proposed Action**

*A. Salt Lake County*

1. Explanation of the Attainment Date Extension for the Salt Lake County $PM_{10}$ Nonattainment Area

*a. Air Quality Data.* We are using data from calendar year 1994 to determine whether the area met the air quality criteria for granting a one-year extension to the attainment date under section 188(d) of the CAA.

The Salt Lake County $PM_{10}$ nonattainment area includes the entire county. In 1994, Utah's Department of Air Quality (UDAQ or Utah) operated six $PM_{10}$ monitors, which were SLAMS and NAMS, in Salt Lake County. We deemed the data from these sites valid and the data were submitted by Utah to be included in AIRS.

In 1994, there were eight exceedances of the 24-hour $PM_{10}$ NAAQS at one monitor (North Salt Lake Site) and one exceedance of the 24-hour NAAQS at another monitor (AMC Site). Based on nearby construction activity, Utah requested that the eight exceedances recorded at the North Salt Lake Site in 1994 be excluded under our ''Guideline on the Identification and Use of Air Quality Data Affected By Exceptional Events,'' (EPA–450/4–86–007). We determined that the North Salt Lake monitor was influenced by highly localized, fugitive dust events caused by the construction activity occurring in the immediate area. The Guideline allows consideration of the influence of certain events, such as construction, near air monitoring stations in determining if data should be used for regulatory purposes. Because of those impacts from localized construction near the North Salt Lake site, all data from June 8 to November 23, 1994 were excluded from the data set used in calculations for attainment/nonattainment purposes.

With the exclusion of the above-mentioned block of data, there was only one exceedance recorded at one other monitor (AMC site). Therefore, with only one exceedance of the $PM_{10}$ NAAQS recorded in 1994, the area met one of the requirements to qualify for an attainment date extension under section 188(d).[2]

*b. Compliance with the Applicable SIP.* The State of Utah submitted the $PM_{10}$ SIP for Salt Lake County on November 14, 1991. On December 18, 1992 (57 FR 60149), EPA proposed to approve the plan as satisfying those moderate $PM_{10}$ nonattainment area requirements that were due November 15, 1991. On July 8, 1994 (59 FR 35036), EPA took final action approving the Salt Lake County $PM_{10}$ SIP. The SIP control strategies consist of controls for stationary sources and area sources (including controls for woodburning, mobile sources, and road salting and sanding) of primary $PM_{10}$ emissions as well as sulfur oxide ($SO_X$) and nitrogen oxide ($NO_X$) emissions, which are secondary sources of particulate emissions.

Based on information the State submitted in 1995, we believe that Utah was in compliance with the requirements and commitments in the applicable implementation plan that pertained to the Salt Lake County $PM_{10}$ nonattainment area when the State submitted its extension request. The milestone report indicates that Utah had implemented most of its adopted control measures, and therefore we believe Utah substantially implemented its RACM/RACT requirements.

*c. Emission Reduction Progress.* With its May 11, 1995, request for a one-year attainment date extension for Salt Lake County, the State of Utah also submitted a milestone report as required by section 189(c)(2) of the Act to demonstrate annual incremental emission reductions and reasonable further progress (RFP). On September 29, 1995, Utah submitted a revised version of the milestone report. The revised 1995 milestone report estimated current emissions from all source categories covered by the SIP and compared those estimates to 1988 actual emissions. These estimates of current emissions indicated that total emissions of $PM_{10}$, $SO_2$, and $NO_X$ had been reduced by approximately 60,752 tons per year, from a 1988 value of 150,292 tons per year to a current value of 89,540 tons per year.

The effect of these emission reductions appears to be reflected in ambient measurements at the monitoring sites. Data from these sites show no violations of either the annual or the 24-hour $PM_{10}$ standard since the 1992–1994 period. Furthermore, in 1994 there was only one exceedance of the 24-hour standard and the highest monitored annual standard at any monitor was $47\mu/m^3$. This is evidence that the State's implementation of $PM_{10}$ SIP control measures resulted in emission reductions amounting to reasonable further progress in the Salt Lake County $PM_{10}$ nonattainment area.

2. Determination that the Salt Lake County $PM_{10}$ Nonattainment Area Attained the $PM_{10}$ NAAQS as of December 31, 1995

Whether an area has attained the $PM_{10}$ NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. See 40 CFR part 50 and 40 CFR part 50, appendix K. If we finalize this action, the extended attainment date for Salt Lake County will be December 31, 1995, and the three year period will cover calendar years 1993, 1994, and 1995.

The $PM_{10}$ concentrations reported at six different monitoring sites showed one measured exceedance of the 24-hour $PM_{10}$ NAAQS between 1993 and 1995. Because data collection was less than 100% at these monitoring sites, the expected exceedance rate for 1994 was 1.03. For 1993 and 1995, it was 0.0. Thus, the three-year average was less than 1.0, which indicates Salt Lake County attained the 24-hour $PM_{10}$ NAAQS as of December 31, 1995.

Review of the annual standard for calendar years 1993, 1994 and 1995 reveals that Utah also attained the annual $PM_{10}$ NAAQS by December 31, 1995. There was no violation of the annual standard for the three year period from 1993 through 1995.

*B. Utah County*

1. Explanation of the Attainment Date Extension for the Utah County $PM_{10}$ Nonattainment Area

*a. Air Quality Data.* The Utah County $PM_{10}$ nonattainment area includes the entire county. In 1994 and 1995, UDAQ operated four $PM_{10}$ monitoring sites, which were either SLAMS or NAMS, in Utah County. We deemed the data from these sites valid and the data was submitted by Utah to be included in AIRS.

We are using data from calendar year 1994 to determine whether the area met the air quality criteria for granting a one-year extension of the attainment date, from December 31, 1994 to December 31, 1995, under section 188(d) of the CAA. We are using calendar year 1995

[2] The Act states that no more than one exceedance may have occurred in the area (see section 189(d)(2)). The EPA interprets this to prohibit extensions if there is more than one measured exceedance of the 24-hour standard at any monitoring site in the nonattainment area. The number of exceedances will not be adjusted to expected exceedances as long as the minimum required sampling frequencies have been met.

data to determine whether the Utah County area met the air quality criteria for granting an extension of the attainment date from December 31, 1995 to December 31, 1996.

In 1994, there were no exceedances of the 24-hour or annual $PM_{10}$ NAAQS in Utah County. Since no exceedances of the $PM_{10}$ NAAQS were recorded in 1994, the area met one of the requirements to qualify for a one-year attainment date extension under section 188(d).[3] In 1995, there were no exceedances of the 24-hour or annual $PM_{10}$ NAAQS in Utah County. Since no exceedances of the $PM_{10}$ NAAQS were recorded in 1995, the area met one of the requirements to qualify for a second one-year attainment date extension under section 188(d).

*b. Compliance with the Applicable SIP.* The State of Utah submitted the $PM_{10}$ SIP for Utah County on November 14, 1991. On December 18, 1992 (57 FR 60149), EPA proposed to approve the plan as satisfying those moderate $PM_{10}$ nonattainment area requirements due November 15, 1991. On July 8, 1994 (59 FR 35036), EPA took final action approving the Utah County $PM_{10}$ SIP. The SIP control strategies consist of controls for stationary sources and area sources (including controls for woodburning, mobile sources, and road salting and sanding) of primary $PM_{10}$ emissions as well as sulfur oxide ($SO_X$) and nitrogen oxide ($NO_X$) emissions, which are secondary sources of particulate emissions.

Based on information the State submitted in 1995, we believe that Utah was in compliance with the requirements and commitments in the applicable implementation plan that pertained to the Utah County $PM_{10}$ nonattainment area when Utah submitted its first extension request. The milestone report indicates that Utah County had implemented most of its adopted control measures, and therefore we believe Utah substantially implemented its RACM/RACT requirements. Based on information the State submitted in 1996, we believe that Utah was in compliance with the requirements and commitments in the applicable implementation plan that pertained to the Utah County $PM_{10}$ nonattainment area when the State submitted its second extension request. The milestone report indicates that the State continued to implement its adopted control measures, and therefore we believe Utah substantially implemented its RACM/RACT requirements.

*c. Emission Reduction Progress.* With its May 11, 1995, request for a one-year attainment date extension for Utah County, the State of Utah also submitted a milestone report as required by section 189(c)(2) of the Act to demonstrate annual incremental emission reductions and RFP. On September 29, 1995, Utah submitted a revised version of the milestone report. The revised 1995 milestone report estimated current emissions from all source categories covered by the SIP and compared those estimates to 1988 actual emissions. These estimates of current emissions indicated that total emissions of $PM_{10}$, $SO_2$, and $NO_X$ had been reduced by approximately 3,129 tons per year, from a 1988 value of 25,920 tons per year to a then current value of 22,791 tons per year.

With its March 27, 1996 request for an additional one-year attainment date extension for Utah County, the State of Utah submitted another milestone report. Utah submitted a revised version of this milestone report on May 17, 1996. The March 27, 1996 milestone report estimated current emissions from all source categories covered by the SIP and compared those estimates to 1988 actual emissions. These estimates of current emissions indicated that total emissions of $PM_{10}$, $SO_2$, and $NO_X$ had been reduced from the 1988 total by approximately 8,391 tons per year.

The effect of these emission reductions appears to be reflected in ambient measurements at the monitoring sites. Data from these sites show no exceedances of either the annual or the 24-hour $PM_{10}$ standard in 1994 or 1995. The vast majority of monitored values were well below the 24-hour standard. The highest annual value recorded at any monitor during 1994 and 1995 was 39μ/m3. This is evidence that the State's implementation of $PM_{10}$ SIP control measures resulted in emission reductions amounting to RFP in the Utah County $PM_{10}$ nonattainment area.

2. Determination that the Utah County $PM_{10}$ Nonattainment Area Attained the $PM_{10}$ NAAQS as of December 31, 1996.

Whether an area has attained the $PM_{10}$ NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. See 40 CFR part 50 and 40 CFR part 50, appendix K. If we finalize this action, the extended attainment date for Utah County will be December 31, 1996, and the three year period will cover calendar years 1994, 1995, and 1996.

The $PM_{10}$ concentrations reported at four different monitoring sites showed no measured exceedances of the 24-hour $PM_{10}$ NAAQS between 1994 and 1996, which indicates Utah County attained the 24-hour $PM_{10}$ NAAQS as of December 31, 1996.

Review of the annual standard for calendar years 1994, 1995 and 1996 reveals that Utah also attained the annual $PM_{10}$ NAAQS by December 31, 1996. No monitoring sites showed a violation of the annual standard in the three year period from 1994 through 1996.

## IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely approves a state request as meeting federal requirements and imposes no requirements. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed rule would not impose any enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this proposed 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 proposed 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), because it merely approves a state request for an attainment date extension, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to

[3] The Act states that no more than one exceedance may have occurred in the area (see section 189(d)(2)). The EPA interprets this to prohibit extensions if there is more than one measured exceedance of the 24-hour standard at any monitoring site in the nonattainment area. The number of exceedances will not be adjusted to expected exceedances as long as the minimum required sampling frequencies have been met.

eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 40 CFR Part 52**

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

Dated: September 13, 2000.

**Patricia D. Hull,**

*Acting Regional Administrator, Region VIII.*

[FR Doc. 00–24310 Filed 9–20–00; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### 42 CFR Part 52h

**RIN 0925–AA20**

### Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects

**AGENCY:** National Institutes of Health, Health and Human Services.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The National Institutes of Health (NIH) is proposing to revise the regulations governing scientific peer review of research grant applications and research and development contract projects and contract proposals to clarify the review criteria, revise the conflict of interest requirements to reflect the fact that members of Scientific Review Groups do not become Federal employees by reason of that membership, and make other changes required to update the regulations.

**DATES:** The NIH invites written comments on the proposed regulations and requests that comments identify the regulatory provision to which they relate. Comments must be received on or before November 20, 2000.

**ADDRESSES:** Comments should be sent to Jerry Moore, NIH Regulations Officer, National Institutes of Health, 6011 Executive Boulevard, Room 601, MSC 7669, Rockville, MD 20852. Comments also may be sent electronically by facsimile (301–402–0169) or e-mail (jm40z@nih.gov).

**FOR FURTHER INFORMATION CONTACT:** Jerry Moore at the address above, or telephone (301) 496–4607 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Applications to NIH for grants for biomedical and behavioral research and NIH research and development contract project concepts and contract proposals are reviewed under a two-level scientific peer review system, often referred to as the dual review system. This dual review system separates the scientific assessment of proposed projects from policy decisions about scientific areas to be supported and the level of resources to be allocated, which permits a more objective and complete evaluation than would result from a single level of review. The review system is designed to provide NIH officials with the best available advice about scientific and technical merit as well as program priorities and policy considerations.

The review system consists of two sequential levels of review for each application that will be considered for funding. For most grant and cooperative agreement (hereafter referred to as grant) applications, the initial or first level review involves panels of experts established according to scientific disciplines or medical specialty areas, whose primary function is to evaluate the scientific merit of grant applications. These panels are referred to as Scientific Review Groups (SRGs), a generic term that includes both regular study sections and special emphasis panels (SEPs). In some cases, SRGs in scientifically related areas are organizationally combined into Initial Review Groups (IRGs).

The second level of review of grant applications is performed by National Advisory Boards or Councils composed of both scientific and lay representatives. The recommendations made by these Boards or Councils are based not only on considerations of scientific merit as judged by the SRG, but also on the relevance of a proposed project to the programs and priorities of NIH. In most cases Councils concur with the SRG recommendation. If a Board or Council does not concur with the SRG's assessment of scientific merit, the Board or Council can defer the application for re-review. Subject to limited exceptions as described in Council operating procedures, unless an application is recommended by both the SRG and the Board or Council, no award can be made.

The first level of review of grant applications, and both levels of review of contract project concepts and contract proposals, are governed by the regulations codified at 42 CFR Part 52h, Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects.

The regulations at 42 CFR Part 52h were last amended in November 1982. We are proposing to revise the regulations to incorporate changes that are required to update Part 52h.

The regulations would be revised to: (1) change the section pertaining to conflict of interest to reflect that non-Federal members of SRGs are not appointed as Special Government Employees and therefore are not subject to the conflict of interest statutes and regulations applicable to Federal employees, and to provide a more practical view of the very complex relationships that occur in the scientific community; (2) clarify the applicability of the peer review rules to the review of grant applications and contract proposals; (3) clarify the review criteria applicable to grant applications; and (4) update references, add or amend definitions as necessary, and make appropriate editorial changes.

The conflict of interest provisions in § 52h.5 define real and apparent conflicts of interest, prohibit or restrict participation in peer review by those who have a conflict of interest, and permit waivers of those restrictions under prescribed conditions that are intended to protect the integrity of the review process. It is expected that the flexibility afforded by the proposed regulations will enhance the recruitment of qualified reviewers without compromising the integrity of the review process.

The proposed changes to § 52h.8 ''Grants review criteria'' were developed after extensive input from and discussion with the scientific community during 1996–1997 in response to a report entitled ''Rating of Grant Applications'' that was shared with the scientific community. The report and rating criteria were discussed at four open meetings of the Peer Review Oversight Group, whose members include representatives from the peer review community. That group made recommendations to NIH on review criteria (minutes of these meetings are posted on the NIH homepage, www.nih.gov). There was extensive discussion of how to include the concepts of ''innovativeness'' and ''impact'' of the research. After due consideration, the Director, NIH,

decided on the revised review criteria for rating unsolicited research grant applications that were published in the NIH Guide for Grants and Contracts, June 27, 1997. These review criteria have been well received by the research community and by those involved in the review process, who view them as beneficial to the review process.

The proposed § 52h.8 clarifies and rearranges the previous review criteria consistent with the criteria published in the NIH Guide. The term ''originality'' would be moved from (a) to the new (c) where it becomes ''the innovativeness and originality of the proposed research.'' Criterion (b) would be clarified from ''methodology'' to ''approach and methodology.'' Criterion (e) would be clarified as ''the scientific environment and reasonable availability of resources'' instead of only ''reasonable availability of resources.'' The scientific peer review group would assess the overall impact that the project could have on the field in light of the assessment of individual review criteria. In addition, review criterion (f), concerning plans to include both genders, minorities, children and special populations, would be added to reflect current statutes and NIH policies.

Additionally, the authority citation would be amended to reflect the current authorities and §§ 52h.1, 52h.2, 52h.3, 52h.5, and 52h.10 would be amended to reflect the applicability of the regulations to NIH alone. In accordance with the changes in applicability, references to the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) and the Health Resources and Services Administration (HRSA) would be deleted. Section 52h.2 would be amended to include definitions for several additional terms, and minor editorial changes are proposed for several definitions and § 52h.6.

The following statements are provided for public information.

**Executive Order 12866**

Executive Order 12866 requires that all regulatory actions reflect consideration of the costs and benefits they generate and that they meet certain standards, such as avoiding the imposition of unnecessary burdens on the affected public. If a regulatory action is deemed to fall within the scope of the definition of the term ''significant regulatory action'' contained in Section 3(f) of the Order, pre-publication review by the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) is necessary. This action was reviewed under Executive Order 12866 by OIRA and was deemed not significant.

**Regulatory Flexibility Act**

The Department prepares a regulatory flexibility analysis, in accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. chapter 6), if a rule is expected to have a significant impact on a substantial number of small entities. The Principal Deputy Director, NIH, certifies that this proposed rule will not have a significant impact on a substantial number of small entities and that a regulatory flexibility analysis, as defined under the Regulatory Flexibility Act of 1980, is not necessary.

**Executive Order 13132**

Executive Order 13132, Federalism, requires that federal agencies consult with State and local government officials in the development of regulatory policies with federalism implications. The Principal Deputy Director, NIH, reviewed the rule as required under the Order and determined that it does not have any federalism implications. The Principal Deputy Director, NIH, certifies that the changes in the scientific peer review regulations will not have an effect on the States, or on the distribution of power and responsibilities among the various levels of government.

**Paperwork Reduction Act**

This proposed rule does not contain any information collection requirements that are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

**List of Subjects in 42 CFR Part 52h**

Government contracts, Grant programs—health, Medical research.

Dated: August 7, 2000.

**Ruth L. Kirschstein,**

*Principal Deputy Director, National Institutes of Health.*

For the reasons stated in the preamble, part 52h of title 42 of the Code of Federal Regulations is proposed to be revised to read as set forth below.

## PART 52h—SCIENTIFIC PEER REVIEW OF RESEARCH GRANT APPLICATIONS AND RESEARCH AND DEVELOPMENT CONTRACT PROJECTS

Sec.

52h.1 Applicability.
52h.2 Definitions.
52h.3 Establishment and operation of peer review groups.
52h.4 Composition of peer review groups.
52h.5 Conflict of interest.
52h.6 Availability of information.
52h.7 Grants; matters to be reviewed.
52h.8 Grants; review criteria.
52h.9 Unsolicited contract proposals; matters to be reviewed.
52h.10 Contract projects involving solicited contract proposals; matters to be reviewed.
52h.11 Contract projects and proposals; review criteria.
52h.12 Applicability of other regulations.

**Authority:** 42 U.S.C. 216; 42 U.S.C. 282(b) 42 U.S.C. 284 (c)(3); 42 U.S.C. 289a.

### § 52h.1 Applicability.

(a) This part applies to:

(1) Applications to the National Institutes of Health for grants or cooperative agreements (a reference in this part to grants includes cooperative agreements) for biomedical and behavioral research; and

(2) Biomedical and behavioral research and development contract project concepts and proposals for contract projects administered by the National Institutes of Health.

(b) This part does not apply to applications for:

(1) Continuation funding for budget periods within an approved project period;

(2) Supplemental funding to meet increased administrative costs within a project period; or

(3) Construction grants.

### § 52h.2 Definitions.

As used in this part:

(a) *Act* means the Public Health Service Act, as amended (42 U.S.C. 201 *et seq.*).

(b) *Awarding official* means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated; Except that, where the Act specifically authorizes another official to make awards in connection with a particular program, the ''awarding official'' shall mean that official and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

(c) *Budget period* means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(d) *Close relative* means a parent, spouse/domestic partner or son or daughter.

(e) *Contract proposal* means a written offer to enter into a contract that is submitted to the appropriate agency official by an individual or non-federal organization which includes, as a minimum, a description of the nature, purpose, duration, and cost of the project, and the methods, personnel, and facilities to be utilized in carrying it out. A contract proposal may be

unsolicited by the federal government or submitted in response to a request for proposals.

(f) *Development* means the systematic use of knowledge gained from research to create useful materials, devices, systems, or methods.

(g) *Director* means the Director of the National Institutes of Health and any other official or employee of the National Institutes of Health to whom the authority involved has been delegated.

(h) *Grant* as used in this part, includes cooperative agreements.

(i) *Peer review group* means a group of primarily non-government experts qualified by training and experience in particular scientific or technical fields, or as authorities knowledgeable in the various disciplines and fields related to the scientific areas under review, to give expert advice on the scientific and technical merit of grant applications or contract proposals, or the concept of contract projects, in accordance with this part.

(j) *Principal Investigator* has the same meaning as in 42 CFR part 52.

(k) *Professional associate* means any colleague, scientific mentor, or student with whom the peer reviewer is currently conducting research or other professional activities or with whom the member has conducted such activities within three years of the date of the review.

(l) *Project approach* means the methodology to be followed and the resources needed in carrying out the project.

(m) *Project concept* means the basic purpose, scope, and objectives of the project.

(n) *Project period* has the same meaning as in 42 CFR part 52.

(o) *Request for proposals* means a Government solicitation to prospective offerors, under procedures for negotiated contracts, to submit a proposal to fulfill specific agency requirements based on terms and conditions defined in the request for proposals. The request for proposals contains information sufficient to enable all offerors to prepare proposals, and is as complete as possible with respect to: nature of work to be performed; descriptions and specifications of items to be delivered; performance schedule; special requirements clauses, or other circumstances affecting the contract; format for cost proposals; and evaluation criteria by which the proposals will be evaluated.

(p) *Research* has the same meaning as in 42 CFR part 52.

(q) *Research and development contract project* means an identified, circumscribed activity, involving a single contract or two or more similar, related, or interdependent contracts, intended and designed to acquire new or fuller knowledge and understanding in the areas of biomedical or behavioral research and/or to use such knowledge and understanding to develop useful materials, devices, systems, or methods.

(r) *Scientific Review Group* has the same meaning as ''peer review group'', which is defined in paragraph (i) of this section.

(s) *Solicited contract proposal* has the same meaning as the definition of ''offer'' in 48 CFR 2.101.

(t) *Unsolicited contract proposal* has the same meaning as ''unsolicited proposal'' in 48 CFR 15.601.

### § 52h.3 Establishment and operation of peer review groups.

(a) To the extent applicable, the Federal Advisory Committee Act (5 U.S.C. App. 2) and Chapter 9 of the Department of Health and Human Services General Administration Manual [1] will govern the establishment and operation of peer review groups.

(b) Subject to section 52h.5 and paragraph (a) of this section, the Director will adopt procedures for the conduct of reviews and the formulation of recommendations under sections 52h.7, 52h.9 and 52h.10.

### § 52h.4 Composition of peer review groups.

(a) To the extent applicable, the selection and appointment of members of peer review groups and their terms of service will be governed by Chapter 9 of the Department of Health and Human Services General Administration Manual.

(b) Subject to paragraph (a) of this section, members will be selected based upon their training and experience in relevant scientific or technical fields, taking into account, among other factors:

(1) The level of formal scientific or technical education completed or experience acquired by the individual;

(2) The extent to which the individual has engaged in relevant research, the capacities (*e.g.*, principal investigator, assistant) in which the individual has done so, and the quality of such research;

(3) Recognition as reflected by awards and other honors received from scientific and professional organizations; and

(4) The need for the group to have included within its membership experts from various areas of specialization within relevant scientific or technical fields.

(c) Except as otherwise provided by law, not more than one-fourth of the members of any peer review group to which this part applies may be officers or employees of the United States. Being a member of a scientific peer review group does not make an individual an officer or employee of the United States.

### § 52h.5 Conflict of interest.

(a) This section applies only to conflicts of interest involving members of peer review groups who are not federal employees. This section does not cover individuals serving on National Advisory Councils or Boards, Boards of Scientific Counselors, or Program Advisory Committees who, if not already officers or employees of the United States, are special Government employees and covered by title 18 of the United States Code, the Office of Government Ethics Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635), and Executive Order 11222, as amended. For those federal employees serving on peer review groups, in accordance with 52h.4, the requirements of title 18 of the United States Code, 5 CFR part 2635 and Executive Order 12674, as modified by Executive Order 12731, apply.

(b)(1) A reviewer has a real conflict of interest when that reviewer, or a close relative or professional associate of that reviewer, has an interest in an application or proposal that is likely to bias the reviewer's evaluation of that application or proposal. If such a conflict of interest is acknowledged by a reviewer or determined to exist by review staff, the reviewer must recuse him/herself from the review of the application or proposal, except as otherwise provided in this section.

(i) A reviewer who is a salaried employee, whether full- or part-time, of the applicant institution, offeror, or principal investigator, or is negotiating for such employment, shall generally be considered to have a real conflict of interest with regard to applications/proposals from that organization. However, in large organizations or multi-component organizations there may be circumstances where the components are sufficiently independent that an employee of one component can review an application/proposal from another component without a real or apparent conflict of interest, as determined by the Director.

[1] The Department of Health and Human Services General Administration Manual is available for public inspection and copying at the Department's information centers listed in 45 CFR 5.31 and may be purchased from the Superintendent of Documents, U.S. Printing Office, Washington, DC 20402.

(ii) A reviewer will be considered to have a real conflict of interest if he/she:

(A) Has received or could receive a direct financial benefit of any amount deriving from an application or proposal under review; or

(B) Apart from any direct financial benefit deriving from an application or proposal under review, has received, is under contract to receive, or is negotiating to receive from the applicant institution, offeror or principal investigator, an honorarium, fee, or other financial benefit not constituting salary that is valued at $5000 or more per year. Regardless of the level of financial involvement, if the reviewer feels unable to provide objective advice, he/she must recuse him/herself from the review of the application or proposal at issue.

(iii) Any financial interest of a close relative or professional associate of the reviewer shall be treated as the reviewer's financial interest and be subject to paragraph (b)(1) of this section. Depending on the nature of the relationship and other pertinent factors, as determined by the review staff, the reviewer must either recuse him/herself from the review of an application or proposal in which a close relative or professional associate of the reviewer has a financial interest, or that application or proposal shall be reviewed by another review group in accordance with paragraph (b)(3) of this section.

(iv) For contract proposal reviews, an individual with a real conflict of interest in a particular proposal(s) is generally not permitted to participate in the review of any proposals responding to the same request for proposals. However, if there is no other qualified reviewer available having that individual's expertise and that expertise is essential to ensure a competent and fair review, a waiver may be granted by the Director to permit that individual to serve as a reviewer of those proposals with which he/she has no conflict, while recusing him/herself from the review of the particular proposal(s) with which he/she does have a conflict of interest.

(2) An appearance of a conflict of interest exists where the government official managing the review (*i.e.*, the Scientific Review Administrator or equivalent) determines, in accordance with this subpart, that the circumstances would cause a reasonable person to question the reviewer's impartiality if he or she were to participate in the review. Any appearance of a conflict of interest should be avoided whenever possible through recusal of the reviewer who has an appearance of a conflict, but is not sufficient grounds for recusal when, in the interest of a competent and fair review, it is documented that there is no real conflict of interest, and the Director determines that: It would be difficult or impractical to carry out the review otherwise; and the integrity of the review process would not be impaired.

(3) When a peer review group meets regularly it is assumed that a relationship among individual reviewers in the group exists and that the group as a whole may not be objective about evaluating the work of one of its members. In such a case, a member's application or proposal shall be reviewed by another qualified review group to ensure that a competent and objective review is obtained.

(4) When a member of a peer review group participates in or is present during the concept review of a contract project that occurs after release of the solicitation, as described under § 52h.10(b), but before receipt of proposals, the member is not considered to have a real conflict of interest as described in paragraph (b)(1) of this section, but is subject to paragraph (b)(2) concerning appearance of conflict of interest if the member is planning to respond to the solicitation. When concept review occurs after receipt of proposals, paragraph (b)(1) applies.

(5) No member of a peer review group may participate in any review of a specific grant application or contract project for which the member has had or is expected to have any other responsibility or involvement (whether preaward or postaward) as an officer or employee of the United States.

(6) In addition to the preceding requirements in this paragraph (b), the Director may determine if other particular situations that arise constitute a conflict of interest and require recusal or other appropriate action.

(c) The Director may waive any of the requirements in paragraph (b) of this section relating to a real conflict of interest if he or she determines that there are no other practical means for securing appropriate expert advice on a particular grant or cooperative agreement application, contract project, or contract proposal, and that the real conflict of interest is not so substantial as to be likely to affect the integrity of the advice to be provided by the reviewer.

**§ 52h.6 Availability of information.**

(a) Transcripts, minutes, and other documents made available to or prepared for or by a peer review group will be available for public inspection and copying to the extent provided in the Freedom of Information Act (5 U.S.C. 552), the Federal Advisory Committee Act (5 U.S.C. Appendix 2), the Privacy Act (5 U.S.C. 552a), and implementing Department of Health and Human Services regulations (45 CFR parts 5 and 5b).

(b) Meetings of peer review groups reviewing grant applications or contract proposals are closed to the public in accordance with the Government in the Sunshine Act (5 U.S.C. 552b(c)(4), and 552b(c)(6)) and Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2). Documents made available to, or prepared for or by such groups that contain trade secrets or commercial or financial information obtained from a person that is privileged or confidential, and personal information concerning individuals associated with applications or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, are exempt from disclosure in accordance with the Freedom of Information Act (5 U.S.C. 552(b)(4), and 552(b)(6)).

(c) Meetings of peer review groups reviewing contract project concepts are open to the public in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) and the Government in the Sunshine Act (5 U.S.C. 552b).

**§ 52h.7 Grants; matters to be reviewed.**

(a) Except as otherwise provided by law, no awarding official will make a grant based upon an application covered by this part unless the application has been reviewed by a peer review group in accordance with the provisions of this part and said group has made recommendations concerning the scientific merit of that application. In addition, where under applicable law an awarding official is required to secure the approval or advice of a national advisory council or board concerning an application, said application will not be considered by the council or board unless it has been reviewed by a peer review group in accordance with the provisions of this part and said group has made recommendations concerning the scientific merit of the application, except where the council or board is the peer review group.

(b) Except to the extent otherwise provided by law, recommendations by peer review groups are advisory only and not binding on the awarding official or the national advisory council or board.

**§ 52h.8 Grants: review criteria.**

In carrying out its review under § 52h.7, the scientific peer review group

shall assess the overall impact that the project could have on the field, taking into account, among other factors:

(a) The significance of the goals of the proposed research, from a scientific or technical standpoint;

(b) The adequacy of the approach and methodology proposed to carry out the research;

(c) The innovativeness and originality of the proposed research;

(d) The qualifications and experience of the principal investigator and proposed staff;

(e) The scientific environment and reasonable availability of resources necessary to the research;

(f) The adequacy of plans to include both genders, minorities, children and special populations as appropriate for the scientific goals of the research;

(g) The reasonableness of the proposed budget and duration in relation to the proposed research; and

(h) The adequacy of the proposed protection for humans, animals, and the environment, to the extent they may be adversely affected by the project proposed in the application.

**§ 52h.9 Unsolicited contract proposals; matters to be reviewed.**

(a) Except as otherwise provided by law, no awarding official will award a contract based upon an unsolicited contract proposal covered by this part unless the proposal has been reviewed by a peer review group in accordance with the provisions of this part and said group has made recommendations concerning the scientific merit of that proposal.

(b) Except to the extent otherwise provided by law, such recommendations are advisory only and not binding on the awarding official.

**§ 52h.10 Contract projects involving solicited contract proposals; matters to be reviewed.**

(a) Subject to paragraphs (b) and (c) of this section, no awarding official will issue a request for contract proposals with respect to a contract project involving solicited contract proposals, unless the project concept has been reviewed by a peer review group or advisory council in accordance with this part and said group has made recommendations concerning the scientific merit of said concept.

(b) The awarding official may delay carrying out the requirements for peer review of paragraph (a) of this section until after issuing a request for proposals if he/she determines that the accomplishment of essential program objectives would otherwise be placed in jeopardy and any further delay would clearly not be in the best interest of the Government. The awarding official shall specify in writing the grounds on which this determination is based. Under such circumstances, the awarding official will not award a contract until peer review of the project concept and the proposals have been completed. The request for proposals will indicate that the project concept will be reviewed by a peer review group and that no award will be made until the review is conducted and recommendations made based on that review.

(c) The awarding official may determine that peer review of the project concept for behavioral or biomedical research and development contracts is not needed if one of the following circumstances applies: the solicitation is to recompete or extend a project that is within the scope of a current project that has been peer reviewed, or there is a Congressional authorization or mandate to conduct specific contract projects. If a substantial amount of time has passed since the concept review, the awarding official shall determine whether peer review is required to ensure the continued scientific merit of the concept.

(d) Except to the extent otherwise provided by law, the recommendations referred to in this section are advisory only and not binding on the awarding official.

**§ 52h.11 Contract projects and proposals; review criteria.**

(a) In carrying out its review of a project concept under § 52h.10(a) or § 52h.10(b), the peer review group will take into account, among other factors:

(1) The significance from a scientific or technical standpoint of the goals of the proposed research or development activity;

(2) The availability of the technology and other resources necessary to achieve those goals;

(3) The extent to which there are identified, practical uses for the anticipated results of the activity; and

(4) Where the review includes the project approach, the adequacy of the methodology to be utilized in carrying out the activity.

(b) In carrying out its review of unsolicited contract proposals under § 52h.9, the peer review group will take into account, among other factors, those criteria in § 52h.8 which are relevant to the particular proposals.

(c) In carrying out its review of solicited contract proposals under § 52h.10 (a) or (b) the peer review group will evaluate each proposal in accordance with the criteria set forth in the request for proposals.

**§ 52h.12 Applicability of other regulations.**

The regulations in this part are in addition to, and do not supersede other regulations concerning grant applications, contract projects, or contract proposals appearing elsewhere in this title, title 48, or title 45 of the Code of Federal Regulations.

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**RIN 1018–AG34**

## Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Riverside Fairy Shrimp

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the Fish and Wildlife Service, propose designation of critical habitat for the Riverside fairy shrimp (*Streptocephalus woottoni*), pursuant to the Endangered Species Act of 1973, as amended. We propose designation of critical habitat within an approximately 4,880-hectare (12,060-acre) area in Los Angeles, Orange, Riverside, San Diego, and Ventura counties, California.

Critical habitat identifies specific areas that are essential to the conservation of a listed species and may require special management considerations or protection. The primary constituent elements for the Riverside fairy shrimp are those habitat components that are essential for the primary biological needs of foraging, sheltering, reproduction, and dispersal.

If this proposed rule is made final, section 7 of the Act would prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Section 4 of the Act requires us to consider economic and other impacts of specifying any particular area as critical habitat. We solicit data and comments from the public on all aspects of this proposal, including data on the economic and other impacts of the designation. We may revise this proposal to incorporate or address new information received during the comment period.

**DATES:** We will accept comments from all interested parties until November 20,

2000. Public hearing requests must be received by November 6, 2000.

**ADDRESSES:** If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods.

1. You may mail written comments and information to the Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008.

2. You may hand-deliver written comments to our Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California.

3. You may send comments by electronic mail (e-mail) to fw1rvfs@fws.gov. See the Public Comments Solicited section below for file format and other information about electronic filing.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office or at the Ventura Fish and Wildlife Office, 2394 Portola Road, Suite B, Ventura, California.

**FOR FURTHER INFORMATION CONTACT:** Please contact Ken Berg, Carlsbad Fish and Wildlife Office, at the above address (telephone 760/431–9440; facsimile 760/431–5902).

**SUPPLEMENTARY INFORMATION:**

## Background

The endangered Riverside fairy shrimp (*Streptocephalus wootoni*) is a small aquatic crustacean (Order: Anostraca) that occurs in vernal pools, pool-like ephemeral ponds, and human-modified depressions from coastal southern California south to northwestern Baja California, Mexico. This species is typically found in pools, ponds, and depressions that are deeper and cooler than the basins that support the related species, the endangered San Diego fairy shrimp (*Streptocephalus sandiegonensis*) (Hathaway and Simovich 1996). Water chemistry, depth, temperature, and ponding are considered important factors in determining fairy shrimp distribution (Belk 1977; Branchiopod Research Group 1996; Gonzales *et al.* 1996); hence, no individuals have been found in riverine or marine waters.

Mature males are between 13 to 25 millimeters (mm) (0.5 to 1.0 inches (in.)) long. The cercopods (structures that enhance the rudder-like function of the abdomen) are separate with plumose setae (feathery bristles) along the borders. Mature females are between about 13 to 22 mm (0.5 to 0.87 in.) in total length. The brood pouch extends to the seventh, eighth, or ninth abdominal segment. The cercopods of females are the same as the males. Both sexes of Riverside fairy shrimp have the red color of the cercopods covering all of the ninth abdominal segment and 30 to 40 percent of the eighth abdominal segment. Nearly all species of fairy shrimp feed on algae, bacteria, protozoa, rotifers, and bits of organic matter (Pennak 1989; Eng *et al.* 1990).

Basins that support Riverside fairy shrimp are typically dry a portion of the year, but usually are filled by late fall, winter, or spring rains, and may persist into April or May. All anostracans, like the Riverside fairy shrimp, deposit eggs or cysts (organisms in a resting stage) in the pool's soil to wait out dry periods. The hatching of the cysts is usually observed from January to March; however, in years with early or late rainfall, the hatching period may be extended. The species hatches within 7 to 21 days after the pool refills, depending on water temperature, and matures between 48 to 56 days, depending on a variety of habitat conditions (Hathaway and Simovich 1996). The ''resting'' or ''summer'' cysts are capable of withstanding temperature extremes and prolonged drying. When the pools refill in the same or subsequent rainy seasons, some but not all of the eggs may hatch. Fairy shrimp egg banks in the soil may be composed of the eggs from several years of breeding (Donald 1983; Simovich and Hathaway 1997). Simovich and Hathaway (1997) found that only a fraction of the total cyst bank of anostracans in areas with variable weather conditions or filling periods, such as southern California, may hatch in any given year. Thus, reproductive success is spread over several seasons.

Vernal pools have a discontinuous occurrence in several regions of California (Keeler-Wolf *et al.* 1995), from as far north as the Modoc Plateau in Modoc County, south to the international border in San Diego County. Vernal pools form in regions with Mediterranean climates, where shallow depressions fill with water during fall and winter rains and then evaporate in the spring (Collie and Lathrop 1976; Holland 1976, 1988; Holland and Jain 1977, 1988; Thorne 1984; Zedler 1987; Simovich and Hathaway 1997). In years of high precipitation, overbank flooding from intermittent streams may augment the amount of water in some vernal pools (Hanes *et al.* 1990). Critical to the formation of vernal pools is the presence of nearly impermeable surface or subsurface soil layers and flat or gently sloping topography (less than 10 percent slope). Downward percolation of water in vernal pool basins is prevented by the presence of this impervious layer (Holland 1976, 1988). In southern California, these impervious layers are typically alluvial materials with clay or clay loam subsoils, and they often form a distinctive micro-relief known as Gilgai or mima mound topography (Hallsworth *et al.* 1955; Cox 1984a). Basaltic or granitic substrates (*e.g.*, Hidden Lake and Santa Rosa Plateau in Riverside County) or indurated hardpan layers (*e.g.*, coastal San Diego County) may contribute to poor drainage as well. Vernal pool studies conducted in the Sacramento Valley indicate that the contribution of subsurface or overland water flows is significant only in years of high precipitation when pools are already saturated (Hanes and Stromberg 1996).

On the coastal terraces in San Diego County, pools are associated with the Huerhuero, Stockpen, Redding, and Olivenhain soil series. Huerhuero and Stockpen soils were derived from marine sediments and terraces, while the Redding and Olivenhain soils series were formed from alluvium. The Redding and Olivenhain soils are believed to have supported the majority of the pools historically found in San Diego County. In Riverside County, the Santa Rosa Plateau has Murrieta stony clay loams and soils of the Las Posas series (Lathrop and Thorne 1976), and at Skunk Hollow the soils in the immediate area of the vernal pool are Las Posas clay loam, Wyman clay loam, and Willows soil (Zedler *et al.* 1990).

Vernal pool systems are often characterized by different landscape features including mima mound (miniature mounds) micro-topography, varied pool basin size and depth, and vernal swales (low tract of marshy land). Vernal pool complexes that support one to more vernal pools are often interconnected by a shared watershed. This habitat heterogeneity (consisting of dissimilar elements or parts) generally ensures that some between-pool water flow continues.

Urban and water development, flood control, highway and utility projects, as well as conversion of wildlands to agricultural use, have eliminated or degraded vernal pools and/or their watersheds in southern California (Jones and Stokes Associates 1987). Changes in hydrologic patterns, certain military activities, unauthorized fills, overgrazing, and off-road vehicle use also may imperil this aquatic habitat and the Riverside fairy shrimp. The

flora and fauna in vernal pools or swales can change if the hydrologic regime is altered (Bauder 1986). Anthropogenic (human origin) activities that reduce the extent of the watershed or that alter runoff patterns (*i.e.*, amounts and seasonal distribution of water) may eliminate the Riverside fairy shrimp, reduce population sizes or reproductive success, or shift the location of sites inhabited by this species.

Historically, vernal pool soils covered approximately 500 square kilometers ($km^2$) (200 square miles ($mi^2$)) of San Diego County (Bauder and McMillan 1998). The greatest recent losses of vernal pool habitat in San Diego County have occurred in Mira Mesa, Rancho Penasquitos, and Kearny Mesa, which accounted for 73 percent of all the pools destroyed in the region during the 7-year period between 1979 and 1986 (Keeler-Wolf *et al.* 1995). Other substantial losses have occurred in the Otay Mesa area, where over 40 percent of the vernal pools were destroyed between 1979 and 1990. Similar to San Diego County, vernal pool habitat was once extensive on the coastal plain of Los Angeles and Orange counties (Mattoni and Longcore 1998). Unfortunately, there has been a near-total loss of vernal pool habitat in these areas (Ferren and Pritchett 1988; Keeler-Wolf *et al.* 1995). Significant losses of vernal pools supporting this species have also occurred in Riverside County.

**Previous Federal Action**

The San Gorgonio chapter of the Sierra Club submitted a petition dated September 19, 1988, to list the Riverside fairy shrimp as endangered. The petitioner asserted that emergency listing for this species was appropriate. However, the Service determined that emergency listing was not warranted since the species was more widespread than first thought and occurred in at least one protected site. Nevertheless, we did publish a proposed rule to list the Riverside fairy shrimp as an endangered species in the **Federal Register** on November 12, 1991 (56 FR 57503). Because the species was not identified until 1985, and its existence remained known only to a few scientists until 1988, the proposed rule constituted the first Federal action on the Riverside fairy shrimp. We published the final rule to list the Riverside fairy shrimp as endangered in the **Federal Register** on August 3, 1993 (58 FR 41384). In 1998, the Vernal Pools of Southern California Recovery Plan ((U.S. Fish and Wildlife Service (USFWS) 1998) was finalized. This recovery plan included the efforts required to meet the recovery needs of the Riverside fairy shrimp.

On June 30, 1999, the Southwest Center for Biological Diversity filed a lawsuit in Federal District Court for the Northern District of California for our failure to designate critical habitat for the Riverside fairy shrimp. On February 15, 2000, the Service entered into a settlement agreement with the plaintiff, by which the Service agreed to readdress the prudency of designating critical habitat for the Riverside fairy shrimp by September 1, 2000, and propose critical habitat if prudent (*Southwest Center for Biodiversity* v. *United States Department of the Interior et. al.*, C99–3202 SC). This date was subsequently extended to September 15, 2000.

At the time of listing, we concluded that designation of critical habitat for the Riverside fairy shrimp was not prudent because such designation would not benefit the species. We were concerned that critical habitat designation would likely increase the degree of threat from vandalism, collecting, or other human activities. However, we have determined that the threats to this species and its habitat from specific instances of habitat destruction do not outweigh the broader educational and any potential regulatory and other possible benefits that designation of critical habitat would provide for this species. A designation of critical habitat for the Riverside fairy shrimp will provide educational benefits by formally identifying those areas essential to the conservation of the species. These areas were already identified in the Vernal Pools of Southern California Recovery Plan as the focus of our recovery efforts for the Riverside fairy shrimp (Service 1998).

**Critical Habitat**

Critical habitat is defined in section 3 of the Act as: (i) the specific areas within the geographic area occupied by a species at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures that are necessary to bring an endangered species or a threatened species to the point at which listing under the Act is no longer necessary.

Section 4(b)(2) of the Act requires that we base critical habitat proposals upon the best scientific and commercial data available, after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for the conservation of that species. Designation of critical habitat alerts the public as well as land-managing agencies to the importance of these areas.

Critical habitat also identifies areas that may require special management considerations or protection, and may provide protection to areas where significant threats to the species have been identified. Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the adverse modification or destruction of proposed critical habitat. Aside from the protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat.

Section 7(a)(2) of the Act requires Federal agencies to consult with us to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a threatened or endangered species, or result in the destruction or adverse modification of critical habitat. In 50 CFR 402.02, ''jeopardize the continued existence'' (of a species) is defined as engaging in an activity likely to result in an appreciable reduction in the likelihood of survival and recovery of a listed species. ''Destruction or adverse modification'' (of critical habitat) is defined as a direct or indirect alteration that appreciably diminishes the value of critical habitat for the survival and recovery of the listed species for which critical habitat was designated. Thus, the definitions of ''jeopardy'' to the species and ''adverse modification'' of critical habitat are nearly identical (50 CFR 402.02).

Designating critical habitat does not, in itself, lead to recovery of a listed

species. Designation does not create a management plan, establish numerical population goals, and prescribe specific management actions (inside or outside of critical habitat). Specific management recommendations for areas designated as critical habitat are most appropriately addressed in recovery, conservation, and management plans, and through section 7 consultations and section 10 permits.

**Methods**

In determining areas that are essential to conserve the Riverside fairy shrimp, we used the best scientific and commercial data available. This included data from research and survey observations published in peer-reviewed articles, recovery criteria outlined in the Recovery Plan for Vernal Pools of Southern California (Recovery Plan) (USFWS 1998), regional Geographic Information System (GIS) vegetation and species coverages (including layers for Los Angeles, Orange, Riverside, and San Diego counties), data collected on the U.S. Marine Corps Air Station Miramar (Miramar) and U.S. Marine Corps Base Camp Pendleton (Camp Pendleton), and data collected from reports submitted by biologists holding section 10(a)(1)(A) recovery permits. As stated earlier, Riverside fairy shrimp occur in ephemeral pools and ponds that may not be present throughout a given year or from year to year. Therefore, proposed critical habitat units include a mosaic of vernal pools, ponds, and depressions currently supporting Riverside fairy shrimp, as well as areas that have supported vernal pools in the past and are still capable of supporting pools, vernal pool vegetation, and the Riverside fairy.

*Primary Constituent Elements*

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, we are required to base critical habitat determinations on the best scientific and commercial data available. We consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species and that may require special management considerations or protection. These features include, but are not limited to: space for individual and population growth and for normal behavior; food, water, or other nutritional or physiological requirements; cover or shelter; sites for breeding and reproduction; and habitats that are protected from disturbance or are representative of the historic and ecological distributions of a species.

The primary constituent elements for the Riverside fairy shrimp are those habitat components that are essential for the primary biological needs of foraging, sheltering, reproduction, and dispersal. These primary constituent elements are found in areas that support vernal pools or other ephemeral ponds and depressions and their associated watersheds. The primary constituent elements are: small to large pools with moderate to deep depths that hold water for sufficient lengths of time necessary for Riverside fairy shrimp incubation and reproduction, but not necessarily every year; the associated watershed(s) and other hydrologic features that support pool basins and their related pool complexes; flat or gently sloping topography; and any soil type with a clay component and/or an impermeable surface or subsurface layer known to support vernal pool habitat. All proposed critical habitat areas contain one or more of the primary constituent elements for the Riverside fairy shrimp.

*Criteria Used To Identify Critical Habitat*

In an effort to map areas essential to the conservation of the species, we used data on known Riverside fairy shrimp locations and those vernal pools and vernal pool complexes that were identified in the Recovery Plan as essential for the stabilization and recovery of the species. We then evaluated those areas based on the hydrology, watershed, and topographic features. Based on this evaluation, a 250-meter (m) (0.15 mile (mi)) Universal Transverse Mercator (UTM) grid was overlaid on top of those vernal pool complexes and their associated watersheds. The UTM grid encompasses either individual vernal pool basins or vernal pool complexes and provides additional assurances that watersheds and hydrologic processes are captured and maintained for this species. In those cases where occupied vernal pools were not specifically mapped in the Recovery Plan, we relied on recent scientific data to update the map coverage. We did not map critical habitat in sufficient detail to exclude all developed areas, such as towns or housing developments, or other lands unlikely to contain the primary constituent elements essential for conservation of the Riverside fairy shrimp. Areas of existing features and structures within the boundaries of the mapped units, such as buildings, roads, aqueducts, railroads, airports, other paved areas, lawns, and other urban landscaped areas, will not contain one or more of the primary constituent elements. Federal actions limited to these areas, therefore, would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

We also considered the existing status of lands in areas proposed as critical habitat and whether to exclude legally operative Habitat Conservation Plans (HCP) through section 4(b)(2) of the Act. We fully expect that HCPs undertaken by local jurisdictions (*e.g.,* counties, cities) and other parties will identify, protect, and provide appropriate management for those specific lands within the boundaries of the plans that are essential for the long-term conservation of the species. We also expect that activities covered by and carried out in accordance with the provisions of a legally operative HCP will not result in destruction or adverse modification of critical habitat.

We expect that critical habitat may be used as a tool to help identify areas within the range of the Riverside fairy shrimp that are most critical for the conservation of the species. Critical habitat designation should not preclude the development of HCPs on non-Federal lands. We consider HCPs to be one of the most important methods through which non-Federal landowners can resolve endangered species conflicts. We provide technical assistance and work closely with applicants throughout development of HCPs to help identify special management considerations for listed species.

**Proposed Critical Habitat Designation**

The approximate area encompassing proposed critical habitat by county and land ownership is shown in Table 1. Proposed critical habitat includes Riverside fairy shrimp habitat throughout the species' range in the United States (*i.e.,* Los Angeles, Orange, Riverside, San Diego, and Ventura counties, California) and is generally based on the geographic location of vernal pools, soil types, and local variation of topographic position (*i.e.,* coastal mesas or inland valleys). Lands proposed are under private, State, and Federal ownership and divided into six Critical Habitat Units. A brief description of each unit and reasons for proposing it as critical habitat are presented below.

TABLE 1.—APPROXIMATE AREA ENCOMPASSING PROPOSED CRITICAL HABITAT IN HECTARES (HA) (ACRES (AC)) BY COUNTY AND LAND OWNERSHIP.[1]

| County | Federal land | Local/state land | Private land | Total |
|---|---|---|---|---|
| Los Angeles | N/A | N/A | 195 ha (480 ac) | 195 ha (480 ac) |
| Ventura | N/A | N/A | 25 ha (60 ac) | 25 ha (60 ac) |
| Riverside | N/A | N/A | 1,775 ha (4,390 ac) | 1,775 ha (4,390 ac) |
| Orange | 45 ha (110 ac) | 5 ha (10 ac) | 405 ha (1,000 ac) | 455 ha (1,120 ac) |
| San Diego | 2,290 ha (5,660 ac) | N/A | 140 ha (350 ac) | 2,430 ha (6,010 ac) |
| Total | 2,335 ha (5,770 ac) | 5 ha (10 ac) | 2,540 ha (6,280 ac) | 4,880 ha (12,060 ac) |

[1] Approximate hectares have been converted to acres (1 ha = 2.471 ac). Based on the level of imprecision of mapping at this scale, approximate hectares and acres have been rounded to the nearest 5.

Map Unit 1: Transverse Range Critical Habitat Unit, Ventura and Los Angeles Counties, California (145 ha (350 ac)).

The Transverse Range critical habitat unit includes the vernal pools at Cruzan Mesa, Los Angeles County, and the former Carlsberg Ranch, Ventura County. These vernal pools represent the northern limit of occupied habitat for the Riverside fairy shrimp and are the last remaining vernal pools in Los Angeles and Ventura counties known to support this species. The conservation of these vernal pools is necessary to stabilize the populations of Riverside fairy shrimp in Los Angeles and Ventura counties by providing protection for the pools, as well as indicating the importance of these pools to the recovery of the species.

Map Unit 2: Los Angeles Basin-Orange Management Area, Los Angeles and Orange Counties, California. (525 ha (1,310 ac)).

The Los Angeles coastal prairie unit includes an approximately 12-ha (30-ac) area within and adjacent to the El Segundo Blue Butterfly Preserve, west of Pershing Drive at the Los Angeles International Airport. This unit is the only suitable remnant area located within the historical coastal prairie landscape, which formerly extended from Playa del Rey south to the Palos Verdes Peninsula, an area of approximately 95 $km^2$ (37 $mi^2$). This landscape historically included the federally endangered California orcutt grass (*Orcuttia californica*) and San Diego button-celery (Eryngium *aristulatum* var. *parishii*). This unit also supports versatile fairy shrimp (*Branchinecta lindahli*) and western spadefoot toad (*Scaphiopus hammondii*). Riverside fairy shrimp cysts were first collected east of Pershing Drive in 1997, but adult shrimp have not been found to date, likely due to the extensive disturbance to the landscape, including the introduction of fill material, changes in water chemistry, modification of the watersheds, and the resulting shortened duration of water ponding. We are not designating the area east of Pershing Drive due to the extensive alteration of the habitat that has occurred. Considering the extensive habitat available, populations of Riverside fairy shrimp in this region were likely robust and formed the core population between the limited Cruzan Mesa and Carlsberg Ranch pools (Unit 1), at the northern end of the range of the species, and the pool groups in central and southern Orange County. The conservation of this area is necessary for the recovery of an isolated, formerly robust population that likely contains unique genetic diversity important to the overall long-term conservation of the species.

In Orange County, this critical habitat unit includes the vernal pools and vernal pool-like ephemeral ponds at the Marine Corps Air Station El Toro, Chiquita Ridge, Tejeras Creek, Rancho Viejo, Saddleback Meadows, and along the southern Orange County foothills. These vernal pools are the last remaining vernal pools in Orange County known to support this species (Service 1993). The conservation of these vernal pools is necessary to stabilize the populations of Riverside fairy shrimp in Orange County by providing specific protection to important habitat for the shrimp.

Map Unit 3: Western Riverside County Critical Habitat Unit, Riverside County, California (1,780 ha (4,400 ac)).

The Western Riverside County critical habitat unit includes the vernal pools on the Santa Rosa Plateau and in Murrieta. These populations represent the eastern limit of occupied habitat for Riverside fairy shrimp and are two of the three remaining populations in Riverside County. Conservation of these pools will provide for the conservation and recovery of the Riverside fairy shrimp, as well as stabilize the current populations of shrimp in Riverside County. The third population, Skunk Hollow, is protected as part of an approved mitigation bank that is within the Rancho Bella Vista HCP area.

Map Unit 4: North San Diego County Critical Habitat Unit, San Diego County, California (2,340 ha (5,780 ac)).

The North San Diego County critical habitat unit includes the vernal pools at Marine Corps Base Camp Pendleton. This unit encompasses approximately 45 ha (110 ac) within Camp Pendleton. Camp Pendleton has several substantial vernal pool complexes that support the Riverside fairy shrimp. The Recovery Plan for Vernal Pools of Southern California includes the Camp Pendleton pool complexes within the San Diego North Coastal Mesas Management Areas. Designation of critical habitat in this area will conserve important habitat for the Riverside fairy shrimp and will contribute to the recovery efforts identified in the Recovery Plan.

Within the jurisdiction of the City of Carlsbad, one vernal pool complex is located at the Poinsettia Lane train station. This complex is associated with a remnant parcel of coastal terrace habitat and is essential for stabilizing the species in northern San Diego County and preserving genetic diversity.

Map Unit 5: Central San Diego County Critical Habitat Unit, San Diego County, California (30 ha (75 ac)).

The Central San Diego County critical habitat unit includes a vernal pool within Marine Corps Air Station, Miramar. This location is the only known occurrence of Riverside fairy shrimp within the Central Coastal Mesa Management Area, San Diego County. In addition, this pool is identified in the Recovery Plan as necessary to stabilize the Riverside fairy shrimp in central San Diego County.

Map Unit 6: South San Diego County Critical Habitat Unit, San Diego County, California (65 ha (160 acres)).

The South San Diego County critical habitat unit includes the ephemeral basin along the United States-Mexico border. This ephemeral basin is on Federal lands (Immigration and Naturalization Service) and represents

the southern limit of occupied habitat for the Riverside fairy shrimp in the United States. This basin is identified in the Recovery Plan as necessary to stabilize the Riverside fairy shrimp in southern San Diego County. The protection provided through the designation of critical habitat will assist in the recovery efforts identified in the Recovery Plan.

**Effects of Critical Habitat Designation**

*Section 7 Consultation*

Section 7(a) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out do not destroy or adversely modify critical habitat to the extent that the action appreciably diminishes the value of the critical habitat for the survival and recovery of the species. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

We may issue a formal conference report if requested by a Federal agency. Formal conference reports on proposed critical habitat contain an opinion that is prepared according to 50 CFR 402.14, as if critical habitat were designated. We may adopt the formal conference report as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with us. Through this consultation, we would ensure that the permitted actions do not adversely modify critical habitat.

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation in instances where we have already reviewed an action for its effects on a listed species if critical habitat is subsequently designated. Consequently, some Federal agencies may request reinitiation of consultation or conferencing with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Section 4(b)(8) of the Act requires us to describe in any proposed or final regulation that designates critical habitat a description and evaluation of those activities involving a Federal action that may adversely modify or destroy such habitat or that may be affected by such designation. When determining whether any of these activities may adversely modify or destroy critical habitat, we base our analysis on the effects of the action on the entire critical habitat area and not just on the portion where the activity will occur. Adverse effects on constituent elements or individual segments of critical habitat units generally do not result in an adverse modification determination unless that loss, when added to the environmental baseline, is likely to appreciably diminish the capability of the critical habitat to satisfy essential requirements of the species. In other words, activities that may destroy or adversely modify critical habitat include those that alter the primary constituent elements (defined above) to an extent that the value of critical habitat for both the survival and recovery of the Riverside fairy shrimp is appreciably reduced.

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to ''jeopardize the continued existence'' of a species are those that would appreciably reduce the likelihood of the species' survival and recovery, and actions likely to ''destroy or adversely modify'' critical habitat are those that would appreciably reduce the value of critical habitat for the survival and recovery of the listed species (50 CFR 402.02).

Common to both definitions is an appreciable detrimental effect on both survival and recovery of a listed species. Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned when the habitat is occupied by the species. The purpose of designating critical habitat is to contribute to a species' conservation, which by definition equates to survival and recovery. Section 7 prohibitions against the destruction or adverse modification of critical habitat apply to actions that would impair survival and recovery of the listed species. Designation of critical habitat in areas occupied by the Riverside fairy shrimp is not likely to result in a regulatory burden above that already in place due to the presence of the listed species. Additionally, designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden since the U.S. Army Corps of Engineers (Corps) requires review of projects requiring permits in all vernal pools, whether it is known that Riverside fairy shrimp are present or not. In those limited cases where activities occur on designated critical habitat where Riverside fairy shrimp and other listed species are not found at the time of the action, an additional section 7 consultation with the Service

not previously required may be necessary for actions funded, authorized, or carried out by Federal agencies.

Activities on Federal lands that may affect the Riverside fairy shrimp or its designated critical habitat will require section 7 consultation. Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the Corps under section 404 of the Clean Water Act, or some other Federal action, including funding (*e.g.,* Federal Highway Administration, Federal Aviation Administration, or Federal Emergency Management Agency) will be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat and actions on non-Federal lands that are not federally funded or permitted do not require section 7 consultation.

Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and require that a section 7 consultation be conducted include, but are not limited to:

(1) Any activity, including the regulation of activities by the Corps under section 404 of the Clean Water Act or activities carried out by or licensed by the U.S. Environmental Protection Agency, that could alter the watershed, water quality or quantity to an extent that water quality becomes unsuitable to support Riverside fairy shrimp, or any activity that significantly affects the natural hydrologic function of the vernal pool system and/or ephemeral pond or depression;

(2) Road construction and maintenance, right-of-way designation, and regulation of agricultural activities, or any activity funded or carried out by the Department of Transportation or Department of Agriculture that results in discharge of dredged or fill material, excavation, or mechanized land clearing of ephemeral and/or vernal pool basins;

(3) Regulation of airport improvement or maintenance activities by the Federal Aviation Administration;

(4) Military training and maneuvers on Camp Pendleton and Miramar, and other applicable DOD lands;

(5) Construction of roads and fences along the international border with Mexico, and associated immigration enforcement activities by the INS; and

(6) Licensing of construction of communication sites by the Federal Communications Commission.

Any of the above activities that appreciably diminish the value of critical habitat to the degree that they affect the survival and recovery of the Riverside fairy shrimp may be considered an adverse modification of critical habitat. We note that such activities may also jeopardize the continued existence of the species.

If you have questions regarding whether specific activities will constitute adverse modification of critical habitat, contact the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section). Requests for copies of the regulations on listed wildlife, and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Branch of Endangered Species, 911 N.E. 11th Ave, Portland, OR 97232 (telephone 503/231–2063; facsimile 503/231–6243).

*Exclusion of Habitat Conservation Plans Under Section 4(b)(2)*

Subsection 4(b)(2) of the Act allows us to exclude from critical habitat designation areas where the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species. The Service believes that in most instances the benefits of excluding HCPs from critical habitat designations will outweigh the benefits of including them.

The benefits of excluding Habitat Conservation Plans (HCPs) include relieving landowners, communities and counties of any additional regulatory burden that might be imposed by critical habitat. This benefit is particularly compelling given the past representations on the part of the Service that once an HCP is negotiated and approved by us after public comment, activities consistent with the plan will satisfy the requirements of the Endangered Species Act. Many HCPs, particularly large regional HCPs, take many years to develop and, upon completion, become regional conservation plans that are consistent with the recovery of covered species. Imposing an additional regulatory review after HCP completion could have a chilling effect on our entire HCP program, jeopardizing conservation efforts and conservation partnerships in many areas. Excluding HCPs provides the Service an opportunity to streamline regulatory compliance; and provides regulatory certainty for HCP participants.

Another critical benefit of excluding HCPs is that it would encourage the continued development of partnerships with HCP participants, including states, local governments, conservation organizations, and private landowners, that together can implement conservation actions we would be unable to accomplish alone. These partnerships are built on our assurance that no additional requirements, beyond the commitments in the HCP, will be imposed to comply with the Act. The designation of critical habitat in areas covered by HCPs threatens these existing partnerships, and reduces the likelihood of successful future partnerships. The common perception, even if incorrect, that critical habitat designation will impose new and additional regulatory requirements on landowners, including lands covered by HCPs, suggests to many HCP participants that the Service may not fulfill the commitments we made during HCP negotiations. By excluding areas covered by HCPs from critical habitat designation, we clearly maintain our commitments, preserve these partnerships, and, we believe, set the stage for more effective conservation actions in the future.

The benefits of including HCPs in critical habitat are normally small. The development and implementation HCPs provides important conservation benefits, including the development of biological information to guide conservation efforts to assist in species recovery and the creation of innovative solutions to conserve species while allowing for regional development. When a species for which we are considering the designation of critical habitat is a covered species in an HCP, the additional protection for this species on HCP lands that would be provided by critical habitat designation would be minimal.

One benefit provided by designation of critical habitat is the consultation requirement. The HCP would have to go through an additional consultation to look at the question of adverse modification of critical habitat. However, HCPs have already gone through a consultation process when the HCP was first established. Since HCPs address land use within the plan boundaries, habitat issues within the plan boundaries have been thoroughly addressed in HCP consultations. Therefore, in most instances we do not expect any additional regulatory impact on HCPs by critical habitat consultations. In addition, any educational benefits provided by critical habitat designation have been met by the public notice aspects of establishing an HCP, as well as by public participation in the development of many regional HCPs. As a result of the factors discussed above, when the benefits of excluding HCP land from critical habitat designation outweigh the benefits of including the land, we find that it is appropriate to exclude lands covered by legally operative HCPs.

For this designation, we find that the benefits of exclusion outweigh the benefits of designation for the San Diego Multiple Species Conservation Program (MSCP). This exclusion will not result in the extinction of the species. We discuss this and the other specific HCPs in the range of the Riverside Fairy Shrimp area below.

A number of habitat planning efforts have been completed within the range of the Riverside fairy shrimp. Principal among these are the San Diego Multiple Species Conservation Program (MSCP) in San Diego County, and the Rancho Bella Vista HCP in Riverside County. The MSCP, through its subarea plans, provides conservation measures for the Riverside fairy shrimp as a covered species, although authorization for take, should any be needed, would come from a subsequent permitting process (typically through a section 7 consultation with the Corps of Engineers). The MSCP provides that the remaining fairy shrimp habitat within the Multiple Habitat Planning Area (MHPA) should be avoided to the maximum extent practicable. Unavoidable impacts to this remaining area of habitat is to be minimized and mitigated to achieve no net loss of wetland function and value and to provide additional protective measures, including adaptive management, contained in the MSCP. The Rancho Bella Vista HCP provides conservation measures for the Riverside fairy shrimp as a covered species. We find that the benefits of exclusion outweigh the benefits of designation for these plans. The plans provides for the preservation of fairy shrimp habitat and any additional protection provided by critical habitat would be minimal. On the other hand the benefits of exclusion are high. Participants in these HCP processes have relied on the Service's assurances that once an HCP has been developed it will satisfy the participant's requirements under the ESA. Therefore, we propose that non-Federal land within the approved HCP planning areas in San Diego County and Riverside County for the Riverside fairy shrimp should be exempted from the designation, and therefore, not be proposed as critical habitat.

We do not propose to exclude the NCCP/HCP for the Central/Coastal Orange County subregion. This plan provides only conditional coverage for the Riverside fairy shrimp. Riverside fairy shrimp in vernal pool habitats that are highly degraded and/or artificially created are a covered species and take is authorized under the HCP. However, Riverside fairy shrimp in non-degraded, natural vernal pool habitats are not considered covered species under the HCP, and take, should any be needed, can be authorized only under a separate permitting process (typically through a section 7 consultation with the Corps of Engineers). Because the natural vernal pools within the Central/Coastal Orange County subregion are considered complexes of high habitat value for the Riverside fairy shrimp that are not covered by the current HCP, the benefits from designating this area as critical habitat are not outweighed by the benefits provided by the HCP. Therefore, we are proposing that the natural vernal pools at Rancho Viejo, Tejeras Creek, and Marine Corps Air Station El Toro be included as critical habitat.

HCPs currently under development are intended to provide for protection and management of habitat areas essential for the conservation of the Riverside fairy shrimp, while directing development and habitat modification to nonessential areas of lower habitat value. The HCP development process provides an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by the Riverside fairy shrimp. The process also enables us to conduct detailed evaluations of the importance of such lands to the long-term survival of the species in the context of constructing a biologically configured system of interlinked habitat blocks. We fully expect that HCPs undertaken by local jurisdictions (*e.g.*, counties, cities) and other parties will identify, protect, and provide appropriate management for those specific lands within the boundaries of the plans that are essential for the long-term conservation of the species. We believe and fully expect that our analyses of these proposed HCPs and proposed permits under section 7 will show that covered activities carried out in accordance with the provisions of the HCPs and biological opinions will not result in destruction or adverse modification of critical habitat.

We provide technical assistance and work closely with applicants throughout the development of HCPs to identify lands essential for the long-term conservation of the Riverside fairy shrimp and appropriate conservation management actions. Several HCP efforts are now under way for listed and nonlisted species in areas within the range of the Riverside fairy shrimp in areas we propose as critical habitat. These HCPs, which will incorporate adaptive management, should provide for the conservation of the species. Furthermore, we will complete intra-service consultation on our issuance of section 10(a)(1)(B) permits for these HCPs to ensure permit issuance will not destroy or adversely modify critical habitat. The take minimization and mitigation measures provided under these HCPs are expected to protect and provide the conservation of essential habitat lands that lead to designation of the lands as critical habitat in this rule.

**Public Comments Solicited**

We intend for any final action resulting from this proposal to 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. We particularly seek comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of Riverside fairy shrimp habitat, and what habitat is essential to the conservation of the species and why;

(3) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families; and

(5) Economic and other values associated with designating critical habitat for the Riverside fairy shrimp, such as those derived from nonconsumptive uses (*e.g.*, hiking, camping, bird-watching, enhanced watershed protection, improved air quality, increased soil retention, ''existence values,'' and reductions in administrative costs).

In this proposed rule, we do not propose to designate critical habitat on non-Federal lands within the boundaries of an existing approved HCP and subarea plan with an executed implementation agreement (IA) for Riverside fairy shrimp approved under section 10(a)(1)(B) of the Act on or before the date of the final rule designating critical habitat. We believe that, since an existing HCP provides for long-term commitments to conserve the species and areas essential to the conservation of the species, the benefits of exclusion outweigh the benefits of inclusion. However, we are soliciting comments on the appropriateness of this

approach, and on other alternative approaches for critical habitat designation in areas covered by existing approved HCPs:

The amount of critical habitat we designate for the Riverside fairy shrimp in a final rule may either increase or decrease, depending upon which approach we adopt for dealing with designation in areas of existing approved HCPs.

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

If you would like to submit comments by e-mail (see **ADDRESSES** section), please submit your comments as an ASCII file and avoid the use of special characters and any form of encryption. Please also include ''Attn: RIN 1018–AG34'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Carlsbad Fish and Wildlife Office at phone number 760/431–9440.

## Peer Review

In accordance with our policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure listing decisions are based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the 60-day comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

## Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests for public hearings must be made at least 15 days prior to the close of the public comment period. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

## Clarity of the Rule

Executive Order 12866 requires each agency to write regulations/notices that are easy to understand. We invite your comments on how to make proposed rules easier to understand including answers to questions such as the following:

(1) Are the requirements in the document clearly stated?

(2) Does the proposed rule contain technical language or jargon that interferes with the clarity?

(3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the proposed rule easier to understand?

## Required Determinations

### *Regulatory Planning and Review*

In accordance with Executive Order 12866, this document is a significant rule and has been reviewed by the Office of Management and Budget (OMB), under Executive Order 12866.

(a) This rule will not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. The Riverside fairy shrimp was listed as an endangered species in 1993. In fiscal years 1997 through 1999, we conducted seven formal section 7 consultations with other Federal agencies to ensure that their actions would not jeopardize the continued existence of the fairy shrimp.

Under the Act, critical habitat may not be adversely modified by a Federal agency action; critical habitat does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise sponsored or permitted by a Federal agency (see Table 2 below). Section 7 requires Federal agencies to ensure that they do not jeopardize the continued existence of listed species. Based upon our experience with the species and its needs, we conclude that any Federal action or authorized action that could potentially cause an adverse modification of the proposed critical habitat currently occupied by Riverside fairy shrimp would currently be considered as ''jeopardy'' under the Act. Accordingly, the designation of currently occupied areas as critical habitat does not have any incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding. Non-Federal persons that do not have a Federal ''sponsorship'' of their actions are not restricted by the designation of critical habitat (however, they continue to be bound by the provisions of the Act concerning ''take'' of the species). Additionally, designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden since the Corps requires review of projects requiring permits in all vernal pools, whether it is known that Riverside fairy shrimp are present or not. In those limited cases where activities occur on designated critical habitat where Riverside fairy shrimp and other listed species are not found at the time of the action, additional section 7 consultation with the Service not previously required may be necessary for actions funded, authorized, or carried out by Federal agencies. We will evaluate this impact through our economic analysis (required under section 4 of the Act; see Economic Analysis section of this rule).

TABLE 2.—IMPACTS OF RIVERSIDE FAIRY SHRIMP LISTING AND CRITICAL HABITAT DESIGNATION

| Categories of activities | Activities potentially affected by species listing only [1] | Additional activities potentially affected by critical habitat designation [2] |
|---|---|---|
| Federal Activities Potentially Affected [3] | Activities such as those affecting waters of the United States by the Army Corps of Engineers under section 404 of the Clean Water Act; road construction and maintenance, right-of-way designation, and regulation of agricultural activities; regulation of airport improvement activities under Federal Aviation Administration jurisdiction; military training and maneuvers on Marine Corps Base Camp Pendleton and Marine Corps Air Station, Miramar and other applicable DOD lands; construction of roads and fences along the international border with Mexico and associated immigration enforcement activities by the Immigration and Naturalization Service; construction of communication sites licensed by the Federal Communications Commission, and; activities funded by any Federal agency. | None in occupied habitat. In unoccupied habitat containing vernal pools, no additional consultation would be required since the Corps already initiates consultations in these areas. In unoccupied habitat not containing vernal pools, no additional types of activities will be affected, but consultation, previously not required due to listing, will be required on these activities. |
| Private or other non-Federal Activities Potentially Affected [4]. | Activities such as removing or destroying Riverside fairy shrimp habitat (as defined in the primary constituent elements discussion), whether by mechanical, chemical, or other means (*e.g.*, grading, overgrazing, construction, road building, herbicide application, *etc.*) and appreciably decreasing habitat value or quality through indirect effects (*e.g.,* edge effects, invasion of exotic plants or animals, or fragmentation that require a Federal action (permit, authorization, or funding)). | None in occupied habitat. In unoccupied habitat containing vernal pools, no additional consultation would be required since the Corps already initiates consultations in these areas. In unoccupied habitat not containing vernal pools, no additional types of activities will be affected, but consultation, previously not required due to listing, will be required on these activities. |

[1] This column represents the activities potentially affected by listing the Riverside fairy shrimp as an endangered species (August 3, 1993; 58 FR 41384) under the Endangered Species Act.
[2] This column represents activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.
[3] Activities initiated by a Federal agency.
[4] Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

(b) This rule will not create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions do not jeopardize the continued existence of the Riverside fairy shrimp since the listing in 1993. The prohibition against adverse modification of critical habitat is not expected to impose any additional restrictions to those that currently exist in occupied areas of proposed critical habitat. Because of the potential for impacts on other Federal agency activities, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of the species, and, as discussed above, we do not anticipate that the adverse modification prohibition (resulting from critical habitat designation) will have any incremental effects in areas of occupied habitat. Designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden since the Corps already requires review of projects involving vernal pools since vernal pools typically contain listed species for which the Corps must consult with us under section 7. In those limited cases where activities occur on designated critical habitat where Riverside fairy shrimp and other listed species are not found at the time of the action, section 7 consultation with the Service may be necessary for actions funded, authorized, or carried out by Federal agencies.

(d) This rule will not raise novel legal or policy issues. The proposed rule follows the requirements for determining critical habitat contained in the Act.

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

In the economic analysis (required under section 4 of the Act), we will determine whether designation of critical habitat will have a significant effect on a substantial number of small entities. As discussed under Regulatory Planning and Review above, this rule is not expected to result in any restrictions in addition to those currently in existence for areas of occupied critical habitat. As indicated on Table 1 (see Proposed Critical Habitat Designation section), we proposed property owned by Federal, State, and local governments and private property and identify the types of Federal actions or authorized activities that are of potential concern (Table 2). If these activities sponsored by Federal agencies within the proposed critical habitat areas are carried out by small entities (as defined by the Regulatory Flexibility Act) through contract, grant, permit, or other Federal authorization. As discussed above, these actions are currently required to comply with the listing protections of the Act,

and the designation of critical habitat is not anticipated to have any additional effects on these activities in areas of critical habitat occupied by the species. Designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden since the Corps already requires review of projects involving vernal pools since vernal pools typically contain listed species for which the Corps must consult with us under section 7. For actions on non-Federal property that do not have a Federal connection (such as funding or authorization), the current restrictions concerning take of the species remain in effect, and this rule will have no additional restrictions.

*Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))*

In the economic analysis, we will determine whether designation of critical habitat will cause (a) any effect on the economy of $100 million or more, (b) any increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. As discussed above, we anticipate that the designation of critical habitat will not have any additional effects on these activities in areas of critical habitat occupied by the species. Designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden because the Corps already requires review of projects involving vernal pools since vernal pools typically contain listed species for which the Corps must consult with us under section 7. In those limited cases where activities occur on designated critical habitat where Riverside fairy shrimp and other listed species are not found at the time of the action, section 7 consultation with the Service may be necessary for actions funded, authorized, or carried out by Federal agencies. Additionally, designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden since the Corps requires review of projects requiring permits in all vernal pools, whether it is known that Riverside fairy shrimp are present or not.

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. Small governments will be affected only to the extent that any programs having Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat. However, as discussed above, these actions are currently subject to equivalent restrictions through the listing protections of the species, and no further restrictions are anticipated in areas of occupied proposed critical habitat. Designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden because the Corps already requires review of projects involving vernal pools since vernal pools typically contain listed species for which the Corps must consult with us under section 7. In those limited cases where activities occur on designated critical habitat where Riverside fairy shrimp and other listed species are not found at the time of the action, section 7 consultation with the Service may be necessary for actions funded, authorized, or carried out by Federal agencies.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year, that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

*Takings*

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. As discussed above, the designation of critical habitat affects only Federal agency actions. The rule will not increase or decrease the current restrictions on private property concerning take of the Riverside fairy shrimp. Due to current public knowledge of the species protection, the prohibition against take of the species both within and outside of the designated areas, and the fact that critical habitat provides no incremental restrictions in areas of occupied critical habitat, we do not anticipate that property values will be affected by the critical habitat designation. Designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden because the Corps already requires review of projects involving vernal pools since vernal pools typically contain listed species for which the Corps must consult with us under section 7. In those limited cases where activities occur on designated critical habitat where Riverside fairy shrimp and other listed species are not found at the time of the action, section 7 consultation with the Service may be necessary for actions funded, authorized, or carried out by Federal agencies. Additionally, critical habitat designation does not preclude development of habitat conservation plans and issuance of incidental take permits. Landowners in areas that are included in the designated critical habitat will continue to have opportunity to utilize their property in ways consistent with the survival and recovery of the Riverside fairy shrimp. This proposed rule will not ''take'' private property and will not alter the value of private property. Critical habitat designation is only applicable to Federal lands and to private lands if a Federal nexus exists.

*Federalism*

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, the Service requested information from and coordinated development of this critical habitat proposal with appropriate State resource agencies in California. We will continue to coordinate any future designation of critical habitat for the Riverside fairy shrimp with the appropriate State agencies. The designation of critical habitat in areas currently occupied by the Riverside fairy shrimp imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

*Civil Justice Reform*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We designate critical habitat in accordance with the provisions of the Act, and plan public hearings on the proposed designation during the comment period. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the Riverside fairy shrimp.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This rule does not contain any information collection requirements for which Office of Management and Budget approval under the Paperwork Reduction Act is required. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB Control Number.

*National Environmental Policy Act*

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

*Government-to-Government Relationship With Tribes*

We determined that there are no Tribal lands that are essential for the conservation of the Riverside fairy shrimp because they do not support populations or suitable habitat. Therefore, we are not proposing to designate critical habitat for the Riverside fairy shrimp on Tribal lands.

**References Cited**

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

**Author**

The primary authors of this notice are the Carlsbad Fish and Wildlife Office staff (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 reasons given in the preamble, we propose to amend 50 CFR part 17 as set forth below:

## PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h) revise the entry for ''Fairy shrimp, Riverside'' under ''CRUSTACEANS'' to read as follows:

**§ 17.11 Endangered and threatened wildlife.**

* * * * *

(h) * * *

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| * | * | * | * | * | * | | * |
| CRUSTACEANS | | | | | | | |
| * | * | * | * | * | * | | * |
| Fairy shrimp, Riverside. | *Streptocephalus woottoni.* | U.S.A. (CA) | Entire | E | 608 | 17.95(h) | NA |
| * | * | * | * | * | * | | * |

3. In § 17.95 add critical habitat for the Riverside fairy shrimp (*Streptocephalus woottoni*) under paragraph (h) in the same alphabetical order as this species occurs in § 17.11(h), to read as follows:

**§ 17.95 Critical habitat—fish and wildlife.**

* * * * *

(h) *Crustaceans.*

* * * * *

RIVERSIDE FAIRY SHRIMP (*Streptocephalus woottoni*)

1. Critical habitat units are depicted for Los Angeles, Orange, Riverside, San Diego, and Ventura counties, California, on the maps below.

2. Critical habitat includes vernal pools, vernal pool complexes, and ephemeral ponds and depressions indicated on the maps below and their associated watersheds and hydrologic regime.

3. Within these areas, the primary constituent elements for the Riverside fairy shrimp are those habitat components that are essential for the primary biological needs of foraging, sheltering, reproduction, and dispersal.

The primary constituent elements are found in those areas that support vernal pools or other ephemeral ponds and depressions, and their associated watersheds. The primary constituent elements are: small to large pools with moderate to deep depths that hold water for sufficient lengths of time necessary for incubation and reproduction, but not necessarily every year; entire watershed(s) and other hydrologic features that support pool basins and their related pool complexes; flat or gently sloping topography; and any soil type with a clay component and/or an impermeable surface or subsurface layer known to support vernal pool habitat. All proposed critical habitat areas contain one or more of the primary constituent elements for Riverside fairy shrimp.

4. Existing features and structures, such as buildings, roads, railroads, urban development, and other features not containing primary constituent elements, are not considered critical habitat. In addition, critical habitat does not include non-Federal lands covered by a Habitat Conservation Plan, in which the Riverside fairy shrimp is a covered species, with an executed implementation agreement under section 10(a)(1)(B) of the Act on or before September 21, 2000.

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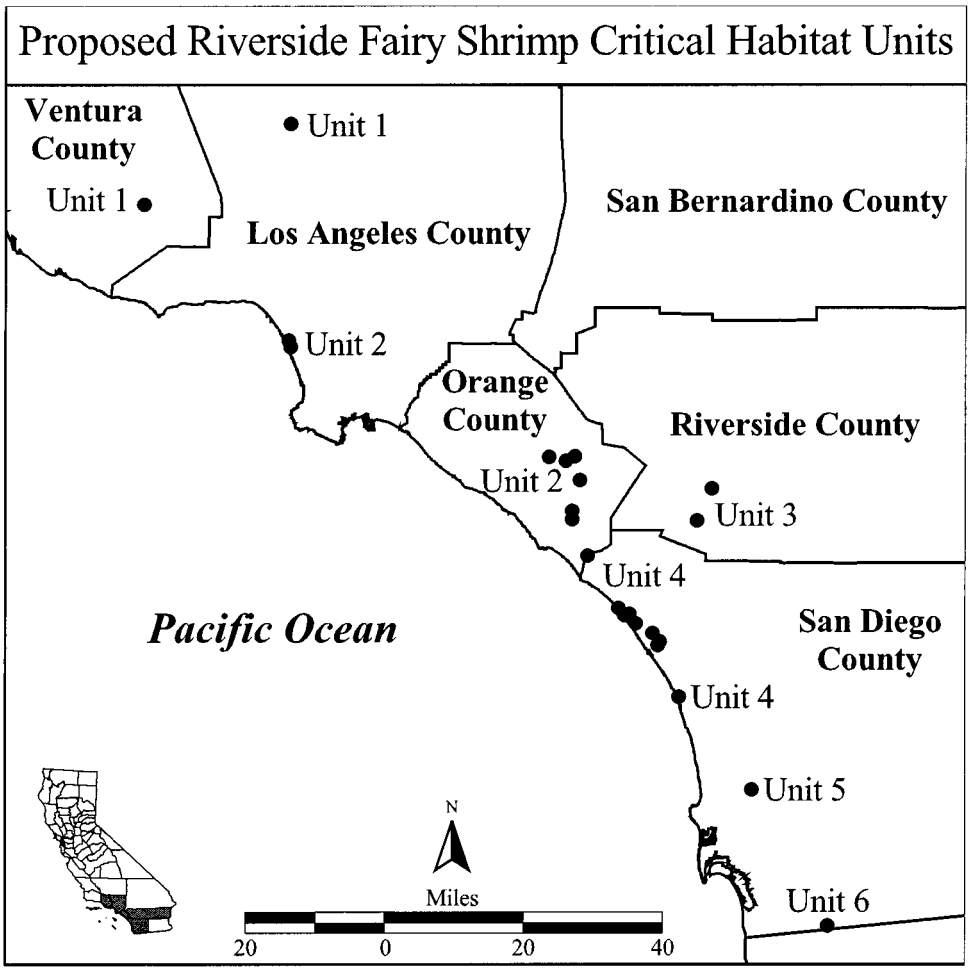
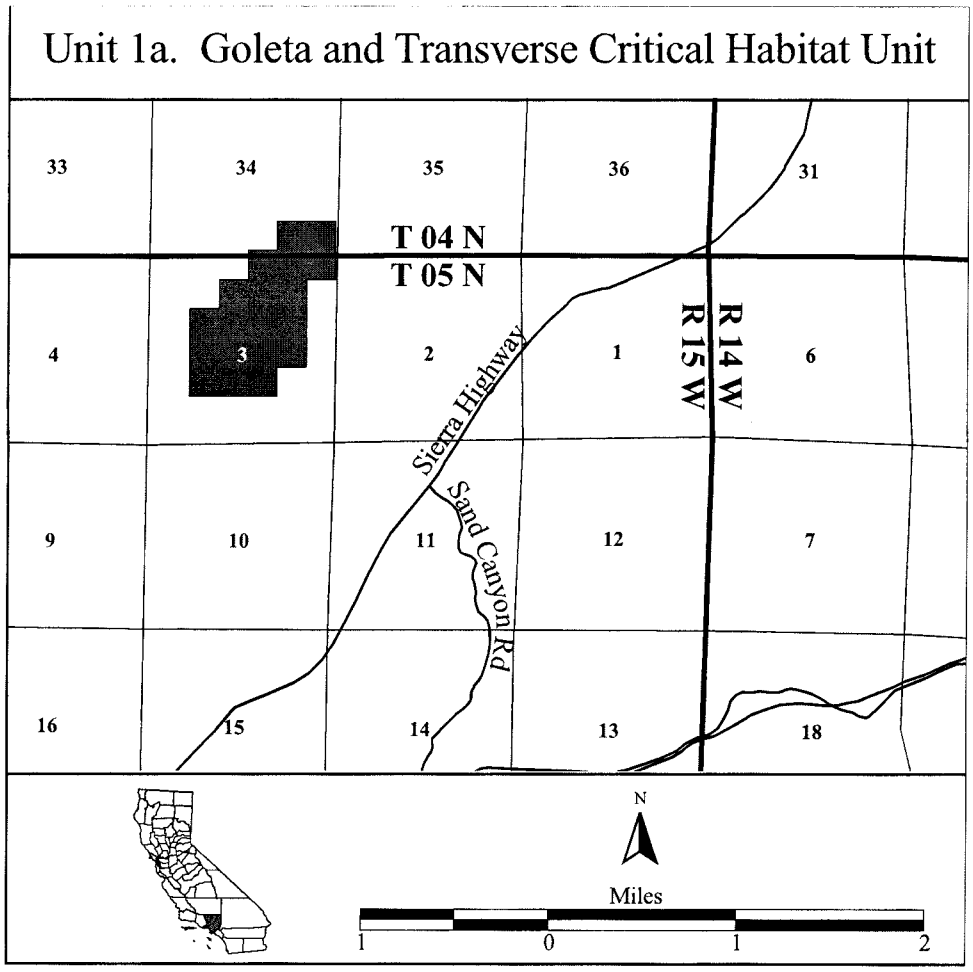
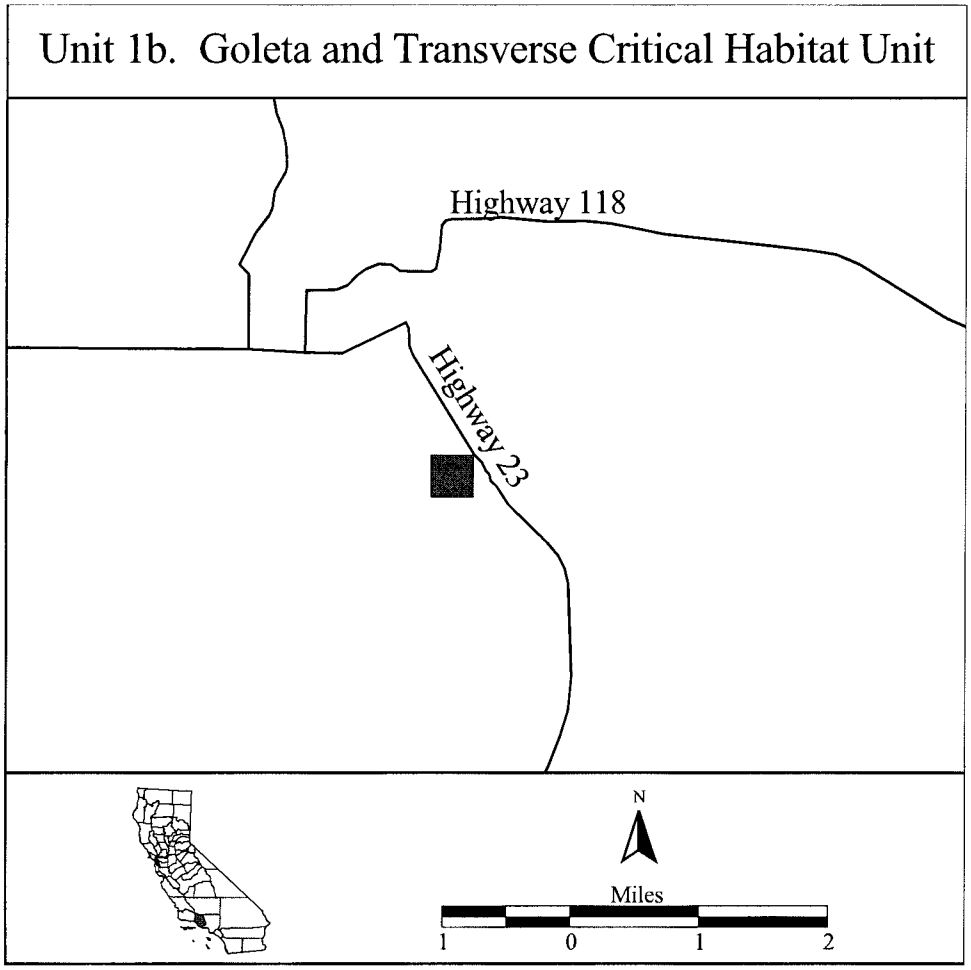
Map Unit 1: Goleta and Transverse Management Area, Ventura and Los Angeles Counties, California.



Unit 1a: From USGS 1:24,000 quadrangle map Mint Canyon, the lands bounded by the following UTM coordinates (E,N): 368000,3815000; 368500,3815000; 368500,3814500; 368250,3814500; 368250,3813750; 368000,3813750; 368000,3813500; 367250,3813500; 367250,3814250; 367500,3814250; 367500,3814500; 367750,3814500; 367750,3814750; 368000,3814750; 368000,3815000.



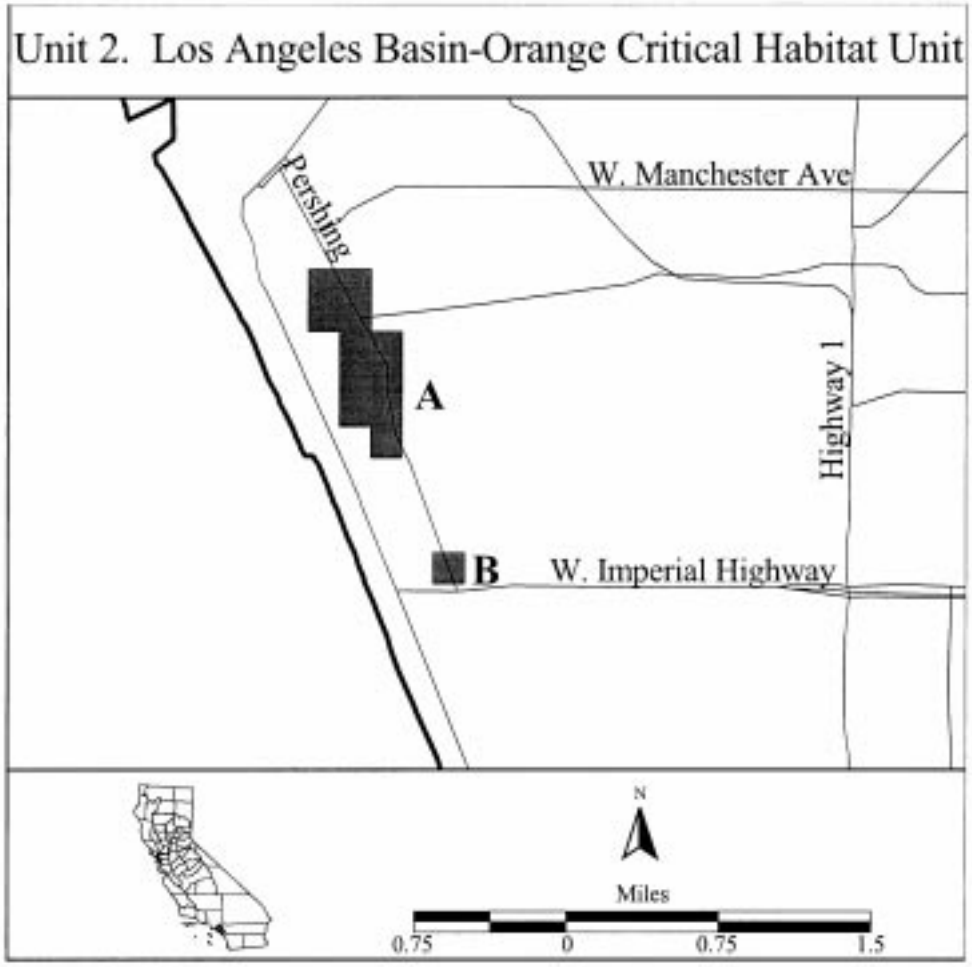
Unit 1b: From USGS 1:24,000 quadrangle map Simi Valley West, the lands bounded by the following UTM coordinates (E,N): 329000,3793250: 329500,3793250; 329500,3792750; 329000,3792750; 329000,3793250. Note: Map follows:



Map Unit 2: Los Angeles Basin-Orange Management Area, Los Angeles and Orange Counties, California.

Unit 2a: From USGS 1:24,000 quadrangle map Venice, the lands bounded by the following UTM coordinates (E,N): 366750,3757750; 367250,3757750; 367250,3757250; 367500,3757250; 367500,3756250; 367250,3756250; 367250,3756500; 367000,3756500; 367000,3757250; 366750,3757250; 366750,3757750.

Unit 2b: From USGS 1:24,000 quadrangle map Venice, the lands bounded by the following UTM coordinates (E,N): 367750,3755500; 368000,3755500; 368000,3755250; 367750,3755250; 367750, 3755500.

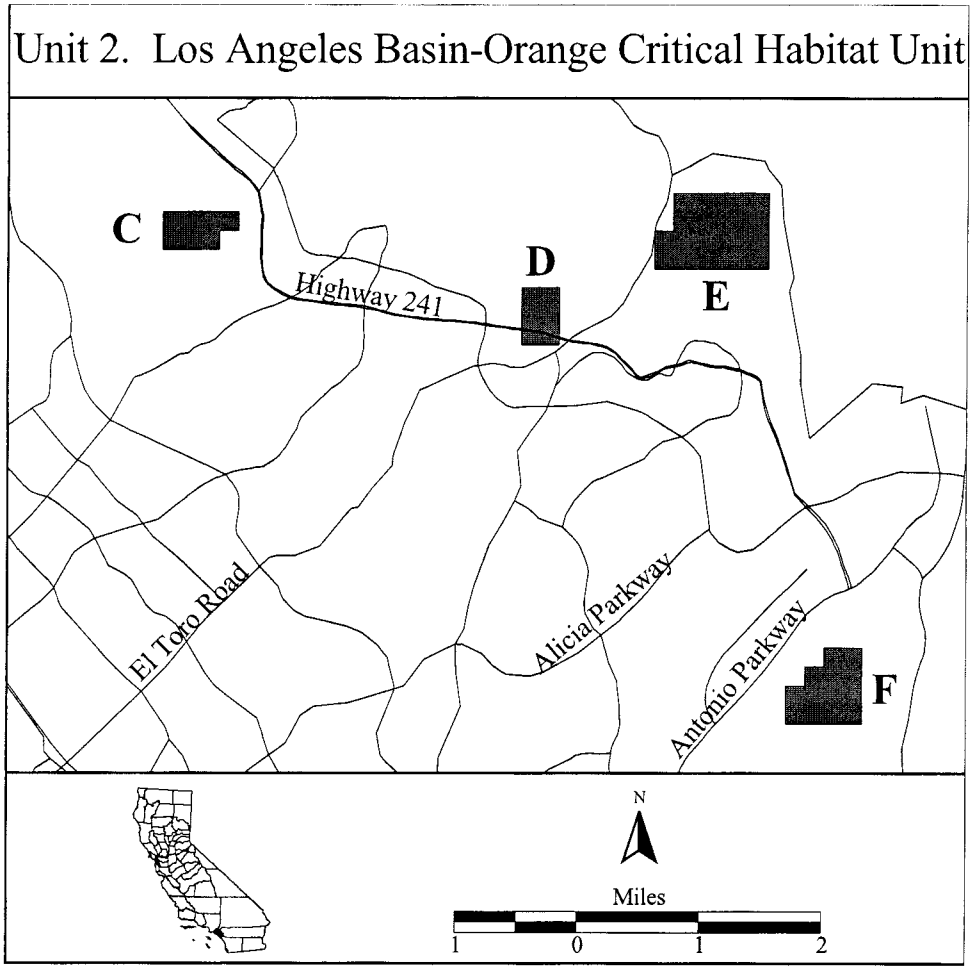


Unit 2c: From USGS 1:24,000 quadrangle map El Toro, the lands bounded by the following UTM coordinates (E,N): 435750,3726750; 436750,3726750; 436750,3726500; 436500,3726500; 436500,3726250; 435750,3726250; 435750,3726750.

Unit 2d: From USGS 1:24,000 quadrangle map El Toro, the lands bounded by the following UTM coordinates (E,N): 440500,3725750; 441000,3725750; 441000,3725000; 440500,3725000; 440500,3725750.

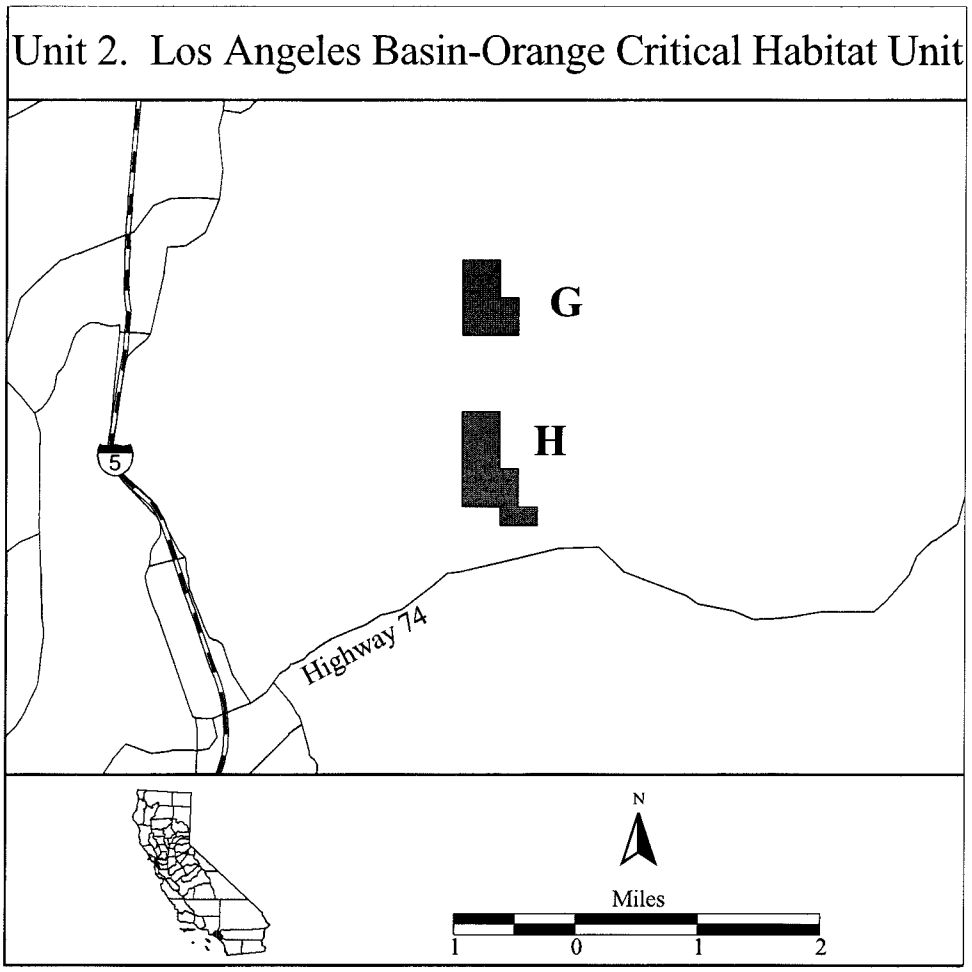
Unit 2e: From USGS 1:24,000 quadrangle map Santiago Peak, the lands bounded by the following UTM coordinates (E,N): 442500,3727000; 443750,3727000; 443750,3726000; 442250,3726000; 442250,3726500; 442500,3726500; 442500,3727000.

Unit 2f: From USGS 1:24,000 quadrangle maps Santiago Peak and Canada Gobernadora, the lands bounded by the following UTM coordinates (E,N): 444500,3721000; 445000,3721000; 445000,3720000; 444000,3720000; 444000,3720500; 444250,3720500; 444250,3720750; 444500,3720750; 444500,3721000.



Unit 2g: From USGS 1:24,000 quadrangle map Canada Gobernadora, the lands bounded by the following UTM coordinates (E,N): 442000,3713000; 442500,3713000; 442500,3712500; 442750,3712500; 442750,3712000; 442000,3712000; 442000,3713000.

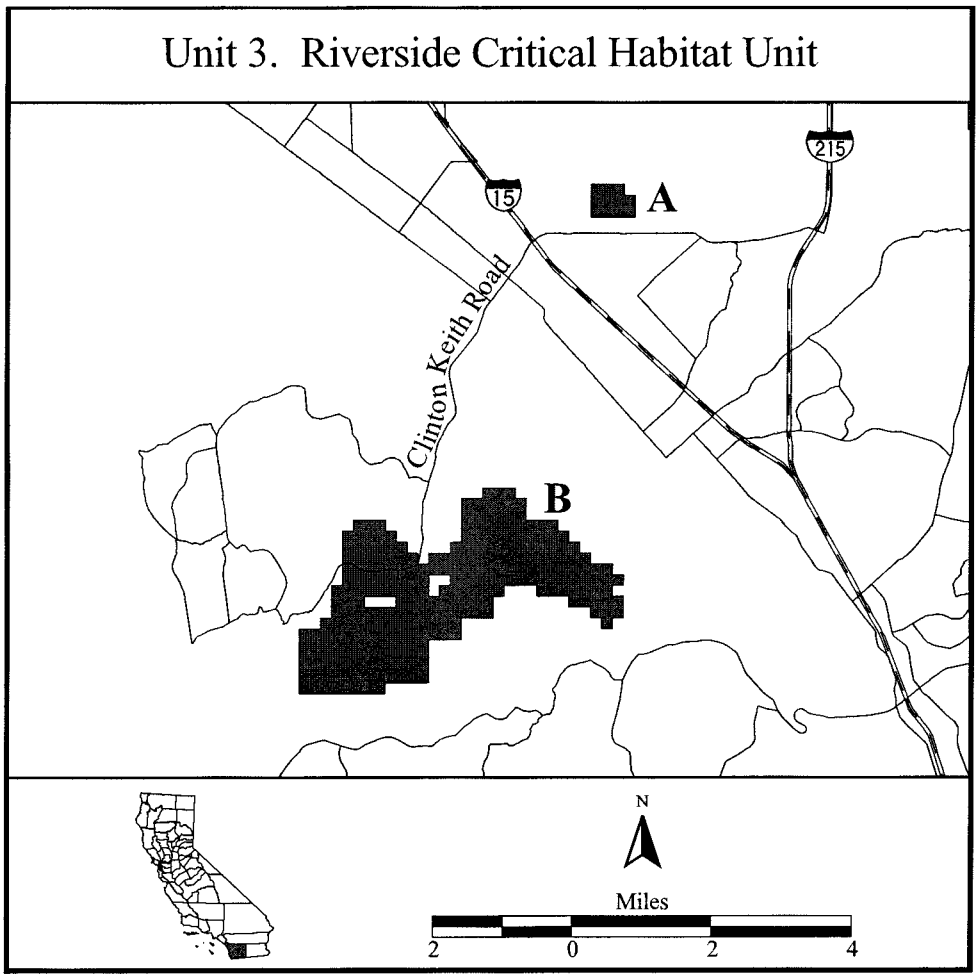
Unit 2h: From USGS 1:24,000 quadrangle map Canada Gobernadora, the lands bounded by the following UTM coordinates (E,N): 442000,3711000; 442500,3711000; 442500,3710250; 442750,3710250; 442750,3709750; 443000,3709750; 443000,3709500; 442500,3709500; 442500,3709750; 442000,3709750; 442000,3711000.



Map Unit 3: Riverside Management Area, Riverside County, California.

Unit 3a: From USGS 1:24,000 quadrangle map Murrieta, the lands bounded by the following UTM coordinates (E,N): 478750,3718500; 479500,3718500; 479500,3718250; 479750,3718250; 479750,3717750; 478750,3717750; 478750,3718500.

Unit 3b: From USGS 1:24,000 quadrangle maps Wildomar and Murrieta, the lands bounded by the following UTM coordinates (E,N): 476250,3711500; 477000,3711500; 477000,3711250; 477250,3711250; 477250,3710750; 478000,3710750; 478000,3710500; 478250,3710500; 478250,3710250; 478500,3710250; 478500,3710000; 478750,3710000; 478750,3709750; 479250,3709750; 479250,3709500; 479500,3709500; 479500,3709250; 479250,3709250; 479250,3709000; 479500,3709000; 479500,3708500; 479250,3708500; 479250,3708250; 479000,3708250; 479000,3708500; 478750,3708500; 478750,3708750; 478250,3708750; 478250,3709000; 477500,3709000; 477500,3709250; 476750,3709250; 476750,3709000; 476500,3709000; 476500,3708500; 475750,3708500; 475750,3708000; 475000,3708000; 475000,3707000; 474000,3707000; 474000,3706750; 472000,3706750; 472000,3708250; 472500,3708250; 472500,3708500; 472750,3708500; 472750,3709250; 473000,3709250; 473000,3710500; 473250,3710500; 473250,3710750; 474000,3710750; 474000,3710500; 474250,3710500; 474250,3710250; 474500,3710250; 474500,3710000; 474750,3710000; 474750,3709750; 475000,3709750; 475000,3710000; 475500,3710000; 475500,3710250; 475750,3710250; 475750,3711250; 476250,3711250; 476250,3711500. Excluding lands bounded by the following UTM coordinates (E,N): 475000,3709500; 475000,3709000; 475250,3709000; 475250,3709250; 475500,3709250; 475500,3709500; 475000,3709500; and bounded by (E,N): 473500,3709000; 473500,3708750; 474250,3708750; 474250,3709000; 473500,3709000.



Map Unit 4: San Diego: North Coastal Mesa Management Area, San Diego, California.

Unit 4a: From USGS 1:24,000 quadrangle map San Clemente, the lands bounded by the following UTM coordinates (E,N): 446250,3701000; 446750,3701000; 446750,3699500; 445750,3699500; 445750,3700000; 446000,3700000; 446000,3700750; 446250,3700750; 446250,3701000.

Unit 4b: From USGS 1:24,000 quadrangle map Las Pulgas Canyon, the lands bounded by the following UTM coordinates (E,N): 454500,3687000; 455000,3687000; 455000,3686500; 455250,3686500; 455250,3686250; 455000,3686250; 455000,3686000; 454500,3686000; 454500,3686250; 454250,3686250; 454250,3686750; 454500,3686750; 454500,3687000, excluding the Pacific Ocean.

Unit 4c: From USGS 1:24,000 quadrangle map Las Pulgas Canyon, the lands bounded by the following UTM coordinates (E,N): 455500,3685250; 456000,3685250; 456000,3685000; 456250,3685000; 456250,3684750; 456500,3684750; 456500,3684500; 456750,3684500; 456750,3684000; 456250,3684000; 456250,3684250; 456000,3684250; 456000,3684500; 455750,3684500; 455750,3684750; 455500,3684750; 455500,3685250, excluding the Pacific Ocean.

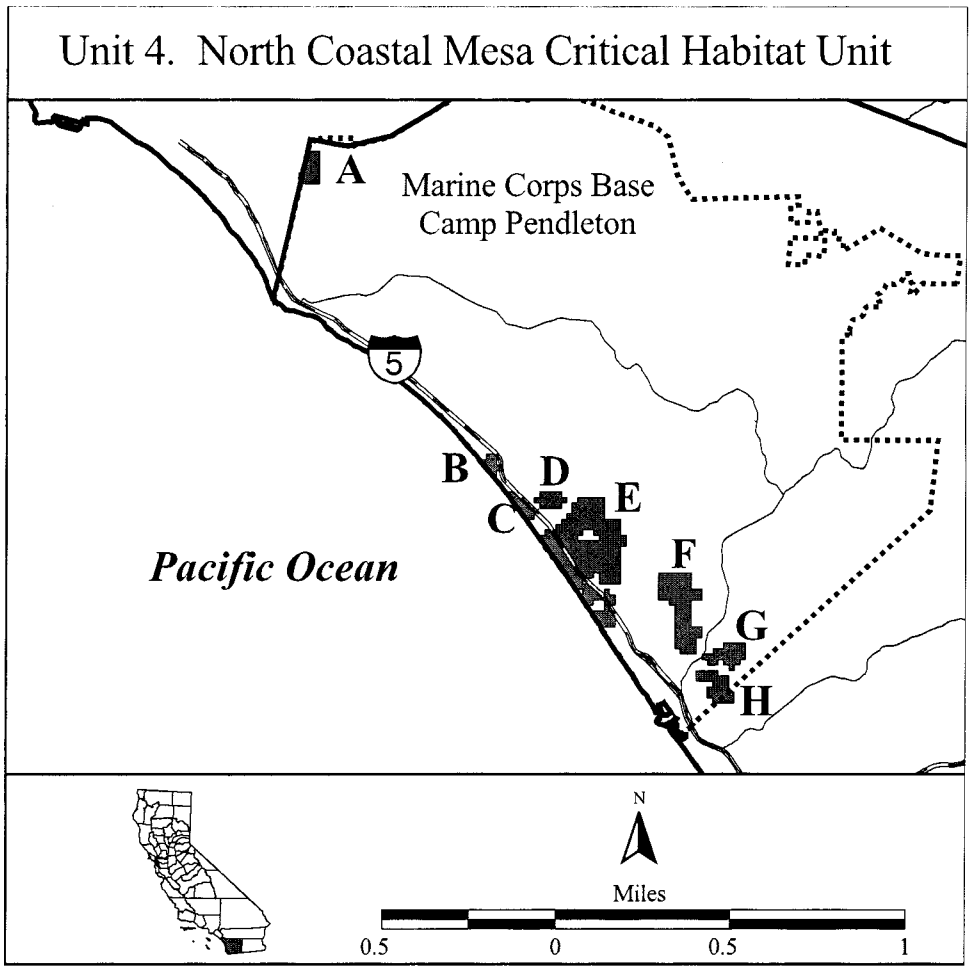
Unit 4d: From USGS 1:24,000 quadrangle map Las Pulgas Canyon, the lands bounded by the following UTM coordinates (E,N): 457000,3685250; 458000,3685250; 458000,3685000; 458250,3685000; 458250,3684750; 458000,3684750; 458000,3684500; 457000,3684500; 457000,3684750; 456750,3684750; 456750,3685000; 457000,3685000; 457000,3685250.

Unit 4e: From USGS 1:24,000 quadrangle map Las Pulgas Canyon, the lands bounded by the following UTM coordinates (E,N): 458750,3685000; 460000,3685000; 460000,3684000; 460750,3684000; 460750,3683250; 461000,3683250; 461000,3682750; 460750,3682750; 460750,3681000; 459750,3681000; 459750,3681500; 459500,3681500; 459500,3681250; 459000,3681250; 459000,3681000; 459500,3681000; 459500,3680750; 459750,3680750; 459750,3680500; 460000,3680500; 460000,3680750; 460250,3680750; 460250,3680500; 460500,3680500; 460500,3680000; 460250,3680000; 460250,3679750; 460500,3679750; 460500,3679000; 459500,3679000; 459500,3679250; 459250,3679250; 459250,3679750; 460000,3679750; 460000,3680250; 459500,3680250; 459500,3680000; 458750,3680000; 458750,3680500; 459000,3680500; 459000,3680750; 458250,3680750; 458250,3681250; 458000,3681250; 458000,3681500; 457750,3681500; 457750,3682000; 457500,3682000; 457500,3682250; 457250,3682250; 457250,3682500; 457000,3682500; 457000,3683250; 457250,3683250; 457250,3683500; 457750,3683500; 457750,3683750; 458000,3683750; 458000,3684000; 458250,3684000; 458250,3684250; 458500,3684250; 458500,3684750; 458750,3684750; 458750,3685000. Excluding the Pacific Ocean and lands bounded by the following UTM coordinates (E,N): 459000,3683500; 459000,3683250; 458750,3683250; 458750,3683000; 459750,3683000; 459750,3683250; 459500,3683250; 459500,3683500; 459000,3683500.

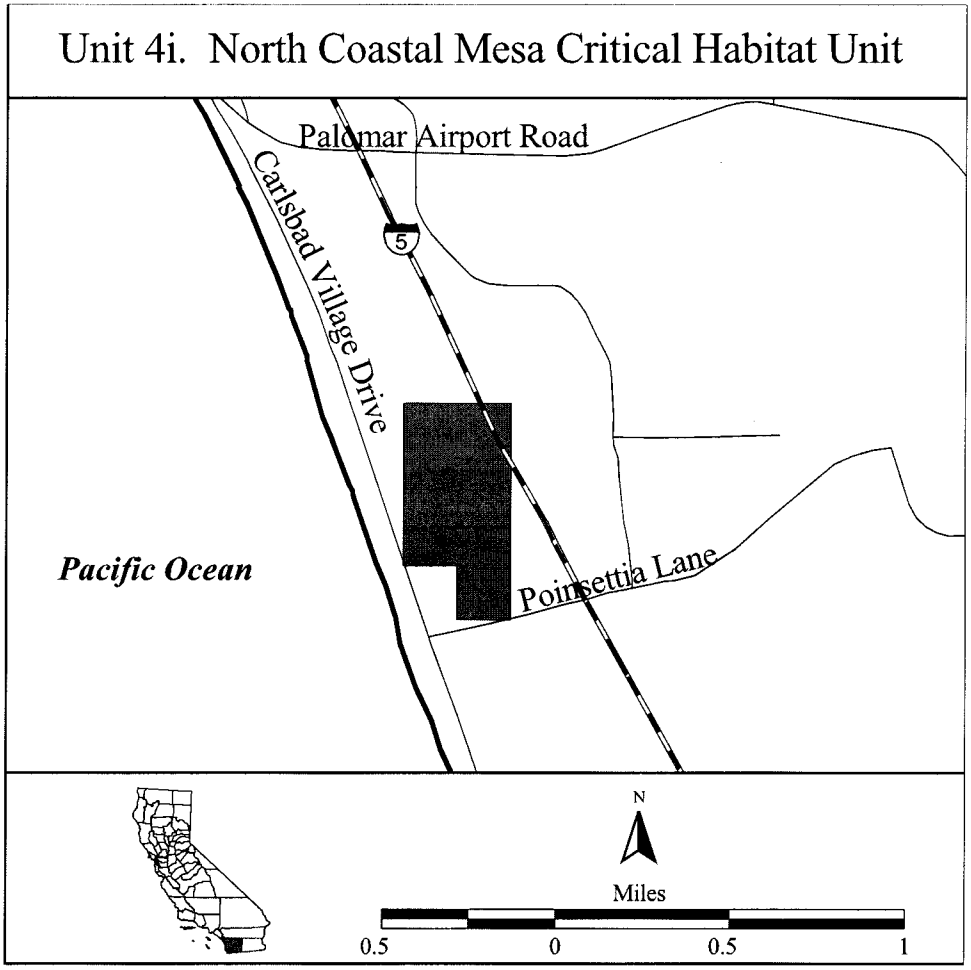
Unit 4f: From USGS 1:24,000 quadrangle maps Oceanside and Las Pulgas Canyon, the lands bounded by the following UTM coordinates (E,N): 462500,3681500; 464000,3681500; 464000,3680750; 464500,3680750; 464500,3680250; 464000,3680250; 464000,3679000; 464500,3679000; 464500,3678500; 464250,3678500; 464250,3677750; 463500,3677750; 463500,3678000; 463250,3678000; 463250,3680000; 463000,3680000; 463000,3680250; 462500,3680250; 462500,3681500.

Unit 4g: From USGS 1:24,000 quadrangle maps Oceanside and San Luis Rey, the lands bounded by the following UTM coordinates (E,N): 465500,3678250; 466500,3678250; 466500,3677500; 466250,3677500; 466250,3677250; 466000,3677250; 466000,3677000; 465750,3677000; 465750,3677250; 465500,3677250; 465500,3677500; 465250,3677500; 465250,3677250; 464750,3677250; 464750,3677500; 464500,3677500; 464500,3677750; 465000,3677750; 465000,3678000; 465500,3678000; 465500,3678250.

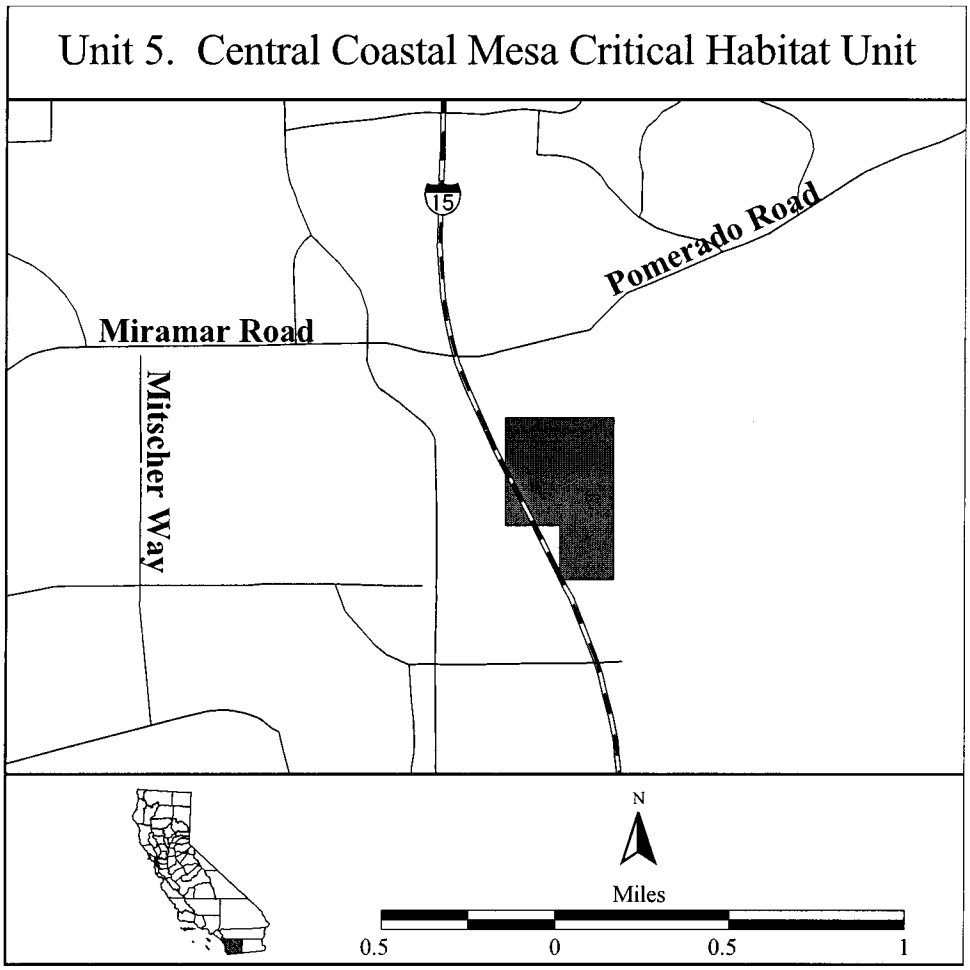
Unit 4h: From USGS 1:24,000 quadrangle maps Oceanside and San Luis Rey, the lands bounded by the following UTM coordinates (E,N): 464250,3677000; 465250,3677000; 465250,3676750; 465750,3676750; 465750,3676000; 466000,3676000; 466000,3675500; 465000,3675500; 465000,3675750; 464750,3675750; 464750,3676250; 465000,3676250; 465000,3676500; 464250,3676500; 464250,3677000.


Unit 4. North Coastal Mesa Critical Habitat Unit
A
Marine Corps Base
Camp Pendleton
5
B
C
D
E
F
G
H
Pacific Ocean
N
Miles
0.5
0
0.5
1

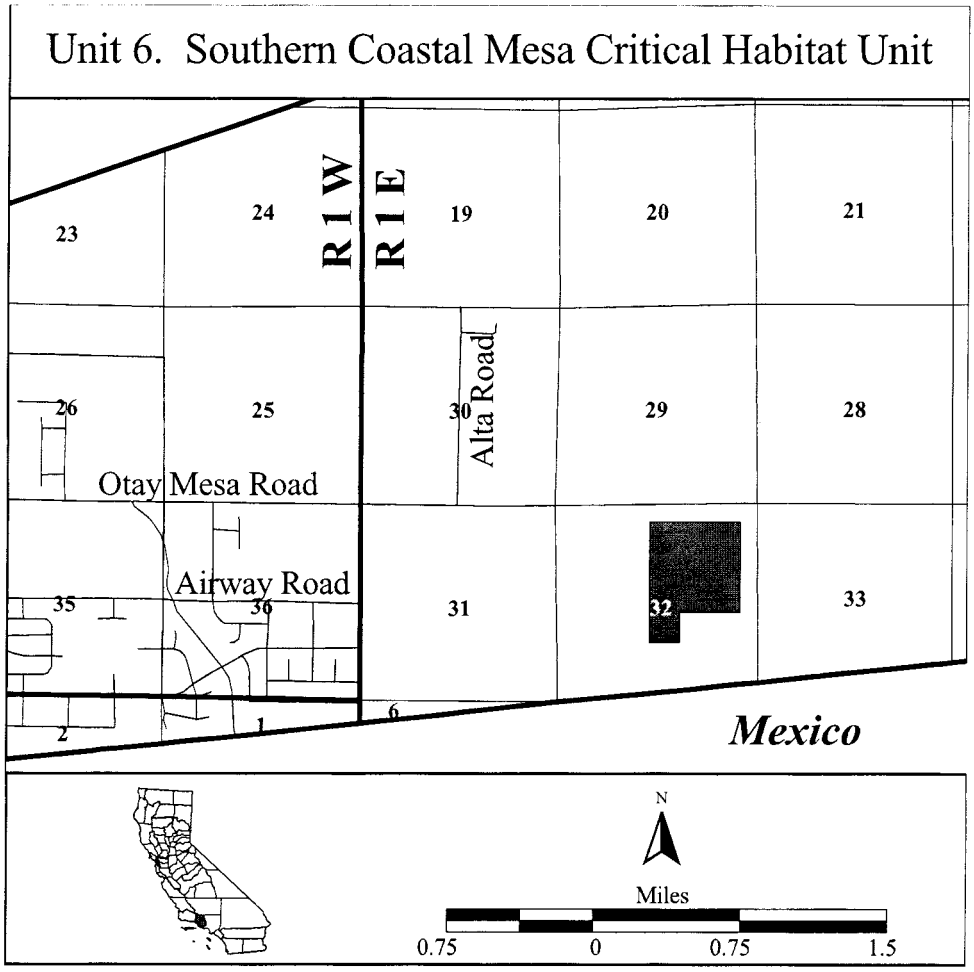
Unit 4i: From USGS 1:24,000 quadrangle maps Encinitas, the lands bounded by the following UTM coordinates (E,N): 470250,3663500; 470750,3663500; 470750,3662500; 470500,3662500; 470500,3662750; 470250,3662750; 470250,3663500.



Map Unit 5: San Diego: Central Coastal Management Area, San Diego County, California. From USGS 1:24,000 quadrangle maps Poway, the lands bounded by the following UTM coordinates (E,N): 489500,3639000; 490000,3639000; 490000,3638250; 489750,3638250; 489750,3638500; 489500,3638500; 489500,3639000.



Map Unit 6: San Diego: South Coastal Management Area, San Diego County, California. From USGS 1:24,000 quadrangle maps Otay Mesa, the lands bounded by the following UTM coordinates (E,N): 509250,3603000; 510000,3603000; 510000,3602250; 509500,3602250; 509500,3602000; 509250,3602000; 509250,3603000.




Dated: September 15, 2000.

**Stephen C. Saunders,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 00–24198 Filed 9–20–00; 8:45 am]

BILLING CODE 4310–55–C

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 622

**[I.D. 091100F]**

## Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic, Shrimp Fishery of the Gulf of Mexico; Public Hearings

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

**ACTION:** Notice of public hearings; request for comments.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) will convene public hearings to review Draft Amendment 11 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (Draft Amendment 11). Draft Amendment 11 contains alternatives for requiring shrimp vessel permits, shrimp vessel registration, operator permits, and for prohibiting trap gear in the royal red shrimp fishery in the exclusive economic zone (EEZ). Public testimony will also be accepted at the Council meeting in Biloxi, MS, on November 15, 2000. A notification of the meeting time and location will be published in the **Federal Register**.

**DATES:** Written comments will be accepted until 5 p.m., November 3, 2000. The public hearings will be held from October 2 through October 26, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the public hearings.

**ADDRESSES:** Written comments should be sent to, and copies of Draft Amendment 11 are available from, the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, Florida 33619; telephone: (813) 228-2815.

**FOR FURTHER INFORMATION CONTACT:** Dr. Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: (813) 228-2815.

**SUPPLEMENTARY INFORMATION:** The public hearings will be convened to review Draft Amendment 11. This amendment contains alternatives for requiring shrimp vessel permits, shrimp vessel registration, operator permits, and for prohibiting trap gear in the royal red shrimp fishery in the EEZ.

**Dates and Times of Public Hearings**

Public hearings for Draft Amendment 11 will begin at 7 p.m. and end at 10 p.m. at all of the following locations:

1. Monday, October 2, 2000, 7 p.m. to 10 p.m.—Laguna Madre Learning Center Port Isabel High School, Highway 100, Port Isabel, TX 78578; telephone: 956-943-0052;

2. Wednesday, October 4, 2000, 7 p.m. to 10 p.m.—Palacios Recreation Center, 2401 Perryman, Palacios, TX 77465; telephone: 361-972-3821;

3. Thursday, October 5, 2000, 7 p.m. to 10 p.m—Victorian Hotel & Conference Center, 6300 Seawall Boulevard, Galveston, Texas 77551; telephone: 409-740-3555;

4. Friday, October 6, 2000, 7 p.m. to 10 p.m.—Police Jury Annex, Courthouse Square, 110 Smith Circle, Cameron, LA 70631; telephone: 337-775-5718;

5. Monday, October 9, 2000, 7 p.m. to 10 p.m.—Larose Regional Park, 2001 East 5th Street, Larose, LA 70373; telephone: 504-693-7355;

6. Tuesday, October 10, 2000, 7 p.m. to 10 p.m.—Mississippi Dept. of Marine Resources, 1141 Bayview Drive, Biloxi, MS 39530; telephone: 228-374-5000;

7. Tuesday, October 10, 2000, 7 p.m. to 10 p.m.—New Orleans Airport Hilton, 901 Airline Drive, Kenner, LA 70062; telephone: 504-469-5000;

8. Wednesday, October 11, 2000, 7 p.m. to 10 p.m.—Adam's Mark Hotel & Resort, 64 South Water Street, Mobile, AL 36602; telephone: 334-438-4000;

9. Thursday, October 12, 2000, 7 p.m. to 10 p.m.—Franklin County Courthouse, 33 Market Street, Apalachicola, FL 32320; telephone: 850-653-8861;

10. Monday, October 23, 2000, 7 p.m. to 10 p.m.—Holiday Inn Beachside, 3841 North Roosevelt Boulevard, Key West, FL 33040; telephone: 305-294-2571;

11. Wednesday, October 25, 2000, 7 p.m. to 10 p.m., Edison Community College, Corbin Auditorium, Room J-103, 8099 College Parkway, Fort Myers, FL 33919; telephone: 941-489-9312; and

12. Thursday, October 26, 2000, 7 p.m. to 10 p.m.—Ramada Hotel & Conference Center, 5303 West Kennedy Boulevard, Tampa, FL 33609-8964; telephone: 813-289-1950.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by September 25, 2000.

Dated: September 15, 2000

**Bruce C. Morehead,**

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

[FR Doc. 00–24301 Filed 9–20–00; 8:45 am]

BILLING CODE 3510-22-S

# Notices

Federal Register

Vol. 65, No. 184

Thursday, September 21, 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

### Commodity Credit Corporation

### Request for Approval of a New Information Collection

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Commodity Credit Corporation (CCC) is seeking approval from the Office of Management and Budget (OMB) for the information collection activities necessary to provide vendors with an interactive web site they can use to track United States Department of Agriculture (USDA) domestic commodity shipments. The new procedure will be more reliable and more efficient than the current procedure.

**DATES:** Comments on this notice must be received on or before November 20, 2000 to be assured consideration.

**FOR FURTHER INFORMATION CONTACT:** Gregory Borchert, Chief, Planning and Analysis Division, Kansas City Commodity Office (KCCO), 6501 Beacon Drive, Kansas City, Missouri 64131–4676, telephone (816) 926–6509 or fax (816) 926–6767.

**SUPPLEMENTARY INFORMATION:**

*Title:* Domestic Commodity Tracking System (DCTS).

*OMB Control Number:* 0560–New.

*Type of Request:* Approval of a new information collection.

*Abstract:* The Commodity Credit Corporation (CCC) purchases agricultural commodities to meet program needs and other objectives. CCC issues invitations to purchase agricultural commodities at various times during the year. Vendors respond by making offers on the contracts. After contracts are awarded, the current process of tracking shipments requires manual documentation with data gathering provided by telephone and facsimile. The Farm Service Agency (FSA), Kansas City Commodity Office (KCCO) has developed information technology to assist in tracking of shipments of transported agricultural commodities. The DCTS is a customer service endeavor which has emphasis on improved service to all customers and increased efficiency in the shipping/delivery operations. An interactive web site is designed to provide our customers with an efficient, user friendly method for inquiring on the status of shipments. Recipients and other agencies may utilize this service to determine if commodities have been purchased, the target delivery date, and date shipment was made. Accurate tracking will provide timely shipment information allowing recipients to effectively schedule their workforce. DCTS will reduce or eliminate: paperwork, document handling, mail and telephone time, postage, facsimile, and telephone expenses. The users will include: commodity vendors; transportation carriers; State Distributing Agencies; FSA, Dairy & Domestic Operations Division; Traffic Management Branch; Agricultural Marketing Service; and the Food and Nutrition Service. The equipment required to access DCTS is a personal computer, an internet service provider, and a netscape browser 4.0 or higher. Vendors will submit shipment and late delivery data electronically versus the current process of sending a hard copy.

*Estimate of Burden:* 3 minutes per response.

*Respondents:* Businesses and other for profit.

*Estimated Number of Respondents:* 67.

*Estimated Number of Annual Responses per Respondent:* 220.

*Estimated Total Annual Burden on Respondents:* 737 hours.

*Proposed topics for comments include:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information collected; or (d) ways to minimize the burden of the collection of the 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.

Comments regarding this information collection requirement should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Agriculture, Washington, DC 20503, and to Gregory Borchert, Chief, Planning and Analysis Division, Kansas City Commodity Office, 6501 Beacon Drive, Kansas City, Missouri 64131–4676, telephone (816) 926–6509 or fax (816) 926–6767.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Signed at Washington, DC, on September 13, 2000.

**Keith Kelly,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 00–24086 Filed 9–20–00; 8:45 am]

BILLING CODE 3410–05–P

## DEPARTMENT OF AGRICULTURE

### Cooperative State Research, Education, and Extension Service

### Notice of Intent To Revise and Request an Extension of a Currently Approved Information Collection

**AGENCY:** Cooperative State Research, Education, and Extension Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) implementing regulations this notice announces the Cooperative State Research, Education, and Extension Service's (CSREES) intention to revise and extend a currently approved information collection, Forms CSREES–662, ''Assurance Statement(s);'' CSREES–663, ''Current and Pending Support;'' CSREES–708, ''Summary Vita—Teaching Proposal;'' CSREES–710, ''Summary Vita—Research Proposal;'' CSREES–711, ''Intent to Submit a Proposal;'' CSREES–712, ''Higher Education Proposal Cover Page;'' and CSREES–713, ''Higher Education Budget''

**DATES:** Comments on this notice must be received by November 27, 2000 to be assured of consideration.

**ADDRESSES:** Address all comments concerning this notice to Dr. Sally J. Rockey, Deputy Administrator; Competitive Research Grants and Awards Management; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2240; 1400 Independence Avenue, SW; Washington, DC 20250–2240. E-mail: rfp-oep@reeusda.gov.

**FOR FURTHER INFORMATION CONTACT:** Contact Sally J. Rockey, (202) 401–1761.

**SUPPLEMENTARY INFORMATION:**

*Titles:* Assurance Statement(s), Current and Pending Support, Summary Vita—Teaching Proposal, Summary Vita—Research Proposal, Intent to Submit a Proposal, Higher Education Proposal Cover Page, and Higher Education Budget.

*OMB Number:* 0524–0030.

*Expiration Date of Current Approval:* December 31, 2000.

*Type of Request:* Revise and extend a currently approved information collection.

*Abstract:* The Higher Education Program (HEP) unit of USDA/CSREES administers several competitive, peer-reviewed research and teaching programs, under which grants of a high-priority nature are awarded. These programs are authorized pursuant to the authorities contained in the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3101 *et seq.*), section 1417(b)(1) for the Higher Education Challenge Grants Program (7 U.S.C. 3152), section 1417(b)(4) for the 1890 Institution Capacity Building Grants Program (7 U.S.C. 3152), section 1417(j) for the Secondary Agriculture Education Challenge Grants Program (7 U.S.C. 3152), section 1455 for the Hispanic-Serving Institutions Education Grants Program (7 U.S.C. 3241), and the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) for the Tribal Colleges Education Equity Grants Program and Tribal Colleges Research Grants Program. The Higher Education Challenge Grants Program is intended to assist colleges and universities in the United States in providing high quality educational programs in the food and agricultural sciences. The 1890 Institution Capacity Building Grants Program is intended to strengthen the teaching and research capabilities of the sixteen 1890 historically black Land-Grant Institutions and Tuskegee University. The Secondary Agriculture Education Challenge Grants Program is intended to promote and strengthen secondary education in agriscience and agribusiness and increasing the number of young Americans pursuing baccalaureate or higher degrees in the food and agricultural sciences. The Hispanic-Serving Institutions Education Grants Program is intended to promote and strengthen the ability of Hispanic-Serving Institutions to carry out educational programs. The Tribal Colleges Education Equity Grants Program is intended to support projects that strengthen academic programs at the 1994 Land-Grant Institutions. The Tribal Colleges Research Grants Program is intended to assist the Tribal Colleges to conduct agricultural research that addresses high priority concerns of tribal, national, or multistate significance. All of these programs will, in turn, attract outstanding students and produce graduates capable of strengthening the Nation's food and agricultural scientific and professional work force. Before awards can be made, certain information is required from applicants as part of an overall proposal package. In addition to project summaries, descriptions of the research or teaching efforts, literature reviews, curricula vitae of principal investigators, and other, relevant technical aspects of the proposed project, supporting documentation of an administrative and budgetary nature also must be provided. Because of the nature of the competitive, peer-reviewed process, it is important that information from applicants be available in a standardized format to ensure equitable treatment. Each year, HEP solicitations are issued requesting proposals for various research and teaching areas targeted for support. Applicants submit proposals for these targeted research and teaching areas following the format outlined in the proposal application guidelines accompanying each solicitation. These proposals are evaluated by peer review panels and awarded on a competitive basis. These programs have been using forms that have been approved in an OMB-approved collection of information package (OMB No. 0524–0030). Forms CSREES–662, ''Assurance Statement(s);'' CSREES–663, ''Current and Pending Support;'' CSREES–708, ''Summary Vita— Teaching Proposal;'' CSREES–710, ''Summary Vita—Research Proposal;'' CSREES–711, ''Intent to Submit a Proposal;'' CSREES–712, ''Higher Education Proposal Cover Page;'' and CSREES–713, ''Higher Education Budget'' are mainly used for proposal evaluation and administration purposes. While some of the information may be used to respond to inquiries from Congress and other government agencies, the forms are not designed to be statistical surveys or data collection instruments. Their completion by potential recipients is a normal part of the application to Federal agencies which support basic and applied scientific research.

Since several programs use these forms the number of copies requested by CSREES varies. The number required is either five or seven. The number required depends on the size of the peer review panel of the program. Multiple copies are requested as a result of a desire to minimize delays in beginning the review process that would be caused if CSREES were required to make the copies in-house, and minimization of the risk of proposals becoming separated, incorrectly organized, or misplaced during a high volume, minimally-staffed, time-driven photocopying process.

The following information has been collected and will continue to be collected:

*Form CSREES–662—Assurances:* Provides required assurances of compliance with regulations involving the protection of human subjects, animal welfare, and recombinant DNA research. By signing this form the grant recipient assures CSREES that it is in compliance with the pertinent regulations regarding these issues.

*Form CSREES–663—Current and Pending Support:* Provides information for key personnel's active and pending projects an applicant may have. This form is used by CSREES to ensure that a project is not being funded more than once by any Federal governmental agency, and to ensure that a principal investigator is not overextending their workload by committing more than 100% of their time to all of their funded projects.

*Form CSREES–708—Teaching Credentials:* Identifies key personnel contributing substantially to the conduct of a teaching project and provides pertinent information concerning their backgrounds. This form is used by CSREES to ensure that the key personnel involved in the project have the necessary knowledge and skills to carry out the work for the project.

*Form CSREES–710—Research Credentials:* Identifies key personnel contributing substantially to the conduct of a research project and provides pertinent information concerning their backgrounds. Currently, the only programs using this form are the 1890 Institution Capacity Building Grants Program and the Tribal Colleges Research Grants Program. This

form is used by CSREES to ensure that the key personnel involved in the project have the necessary knowledge and skills to carry out the work for the project.

*Form CSREES–711—Intent to Submit:* Provides names, addresses, and phone numbers of project directors and authorized agents of applicant institutions and general information regarding potential proposals. The submission of this form gives the program manager an idea of how many and the substance of proposals that will possibly be submitted. This allows the program manager to make preparations for setting up panels and other administrative details.

*Form CSREES–712—Proposal Cover Page:* Provides names, addresses, and phone numbers of project directors and authorized agents of applicant institutions and general information regarding the proposals. This form provides CSREES with the necessary information for making an award.

*Form CSREES–713—Budget:* Provides a breakdown of the purposes for which funds will be spent in the event of a grant award. This form is used by CSREES to determine how grant funds will be expended and if the proposed costs are allowable.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average .75 hour for Form CSREES–662, 2.5 hours for Form CSREES–663, 2.5 hours for Form CSREES–708, 2.0 hours for Form CSREES–710, 1.25 hours for Form CSREES–711, 1.2 hours for Form CSREES–712, and 5 hours for Form CSREES–713. This average was based on a survey of grantees who had recently been approved for awards. They were asked to give an estimate of time it took them to complete each form. This estimate was to include such things as: (1) Reviewing the instructions; (2) Searching existing data sources; (3) Gathering and maintaining the data needed; and (4) Actual completion of the forms. The average time it took each respondent was calculated from their responses.

*Respondents:* Non-profit institutions, or organizations and State and local governments.

*Estimated Number of Respondents:* 320 for Form CSREES–708; 130 for Form CSREES–710; 50 for Form CSREES–711; and 450 each for Forms CSREES–662, CSREES–663, CSREES–712 and CSREES–713.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 5,376 hours, broken down by: 338 hours for Form CSREES–662 (.75 hour per response times 450 respondents); 1,125 hours for Form CSREES–663 (2.5 hours per response times 450 respondents); 800 hours for Form CSREES–708 (2.5 hours per response times 320 respondents); 260 hours for Form CSREES–710 (2.0 hours per response times 130 respondents); 63 hours for Form CSREES–711 (1.25 hour per response times 50 respondents); 540 hours for Form CSREES–712 (1.2 hours per response times 450 respondents); 2,250 hours for Form CSREES–713 (5 hours per response times 450 respondents).

Copies of this information collection can be obtained from Dr. Sally Rockey, Deputy Administrator, at (202) 401–1761. E-mail: OEP@reeusda.gov.

*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 will have practical utility; (b) 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; (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 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. Comments should be sent to the address stated in the preamble.

All responses to this notice will be summarized and included in the request for OMB approval. All comments also will become a matter of public record.

Done at Washington, DC, this 14 day of September, 2000.

**Charles W. Laughlin,**

*Administrator, Cooperative State Research, Education, and Extension Service.*

[FR Doc. 00–24218 Filed 9–20–00; 8:45 am]

BILLING CODE 3410–22–P

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## DEPARTMENT OF AGRICULTURE

### Forest Service

### Information Collection; Request for Comments; Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to reinstate an information collection. The collected information will help the Forest Service fairly consider administrative appeals from timber companies appealing small business timber sale set-aside recomputations.

**DATES:** Comments must be received in writing on or before November 20, 2000.

**ADDRESSES:** All comments should be addressed to Rod Sallee, Forest Management Staff, Mail Stop 1105, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

Comments also may be submitted via facsimile to (202) 205–1766 or by email to fm@fs.fed.us.

The public may inspect comments received at the Forest Management Staff Office, room 3NW located at 201 14th Street, SW., at Independence Ave., SW., Washington, DC. Visitors should call ahead to facilitate entrance into the building.

**FOR FURTHER INFORMATION CONTACT:** Rodney Sallee, Forest Management Staff, at (202) 205–1766.

**SUPPLEMENTARY INFORMATION:**

## Background

The Forest Service adopted the Small Business Timber Sale Set-Aside Program on July 26, 1990 (55 FR 30485). The agency administers the program in cooperation with the Small Business Administration (SBA) under the authorities of The Small Business Act, the National Forest Management Act of 1976, and SBA's regulations at Part 121 of Title 13 of the Code of Federal Regulations (13 CFR, Part 121). The program is designed to ensure that small business timber purchasers have the opportunity to purchase a fair proportion of National Forest System timber offered for sale.

Under the program, the Forest Service must recompute the shares of timber sales to be set aside for qualifying small businesses every 5 years on the actual volume of sawtimber that has been purchased by small business. Also, shares must be recomputed if there is a change in manufacturing capability, if the purchaser size class changes, or if certain purchasers discontinue operations. Direction to guide administration of the Set-Aside Program is issued in Chapter 2430 of the Forest Service Manual and Chapter 90 of the Forest Service Timber Sale Preparation Handbook.

In 1992, the agency adopted new administrative appeal procedures at Part 215 of Title 36 of the Code of Federal Regulations in response to new statutory direction. These rules apply to certain National Forest System project-level decisions for which an environmental

assessment (EA) or environmental impact statement (EIS) has been prepared. Because the recomputation of shares under the Small Business Timber Sale Set-Aside Program is not subject to documentation in an EA or EIS, the decisions on the 1996–2000 Forest Service recomputation of small business shares were not subject to the new appeal procedures. These decisions also were not appealable as conditions of special-use authorizations under Part 251, Subpart C, of Title 36 of the Code of Federal Regulations.

However, since the agency had accepted appeals of recomputation decisions under Part 217 of Title 36 of the Code of Federal Regulations prior to adoption of Part 215, the agency decided to establish procedures for providing notice to affected purchasers with opportunity to comment on the recomputation of shares. Notice of these procedures was published in the **Federal Register** on February 28, 1996 (61 FR 7468).

The Conference Report accompanying the 1997 Omnibus Appropriation Act found the Forest Service decision to eliminate an administrative appeals opportunity for the Small Business Timber Sale Set-Aside Program ''unacceptable'' and directed the Forest Service to reinstate an appeals process before December 31, 1996.

The Conference Report required the agency to establish a process by which purchasers may appeal decisions concerning recomputations of Small Business Set-Aside (SBA) shares, structural recomputations of SBA shares, or changes in policies impacting the Small Business Timber Sale Set-Aside Program.

The Forest Service published an interim rule in the **Federal Register** on March 24, 1997, (62 FR 13826) to comply with the Conference Report appeal requirement. The agency published a final rule, Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares (36 CFR 223), in the **Federal Register** on January 5, 1999 (64 FR 406). This final rule clarified the kinds of decisions that are subject to appeal, who may appeal decisions, the procedures for appealing decisions, the timelines for appeal, and the contents of the notice of appeal.

**Description of Information Collection**

The following describes the information collection to be reinstated:

*Title:* Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares.

*OMB Number:* 0596–0141.

*Expiration Date of Approval:* May 31, 2000.

*Type of Request:* Reinstatement of an information collection previously approved by the Office of Management and Budget.

*Abstract:* The Appeal Deciding Officer, who is the official one level above the level of the Responsible Official who made the recomputation of shares decision, will evaluate the data provided in the notice of appeal to resolve appeals of recomputations of small business shares of the timber sale program.

The Responsible Official provides qualifying timber sale purchasers 30 days for predecisional review and comment on any draft decision to reallocate shares, including the data used in making the proposed recomputation decision. Within 15 days of the close of the 30-day predecisional review period, the Responsible Official makes a decision on the shares to be set aside for small businesses and gives written notice of the decision to all parties on the national forest timber sale bidders list for the affected area. The written notice provides the date by which the appeal may be filed and how to obtain appeal procedures information.

Only timber sale purchasers, or their representatives, who are affected by recomputation decision of the small business share of timber sale set-aside and who have submitted predecisional comments may appeal recomputation decisions.

The appellant must file a notice of appeal with the Appeal Deciding Officer within 20 days of the date of the notice of decision.

The notice of appeal must include the appellant's name, mailing address, and daytime phone number; the title and date of the decision and the name of the responsible official; a brief description and date for the decision being appealed; a statement of how the appellant is adversely affected by the decision being appealed; and a statement of the facts in dispute regarding the issue(s) raised by the appeal; specific references to law, regulation, or policy that the appellant believes to have been violated, if any, and the basis for such an allegation; a statement as to whether and how the appellant has tried to resolve with the Responsible Official the issue(s) being appealed, including evidence of submission of written comments at the predecisional stage; and a statement of the relief the appellant seeks.

Data gathered in this information collection are not available from other sources.

*Estimate of Annual Burden:* 4 hours.

*Type of Respondents:* Timber sale purchasers, or their representatives, who are affected by recomputations of the small business share of timber sales.

*Estimated Annual Number of Respondents:* 40.

*Estimated Annual Number of Responses per Respondent:* 2.

*Estimated Total Annual Burden on Respondents:* 320 hours.

**Comment Is Invited**

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) 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; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Use of Comments**

All comments received in response to this notice, including names and addresses when provided, will become a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: September 14, 2000.

**Paul Brouha,**

*Associate Deputy Chief, National Forest System.*

[FR Doc. 00–24259 Filed 9–20–00; 8:45 am]

BILLING CODE 3410–11–U

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## DEPARTMENT OF AGRICULTURE

### Forest Service

### Opal Creek Scenic Recreation Area (SRA) Advisory Council

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** An Opal Creek Scenic Recreation Area Advisory Council meeting will convene in Salem, Oregon on Sunday, October 7, 2000. The meeting is scheduled to begin at 9 a.m., and will conclude at approximately 2 p.m. The meeting will be held in the Anderson Room B at the Salem Public Library; 585 Liberty St. SE; Salem, Oregon; (503) 588–6071.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (P.L. 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation interests. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. The tentative agenda includes:

(1) Issue development, (2) public involvement strategy, and (3) other topic items identified at the September 18, 2000 advisory council meeting.

The public comment period is tentatively scheduled to begin at 1 p.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to the October 7 meeting by sending them to Designated Federal Official Stephanie Phillips at the address given below.

**FOR FURTHER INFORMATION CONTACT:** For more information regarding this meeting, contact Designated Federal Official Stephanie Phillips; Willamette National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

Dated: September 15, 2000.

**Darrel L. Kenops,**

*Forest Supervisor.*

[FR Doc. 00–24245 Filed 9–20–00; 8:45 am]

**BILLING CODE 3410–11–M**

## DEPARTMENT OF COMMERCE

### Census Bureau

### Construction Project Reporting Surveys (CPRS); Proposed Collection; Comment Request

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, 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)).

**DATES:** Written comments must be submitted on or before November 20, 2000.

**ADDRESSES:** Direct all written comments to Madeleine Clayton, Departmental Forms Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Michael Davis, Census Bureau, Room 2126 FOB 4, Washington, DC 20233–6900, (301) 457–1605(or via the Internet at michael.davis@census.gov).

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The Census Bureau conducts the Construction Project Reporting Surveys (CPRS) to collect information on the dollar value of construction put in place by private companies, individuals, private multifamily residential buildings, and state and local governments. The three CPRS forms are: Form C–700, Private Construction Projects; Form C–700(R), Multifamily Residential Projects; and Form C–700(SL), State and Local Government Projects. These three forms are currently cleared separately. With this revision, we plan to combine these three forms under one clearance. No other substantive changes to the forms are planned.

The Census Bureau is the preeminent collector and provider of timely, relevant and quality data about the people and economy of the United States. Economic data are the Census Bureau's primary program commitment during nondecennial census years. The Form C–700, Private Construction Projects collects construction put in place data for nonresidential projects owned by private companies or individuals. The Form C–700(R), Multifamily Residential Projects collects construction put in place data for private multifamily residential buildings. Form C–700(SL), State and Local Government Projects collects construction put in place data for state and local government projects.

The Census Bureau uses the information from these surveys to publish the value of construction put in place series. Published estimates are used by a variety of private business and trade associations to estimate the demand for building materials and to schedule production, distribution, and sales efforts. They also provide various governmental agencies with a tool to evaluate economic policy and to measure progress towards established goals. For example, Bureau of Economic Analysis staff use data to develop the construction components of gross private domestic investment in the gross domestic product. The Federal Reserve Board and the Department of Treasury use the value in place data to predict the gross domestic product, which is presented to the Board of Governors and has an impact on monetary policy.

### II. Method of Collection

An independent systematic sample of projects is selected each month according to predetermined sampling rates. Once a project is selected it remains in the sample until completion of the project. Preprinted forms are mailed monthly to respondents to fill in current month data and any revisions to previous months. Some respondents are later called by a Census interviewer and report the data over the phone. Having the information available from a database at the time of the interview greatly helps reduce the time respondents spend on the phone. Interviews are scheduled at the convenience of the respondent, further reducing their burden.

### III. Data

*OMB Number:* 0607–0163. In the past, we have had three OMB numbers, but with this revision we will be using only one. The other two OMB numbers affected are 0607–0153 and 0607-0171.

*Form Number:* C–700, C–700(R), C–700(SL).

*Type of Review:* Regular submission.

*Affected Public:* Individuals, Businesses or Other for Profit, Non Profit Institutions, Small Businesses or Organizations, and State or Local Governments.

*Estimated Number of Respondents:* C–700 = 6,000; C–700(R) = 1,440; C–700(SL) = 6,000.

*Estimated Time Per Response:* 15 minutes per month.

*Estimated Total Annual Burden Hours:* C–700 = 18,000; C–700(R) = 4,320; C–700(SL) = 18,000; TOTAL = 40,320.

*Estimated Total Annual Cost:* 2.7 million.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13, United States Code, Section 182.

## 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 also will become a matter of public record.

Dated: September 15, 2000.

**Madeleine Clayton,**

*Departmental Forms Clearance Officer,, Office of the Chief Information Officer.*

[FR Doc. 00–24213 Filed 9–20–00; 8:45 am]

BILLING CODE 3510–07–P

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## DEPARTMENT OF COMMERCE

## Bureau of the Census

## Census Advisory Committee of Professional Associations

**AGENCY:** Bureau of the Census, Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act (P.L. 92–463 as amended by Pub. L. 94–409, Pub. L. 96–523, and Pub. L. 97–375), we are giving notice of a meeting of the Census Advisory Committee of Professional Associations. The Committee is composed of 36 members appointed by the Presidents of the American Economic Association, the American Statistical Association, the Population Association of America, and the Chairperson of the Board of the American Marketing Association. The Committee advises the Director, Bureau of the Census (Census Bureau), on the full range of Census Bureau programs and activities in relation to their areas of expertise.

**DATES:** The meeting will convene on October 19–20, 2000. On October 19, the meeting will begin at 9 a.m. and adjourn at 4:15 p.m. On October 20, the meeting will begin at 9 a.m. and adjourn at 12:30 p.m.

**ADDRESSES:** The meeting will take place at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA, 22202.

**FOR FURTHER INFORMATION CONTACT:** Census Bureau Committee Liaison Officer, Ms. Maxine Anderson-Brown, Room 1647, Federal Building 3, Washington, DC 20233. Her phone number is 301–457–2308, TDD 301–457–2540.

**SUPPLEMENTARY INFORMATION:** The agenda for the meeting on October 19, which will begin at 9 a.m. and adjourn at 4:15 p.m., is as follows:

- Introductory Remarks by the Director, Census Bureau, and the Principal Associate Director for Programs, Census Bureau
- Census Bureau Responses to Committee Recommendations
- 1998 Annual Capital Expenditures Survey
- Developing Customer Relationship Management for Economic Programs
- Census 2000 Public-Use Microdata Sample
- 1997 Surveys of Minority-owned and Women-owned Business Enterprises
- Census 2000 Geographic Products
- Recent Developments in Administrative Records Research Program
- Making the Final Decision with Respect to the Census 2000 Accuracy and Coverage Evaluation
- Redesign of Governments Division Programs
- Compensation Measures: Issues and Options
- Changes in Public Opinion During the Census
- Economic Programs: Hot Topics

The agenda for the meeting on October 20, which will begin at 9 a.m. and adjourn at 12:30 p.m., is as follows:

- Chief Economist Update
- Weighting Estimates from the American Community Survey to Population Totals
- Developing and Promoting Next Generation Information Products for Internet sites at <www.census.gov> and <www.fedstats.gov>
- Developing Recommendations and Special Interest Activities
- Closing Session

The meeting is open to the public and a brief period will be set aside during the closing session for public comments and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer. Individuals wishing additional information or minutes regarding this meeting may contact the Liaison Officer as well. Her address and phone number are identified above.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Census Bureau Committee Liaison Officer.

Dated: September 15, 2000.

**Kenneth Prewitt,**

*Director, Bureau of the Census.*

[FR Doc. 00–24283 Filed 9–20–00; 8:45 am]

BILLING CODE 3510–07–P

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## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

**[Order No. 1118]**

## Grant of Authority for Subzone Status Xerox Corporation (Toner and Toner Products); Oklahoma City, OK

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas,* the Foreign-Trade Zones Act provides for " * * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board (the Board) to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

*Whereas,* the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

*Whereas,* the Port Authority of the Greater Oklahoma City Area, grantee of FTZ 106, has made application to the Board for authority to establish special-purpose subzone status at the toner and toner products facility of Xerox Corporation located in Oklahoma City, Oklahoma, (FTZ Docket 39–99, filed 8–04–99);

*Whereas,* notice inviting public comment has been given in the **Federal Register** (64 FR 44198, 8/13/99); and,

*Whereas,* the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

*Now, Therefore,* the Board hereby grants authority for subzone status at the

toner and toner products facility of Xerox Corporation, located in Oklahoma City, Oklahoma, (Subzone 106D), at the location described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 8th day of September 2000.

**Troy H. Cribb,**

*Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

[FR Doc. 00–24297 Filed 9–20–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Order No. 1119]**

### Expansion of Foreign-Trade Zone 68, El Paso, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas,* the City of El Paso, Texas, grantee of Foreign-Trade Zone No. 68, submitted an application to the Board for authority to expand FTZ 68 Sites 2 and 3 in El Paso, Texas, within the El Paso Customs port of entry (FTZ Docket 53–99, filed 10/26/99);

*Whereas,* notice inviting public comment was given in the **Federal Register** (64 FR 60408, 11/5/99) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas,* the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

*Now, Therefore,* the Board hereby orders:

The application to expand FTZ 68 Sites 2 and 3 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, and further subject to the Board's standard 2,000-acre activation limit for the overall zone project.

Signed at Washington, DC, this 8th day of September 2000.

**Troy H. Cribb,**

*Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

[FR Doc. 00–24298 Filed 9–20–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### North American Free-Trade Agreement, Article 1904; NAFTA Panel Reviews; Request for Panel Review

**AGENCY:** NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

**ACTION:** Notice of first request for panel review.

**SUMMARY:** On August 25, 2000, Gouvernement du Quebec filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final results of injury determination made by the International Trade Commission, respecting Magnesium from Canada. This determination was published in the **Federal Register** (65 FR 47517) on August 2, 2000. The NAFTA Secretariat has assigned Case Number USA–CDA–00–1904–09 to this request.

**FOR FURTHER INFORMATION CONTACT:** Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

**SUPPLEMENTARY INFORMATION:** Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on August 25, 2000, requesting panel review of the final injury review described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is September 25, 2000);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is October 10, 2000); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: August 28, 2000.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*

[FR Doc. 00–24275 Filed 9–20–00; 8:45 am]

BILLING CODE 3510–GT–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 091800C]**

### American Fisheries Act Vessel Monitoring System

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Proposed collection; Comment request.

**SUMMARY:** The Department of Commerce, 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)).

**DATES:** Written comments must be submitted on or before November 20, 2000.

**ADDRESSES:** Direct all written comments to Madeleine Clayton, Departmental Forms Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW., Washington

DC 20230 (or via Internet at MClayton@doc.gov).

Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Patsy A. Bearden, National Marine Fisheries Service, Alaska Region, P.O. Box 21668, Juneau, Alaska 99802, telephone number 907–586–7008.

**FOR FURTHER INFORMATION CONTACT:** Telephone number 907–586–7008.

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

The National Marine Fisheries Service (NMFS) plans to implement a vessel monitoring system (VMS) for participants in the American Fisheries Act pollock fishery in the Bering Sea -Aleutian Islands. Participants would be required to purchase and install a NMFS-approved VMS unit on their vessels. The unit would automatically transmit the vessel's position in real time to the NMFS, Office of Law Enforcement in Juneau Alaska.

## II. Method of Collection

Respondents would comply with requirements to be set forth in 50 CFR part 679. No specific forms would be required.

Respondents would be required to ensure that the unit transmits vessel position as specified in the regulations.

*III. Data*

OMB Number:None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 150.

Estimated Time Per Response: 5 seconds.

Estimated Total Annual Burden Hours: 2,700.

Estimated Total Annual Cost to Public: $54,000.

*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 also will become a matter of public record.

Dated: September 14, 2000.

**Madeleine Clayton,**

*Departmental Forms Clearance Officer, Office of Chief Information Officer.*

[FR Doc. 00–24302 Filed 9–20–00; 8:45 am]

**BILLING CODE: 3510–22–S**

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**[I.D 091500B]**

## 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 Oceanic and Atmospheric Administration (NOAA).

*Title:* Northeast Region Sea Scallop Exemption Requirements.

*Form Number(s):* None.

*OMB Approval Number:* 0648–0416.

*Type of Request:* Regular submission.

*Burden Hours:* 2,950.

*Number of Respondents:*267.

*Average Hours Per Response:* 1 hour for installation of a Vessel Monitoring System (VMS), 5 minutes for verification of installation of a VMS unit, 2 minutes for a notification of intent to participate in an exemption program or to leave on a fishing trip, 10 minutes for a daily catch report, and 5 seconds for an automated position report from a VMS.

*Needs and Uses:* On June 13, 2000, NOAA obtained emergency clearance for information requirements associated with the New England Fishery Management Council's Framework 13 to the Atlantic Sea Scallop Fishery Management Plan and Framework 34 to the Northeast Multispecies Fishery Management Plan. NOAA is seeking renewal of OMB approval for these requirements.

Participants in the Sea Scallop Exemption Program or similar exemption programs are subject to information requirements that include: installation of a VMS unit, submission of proof of such installation, notifications of intent to fish in an exemption area, notification at least 5 days before actually leaving on such a fishing trip, daily VMS reporting of catch, and automated position reports from the VMS.

*Affected Public:* Business and other for-profit organizations, individuals or households, not-for-profit institutions.

*Frequency:*On occasion, monthly, daily, and hourly.

*Respondent's Obligation:* Mandatory.

*OMB Desk Officer:*David Rostker, (202)

395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, DOC Forms Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: September 14, 2000.

**Madeleine Clayton,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 00–24300 Filed 9–20–00; 8:45am]

**BILLING CODE 3510–22–S**

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## Availability of Seats for the Florida Keys National Marine Sanctuary Advisory Council

**AGENCY:** National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

**ACTION:** Notice and request for applications.

**SUMMARY:** The Florida Keys National Marine Sanctuary (FKNMS or Sanctuary) is seeking applicants for the following vacant primary and alternate seats for its Sanctuary Advisory Council (Council): Diving Upper Keys and Diving Lower Keys, Recreational Fisherperson, Citizen at Large Upper Keys and Citizen at Large Middle Keys, Conservation and Environment, Boating Industry, and Commercial Fishing—Shell/Scale. Alternates represent members of the Council at meetings for which the members cannot be present. Applicants are chosen based upon their particular expertise and experience in

relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the conservation and management of marine resources; and the length of residence in the area affected by the Sanctuary. Applicants who are chosen as members should expect to serve two year terms, pursuant to the Council's charter.

**DATES:** Applications are due by October 13, 2000.

**ADDRESSES:** Application kits may be obtained from June Cradick, Florida Keys National Marine Sanctuary, Post Office Box 500368, Marathon, FL 33050, or online at: *http://www.fknms.nos.noaa.gov/sac/welcome.html.* Completed applications should be sent to the same address.

**FOR FURTHER INFORMATION CONTACT:** June Cradick at (305) 743–2437 x24, or june.cradick@noaa.gov, or visit the web site at: *http://www.fknms.nos.noaa.gov/sac/welcome.html.*

**SUPPLEMENTARY INFORMATION:** The FKNMS Advisory Council functions in an advisory capacity to the Sanctuary Superintendent The Council works in concert with the Sanctuary Superintendent by keeping him informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Superintendent in achieving the goals of the Sanctuary program. Specifically, the Council's objectives are to provide advice on: (1) Protecting natural and cultural resources, and identifying and evaluating emergent or critical issues involving Sanctuary use or resources; (2) Identifying and realizing the Sanctuary's research objectives; (3) Identifying and realizing educational opportunities to increase the public knowledge and stewardship of the Sanctuary environment; and (4) Assisting to develop an informed constituency to increase awareness and understanding of the purpose and value of the Sanctuary and the National Marine Sanctuary Program.

**Authority:** 16 U.S.C. Section 1431 *et seq.*

Dated: September 18, 2000.

**Margaret A. Davidson,**

*Acting Assistant Administrator for Ocean Services and Coastal Zone Management.*

[FR Doc. 00–24282 Filed 9–20–00; 8:45 am]

**BILLING CODE 3510–08–M**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## Availability of Seats for the Monterey Bay National Marine Sanctuary Advisory Council

**AGENCY:** National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

**ACTION:** Notice and request for applications.

**SUMMARY:** The Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) is seeking applicants for the following nine vacant seats on its Sanctuary Advisory Council (Council): Agriculture, At-Large (3 seats), Business/Industry, Fishing, Recreation, Research, and Tourism. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the conservation and management of marine resources; and the length of residence in the area affected by the Sanctuary. Applicants who are chosen as members should expect to serve three-year terms, pursuant to the Council's Charter.

**DATES:** Applications are due by October 30, 2000.

**ADDRESSES:** Application kits may be obtained by from Brady Phillips at the Monterey Bay National Marine Sanctuary, 299 Foam Street, Monterey, California, 93940. Completed applications should be sent to the same address.

**FOR FURTHER INFORMATION CONTACT:** Brady Phillips at (831) 647–4237, or Brady.Phillips@noaa.gov.

**SUPPLEMENTARY INFORMATION:** The MBNMS Advisory Council was established in March 1994 (the current Council has served since March 1998) to assure continued public participation in the management of the Sanctuary. Since its establishment, the Council has played a vital role in the decisions affecting the Sanctuary along the central California coast.

The Council's nineteen voting members represent a variety of local user groups, as well as the general public, plus seven local, state and federal governmental jurisdictions. In addition, the respective managers for the four California National Marine Sanctuaries (Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, and the Monterey Bay National Marine Sanctuary) and the Elkhorn Slough National Estuarine Research Reserve site as non-voting members.

The Council is supported by three working groups: the Research Activity Panel (RAP) chaired by the Research Representative, the Sanctuary Education Panel (SEP) chaired by the Education Representative, and the Conservation Working Group (CWG) chaired by the Conservation Representative, each respectively dealing with matters concerning research, education and resource protection. The working groups are composed of experts from the appropriate fields of interest and all meet monthly, serving as invaluable advisors to the Council and the Sanctuary Superintendent. Several task forces have been established to assist in developing specific programmatic goals. Most notable is the formation of the Business and Tourism Activity Panel (BTAP), whose purpose is to strengthen economic partnerships with the Sanctuary Program.

The Council represents the coordination link between the Sanctuary and the state and federal management agencies, user groups, researchers, educators, policy makers, and other various groups that help to focus efforts and attention on the central California coastal and marine ecosystems.

The Council functions in an advisory capacity to the Sanctuary Superintendent and is instrumental in helping to develop policies and program goals, and to identify education, outreach, research, long-term monitoring, resource protection and revenue enhancement priorities. The Council works in concert with the Sanctuary Superintendent by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Superintendent in achieving the goals of the Sanctuary program within the context of California's marine programs and policies.

**Authority:** 16 U.S.C. Section 1431 *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: September 18, 2000.

**Margaret A. Davidson,**

*Acting Assistant Administrator for Oceans and Coastal Zone Management.*

[FR Doc. 00–24281 Filed 9–20–00; 8:45 am]

**BILLING CODE 3510–08–M**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

**[I.D. 091100I]**

## Notice of Availability of Final Environmental Impact Statement and Habitat Conservation Plan for Incidental Take

Permits for Plum Creek Timber Company and Their Subsidiaries in the States of Montana, Idaho and Washington

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce; Fish and Wildlife Service (FWS), Interior.

**ACTION:** Notice of availability.

**SUMMARY:** This notice announces the availability of a joint final Environmental Impact Statement (EIS) and Habitat Conservation Plan (HCP) relative to an Incidental Take Permit Application, intended to achieve the following: to protect, in accordance with the Federal Endangered Species Act (ESA), species listed as threatened or endangered, and to provide for sustained production of timber products, consistent with Federal and state laws, on lands owned by Plum Creek Timberlands, L. P., (and its partners Plum Creek Timber Company, Inc., and Plum Creek Timber I L. L.C., Plum Creek Marketing Inc., Plum Creek Land Company, Plum Creek Northwest Lumber, Inc., Plum Creek Northwest Plywood, Inc., and Plum Creek MDF, Inc., for Lands in Montana, Idaho, and Washington (hereafter collectively referred to as Plum Creek).

**DATES:** Decisions on the above actions will occur no sooner than October 22, 2000.

**ADDRESSES:**

Comments regarding the final EIS or HCP should be addressed to Ted Koch, Project Biologist, FWS, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709 (fax: 208/387–5262); or Bob Ries, Project Biologist, NMFS, 10215 W. Emerald St., Suite 180, Boise, Idaho 83704 (fax: 208/378–5699).

**FOR FURTHER INFORMATION CONTACT:** Ted Koch, Project Biologist, FWS, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709 (fax: 208/387–5262); or Bob Ries, Project Biologist, NMFS, 10215 W. Emerald St., Suite 180, Boise, Idaho 83704 (fax: 208/378–5699).

**SUPPLEMENTARY INFORMATION:** This notice advises the public that Plum Creek Timberlands, L.P. and associated companies identified above (Plum Creek) have submitted an application to the Fish and Wildlife Service and the National Marine Fisheries Service (together, the Services) for an Incidental Take Permit (Permit) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). As required by section 10(a)(2)(B) of the Act, the applicant has also prepared an HCP designed to minimize and mitigate for any take of endangered or threatened species. The Permit application is related to forest management and other Plum Creek activities on approximately 1.7 million acres of Plum Creek land in western Montana, northern Idaho, and western Washington. Of the 1.7 million acres, approximately 90 percent occur in Montana, 5 percent occur in Idaho, and 5 percent occur in Washington.

### Species Affected by the Permit

The proposed Permit would authorize the take of the following eight listed endangered or threatened species incidental to otherwise lawful activities: Columbia River distinct population segment (DPS) of bull trout (*Salvelinus confluentus*); Snake River steelhead evolutionarily significant unit (ESU) (*Oncorhynchus mykiss*); Mid-Columbia River steelhead ESU (*Oncorhynchus mykiss*); Lower Columbia River steelhead ESU (*Oncorhynchus mykiss*); Snake River spring/summer chinook salmon ESU (*Oncorhynchus tshawytscha*); Snake River fall chinook salmon ESU (*Oncorhynchus tshawytscha*); Lower Columbia River chinook salmon ESU (*Oncorhynchus tshawytscha*); Columbia River chum salmon ESU (*Oncorhynchus keta*).

Plum Creek is also seeking coverage for nine currently unlisted anadromous and resident fish under specific provisions of the Permit, should these species be listed in the future.

These species include: redband trout (*Oncorhynchus mykiss*); coastal rainbow trout (*Oncorhynchus mykiss*); westslope cutthroat trout (*Oncorhynchus clarki lewisi*); mountain whitefish (*Prosopium williamsoni*) pygmy whitefish (*Prosopium coulteri*); coastal cutthroat trout (*Oncorhynchus clarki clarki*), including the proposed Southwestern Washington/Columbia River coastal cutthroat trout DPS and populations above barriers; Upper Columbia River summer/fall chinook salmon ESU (*Oncorhynchus tshawytscha*); candidate Lower Columbia River/Southwest Washington coho salmon ESU (*Oncorhynchus kisutch*) and Mid-Columbia River spring chinook salmon ESU (*Oncorhynchus tshawytscha*). Six of the 17 covered species are resident fish species, and eleven are anadromous fish species or have an anadromous life history form. The duration of the proposed Permit and Plan is 30 years.

On December 12, 1997, a notice was published in the **Federal Register** (62 FR 65437) announcing the intent to prepare an EIS on the proposed issuance of incidental take permits under the Federal ESA, and inviting comments on the scope of the EIS. Comments were received and considered and were reflected in the draft EIS. By a **Federal Register** notice dated December 17, 1999 (64 FR 70695), the Services announced the availability for public review and comment of applications for Federal incidental take permits filed by Plum Creek under section 10(a) of the Federal ESA, as well as the availability of the draft EIS for public review and comment. The applications include a proposed HCP and a proposed Implementation Agreement (IA) that addressed species conservation and ecosystem management on approximately 1.7 million acres of land in Montana, Idaho, and Washington.

In a subsequent February 16, 2000, *Federal Register* notice (65 FR 7856), the Services announced that the public comment period on Plum Creek's proposed HCP, scheduled to close on February 15, 2000, had been extended until March 17, 2000.

The Services received approximately 2,500 comments on the proposed HCP and draft EIS. Changes have been made to the documents in response to public comments and agency concerns.

**The most notable changes are cited under the headings below.**

### Adaptive Management

The greatest number of issues addressed by changes in the Native Fish HCP (NFHCP) were related to adaptive management.

**These changes include the following:**

(1) Adding a significantly expanded and detailed description of the scientific studies to be conducted for effectiveness monitoring.

(2) Clarifying that adaptive management decisions are an equal partnership. This responds to the public's concern that Plum Creek was retaining ''veto power'' over deciding whether any changes to the plan would be made.

(3) Adding a new commitment to establish a process for adding Tier 1 watersheds for any Permit species.

(4) Providing a new commitment to monitor landslides.

**Riparian**

The next greatest number of issues were related to riparian management. Changes included the following:

(1) Improving 8 out of 9 commitments with more specific language.

(2) Adding more fish habitat protection for intermittent streams.

(3) Extending perennial stream measures to intermittent streams that flow through unstable features on the landscape.

(4) Adding measures to mitigate for impacts of stream side roads.

(5) Incorporating a limitation on clearcutting in Interface Caution Areas Roads.

The following changes were related to road management issues:

(1) Improving 5 out of 8 commitments with more specific language.

(2) Identifying specific watersheds for high priority treatment, and for Road Sediment Delivery Analyses.

(3) Incorporating a requirement to avoid building new roads on steep slopes.

(4) Developing a new, site-specific commitment to address landslide risk at Papoose Creek in the Lochsa River Planning Area basin.

**Administration and Implementation**

A few issues were related to administration and implementation of the NFHCP. The greatest of these was a concern whether the Services would have sufficient resources to participate in the adaptive management process once the Permit is issued. The following changes resulted from these issues:

(1) Improving 2 out of 6 commitments with more specific language to help ensure a self-implementing conservation plan.

(2) Developing a specific protocol for third party audits.

Financed by Plum Creek, this will provide objective oversight to verify compliance while streamlining the Services' involvement.

Additionally, although not resulting from any input received during the public comment process, there were a number of land parcels added or removed from HCP coverage because of Plum Creek land sales, purchases, and other environmental considerations that are reflected in the final EIS. The most significant change was the sale of more than half the lands in Idaho.

The final EIS analyzes the environmental impacts of the HCP submitted by Plum Creek and three alternatives to the HCP, including the ''no action'' alternative. The final EIS is intended to accomplish the following: (1) Inform the public of the final proposed action and alternatives; (2) address public comments received during the comment period; (3) disclose the direct, indirect, and cumulative environmental effects of the final proposed action and each of the alternatives; and (4) indicate any irreversible commitment of resources that would result from implementation of the final proposed action.

This notice is provided pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500 through 1508).

**Additional Addresses**

The FEIS will be available at the U.S. Fish and Wildlife Service, Snake River Basin Office website at http://www.fws.gov/r1srbo/SRBO/PlumCk.htm. Or, a hard copy or a copy on CD-ROM may be obtained by contacting Mr. Ted Koch, U.S.

Fish and Wildlife Service, 1387 S. Vinnell Way, Boise, Idaho 83709, (208) 378–5293.

Dated: September 12, 2000.

**Anne Badgley,**

*Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.*

Dated: September 14, 2000.

**Wanda Cain**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 00–24304 Filed 9–20–00; 8:45 am]

BILLING CODES 3510–22–S, 4310–55–S

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## [I.D. 091800A]

## New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council will convene a public meeting of its Groundfish Oversight Committee.

**DATES:** The meeting will be held October 10–11, 2000, beginning at 9:30 a.m.

**ADDRESSES:** The meeting will be held at the Sheraton Colonial Hotel, One Audubon Road, Wakefield, MA 01880; telephone (781) 245–9300.

Council Address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950; telephone: (978)

465–0492.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

**SUPPLEMENTARY INFORMATION:** The Groundfish Oversight Committee will continue its development of management alternatives for Amendment 13 to the Northeast Multispecies Fishery Management Plan. The Committee will finalize its recommendations for rebuilding plans for overfished stocks, measures to address capacity in the groundfish fishery, and options for closed areas and refine its proposals for the status quo, area management, and sector allocation alternatives. Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: September 18, 2000.

**Richard W. Surdi,**

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

[FR Doc. 00–24299 Filed 9–20–00; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 091800F]**

### New England Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a two-day joint public meeting of its Groundfish Oversight Committee and Groundfish Industry Advisory Panel in October, 2000. Recommendations from the committees will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** The meeting will be held on Thursday, October 5, 2000, at 9:30 a.m. and Friday, October 6, 2000, at 9:30 a.m.

**ADDRESSES:** The meeting will be held at the Holiday Inn, Mansfield, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200; fax: (508) 339–1040

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

**SUPPLEMENTARY INFORMATION:** The committee and advisors will conduct a joint meeting to continue development of management options for Amendment 13 to the Northeast Multispecies Fishery Management Plan. Since April, the committee has been identifying a wide range of possible management measures for this amendment. They are focusing on three broad approaches to groundfish management: revisions to the measures currently in place, an area-based management system, and a sector allocation system. All three approaches will be discussed at this meeting and choices will be made on the specifics of each proposal that will be recommended to the Council later this year. In addition, the committee and advisors will review updated assessment information on groundfish stocks, if available, and may develop preliminary recommendations on the rebuilding schedules that will be used in this amendment. They will also consider information from the Council's Groundfish Overfishing Definitions Review Panel and will consider and develop recommendations for further review or changes to specific overfishing definitions. The committee and advisors will also consider the report of the Council's Capacity Committee and incorporate recommendations from that Committee into the management measures for Amendment 13.

Although non-emergency issues not contained in these agendas may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting.

Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: September 18, 2000.

**Richard W. Surdi,**

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

[FR Doc. 00–24303 Filed 9–20–00; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Science Advisory Board; Open Meeting

**AGENCY:** Office of Oceanic and Atmospheric Research, NOAA, DOC.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on long- and short-range strategies for research, education, and application of science to resource management. SAB activities and advice will provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

*Time and Date:* The meeting will be held Friday, September 29, 2000, from 9 a.m. to 5 p.m.

*Place:* The meeting will be held in Room 1414 at the Department of Commerce, 14th and Constitution Avenues, Washington, DC.

*Status:* The meeting will be open to public participation with a 1 hour time period set aside during the meeting for direct verbal comments or questions from the public. The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Written comments (at least 35 copies and in electronic format, if possible) should be received in the SAB Executive Directors's Office by September 22, 2000 in order to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after September 22 will be distributed to the SAB, but may not be reviewed prior to the meeting date. Approximately thirty (30) seats will be available for the public including five (5) seats reserved for the media. Seats will be available on a first-come, first-served basis.

*Matters to be Considered:* The meeting will include the following topics: (1) Review of the Oceans Exploration Panel Report to the President, (2) Presentation and SAB discussion of the National Science Foundations' new environmental initiative, and (3) Presentations and SAB discussions of other oceans-related issues.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael Uhart, Executive Director, Science Advisory Board, NOAA, Rm. 11142, 1315 East-West Highway, Silver Spring, Maryland 20910 (Phone: 301–713–9121, Fax: 301–713–3515, E-mail: Michael.Uhart@noaa.gov); or visit the NOAA SAB website at http://www.sab.noaa.gov.

Dated: September 14, 2000.

**David L. Evans,**

*Assistant Administrator, OAR.*

[FR Doc. 00–24197 Filed 9–20–00; 8:45 am]

**BILLING CODE 3510–08–M**

## CONSUMER PRODUCT SAFETY COMMISSION

### Sunshine Act Meeting

**TIME AND DATE:** Tuesday, September 26, 2000, 10 a.m.

**LOCATION:** Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

**STATUS:** Open to the Public.

**MATTERS TO BE CONSIDERED:** Escalator Petition (CP 97–1)

The staff will brief the Commission on Petition CP 97–1 filed by Scott and Diana Anderson, requesting development of a mandatory safety standard for escalators.

For a recorded message containing the latest agenda information, call (301) 504–0709.

**CONTACT PERSON FOR ADDITIONAL INFORMATION:** Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: September 19, 2000.

**Sadye E. Dunn,**

*Secretary.*

[FR Doc. 00–24470 Filed 9–19–00; 3:54 pm]

BILLING CODE 6355–01–M

## CONSUMER PRODUCT SAFETY COMMISSION

### Sunshine Act Meeting

**TIME AND DATE:** Thursday, September 28, 2000, 2 p.m.

**LOCATION:** Room 410, East West Towers, 4330 East West Highway, Bethesda, MD.

**STATUS:** Closed to the Public.

**MATTER TO BE CONSIDERED:** Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

**CONTACT PERSON FOR ADDITIONAL INFORMATION:** Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207, (301) 504–0800.

Dated: September 19, 2000.

**Sadye E. Dunn,**

*Secretary.*

[FR Doc. 00–24471 Filed 9–19–00; 3:54 pm]

BILLING CODE 6355–01–M

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### HQ USAF Scientific Advisory Board (SAB) Meeting

The HQ USAF SAB Fall Board Meeting will meet in Washington, DC on October 31 to November 1, 2000 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

**Janet A. Long,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 00–24276 Filed 9–20–00; 8:45 am]

BILLING CODE 5001–05–P

## DEPARTMENT OF DEFENSE

### Department of the Army

### Final Environmental Assessment (EA) for BRAC 95 Disposal and Reuse of Camp Pedricktown, NJ

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of Availability.

**SUMMARY:** In accordance with the 1995 Defense Base Closure and Realignment Commission, Public Law 101–510 (as amended), the Defense Base Closure and Realignment Act of 1990 recommended the closure of Camp Pedricktown, New Jersey except for the Sievers-Sandberg Reserve Center. A Notice of Intent declaring the Army's intent to prepare an EA for the closure of Camp Pedricktown was published in the **Federal Register** on September 22, 1995 (60 FR 49264). The Final Environmental Assessment (EA) evaluates the environmental impacts of the disposal and subsequent reuse of the 46 acres involved. The Army will retain 39 acres to support the Reserve Center.

**DATES:** Comments must be submitted on or before October 23, 2000.

**ADDRESSES:** A copy of the Final EA and Finding of No Significant Impact may be obtained by writing to Mr. Carl Burgamy, Jr., U.S. Army Corps of Engineers, U.S. Army Engineer District, Mobile (CESA–PD), 109 Saint Joseph Street, Mobile, AL 36602.

**FOR FURTHER INFORMATION CONTACT:** Mr. Carl Burgamy at (334) 690–2036 or by facsimile at (334) 690–2727.

**SUPPLEMENTARY INFORMATION:** Alternatives examined in the EA include no action, unencumbered disposal of the property, and encumbered disposal of the property. Encumbered disposal refers to transfer or conveyance of property having restrictions on subsequent use as a result of any Army-imposed or other legal restraint. The unencumbered disposal alternative refers to transfer or conveyance of property without encumbrances such as environmental restrictions and easements. Under the no action alternative, the Army would not dispose of property but would maintain it in caretaker status for an indefinite period.

The Army's preferred alternative for disposal of Camp Pedricktown excess property is the encumbered disposal of excess property with encumbrances pertaining to easements, use restrictions, and habitat protection and restrictions pertaining to asbestos-containing material, lead-based paint, future remedial activities after transfer, and utility dependencies. The Army analyzes community reuse of the Camp Pedricktown property in the EA as a secondary action resulting from disposal. While the Army does not control the community's reuse of the property, under NEPA, the Army is required to analyze the reasonably foreseeable impacts of its disposal action. The local community has established the Camp Pedricktown Local Redevelopment Authority (CPLRA) to develop and implement a reuse plan for the excess property (46 acres and 29 buildings). Several scenarios for reuse of the excess property were examined in the EA: low, medium-low, and medium intensity reuse scenarios. Based on the reuse as established in the CPLRA plan, the medium intensity scenario most closely resembles the planned reuse.

Copies of the EA and Finding of No Significant Impact are available for review at the Oldmans Township Municipal Building, 32 West Mill Street, Pedricktown, NJ 08067; the Penns Grove-Carneys Point Library, 222 South Broad Street, Penns Grove, NJ 08069; and the Salem County Community College Library, 460 Hollywood Avenue, Carneys Point, NJ 08069.

Dated: September 15, 2000.

**Raymond J. Fatz,**

*Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA (I&E).*

[FR Doc. 00–24260 Filed 9–20–00; 8:45 am]

BILLING CODE 3710–08–M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Environmental Assessment (EA) for the Disposal and Reuse of the Alabama Army Ammunition Plant, Talladega County, Alabama

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of availability.

**SUMMARY:** The Department of the Army announces the availability of the Environmental Assessment (EA) and Finding of No Significant Impact (FNSI) for the disposal and reuse of the Alabama Army Ammunition Plant

(ALAAP), located in Talladega County, Alabama. The 1988 Commission on Base Realignment and Closure established by the Defense Authorization Amendment and Base Closure and Realignment Act of 1988, Public Law 100–526, recommended the closure of ALAAP. The proposed action is the disposal of property made available by the closure of ALAAP.

**DATES:** Submit comments on or before October 23, 2000.

**ADDRESSES:** A copy of the EA or inquiries into the FNSI may be obtained by writing to Mr. Hugh McClennan, U.S. Army Corps of Engineers, Mobile District (ATTN: CESAM–PD), 109 St. Joseph Street, Mobile, AL 36602.

**FOR FURTHER INFORMATION CONTACT:** Mr. Hugh McClennan at (334) 694–4101 or by telefax at (334) 690–2605.

**SUPPLEMENTARY INFORMATION:** The EA evaluates the effects of disposal and subsequent reuse of the ALAAP which comprises approximately 2,193 acres. The Army will negotiate the transfer of 2,193 acres to the City of Childersburg, recognized Local Reuse Authority for ALAAP. The City of Childersburg has proposed establishment of the Coosa Industrial Park. Industrial and commercial activities at the site will create local jobs. The industrial park will benefit expected secondary suppliers to a new auto manufacturing plant being built in Talladega County. Three alternative methods of disposal were analyzed: encumbered disposal, unencumbered disposal and no action (*i.e.,* retention of the property in caretaker status). The Army's preferred alternative for disposal of the ALAAP is encumbered disposal which involves conveying the property with conditions imposed pertaining to remedial activities, cemeteries, easements and rights-of-ways, groundwater use prohibition, land use restriction, floodplains, and wetlands.

The EA, which is incorporated into the FNSI, examines potential effects of the proposed action and alternatives on resource areas and areas of environmental concern: land use, climate, air quality, geology, water resources, infrastructure, hazardous and toxic substances, biological resources, cultural resources, economic development, social and economic development, and quality of life.

The EA concludes that the disposal and subsequent reuse of the property will not have a significant impact on the human environment, thus issuance of a FNSI would be appropriate. An Environmental Impact Statement is not required prior to implementation of the proposed actions.

Public review of the EA also will be available at the Childersburg Public Library, 124 19th Avenue, Childersburg, Alabama 35044.

Dated: September 18, 2000.

**Raymond J. Fatz,**

*Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I&E).*

[FR Doc. 00–24306 Filed 9–20–00; 8:45 am]

BILLING CODE 3710–08–M

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## DEPARTMENT OF DEFENSE

### Department of the Army

### Performance Review Boards Membership

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice; correction.

**SUMMARY:** Reference the previous **Federal Register** notice (65 FR 55946), Friday, September 15, 2000, the notice announces the members of the Performance Review Board for the North Atlantic Treaty Organization (NATO). However, the notice requires the announcement of an additional board member. The following person is identified and listed as part of the Performance Review Board for NATO: Mr. Gayden Thompson, Deputy Under Secretary of the Army (International Affairs).

**FOR FURTHER INFORMATION CONTACT:** Nancy Quick, U.S. Army Senior Executive Service Office, Assistant Secretary of the Army (Manpower and Reserve Affairs), 111 Army Pentagon, Washington, DC 20310–0111.

**SUPPLEMENTARY INFORMATION:** None.

**Gregory D. Showalter,**

*Army Federal Register Liaison Officer.*

[FR Doc. 00–24295 Filed 9–20–00; 8:45 am]

BILLING CODE 3710–08–U

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## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

### Intent To Prepare a Draft Environmental Impact Statement/Report for the San Francisco Central Bay Rock Removal Study, City and County of San Francisco, California

**AGENCY:** Army Corps of Engineers, DoD.

**ACTION:** Notice of intent.

**SUMMARY:** The Corps of Engineers (Corps) and the California State Lands Commission (Commission) will conduct a feasibility study to investigate the navigation hazard of submerged rock outcroppings in the San Francisco Bay. Pursuant to the requirements of section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, Environmental Quality regulations (40 CFR parts 1500–1508), and the California Environmental Quality Act (CEQA), the Corps and the Commission will prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/R) as a part study effort.

**FOR FURTHER INFORMATION CONTACT:** For further information about the project and the alternatives, contact Mr. Gary Flickinger of the Plan Formulation Section, U.S. Army Corps of Engineers San Francisco District, 333 Market Street, 7th floor, CESPN–ET–PF, San Francisco, CA 94105–2197. Phone number 415–977–8548, Fax: 415–977–8695, Email: gflickinger@spd.usace.army.mil. Written comments and questions regarding the scoping process or preparation of the EIS/EIR may be directed to Roger Fernwood, U.S. Army Corps of Engineers, San Francisco District, 333 Market Street, 7th floor, CESPN–ET–PP, San Francisco, CA 94105–2197, phone number: 415–977–8544, Fax: 415–977–8695, Email: rfernwood@spd.usace.army.mil. Mr. David Patterson is the Project Manager, and can be contacted at U.S. Army Corps of Engineers, San Francisco District, 333 Market Street, 8th floor, CESPN–PM, San Francisco, CA 94105–2197, phone number 415–977–8229, Fax: 415–977–8431, Email: dpatterson@spd.usace.army.mil.

**SUPPLEMENTARY INFORMATION:**

1. *Authority.* Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations 40 CFR 1500–1508, Section 905(b) of the Water Resources Development Act (WRDA) of 1986, and the California Environmental Quality Act (CEQA) the Corps and the Commission hereby provide notice of intent to prepare a joint EIS/R for the San Francisco Bay Rock Removal, San Francisco, California.

2. *Comments/Scoping Meetings.* An initial scoping meeting will be held in the conference room at the San Francisco Bar Pilots Association, Pier 9 West End, San Francisco, California 94126 at 2:00 pm and 7:00 pm on October 24, 2000. The public is invited to these meetings.

3. *Availability of EIS/R.* The Draft EIS/R should be available for public review in the winter of 2002. A final EIS/R

should be available for public review in summer of 2002.

4. *Agencies Supporting Project.* Corps and the Commission will be the lead agencies in preparing the combined EIS/R. Cooperating agencies include the National Marine Fisheries Service, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, U.S. Coast Guard, U.S. Geological Survey, California Department of Fish & Game, San Francisco Bay Conservation and Development Commission, and San Francisco Regional Water Quality Control Board.

5. *Purpose and Need for Action.* The Harbor Safety Committee (HSC) of the San Francisco Bay Region has deemed these rock outcroppings to be a hazard to deep draft vessels, especially tanker ships. The HSC is comprised of representatives from government, industry, navigation, recreation, economic, and environmental groups/agencies, as mandated by the State of California Oil Spill Prevention and Response Act. The HSC requested a Federal study of the navigation hazard.

6. *Study Area Description.* The study area is located in Central San Francisco Bay, California and comprises natural topographical formations known as Harding, Shag, Arch, Blossom, and (Unnamed) Rocks. These five underwater topographic features in the Central San Francisco Bay are composed of hard materials at depths ranging from −33 to −48 feet Mean Lower Low Water (MLLW) that are adjacent to, or close by, the present designated navigation lanes. The study area is located within U.S. Congressional Districts 6, 7, 8, and 9.

Harding Rock is located approximately 6,500 feet north-northwest of Alcatraz island and rises to an elevation of −36.4 feet MLLW. Shag Rock is approximately 1,000 feet southwest of Harding Rock and rises to an elevation of −36.9 feet MLLW. Arch Rock, the largest of the rocks, is approximately 1,600 feet south of Shag Rock and rises to an elevation of −35.2 feet MLLW. Unnamed Rock is approximately 3,000 feet west of Shag Rock and rises to an elevation of −49 feet MLLW. Blossom Rock is located approximately 5,500 feet southeast of Alcatraz Island and 8,000 feet west of Treasure Island and rises to an elevation of −40.4 feet MLLW.

7. *Project Alternatives.* Alternatives associated with the San Francisco Central Bay Rock Removal Project are the No Action Alternative and several action alternatives. The selected alternative will be implemented.

8. *Other Environmental Review and Consultation Requirements.* The focus of the DEIS/R will be on determining environmental impacts of available alternatives to reduce the navigation hazard. The non-federal sponsor will use the EIS/R to meet their responsibilities under the CEQA. Other reviews in the EIS/R will be used for an information source, including coordination under the Fish and Wildlife Coordination Act, Endangered Species Act, and all other applicable laws and regulations.

**Gregory D. Showalter,**

*Army Federal Register, Liaison Officer.*

[FR Doc. 00–24296 Filed 9–20–00; 8:45 am]

BILLING CODE 3710–19–U

## DELAWARE RIVER BASIN COMMISSION

### Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Thursday, September 28, 2000. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held in Bellevue Hall at the Bellevue State Park, 911 Philadelphia Pike, Wilmington, Delaware.

The conference among the Commissioners and staff will begin at 10:00 a.m. Topics of discussion will include the Delaware Water Supply Coordinating Council Progress Report of May 31, 2000; and the DRBC's requirements for review and approval of projects under section 3.8 and Article 13 of the Compact, with a focus on the possible need to expand Commission review to certain pre-Compact projects. Summaries of the following six meetings will be presented: Inaugural meetings of the Monitoring Advisory Committee and Flood Advisory Committee on September 6 and 7, respectively; meeting of the Water Management Advisory Committee on September 12, including discussion of a proposal to amend DRBC metering regulations; presentation by the Coalition of Municipal/Industrial Dischargers on August 28; meeting of the Toxics Advisory Committee on September 20; and meeting of the Flow Management Technical Advisory Committee on September 21. Also scheduled for the conference session are a summary of the Christina River Basin TMDL hearings and, time permitting, a presentation on the Pocono Creek Goal-Based Watershed Management Pilot Study.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include, in addition to the dockets listed below, proposed resolutions to: Temporarily modify Docket No. D–77–20 CP (Revision No. 3) to provide additional releases from Cannonsville Reservoir; and approve Fiscal Year 2000 budget adjustments.

The dockets scheduled for public hearing are as follows:

1. *New York State Department of Environmental Conservation D–77–20 CP (Revision No. 3).* An application to temporarily modify the operating plan for the Schedule of Release Rates from Cannonsville, Pepacton and Neversink Reservoirs in Delaware and Sullivan Counties, New York.

2. *Wilmington Country Club D–90–38 RENEWAL.* A renewal of a combined surface and ground water withdrawal project to supply up to 24.4 million gallons (mg)/30 days of water to the applicant's golf course irrigation system. Up to 4.32 mg/30 days can be supplied from Wells Nos. 1–3 in the Wissahickon Formation, and up to 24.4 mg/30 days from an existing surface water intake on Wilson Run, a tributary of Brandywine Creek. Commission approval on June 27, 1990 was limited to 10 years. The applicant requests that the total withdrawal from all sources remain limited to 24.4 mg/30 days. The project is located near the Village of Montchanin, New Castle County, Delaware.

3. *Telford Borough Authority D–95–40 CP.* A project to rerate the applicant's existing 0.95 million gallons per day (mgd) extended aeration sewage treatment plant (STP) to 1.1 mgd. The STP is located off Fourth Street in Franconia Township, Montgomery County, Pennsylvania and will continue to serve portions of Franconia Township and Telford and Souderton Boroughs in Montgomery County, as well as portions of West Rockhill and Hilltown Townships in Bucks County. The STP will continue to discharge to Indian Creek in the East Branch Perkiomen Creek watershed via the existing outfall structure.

4. *Conectiv Energy, Inc. D–2000–12 CP.* A project to increase the electric power generation capacity from 450 megawatts (MW) to 1000 MW at the applicant's Hay Road Power Complex, which includes the Edge Moor and Hay Road Stations, and increase the associated consumptive water use. The applicant proposes the phased construction of three gas-fired and one steam-powered generation units (Nos. 5, 6, 7 and 8, respectively) on the

Brownfield site located just east of Hay Road in the City of Wilmington, New Castle County, Delaware that will supply electric power to the Pennsylvania-Jersey-Maryland power grid. As with its Hay Road station, the project will utilize the Edge Moor station non-contact cooling water discharge (to Water Quality Zone 5) as its source for cooling tower make-up and will not require an increase in the existing allowable withdrawal for the Complex. The applicant estimates that up to 7.2 mgd of water supply will be diverted from the discharge channel and that approximately 67 percent (4.8 mgd) will be consumptively used. Cooling tower blowdown will be discharged to the existing man-made cooling water discharge channel in the Delaware River Water Quality Zone 5.

5. *Calpine Construction Finance Company D–2000–14 CP.* A project to construct a 544 MW combined-cycle electric generating station on the applicant's 19-acre site between State Route 61 and the Conrail railroad lines in Ontelaunee Township, Berks County, Pennsylvania. The natural gas-fired facility will transfer electric power to the GPU North Temple substation approximately one mile away. The Reading Area Water Authority (RAWA) will supply approximately 4.0 mgd of water from its Ontelaunee Reservoir, located approximately three miles north, to the applicant's facility for cooling tower make-up and steam, of which 0.35 mgd will be treated and discharged to the Schuylkill River. The applicant also proposes to offset its consumptive use of approximately 3.6 mgd via use of Ontelaunee Reservoir storage.

6. *Realen Homes D–2000–26 CP.* A ground water withdrawal project to supply a combined total to 3.7 mg/30 days of water to the applicant's proposed Ridgelea residential development from new Wells Nos. SW–1 and SW–2 in the Stockton Formation. The project is located in South Coventry Township, Chester County in the Southeastern Pennsylvania Ground Water Protected Area.

7. *Maidencreek Township Authority D–2000–28 CP.* A project to expand the applicant's secondary treatment 0.45 mgd STP to an annual average 0.8 mgd. The proposed oxidation ditch system is designed to treat a maximum monthly flow of 1.0 mgd for residential and industrial connections in portions of Maidencreek and Ontelaunee Townships, both in Berks County, Pennsylvania. The STP is located off Willow Creek Road, approximately one-quarter mile northwest of its intersection with East Huller Lane. Treated effluent will continue to be discharged to Willow Creek, a tributary of Maiden Creek in the Schuylkill River watershed.

8. *FPL Energy Marcus Hook, L.P. D–2000–44.* A project to construct a nominal 750 MW gas-fired combined cycle electric generating station at SUNOCO's Marcus Hook Refinery, located along the Delaware River in Water Quality Zone 4 in Marcus Hook Borough, Delaware County, Pennsylvania. The applicant requests an allocation of up to 11 mgd of surface water to be diverted via SUNOCO's existing intake on the Delaware River (no increase in SUNOCO'S allocation is necessary). Maximum monthly usage is expected to be approximately 9.4 mgd. Up to 2.34 mgd of project wastewater will be conveyed to the DELCORA sewage treatment plant for treatment and discharge to the Delaware River. The proposed electric power station will provide electricity to the Pennsylvania-Jersey-Maryland power grid and also will supply steam to SUNOCO.

9. *Reading Area Water Authority D–2000–59 CP.* A new Operating Plan for the applicant's Ontelaunee Reservoir due to the decommissioning of its 0.945 MW hydroelectric facilities approved via Docket No. D–86–72 CP on August 3, 1988. Operation of the hydroelectric turbines has become cost ineffective and depletes storage in the Reservoir. The turbines will be removed from service and Docket No. D–86–72 CP will be rescinded. RAWA proposes to initiate a staged release program to conserve storage by varying releases depending upon the volume of storage available. The new release program is designed to meet streamflow objectives for Maiden Creek while storage continues to provide for existing and future water demand in the RAWA service area. Ontelaunee Reservoir is located on Maiden Creek in Ontelaunee Township, Berks County, Pennsylvania.

10. *Jefferson Township Sewer Authority D–2000–61 CP.* A project to transfer up to 410,000 gpd of raw wastewater from Jefferson Township, Lackawanna County, Pennsylvania in the Delaware River Basin, to the Scranton Sewer Authority STP in the City of Scranton, also in Lackawanna County, for discharge to the Susquehanna River Basin. Approximately 385,840 gpd of the wastewater originates from ground water sources within the Delaware River Basin, and therefore, is considered an exportation. The project will replace failing on-lot disposal systems serving portions of Jefferson Township, which straddles the Basin divide. The project is proposed as an alternative to a 410,000 gpd STP previously approved for in-Basin discharge (in the Wallenpaupack Creek watershed) via Docket No. D–97–6 CP on November 19, 1997.

In addition to the public hearing, the Commission will address the following at its 1:30 p.m. business meeting: minutes of the July 26, 2000 business meeting; announcements; report on hydrologic conditions in the basin; reports by the Executive Director and General Counsel; and resolutions to: approve the Delaware Water Supply Coordinating Council Progress Report of May 31, 2000 as satisfying the requirements of DRBC Docket Nos. D–96–50 CP, D–90–110 CP, and D–97–48 CP to develop a preliminary Integrated Resources Supply Plan by July 1, 2000; approve a grant agreement between the DRBC and the State of New Jersey for the Lower Delaware Watershed Region Program Grant: Tidal Rancocas Creek Hydrodynamic Model; authorize the Executive Director to contract with the U.S. Geological Survey, the Montgomery County Planning Commission and the U.S. Army Corps of Engineers to complete tasks outlined in an amendment to an agreement between the Delaware River Basin Commission and the Commonwealth of Pennsylvania Department of Environmental Protection; and approve continued funding for a monitoring program for the tidal Schuylkill River in cooperation with the Academy of Natural Sciences of Philadelphia. Time also will be reserved for public dialogue.

Documents relating to the dockets and other items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 with any docket-related questions. Persons wishing to testify at this hearing are requested to register in advance with the Secretary at (609) 883–9500 ext. 203.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the hearing should contact the Commission Secretary, Pamela M. Bush, directly at (609) 883–9500 ext. 203 or through the New Jersey Relay Service at 1–800–852–7899 (TTY) to discuss how the Commission may accommodate your needs.

Dated: September 12, 2000.

**Pamela M. Bush,**

*Commission Secretary.*

[FR Doc. 00–24277 Filed 9–20–00; 8:45 am]

BILLING CODE 6360–01–P

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**SUMMARY:** The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before November 20, 2000.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 15, 2000.

**Joseph Schubart,**

*Acting Leader, Regulatory Information Management, Office of the Chief Information Officer.*

#### Office of Postsecondary Education

*Type of Review:* New.

*Title:* 18 and 36 Months Performance Reports for the Child Care Access Means Parents in School Program.

*Frequency:* 18 and 36 months.

*Affected Public:* Not-for-profit institutions.

*Reporting and Recordkeeping Hour Burden:*

Responses: 87

Burden Hours: 609

*Abstract:* Child Care Access Means Parents in School Program grantees are required to submit an 18 and 36 months performance report in order for program staff to establish if grantees have made substantial progress towards meeting proposed objectives. Also, to determine the justification for the continuation funding for the out years.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe_Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–24221 Filed 9–20–00; 8:45 am]

BILLING CODE 4000–01–P

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## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before October 23, 2000.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 15, 2000.

**Joseph Schubart,**

*Acting Leader, Regulatory Information Management, Office of the Chief Information Officer.*

#### Office of Postsecondary Education

*Type of Review:* Reinstatement.

*Title:* Grant Application for the FIPSE Comprehensive Program.

*Frequency:* Annually.

*Affected Public:* Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

Responses: 1,900.

Burden Hours: 26,500.

*Abstract:* The Comprehensive Program is a discretionary grant award program of the Fund for the Improvement of Postsecondary Education (FIPSE). Applications are submitted in two stages—preliminary

and final. The program supports innovative reform projects that hold promise as models for the resolution of important issues and problems in postsecondary education. Grants made under this program are expected to contribute new information in educational practice that can be shared with others. As its name suggests, the Comprehensive Program may support activities in any discipline, program, or student service. Nonprofit institutions and organizations offering postsecondary education programs are eligible applicants. The Comprehensive Program has established a record of promoting meaningful and lasting solutions to various, often emerging, problems and of promoting quality education for all learners.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe_Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–24222 Filed 9–20–00; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

### Office of Science

### Basic Energy Sciences Advisory Committee; Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notices announces a meeting of the Basic Energy Sciences Advisory Committee (BESAC). Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Tuesday, October 10, 2000, 8:15 a.m. to 5:15 p.m., and Wednesday, October 11, 2000, 8:30 a.m. to 12:15 p.m.

**ADDRESSES:** Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

**FOR FURTHER INFORMATION CONTACT:** Sharon Long; Office of Basic Energy Sciences; U. S. Department of Energy; 19901 Germantown Road; Germantown, MD 20874–1290; Telephone: (301) 903–5565.

**SUPPLEMENTARY INFORMATION:**

#### Purpose of the Meeting

The purpose of this meeting is to provide advice and guidance with respect to the basic energy sciences research program.

#### Tentative Agenda

Agenda will include discussions of the following:

*Tuesday, October 10, 2000*

- Welcome and Introduction
- Remarks from Director, Office of Science
- News from Basic Energy Sciences
- FY2001 Budget for Basic Energy Sciences
- Report on the Linac Coherent Light Source (LCLS) Scientific Case

*Wednesday, October 11, 2000*

- Update on Future BESAC Activities
- Brief Overviews of Basic Energy Sciences Divisions

#### Public Participation

The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Sharon Long at 301–903–6594 (fax) or *sharon.long@science.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days prior to the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

#### Minutes

The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; 1E–190, Forrestal Building; 1000 Independence Avenue, SW., Washington, DC 20585; between 9:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

Issued in Washington, DC on September 18, 2000.

**Rachel M. Samuel,**

*Deputy Advisory Committee, Management Officer.*

[FR Doc. 00–24263 Filed 9–20–00; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Environmental Management Advisory Board; Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Advisory Board. The Federal Advisory Committee Act (Public law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Thursday, October 12, 2000 and Friday, October 13, 2000.

**ADDRESSES:** U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue SW., (Room 1E–245), Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** James T. Melillo, Executive Director of the Environmental Management Advisory Board, (EM–10), 1000 Independence Avenue S.W., (Room B–161), Washington, D.C. 20585. The telephone number is 202–586–4400. The Internet address is james.melillo@em.doe.gov.

**SUPPLEMENTARY INFORMATION:** The purpose of the Board is to provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on issues confronting the Environmental Management Advisory Program from the perspective of affected groups, as well as state, local, and tribal governments. The Board will contribute to the effective operation of the Environmental Management Program by providing individual citizens and representatives of interested group an opportunity to present their views on issues facing the Office of Environmental Management and by helping to secure consensus recommendations on those issues.

#### Preliminary Agenda

*Thursday, October 12, 2000*

1:00 p.m. Public Meeting Opens

—Approve Minutes of April 13–14, 2000 Meeting
Opening Remarks
Ad hoc Committee on Science and Innovation Report*
Ad hoc Committee on Safety and Technology Report
—Interim Report on Safety & Health in Technology Development*
—EM Response to April Resolution
Ad hoc Committee on Recycling of Contaminated Materials
—Letter Report*
Worker Health & Safety Committee Report
—Letter Report on ISM Sustainability—Best Practices*
Technology Development & Transfer Committee Report
—Letter Report on the Gap Analysis of the EQ R&D Portfolio*
Contracting and Management Committee Report
Integration and Transportation Committee Report
Long-Term Stewardship Committee Report
Science Committee Report
Integration and Transportation Report
Public Comment Period
5:15 p.m. Wrap up—Adjourn

*Friday, October 13, 2000*

8:30 a.m Opening Remarks
Board Discussion
Public Comment Period
Board Business
—Votes on EMAB Findings & Resolutions
—New Business
—Board Calendar
Public comment Period
12:00 p.m.Meeting Adjourns
*The Board anticipates recommendations to be presented.

**Public Participation**

This meeting is open to the public. If you would like to file a written statement with the Board, you may do so either before or after the meeting. If you would like to make an oral statement regarding any of the items on the agenda, please contact Mr. Melillo at the address or telephone number listed above, or call the Environmental Management Advisory Board office at 202–586–4400, and we will reserve time for you on the agenda. You may also register to speak at the Meeting on October 12–13, 2000, or ask to speak during the public comment period. Those who call in and or register in advance will be given the opportunity to speak first. Others will be accommodated as time permits. The Board Chairs will conduct the meeting in an orderly manner.

**Transcript and Minutes**

We will make the minutes of the meeting available for public review and copying by November 13, 2000. The minutes and transcript of the meeting will be available for viewing at the Freedom of Information Public Reading Room(1E–190) in the Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. The Room is open Monday through Friday from 9 a.m.–4 p.m. except on Federal holidays.

Issued in Washington, DC on September 18, 2000.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 00–24262 Filed 9–20–00; 8:45 am]

BILLING CODE 6450–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP00–454–000]**

### Koch Gateway Pipeline Company; Notice of Application for Abandonment Authorization

September 15, 2000.

Take notice that on September 6, 2000, Koch Gateway Pipeline Company (Koch), 20 East Greenway Plaza, Houston, Texas 77046–2002, filed an abbreviated application pursuant to Section 7(b) of the Natural Gas Act (NGA) requesting the issuance of an Order granting permission and approval to abandon the middle river crossing tube across the Sabine River, specifically approximately 890 feet of 10-inch pipe and 13 feet of 14-inch pipe located in Newton County, Texas or Beauregard Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. Any questions regarding the application should be directed to: Kyle Stephens, Director of Certificates, Koch Gateway Pipeline Company, P.O. Box 1478, Houston, Texas, 77251–1478 at (713) 544–7309.

According to Koch, in 1931 it installed approximately 62 miles of mainline known as Call Junction Line (Index 201). These facilities were originally constructed to provide service to the southeast Louisiana market area and were certificated pursuant to Koch's grandfather certificate issued in FPC Docket No. G–232. The Sabine River crossing when originally constructed, consisted of three parallel 10-inch tubes and two 14-inch header lines that connect to Index 201 on the west and east side of the river. Koch states that the Sabine River crossing was only used in emergency situations such as in the case of gas supply interruptions. Currently, no gas is flowing on Index 201 from its western terminus to the intersection of Index 201–6. Further, Koch states that it has no firm commitments on this section of Index 201 which includes the Sabine River crossing. Koch proposes to abandon approximately 890 feet of 10-inch pipe and 13 feet of 14-inch pipe, which constitutes the middle tube assembly of the Sabine River crossing on Koch's Index 201.[1] Of the total 890 feet of 10-inch, Koch proposes to cut, cap, fill with water and abandon in place approximately 713 feet of 10-inch and to abandon by removal approximately 177 feet of the 10-inch. Additionally, Koch proposes to cut, cap, and abandon in place approximately 13 feet of 14-inch pipe.

Recently, Koch asserts that the natural erosion of the east bank of the Sabine River removed the cover from the middle tube of the crossing, and rendered the pipeline unsupported by soil. Specifically, a 177-foot segment of the middle tube is unsupported and, at certain times of the year, may pose a navigational hazard. As a precautionary measure, Koch states that it has removed the middle tube from service and idled this portion of the crossing assembly pending replacement or abandonment. Koch does not believe that the replacement of the middle tube is economically justified. Koch states that the abandonment of the proposed facilities will not result in a reduction of service to any of its customers, no gas is flowing on Index 201 from its western terminus to the intersection of Index 201–6, which includes the river crossing. The remaining southernmost tube, located approximately 148 feet downstream of the middle tube, is intact and not experiencing any erosion at this time and is capable of flowing approximately 14.58 MMCF/d across the river if necessary.

Any person desiring to be heard or to protest this application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the

[1] The northernmost tube was removed in October 1998 as authorized in Docket No. CP97–257–000.

Commission's Regulations under the Natural Gas Act (18 CFR 157.10). All such motions or protests must be filed on or before October 6, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules and Regulations. Copies of this application are on file with the Commission and are available for public inspection in the Public Reference Room.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission if no intervention or protests is filed within the time frame required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission and its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24273 Filed 9–20–00; 8:45 am]

**BILLING CODE 6717–01–M**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EL00–110–000, et al.]**

## Dominion Nuclear Connecticut, Inc., et al.; Electric Rate and Corporate Regulation Filings

September 14, 2000.

Take notice that the following filings have been made with the Commission:

### 1. Dominion Nuclear Connecticut, Inc.

[Docket No. EL00–110–000]

Take notice that on September 11, 2000, Dominion Nuclear Connecticut, Inc. filed with the Commission its application requesting waiver of the open access transmission tariff requirements of Order No. 888 and Section 35.28 of the Commission's regulations and the OASIS and Standards of Conduct requirements of Order No. 889 and Part 37 of the Commission's regulations.

*Comment date:* October 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 2. Dayton Power and Light Company

[Docket No. OA97–625–002]

Take notice that on September 12, 2000, Dayton Power and Light (DP&L), tendered for filing a Compliance Report pursuant to a Commission Order dated July 14, 2000 in above-captioned docket.

*Comment date:* October 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 3. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00–3624–000]

Take notice that on September 12, 2000, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies), tendered for filing executed transmission service agreement with Alliance Energy Services Partnership. The agreement allows Alliance Energy Services Partnership to take firm point-to-point transmission service from LG&E/KU.

*Comment date:* October 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 4. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00–3625–000]

Take notice that on September 12, 2000, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies), tendered for filing executed transmission service agreement with PPL EnergyPlus, LLC. The agreement allows PPL EnergyPlus, LLC to take firm point-to-point transmission service from LG&E/KU.

*Comment date:* October 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 5. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00–3626–000]

Take notice that on September 12, 2000, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies), tendered for filing executed transmission service agreement with H.Q. Energy Services (U.S.) Inc. The agreement allows H.Q. Energy Services (U.S.) Inc., to take firm point-to-point transmission service from LG&E/KU.

*Comment date:* October 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 6. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00–3627–000]

Take notice that on September 12, 2000, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies), tendered for filing executed transmission service agreement with Alliance Energy Services Partnership. The agreement allows Alliance Energy Services Partnership to take non-firm point-to-point transmission service from LG&E/KU.

*Comment date:* October 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 7. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00–3628–000]

Take notice that on September 12, 2000, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies), tendered for filing executed transmission service agreement with MidAmerican Energy Company. The agreement allows MidAmerican Energy Company to take firm point-to-point transmission service from LG&E/KU.

*Comment date:* October 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 8. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00–3629–000]

Take notice that on September 12, 2000, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies), tendered for filing executed transmission service agreement with H.Q. Energy Services (U.S.) Inc. The agreement allows H.Q. Energy Services (U.S.) Inc., to take non-firm point-to-point transmission service from LG&E/KU.

*Comment date:* October 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

### 9. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00–3630–000]

Take notice that on September 12, 2000, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies), tendered for filing executed transmission service agreement with MidAmerican Energy Company. The agreement allows MidAmerican Energy Company to take non-firm point-to-point transmission service from LG&E/KU.

*Comment date:* October 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

**10. Arizona Public Service Company**

[Docket No. ER00–3631–000]

Take notice that on September 12, 2000, Arizona Public Service Company (APS), tendered for filing Service Agreements to provide Long-Term Firm Point-to-Point Transmission Service to Reliant Energy Desert Basin, LLC under APS' Open Access Transmission Tariff.

A copy of this filing has been served Reliant Energy Desert Basin, LLC and the Arizona Corporation Commission.

*Comment date:* October 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

**11. Southern California Edison Company**

[Docket No. ER00–3632–000]

Take notice that on September 12, 2000, Southern California Edison Company (SCE) tendered for filing notification that effective May 1, 2000, Rate Schedule FERC Nos. 394, 394.1, 394.2, 394.3 and 394.4, effective March 31, 1998, and filed with the Federal Energy Regulatory Commission by Southern California Edison Company are to be canceled.

Notice of the proposed cancellation has been served upon the Public Utilities Commission of the State of California and the City of Riverside, California.

*Comment date:* October 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

**12. American Electric Power Service Company**

[Docket No. ER00–3633–000]

Take notice that on September 12, 2000, American Electric Power Service Corporation, (AEPSC), the designated agent for Central Power and Light Company (CPL) and West Texas Utilities Company (WTU), operating utility subsidiaries of American Electric Power Company, Inc., submitted for filing a Service Agreement with Gregory Power Partners, L.P. (Gregory) for ERCOT Regional Transmission Service under the Open Access Transmission Service Tariff (OATT) under which CPL and WTU offer transmission service.

AEPSC requests that the Service Agreement be accepted to become effective as of July 6, 2000.

AEPSC states that a copy of the filing was served on Gregory and the Public Utility Commission of Texas.

*Comment date:* October 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

**13. MidAmerican Energy Company**

[Docket No. ER00–3634–000]

Take notice that on September 12, 2000, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, 2900 Ruan Center, Des Moines, Iowa 50309 tendered for filing a change to its Open Access Transmission Tariff (OATT) consisting of First Revised Volume No. 8, superseding Original Volume No. 8.

MidAmerican states that the change re-designates MidAmerican's OATT with a revised volume number for the purpose of complying with Order No. 614 which states that ''if a change is proposed in an existing tariff or rate schedule, the entire tariff or rate schedule must be re-filed according to the new system.'' MidAmerican further states that it is not proposing any substantive change to its OATT in this filing and that the re-filing of the OATT with the revised volume number will obviate the need for a re-filing of the entire OATT when a substantive change is proposed by MidAmerican in the future.

MidAmerican proposes that First Revised Volume No. 8 become effective on October 1, 2000 and requests a waiver of the Commission's notice requirements.

The proposed change has been mailed to all Transmission Customers having service agreements under the OATT, the Iowa Utilities Board and the Illinois Commission, the South Dakota Public Service Commission.

*Comment date:* October 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

**14. Central Hudson Gas & Electric Corporation**

[Docket No. ER00–3661–000]

Take notice that on September 11, 2000, Central Hudson Gas and Electric Corporation (Central Hudson), tendered for filing its development of actual costs for 1998 related to transmission service provided from the Roseton Generating Plant to Consolidated Edison Company of New York, Inc. (Con Edison) and Niagara Mohawk Power Corporation (Niagara Mohawk) in accordance with the provisions of its Rate Schedule FERC No. 42.

The actual costs for 1998 amounted to $0.9852 per MW.-day to Con Edison and $3.2053 per MW.-day to Niagara Mohawk and are the basis on which charges for 1999 have been estimated.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1999 as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison, Niagara Mohawk and the State of New York Public Service Commission.

*Comment date:* October 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

**15. Northern States Power Company (Minnesota Company) Northern States Power Company (Wisconsin Company)**

[Docket No. ER00–3663–000]

Take notice that on September 12, 2000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing a Short-Term Market-Based Electric Service Agreement between NSP and Madison Gas & Electric Company (Customer).

NSP requests that this Short-Term Market-Based Electric Service Agreement be made effective on August 14, 2000.

*Comment date:* October 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

**16. American Transmission Systems, Inc.**

[Docket No. ER00–3667–000]

Take notice that on September 11, 2000, American Transmission Systems, Inc. (ATSI), tendered for filing a replacement Open Access Transmission Tariff (FERC Electric Tariff, Second Revised Volume No. 1) to conform to the formatting requirements of Order No. 614. In addition, ATSI re-submitted Supplement No. 2 to its Rate Schedule FERC No. 2 to replace a form of ground lease agreement with the actual, executed agreements, and to make certain changes of a housekeeping nature. ATSI states that in all other respects, the tariff and the rate schedule supplement are identical to those approved by the Commission in Docket No. ER99–2647.

ATSI states further that it has served the filing on all parties to the proceeding.

*Comment date:* October 2, 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, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be

considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24272 Filed 9–20–00; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6874–3]**

## Agency Information Collection Activities: Submission for OMB Review; Comment Request; Community Water System Survey

**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 the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Information Collection Request for the Community Water System Survey (EPA ICR Number 1946.01). The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before October 23, 2000.

**ADDRESSES:** Send comments, referencing EPA ICR No. 1946.01, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at Farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1946.01 For technical questions about the ICR contact Brian Rourke at (202) 260–7785.

**SUPPLEMENTARY INFORMATION:**

*Title:* Community Water System Survey (EPA ICR No. 1946.01). This is a new collection.

*Abstract:* Last conducted in 1995, the Community Water System Survey is usually conducted every five years to gather information on the operating and financial characteristics of a nationally representative sample of community water systems. Specifically, the Agency uses the data provided by this survey to meet its Regulatory Impact Analysis (RIA) obligations under Executive Order 12866 and its obligation to assess and mitigate regulatory impacts on small entities under the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act.

As effective analyses must begin with an assessment of the baseline situation, it is essential that the Agency have access to the current financial and operating conditions at water systems. Cost impacts of proposed regulations can only be estimated when something is known about the baseline costs of those bearing the burden. But financial data is only part of the picture. The Agency must also gather information on the operating characteristics of the treatment systems, storage facilities and distribution systems.

This data is critical in estimating the need for new facilities as a consequence of any new Agency regulations. For example, water systems that have already installed treatment processes to treat one sort of contaminant might well not have to install any additional treatment to comply with regulations effecting a similar type of contaminant or one susceptible to the same type of treatment. Because of the magnitude of potential cost impacts of the regulations, even small changes in water system characteristics can produce significant differences in impacts. Hence, it is critical that the Agency use the most up-to-date information available.

Also, under section 1412(b) of the 1996 Safe Drinking Water Act, the Agency must consider the affordability of the treatment technologies that will meet the proposed regulatory requirements. To determine affordability, the Agency must consider both the new, incremental costs that would result from any proposed regulation together with the costs already borne by the water system.

This is a one-time collection effort, and responses to the collection of information are voluntary. 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 **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 02/15/00 (65 FR 7544); no comments were received.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.44 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:* Owners or operators of a community water system.

*Estimated Number of Respondents:* 1,442.

*Frequency of Response:* One time.

*Estimated Total Annual Hour Burden:* 2,078 hours.

*Estimated Total Annualized Capital, O&M Cost Burden:* $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1946.01 in any correspondence.

Dated: September 13, 2000.

**Oscar Morales,**

*Director, Collection Strategies Division.*

[FR Doc. 00–24308 Filed 9–20–00; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6874–2]**

### Agency Information Collection Activities; EPA ICR No. 1204.08; Submission to OMB; Additional Opportunity to Comment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Submission of Unreasonable Effects Information Under FIFRA Section 6(a)(2) (EPA No. 1204.08; OMB No. 2070–0039). The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 8, 2000 (65 FR. 12227). EPA did not receive any comments on this ICR during the comment period.

**DATES:** Additional comments may be submitted on or before October 23, 2000.

**ADDRESSES:** Send your comments, referencing the proper ICR numbers, to: Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Ave., NW, Washington, DC 20460; and a copy of your comments to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at EPA by phone on 202–260-2740, by e-mail: *farmer.sandy@epa.gov,* or by mail at the address below. You may also access the ICR at *http://www.epa.gov/icr/icr.htm.* Refer to EPA ICR No. 1204.08 or OMB Control No. 2070–0039.

**SUPPLEMENTARY INFORMATION:**

*Title:* Submission of Unreasonable Adverse Effects Information Under FIFRA Section 6(a)(2) (EPA ICR No. 1204.08, OMB No. 2070–0039).

*Request:* This is a request to extend an existing approved collection, currently scheduled to expire on September 30, 2000. Under 5 CFR 1320.10(e)(2), the Agency may continue to conduct or sponsor the collection of information while the submission is pending at OMB.

*Abstract:* This ICR covers the requirements under section 6(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) for pesticide registrants to submit information to the Agency which may be relevant to the balancing of the risks and benefits of a pesticide product. On September 19, 1997 the Agency published final regulations in the **Federal Register** (62 FR 49370) that provided a detailed description of the reporting obligations of registrants under FIFRA section 6(a)(2). The regulations became effective on the deferred date of August 17, 1998 (63 FR 41192). There are no forms associated with this collection.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under the Paperwork Reduction Act, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments (*i.e.,* form or instructions), in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

*Burden Statement:* The total annual public burden for this collection of information is estimated to be 166,266 hours. Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the information collection activity and the corresponding burden estimate, which is only briefly summarized here.

*Respondents/affected entities:* Pesticide Registrants, identified by the North American Industrial Classification System (NAICS) code as 325320 (Pesticide and Other Agricultural Chemical Manufacturing).

*Estimated total annual number of potential responses:* 260.

*Frequency of response:* As necessary, when applicable information is available to respondent.

*Estimated total number of responses for each respondent:* 1 to 3.

*Estimated total annual burden:* 166,266 hours.

*Estimated total annual non-labor costs:* $0.

*Changes in the ICR Since the Last Approval:* The total burden associated with this ICR has increased 45,504 hours, from 120,762 hours in the previous ICR to 166,266 hours for this ICR. This change reflects several adjustments to the ICR calculations which are described in detail in the ICR.

According to the procedures prescribed in 5 CFR 1320.12, EPA has submitted this ICR to OMB for review and approval. Any comments related to the renewal of this ICR should be submitted within 30 days of this notice, as described above.

Dated: September 15, 2000.

**Oscar Morales,**

*Director, Collection Strategies Division.*

[FR Doc. 00–24311 Filed 9–20–00; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6873–7]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request, Detergent Gasoline

**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 the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Detergent Gasoline (OMB Control Number 2060–0275, expiration date: 9–30–00). The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before October 23, 2000.

**ADDRESSES:** Send comments, referencing EPA ICR No. 1655.04 and OMB Control No. 2060–0275, to the following addresses: Sandy Farmer, U.S.

Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** For a copy of the ICR, contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at *Farmer.Sandy@epa.gov* or download off the Internet at *http://www.epa.gov* and refer to EPA ICR No. 1655.04. For technical questions about the ICR contact James W. Caldwell at EPA, (202) 564–9303, fax: (202) 565–2085, *caldwell.jim@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Detergent Gasoline: Certification Requirements for Manufacturers of Detergent Additives; Transferors and Transferees of Detergent Additives; Blenders of Detergents into Gasoline or Post-refinery Component; Manufacturers, Transferors, and Transferees of Gasoline or Post-refinery Component (40 CFR part 80—subpart G), EPA ICR Number 1655.04, OMB Control Number 2060–0275, expiration date: 9–30–00. This is a request for an extension of a currently approved collection.

*Abstract:* Gasoline combustion results in the formation of engine deposits that contribute to increased emissions. Detergent additives deter deposit formation. The Clean Air Act requires gasoline to contain a detergent additive. The regulations at 40 CFR part 80—subpart G specify certification requirements for manufacturers of detergent additives, recordkeeping or reporting requirements for blenders of detergents into gasoline or post-refinery component (any gasoline blending stock or any oxygenate which is blended with gasoline subsequent to the gasoline refining process), and reporting or recordkeeping requirements for manufacturers, transferors, or transferees of detergents, gasoline, or post-refinery component (PRC). These requirements ensure that (1) a detergent is effective before it is certified by EPA, (2) a certified detergent, at the minimum concentration necessary to be effective (known as the lowest additive concentration (LAC), is blended into gasoline, and (3) only gasoline which contains a certified detergent at its LAC is delivered to the consumer. The EPA maintains a list of certified gasoline detergents, which is publicly available. As of March 2000 there were approximately 225 certified detergents and 16 detergent manufacturers.

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 at 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on May 10, 2000 (65 FR 30109); no comments were received.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 3.2 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:* (1) Manufacturers of gasoline, post-refinery component, or detergent additives, (2) blenders of detergent additives into gasoline or post-refinery component, and (3) transferors or transferees of detergent additives, gasoline, or post-refinery component.

*Estimated Number of Respondents:* 1,374.

*Frequency of Response:* On occasion and monthly.

*Estimated Total Annual Hour Burden:* 223,008 hours.

*Estimated Total Annualized Capital, O&M Cost Burden:* $500.00.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, to the addresses listed above. Please refer to EPA ICR No. 1655.04 and OMB Control No. 2060–0275 in any correspondence.

Dated: September 12, 2000.

**Oscar Morales,**

*Director, Collection Strategies Division.*

[FR Doc. 00–24312 Filed 9–20–00; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6873–5]**

## Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Pollutant Discharge Elimination System (NPDES) Compliance Assessment/Certification Information

**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 the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Pollutant Discharge Elimination System (NPDES) Compliance Assessment/Certification Information (OMB Control Number 2040–0110; EPA Number 1427.06; expiring on September 30, 2000). The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before October 23, 2000.

**ADDRESSES:** Send comments, referencing EPA ICR No. 1427.06 and OMB Control No. 2040–0110, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Ave, NW., Washington DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by e-mail at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No.1427.06. For technical questions about the ICR contact Betty West, at (202) 260–8486.

**SUPPLEMENTARY INFORMATION:**

*Title:* National Pollutant Discharge Elimination System (NPDES) Compliance Assessment/Certification Assessment/Certification Information (OMB Control No.2040–0110; EPA ICR No. 1427.06) expiring on September 30, 2000. This is a request for extension of a currently approved collection.

*Abstract:* This ICR updates the burden and costs associated with the data

requirements necessary for a permitting authority to determine whether an existing NPDES or sewage sludge permittee is in compliance with the conditions of its permit for the discharge of pollutants to waters of the United States or for the use or disposal of sewage sludge. Most compliance assessment data is generated by permittees and submitted to the appropriate permitting authority. The permitting authority uses the information to determine compliance with permit conditions and if any noncompliance poses a threat to human health or the environment. If noncompliance is detected, the permitting authority will take the appropriate enforcement action based on the frequency and the degree of seriousness of the violation.

This ICR calculates the burden associated with compliance assessment information (other than discharge monitoring reports) required by parts 122 and 501 and certification or alternative requirements contained in the effluent limitations guidelines and standards regulations for various point source categories. These requirements include routine submittals, such as annual certifications and reports submitted when a compliance schedule milestone is reached; non-routine submittals, such as an unanticipated bypass; and certifications for exemptions of monitoring requirements for certain industrial categories.

Where information submitted contains trade secrets or similar confidential business information, the respondent has the authority to request that this information be treated as confidential business information. All data so designated will be handled pursuant to 40 CFR part 2. Pursuant to section 308(b) of the Clean Water Act, effluent data may not be treated as confidential.

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 **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 03/23 /00 (65 FR 15633); two comments were received.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2.15 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:* state and local governments, tribes, private industry, public and private entities

*Estimated Number of Respondents:* 16,532.

*Frequency of Response:* varies.

*Estimated Total Annual Hour Burden:* 1,026,264 hours.

*Estimated Total Annualized Capital and Operating & Maintenance Cost Burden:* $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1427.06 in any correspondence.

Dated: September 13, 2000.

**Oscar Morales,**

*Director, Collection Strategies Division.*

[FR Doc. 00–24314 Filed 9–20–00; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6873–6]**

## Agency Information Collection Activities; EPA ICR No. 1214.05; Submission to OMB; Additional Opportunity To Comment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Pesticide Product Registration Maintenance Fee (EPA No. 1214.05; OMB Control No. 2070–0100). The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs. A **Federal Register** document, required under 5 CFR 1320.8(d), soliciting comments on this information collection was issued on March 8, 2000 (65 FR 12225). EPA did not receive any comments.

**DATES:** Additional comments may be submitted on or before October 23, 2000.

**ADDRESSES:** Send comments, referencing EPA ICR No. 1215.05 and OMB Control No. 2070–0100, to the following addresses: Ms. Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (2822), 1200 Pennsylvania Ave, NW., Washington, DC 20460; and to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at EPA by phone on 202–260–2740, by e-mail: farmer.sandy@epa.gov, or using the address indicated below. You may also access the ICR at *http://www.epa.gov/icr/icr.htm.* Refer to EPA ICR No 1214.05 or OMB Control No. 2070–0100.

**SUPPLEMENTARY INFORMATION:**

*Title:* Pesticide Product Registration Maintenance Fee (EPA No. 1214.05; OMB Control No. 2070–0100).

*Request:* This is a request for the extension of an existing collection activity, the approval for which is currently schedule to expire on September 30, 2000. Under 5 CFR 1320.10(e)(2), the Agency may continue to conduct or sponsor the collection of information while the submission is pending at OMB.

*Abstract:* This information collection program provides a practical means of communication between the pesticide registrants and the Agency to facilitate the proper collection of the pesticide product registration maintenance fees as required by section 4(i)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. Each registrant of a pesticide product originally registered before November 1, 1984 is required to complete a filing form and submit their fee payment by January 15 of each year. The pesticide registrant (respondents) complete and submit EPA Form 8570–30 indicating the respondent's liability for the registration maintenance fee for pesticide products registered by that firm. The failure to pay the required fee for a product will result in cancellation of that product.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under the Paperwork Reduction Act, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear as part of the collection instruments (*i.e.,* form or instructions), in the **Federal Register** notices for related rulemaking and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

*Burden Statement:* The annual public reporting burden for this collection of information is estimated to average about one hour per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the burden and cost estimates for this ICR, which are only briefly summarized here:

*Respondents/Affected Entities:* Pesticide registrants.

*Estimated Number of Respondents:* 1,977.

*Frequency of Response:* Annually, by January 15.

*Estimated Total Annual Burden:* 1,858 hours.

*Estimated Total Annual Non-labor Burden Costs:* $0.

*Changes in the ICR Since the Last Approval:* The total burden associated with this ICR has decreased 130 hours, from 1,988 hours in the previous ICR to 1,858 for this ICR. This adjustment in the estimated burden reflects a decrease in the number of potential respondents which has been adjusted to match the number of actual respondents in 1999. The activity itself, and the per activity and per respondent burden estimates have not changed.

According to the procedures prescribed in 5 CFR 1320.12, EPA has submitted this ICR to OMB for review and approval. Any comments related to the renewal of this ICR should be submitted within 30 days of this notice, as described above.

Dated: September 12, 2000.

**Oscar Morales,**

*Director, Collection Strategies Division.*

[FR Doc. 00–24315 Filed 9–20–00; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6873–4]**

## Agency Information Collection Activities: Submission for OMB Review; Comment Request; Information Collection Request for the National Listing of Advisories

**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 the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Information Collection Request for the National Listing of Advisories (EPA ICR 1959.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before October 23, 2000.

**ADDRESSES:** Send comments referencing EPA ICR No. 1959.01 to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Ave, NW., Washington, DC 20460; Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1959.01. For technical questions about the ICR, contact Jeffrey Bigler at EPA, by phone at (202) 260–1305, and by e-mail at *bigler.jeff@epa.gov*

**SUPPLEMENTARY INFORMATION:**

*Title:* Information Collection Request for the National Listing of Advisories, EPA ICR Number 1959.01. This is a request for a new collection.

*Abstract:* Based on results from the 1998 National Listing of Fish and Wildlife Advisories (NLFWA) database, fish consumption advisories have been issued by 47 states and from 100 to 200 new advisories are issued every year nationwide.

EPA's Office of Water will conduct an annual fish advisory survey which will be sent to environmental and health officials from state, territorial, and tribal agencies specifically responsible for the issuance of fish advisories. This survey will collect information (electronically via the Internet or on paper) on advisory locations and agencies and persons responsible for maintaining and issuing advisories for lakes, rivers, and coastal marine waterbodies. Responses to the questionnaire are needed to assess public health risks of consuming chemically-contaminated fish. EPA will make this information available to states, territories, tribes, other federal agencies and the general public through distribution of the annual Fish Advisory Fact Sheet and a summary report (on the Internet and in hard copy) on the EPA's NLFWA web site (http://www.epa.gov/OST/fish/). This information will be used to identify and clarify issues that will lead to the continued development of national guidance to assist state fish advisory programs and will further protect human health.

Completion of this survey is voluntary as the information requested is part of the state public record associated with issuing advisories. In the past, states have requested EPA guidance in their fish advisory programs and a more comprehensive questionnaire will provide the states an opportunity to identify advisory areas in which they need assistance.

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 **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on April 21, 2000 (65 FR 21415–21416). No comments were received.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 39 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or

for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:* State, territory, and tribal environmental and health agencies.

*Estimated Number of Respondents:* 92.

*Frequency of Response:* Annually.

*Estimated Total Annual Hours Burden:* 3,565 hours.

*Estimated Total Annualized Cost Burden (non-labor costs):* $528.

Dated: September 12, 2000.

**Oscar Morales,**

*Director, Collection Strategies Division.*

[FR Doc. 00–24317 Filed 9–20–00; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6874–4]**

## Availability of FY 99 Grant Performance Reports for States of Alabama, Florida, North Carolina, South Carolina, and Tennessee, and Local Agencies Within Those States as well as Jefferson County, KY

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability of grantee performance evaluation reports.

**SUMMARY:** EPA's grant regulations (40 CFR 35.150) require the Agency to evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7) require that the Agency notify the public of the availability of the reports of such evaluations. EPA recently performed end-of-year evaluations of five state air pollution control programs (Alabama Department of Environmental Management, Florida Department of Environmental Protection, North Carolina Department of Environment and Natural Resources, South Carolina Department of Health and Environmental Control, Tennessee Department of Environmental & Conservation) and 16 local programs (Knox County Department of Air Pollution Control, TN; Chattanooga-Hamilton County Air Pollution Control Bureau, TN; Memphis-Shelby County Health Department, TN; Nashville-Davidson County Metropolitan Health Department, TN; Jefferson County Air Pollution Control District, KY; Western North Carolina Regional Air Pollution Control Agency, NC; Mecklenburg County Department of Environmental Protection, NC; Forsyth County Environmental Affairs Department, NC; Palm Beach County Public Health Unit, FL; Hillsborough County Environmental Protection Commission, FL; Dade County Environmental Resources Management, FL; Jacksonville Air Quality Division, FL; Broward County Environmental Quality Control Board, FL; Pinellas County Department of Environmental Management, FL; City of Huntsville Department of Natural Resources, AL; Jefferson County Department of Health, AL). The 21 evaluations were conducted to assess the agencies' performance under the grants awarded by EPA under authority of section 105 of the Clean Air Act. EPA Region 4 has prepared reports for each agency identified above and these reports are now available for public inspection. The evaluations for the Commonwealth of Kentucky, the States of Georgia and Mississippi will be made available for public review at a later date.

**ADDRESSES:** The reports may be examined at the EPA's Region 4 office, 61 Forsyth Street, SW, Atlanta, Georgia 30303, in the Air, Pesticides, and Toxics Management Division.

**FOR FURTHER INFORMATION CONTACT:** Gloria Knight, (404) 562–9064, at the above Region 4 address, for information concerning the state agencies in Alabama, Florida, Mississippi, Georgia, and the local agencies in those states, or Vera Bowers, (404) 562–9053, at the above Region 4 address, for information concerning the state agencies in Kentucky, North Carolina, South Carolina, Tennessee, and the local agencies in those states.

Dated: September 11, 2000.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 00–24309 Filed 9–20–00; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6875–1]**

## Notice of Informal Public Meetings Regarding the Recommendations From the Task Force on Agricultural Air Quality on Agricultural Burning and Voluntary Measures

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Informal Public Meetings.

**SUMMARY:** The purpose of this notice is to announce that EPA will hold informal public meetings to receive comments on the Agricultural Air Quality Task Force (AAQTF) recommendations regarding the development of an air quality policy on agricultural burning, and on a voluntary (incentive based) control measures policy to address reasonably available control measures (RACM) / best available control measures (BACM) requirements for particulate matter (PM) nonattainment areas. The meetings are open to the public and will be transcribed.

Informal public meetings are scheduled for 6:00 p.m. to 9:00 p.m. in Spokane, Washington on September 27, 2000 at the Ramada Inn, Spokane International Airport, 8909 Airport Road; in Oklahoma City, Oklahoma on October 12, 2000 at Langston University, Oklahoma City Center, 4205 North Lincoln Boulevard; and in New Iberia, Louisiana on October 18, 2000 at the Holiday Inn, 2915 Highway 14.

The EPA is seeking public comment at these meetings on both sets of AAQTF recommendations as it begins to develop policies to address the air quality impacts of agricultural burning, and the use of the U.S. Department of Agriculture's incentive based programs/practices in meeting RACM/BACM requirements. The format of the informal public meetings will be as follows: opening remarks by EPA staff regarding the recommendations, the purpose of the informal public meeting, time for the public to make verbal comments, and time for EPA to answer clarifying questions. These informal public meetings will be limited to comments relevant to the agricultural burning recommendations and the voluntary measures recommendations. The EPA will not offer its evaluation nor engage in debate on the issues during these meetings.

Members of the public who are interested in presenting comments relative to the recommendations should, if possible, notify the EPA official

named below, 5 working days prior to the meeting. Members of the public may also request to present comment by using a sign-up sheet which will be available at the meetings. Time allotted for comments by members of the public will be determined based upon the number of requests received and will be announced at the beginning of the meetings. The order for public comments will be determined on a first received—first to speak basis.

Requests for the opportunity to present comment can be made by contacting Gary Blais between 8:00 a.m. and 5:30 p.m. (EST) at 919–541–3223 Monday–Friday. Persons planning to attend any of these informal public meetings are urged to contact the above EPA representative 2 to 3 working days prior to the meeting to be advised of any changes that may have occurred.

To obtain copies of the agricultural burning recommendations or the voluntary measures recommendations via the Internet, use the following address: http://www.nhq.nrcs.usda.gov/faca/aaqtf.html.

**DATES:** Written comments, identified by Docket No. A–2000-22, must be received by EPA no later than 60 days from the date of publication of the notice announcing the availability of the AAQTF recommendations previously published in the **Federal Register** on September 18, 2000. To obtain this notice via the Internet go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Gary Blais or Robin Dunkins, Integrated Policy and Strategies Group, Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27711; telephone numbers: 919–541–3223 or 919–541–5335; e-mail addresses: *blais.gary@epa.gov* or *dunkins.robin@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. How Can I Get Additional Information or Copies of This Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of *this* document and other related documents 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 A–2000-22. 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 EPA's Air and Radiation Docket and Information Center; 401 M Street, SW; Room M–1500 (Mail Code 6102); Washington, DC 20460. The docket is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

## II. 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 A–2000–22 in the subject line on the first page of your response.

1. *By U.S. Postal Service.* Submit comments to: EPA Air and Radiation Docket and Information Center (Mail Code 6102), Attention: Docket No. A–2000–22, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, telephone (202) 260–7548.

2. *In Person or by Courier.* Deliver comments to: EPA Air and Radiation Docket and Information Center (Mail Code 6102), Attention: Docket No. A–2000–22, U.S. Environmental Protection Agency, 401 M Street, SW; Room M–1500, Washington, DC 20460, telephone (202) 260–7548.

3. *Electronically.* Submit electronic comments by e-mail to: A-and-R-Docket@epamail.epa.gov. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by the docket control number A–2000–22. Electronic comments may also be filed online at many Federal Depository Libraries.

## III. How Should I Handle CBI Information 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 listed under **FOR FURTHER INFORMATION CONTACT**.

## IV. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve this notice.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket 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.

Dated: September 14, 2000.

**John S. Seitz,**

*Director, Office of Air Quality Planning and Standards.*

[FR Doc. 00–24416 Filed 9–20–00; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6873–8]**

### Workshop Report on Characterizing Ecological Risk at the Watershed Scale

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability of final report.

**SUMMARY:** The Environmental Protection Agency (EPA), National Center for Environmental Assessment (NCEA), is announcing the availability of a final report, Workshop Report on Characterizing Ecological Risk at the Watershed Scale (EPA/600/R–99/111, February 2000). This workshop was funded through an interagency agreement between EPA and the Tennessee Valley Authority (TVA) and was held on July 7 and 8, 1999, at the Crystal City Marriott in Arlington, VA. The workshop was organized to address the application of ecological risk assessment to watershed management and decision making—in particular the challenge of characterizing risks that involve numerous stressors, interconnected pathways, and multiple endpoints. Participants representing federal agencies, academia, consulting firms, and environmental organizations were invited to attend based on their experience in ecological risk assessment, watershed management, or regional scale assessment. Workshop participants were asked to focus on those aspects for characterizing risk at the watershed scale deemed most in need of a procedural framework. This report reflects the results of those discussions and provides recommendations for estimating and describing risks to valued ecological resources at the watershed scale.

**ADDRESSES:** The document is available primarily on the Internet at *http://www.epa.gov/ncea* under the What's New and Publications menus. A limited number of paper copies of the report are available from the EPA's National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242; telephone: 1–800–490–9198 or 513–489–8190; facsimile: 513–489–8695. Please provide your name and mailing address and the title and EPA number of the requested publication.

**FOR FURTHER INFORMATION CONTACT:** Victor Serveiss, National Center for Environmental Assessment—Washington Office (8623D), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 202–564–3251; facsimile: 202–565–0076; *email:serveiss.victor@epa.gov.*

Dated: September 5, 2000.

**William H. Farland,**

*Director, National Center for Environmental Assessment.*

[FR Doc. 00–24313 Filed 9–20–00; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF FEDERAL DEPOSIT INSURANCE CORPORATION

### Sunshine Act Meeting; Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, September 25, 2000, to consider the following mattres:

*Summary Agenda*: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

*Discussion Agenda*

Memorandum and resolution re: Proposed Rule—Part 334—Fair Credit Reporting Regulations.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance needing such assistance should call (202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: September 18, 2000.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 00–24361 Filed 9–18–00; 5:01 pm]

BILLING CODE 6714–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### White House Commission on Complementary and Alternative Medicine Policy; Notice of Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the White House Commission on Complementary and Alternative Medicine Policy. The purpose of the meeting is to convene the Commission for a public hearing on coordinated Research and Development activities relating to complementary and alternative medicine practices and products, and to receive public testimony from individuals and organizations interested in the subject of federal policy regarding complementary and alternative medicine. Comments received at the meeting may be used by the Commission to prepare the Report to the President as required by the Executive Order.

Comments should focus on Coordinated Research and Development Activities To Increase Knowledge of Complementary and Alternative Medicine Practices and Interventions. Issues to be discussed include the following: Research Priorities and Public Input; Federal, Private Sector, and Not-for-Profit Sector Support for CAM Research; Facilitating CAM Research and Regulatory Challenges; Practice-based Research and Outcomes Research. Discussion also may focus on the following questions:

(1) What can be done to expand the current research environment so that practices and interventions that lie outside conventional science are adequately and appropriately addressed?

(2) What types of incentives are needed to stimulate the research of CAM practices and interventions by the public and private sectors?

(3) How can we more effectively integrate the CAM and conventional research communities to stimulate and coordinate research?

Some Commission members may participate by telephone conference. The meeting is open to the public and opportunities for oral statements by the public will be provided on October 5, from about 1:15 p.m.–2:15 p.m.; and on October 6, from about 2:40 p.m.–3:40 p.m. (approximate times).

*Name of Committee:* White House Commission on Complementary and Alternative Medicine Policy.

*Date:* October 5–6, 2000.

*Time:* October 5–8:30 a.m.–5:30 p.m.; October 6–8:30 a.m.–4 p.m.

*Place:* Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, S.W., Washington, DC 20201.

*Contact Persons:* Michele M. Chang, CMT, MPH, Executive Secretary OR Stephen C. Groft, Pharm. D., Executive Director, 6701 Rockledge Drive, Room 1010, MSC 7707, Bethesda, MD 20817–7707, Phone: (301) 435–7592, Fax: (301) 480–1691, E-mail: WHCCAMP@nih.gov.

Because of the need to obtain the views of the public on these issues as soon as possible and because of the early deadline for the report required of the Commission, this notice is being provided at the earliest possible time.

**SUPPLEMENTARY INFORMATION:** The President established the White House Commission on Complementary and Alternative Medicine Policy on March 7, 2000 by Executive Order 13147. The mission of the White House Commission on Complementary and Alternative Medicine Policy is to provide a report, through the Secretary of the Department of Health and Human Services, on legislative and administrative recommendations for assuring that public policy maximizes the benefits of complementary and alternative medicine to Americans.

**Public Participation**

The meeting is open to the public with attendance limited by the availability of space on a first come, first serve basis. Members of the public who wish to present oral comments may register by calling 1–800–953–3298 or by accessing https://safe2.sba.com/whccamp/index.cfm no later than September 29, 2000.

Oral comments will be limited to five minutes. Individuals who register to speak will be assigned in the order in which they registered. Due to time constraints, only one representative from each organization will be allotted time for oral testimony. The number of speakers and the time allotted may also be limited by the number of registrants. All requests to register should include the name, address, telephone number, and business or professional affiliation of the interested party, and should indicate the area of interest or question (as described above) to be addressed.

Any person attending the meeting who has not registered to speak in advance of the meeting will be allowed to make a brief oral statement during the time set aside for public comment if time permits, and at the chairperson's discretion. Individuals unable to attend the meeting, or any interested parties, may send written comments by mail, fax, or electronically to the staff office of the Commission for inclusion in the public record.

When mailing or faxing written comments provide, if possible, an electronic version on diskette. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact the Commission staff at the address or telephone number listed no later than September 29, 2000.

Dated: September 12, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committe Policy.*

[FR Doc. 00–24232 Filed 9–20–00; 8:45 am]

**BILLING CODE 4140–01–M**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Toxic Substances and Disease Registry

**[ATSDR–160]**

### Public Health Assessments Completed

**AGENCY:** Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** This notice announces those sites for which ATSDR has completed public health assessments during the period from April through June 2000. This list includes sites that are on or proposed for inclusion on the National Priorities List (NPL), and includes sites for which assessments were prepared in response to requests from the public.

**FOR FURTHER INFORMATION CONTACT:** Robert C. Williams, P.E., DEE, Assistant Surgeon General, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0610.

**SUPPLEMENTARY INFORMATION:** The most recent list of completed public health assessments was published in the **Federal Register** on June 14, 2000 [65 FR37393]. This announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities [42 CFR part 90]. This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. 9604(i)).

**Availability**

The completed public health assessments and addenda are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 605–6000. NTIS charges for copies of public health assessments and addenda. The NTIS order numbers are listed in parentheses following the site names.

**Public Health Assesssments Completed or Issued**

Between April 1 and June 30, 2000, public health assessments were issued for the sites listed below:

*NPL Sites*

California

Lockheed Propulsion Company (a/k/a Lockheed Martin Propulsion Corporation)—Redlands—(PB20–105429)

Florida

Brown's Dump—Jacksonville—(PB20–106698)

Landia Chemical Company (a/k/a Florida Favorite Fertilizer)—Lakeland—(PB20–106656)

Sanford Gasification Plant—Sanford—(PB20–105873)

Illinois

Bohn Heat (a/k/a Bohn Heat Transfer Facility)—Beardstown—(PB20–105874)

Illinois Beach Park—Zoin—(PB20–106682)

Kansas

Chemical Commodities, Incorporated—Olathe—(PB20–105191)

Louisiana

Highway 71/72 Refinery—Bossier City—(PB20–106662)

Lincoln Creosote—Bossier City—(PB20–106702)

Missouri

Pools Prairie (a/k/a Neosho Wells)—(PB20–105121)

New Hampshire

Messer Street Manufactured Gas Plant—Laconia—(PB20–105136)

New York

Fresh Kills Landfill—Staten Island—(PB20–105347)

Ohio

Rickenbacker Air National Guard Base (USAF) (a/k/a Rickenbacker Air Force Base)—Columbus—(PB20–105875)

Tennessee

Arnold Engineering Development Center (a/k/a Arnold Air Force Base—Arnold Air Force Base Station—(PB20–106686)

Chemet Company—Moscow—(PB20–105981)

Washington

Bertrand Creek Area Properties (a/k/a North Whatcom County Groundwater Contamination)—Lynden—(PB20–105876)

Non NPL Petitioned Sites

Arkansas

Great Lakes Chemical Corporation—El Dorado—(PB20–106657)

Connecticut

Yaworski Landfill (Aliases: Yaworski Dump and Packer Road Landfill)—Canterbury—(PB20–105900)

New Jersey

Hawthorne Municipal Wells—Hawthorne—(PB20–107474)

Dated: September 15, 2000.

**Georgi Jones,**

*Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.*

[FR Doc. 00–24248 Filed 9–20–00; 8:45 am]

BILLING CODE 4163–70–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30DAY–68–00]**

### 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**

Hanford Community Health Project Survey—New—The Agency for Toxic Substances and Disease Registry (ATSDR) is mandated pursuant to the 1980 Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and its 1986 Amendments, the Superfund Amendments and Re-authorization Act (SARA), to prevent or mitigate adverse human health effects and diminished quality of life resulting from the exposure to hazardous substances into the environment. These activities include conducting public health assessments at sites on the Environmental Protection Agency's (EPA) National Priorities List (NPL) to determine whether exposure to hazardous substances at these sites are harmful to human health.

The Hanford Nuclear Reservation, located in south central Washington State, is on EPA's National Priorities List. Between 1944 when it opened until its closing in 1972, an estimated 740,000 curies of radioactive Iodine were released to the air from chemical separation facilities used to produce plutonium for atomic weapons development. The Hanford Environmental Dose Reconstruction project (HEDR) estimates that the majority of releases of Iodine-131 occurred between 1944 and 1951. Radioactive Iodine accumulates in the thyroid gland. Studies indicate that exposure to radioactive Iodine is associated with an increased risk of developing thyroid cancers and other thyroid diseases. Children up to five years of age may be at higher risk than the general population of developing cancer after exposure.

The objective of this survey is to collect information on utilization of health care services, knowledge of and information needs related to radioactive Iodine releases from Hanford, health risk and exposure awareness, use of and interest in thyroid medical evaluations, and demographic information. This information will assist ATSDR staff in determining health education needs and planning effective health education activities for people exposed to radioactive Iodine and/or at risk for thyroid disease. This work may have applicability to other sites where exposure to radioactive Iodine has occurred. In previous ATSDR work (OMB No. 0923–0006) approximately 6,000 people were located who were born between 1940 and 1951 in three counties (Benton, Franklin and Adams) nearest the Hanford site. For this proposed project, ATSDR plans to randomly select and complete 500 individual interviews from this cohort of 6,000 persons.

To reduce the amount of time required by the respondents, Computer Assisted Telephone Interviews (CATI) will be conducted. The information collected in this proposed survey will provide reliable baseline information for developing effective educational materials and outreach activities. Other than their time to participate, there are no costs to the respondents. The estimated annualized burden is 125 hours.

| Respondents | No. of respondents per year | No. of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|
| Individuals born near Hanford site ..... | 500 | 1 | .125 |

Dated: September 14, 2000.

**Nancy Cheal,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 00–24247 Filed 9–20–00; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Solicitation of Proposals To Add to or Modify the List of United States Ports at Which Rodent Infestation Inspections Will Be Conducted and Deratting and Deratting Exemption Certificates Issued

**Correction**

In the notice document appearing on page 55253 in the **Federal Register** issue of Wednesday, September 13, 2000, make the following correction:

On page 55253 under **DATES:** heading change September 31, 2000, to ''October 12, 2000.''

All other information in the document remains unchanged.

Dated: September 14, 2000.

**Joseph R. Carter,**

*Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 00–24246 Filed 9–20–00; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 00N–1504]**

### Agency Information Collection Activities: Proposed Collection; Comment Request; Guidance for Industry on How to Use E–Mail to Submit Information to the Center for Veterinary Medicine

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

**DATES:** Submit written comments on the collection of information by October 23, 2000.

**ADDRESSES:** Submit written comments on the collection of information to Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attention: Desk Officer for FDA.

**FOR FURTHER INFORMATION CONTACT:** Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

**Guidance for Industry on How to Use E–Mail to Submit Information to the Center for Veterinary Medicine**

*Description:* The Center for Veterinary Medicine (CVM), is responsible for developing and administering guidances that explain how to adhere to the electronic records and electronic signatures regulations (21 CFR part 11). The electronic records and electronic signatures regulations provide for the voluntary submission of parts or all of regulatory records in electronic format without an accompanying paper copy. These regulations comply with the Government Paperwork Elimination Act, (GPEA). The GPEA requires Federal agencies by October 21, 2003, to give persons who are required to maintain, submit, or disclose information, the option of doing so electronically when practical, as a substitute for paper.

This guidance document describes the procedures for persons who are sponsors of new animal drugs who wish to file submissions by e-mail. The guidance document instructs those who wish to submit information to CVM by e-mail to first register with them. Registration entails sending a letter to CVM with a sponsor password and the names, phone numbers, and mail and e-mail addresses of a sponsor coordinator and any person who will submit information electronically to CVM. This letter is sent on paper and electronically. Other information collection provisions described in the guidance are the submission of e-mails with the individual passwords of those who submit information electronically and e-mails with any changes to the sponsor's registration. CVM will use all the information submitted to process electronic submissions.

*Description of Respondents:* The likely respondents for this collection of information are new animal drug sponsors. In the **Federal Register** of June 29, 2000 (65 FR 40109), FDA announced availability of this guidance as a draft document and requested public comment. In response to this notice, no comments were received on the estimated annual reporting burden. We therefore believe the annual reporting burden estimate of 140 hours should remain unchanged.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

| No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|
| 190 | 0.74 | 140 | 1 | 140 |

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimates in table 1 of this document resulted from discussions with new animal drug sponsors.

Dated: September 14, 2000.

**William K. Hubbard,**

*Senior Associate Commissioner for Policy, Planning, and Legislation.*

[FR Doc. 00–24204 Filed 9–20–00; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 00N–1505]**

### Agency Information Collection Activities: Proposed Collection; Comment Request; Guidance for Industry on How to Use E-Mail to Submit a Notice of Intent to Slaughter for Human Food Purposes

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

**DATES:** Submit written comments on the collection of information by October 23, 2000.

**ADDRESSES:** Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attention: Desk Officer for FDA.

**FOR FURTHER INFORMATION CONTACT:** Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

**SUPPLEMENTARY INFORMATION:** In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed

collection of information to OMB for review and clearance.

*Title:* Guidance for Industry on How to Use E-Mail to Submit a Notice of Intent to Slaughter for Human Food Purposes

*Description:* Under § 511.1(b) ( 21 CFR 511.1(b)), the Center for Veterinary Medicine (CVM) issues slaughter authorizations for food animals treated with investigational new animal drugs. To assist with monitoring the slaughter of food animals treated with investigational new animal drugs, a slaughter authorization letter is sent to sponsors by CVM which states that they must submit slaughter notices each time such animals are to be slaughtered unless the authorization letter waives that notice. Currently, slaughter notices are submitted to CVM on paper (OMB Control No. 0910–0117). This guidance will give sponsors the option to submit a slaughter notice as an e-mail attachment to CVM by the Internet.

This final guidance describes the procedures for persons who are sponsors of new animal drugs and who wish to file a slaughter notice on FDA Form No. 3488 by e-mail. The information that should be filed on the form includes: Identification of the sponsor, the animals to be slaughtered, and the compound used to treat the animals.

*Description of Respondents:* The likely respondents for this collection of information are animal drug sponsors who have conducted clinical investigations under § 511.1(b). In the **Federal Register** of June 29, 2000 (65 FR 40106), FDA announced availability of this guidance as a draft document and requested public comment on the proposed collection of information. No comments were received on the estimated annual reporting burden. We therefore believe the annual reporting burden estimate of 27 hours should remain unchanged.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

| FDA Form No. | No. of Respondents | Annual Frequency Per Response | Total Annual Responses | Hours Per Response | Total Hours |
|---|---|---|---|---|---|
| 3488 | 190 | 0.35 | 66 | 0.41 | 27 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Submitting a slaughter notice electronically represents a new medium for submission of information currently submitted on paper. The estimates in table of this document resulted from discussions with sponsors about the time necessary to complete this form.

Dated: September 14, 2000.

**William K. Hubbard,**

*Senior Associate Commissioner for Policy, Planning, and Legislation.*

[FR Doc. 00–24265 Filed 9–20–00; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 00N–1506]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry on How to Use E-Mail to Submit a Notice of Final Disposition of Animals Not Intended for Immediate Slaughter

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

**DATES:** Submit written comments on the collection of information by October 23, 2000.

**ADDRESSES:** Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 1025, Washington, DC 20503, Attention: Desk Officer for FDA.

**FOR FURTHER INFORMATION CONTACT:** Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

**SUPPLEMENTARY INFORMATION:** In compliance with section 3507 of the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance:

*Title:* Guidance for Industry on How to Use E-Mail to Submit a Notice of Final Disposition of Animals Not Intended for Immediate Slaughter

*Description:* The Center for Veterinary Medicine (CVM), monitors final disposition of food animals treated with investigational new animal drugs in situations where the treated animals do not enter the human food chain immediately at completion of the investigational study. CVM believes that monitoring of the final disposition of such food animals is consistent with its responsibility to protect the public health under the Federal Food, Drug, and Cosmetic Act. In addition, CVM believes that acceptable standards of study conduct, such as those set forth under 21 CFR 514.117, would include sponsors accounting for the disposition of all animals treated with investigational new animal drugs. Furthermore, CVM requests this information because some animals are held for 30 days after the investigational drug withdrawal period ends, and CVM does not request a notice of intent to slaughter for human food purposes for these animals. However, animals held for this period may still be sent for slaughter.

This guidance document describes the procedures for persons who are sponsors of new animal drugs who wish to file a notice of final disposition of animals (NFDA) not intended for immediate slaughter, electronically on FDA Form No. 3487. The information sponsors should include on the form includes the sponsor's name, address, and information about the treated animals.

*Description of Respondents:* The likely respondents for this collection of information are new animal drug sponsors who have conducted clinical investigations under 21 CFR 511.1(b).

In the **Federal Register** of June 29, 2000 (65 FR 40104), FDA announced the availability of this guidance as a draft document and requested public comment. In response to this notice, no comments were received on the annual reporting burden. We, therefore, believe the annual reporting burden of 262 hours should remain unchanged.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

| FDA Form No. | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 3487 | 190 | 1.7 | 324 | 0.81 | 262 |

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimates in table 1 of this document resulted from discussions with new animal drug sponsors. The estimated burden includes NFDA's submitted on paper and by e-mail.

Dated: September 14, 2000.

**William K. Hubbard,**

*Senior Associate Commissioner for Policy, Planning, and Legislation.*

[FR Doc. 00–24266 Filed 9–20–00; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

**[Docket No. 00D–1316]**

## Agency Information Collection Activities: Proposed Collection; Comment Request; Guidance for Industry on How to Use E–Mail to Submit a Request for a Meeting or Teleconference to the Office of New Animal Drug Evaluation

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

**DATES:** Submit written comments on the collection of information by October 23, 2000.

**ADDRESSES:** Submit written comments on the collection of information to Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attention: Desk Officer for FDA.

**FOR FURTHER INFORMATION CONTACT:** Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

### Guidance for Industry on How to Use E–Mail to Submit a Request for a Meeting or Teleconference to the Office of New Animal Drug Evaluation.

*Description:* As part of new animal drug development, sponsors often meet with the Center for Veterinary Medicine (CVM), scientists to formulate a rational approach for studies to be conducted, and to discuss how they meet the statutory requirements for new animal drug approval under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b). Requests for meetings and teleconferences about new animal drug submissions are currently submitted to CVM on paper. CVM is responsible for developing and administering a guidance that explains how to adhere to the Electronic Records; Electronic Signatures regulations (21 CFR part 11). These regulations provide for the voluntary submission of parts or all of regulatory records in electronic format without an accompanying paper copy and complies with the Government Paperwork Elimination Act (GPEA). The GPEA requires Federal agencies, by October 21, 2003, to give persons who are required to maintain, submit, or disclose information, the option of doing so electronically, when practical, as a substitute for paper.

This guidance document describes the procedure for persons who are new animal drug sponsors who wish to submit a request for a meeting or teleconference to the Office of New Animal Drug Evaluation by e-mail on FDA Form No. 3489. The information sponsors should include on the form are: The sponsor's name and address, a list of requested participants, an indication of audiovisual needs, and an agenda.

*Description of Respondents:* The likely respondents for this collection of information are sponsors who will be conducting clinical investigations under 21 CFR 511.1(b). In the **Federal Register** of June 29, 2000 (65 FR 40108), the FDA announced the availability of this guidance as a draft document and requested public comment on the proposed collection of information. No comments were received on the estimated annual reporting burden. We therefore believe the annual reporting burden of 116 hours should remain unchanged.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

| Form FDA No. | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 3,489 | 190 | .88 | 168 | 0.69 | 116 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimates in table 1 of this document resulted from discussions with new animal drug sponsors. The estimated burden includes requests for meetings or teleconferences submitted by e-mail and on paper.

Dated: September 14, 2000.

**William K. Hubbard,**

*Senior Associate Commissioner for Policy, Planning, and Legislation.*

[FR Doc. 00–24267 Filed 9–20–00; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

**[Document Identifier: HCFA–R–246]**

### 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:* Revision of a currently approved collection;

*Title of Information Collection:* The Medicare Managed Care CAHPS Survey and Supporting Regulations in 42 CFR 417.126 and 417.470;

*Form No.:* HCFA–R–246 (OMB# 0938–0732);

*Use:* The CAHPS data is necessary to hold the Medicare managed care industry accountable for the quality of care they are delivering. It is critical to HCFA's mission that we collect and disseminate information that will help beneficiaries choose among plans, contribute to improved quality of care through identification of quality improvement opportunities, and assist HCFA in carrying out its responsibilities.

*Frequency:* On occasion;

*Affected Public:* Individuals or Households, Business or other for-profit, and Not-for-profit institutions;

*Number of Respondents:* 168,000;

*Total Annual Responses:* 168,000;

*Total Annual Hours:* 55,450.

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 HCFA–R–246, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: September 11, 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. 00–24278 Filed 9–20–00; 8:45 am]

BILLING CODE 4120–03–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

*Proposed Project:* Scholarships for Disadvantaged Students Program—(OMB No. 0915–0149)—Reinstatement, with change.

The Scholarships for Disadvantaged Students (SDS) Program has as its purpose the provision of funds to eligible schools to provide scholarships to full-time, financially needy students from disadvantaged backgrounds enrolled in health professions and nursing programs.

To qualify for participation in the SDS program, a school must be carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including students who are members of racial and ethnic minority groups (section 737(d)(1)(B) of the PHS Act). A school must meet the eligibility criteria to demonstrate that the program has achieved success based on the number and/or percentage of disadvantaged students who graduate from the school. In awarding SDS funds to eligible schools, funding priorities must be given to schools based on the proportion of graduating students going into primary care, the proportion of underrepresented minority students, and the proportion of graduates working in medically underserved communities (section 737(c) of the PHS Act).

The estimated response burden is as follows:

| Form | Number of respondents | Responses per respondent | Hours per response | Total your burden |
|---|---|---|---|---|
| SDS | 450 | 1 | 28 | 12,600 |

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: September 15, 2000.

**Jane Harrison,**

*Director, Division of Policy Review and Coordination.*

[FR Doc. 00–24268 Filed 9–20–00; 8:45 am]

BILLING CODE 4160–15–U

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, Public Health Service, DHHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**ADDRESSES:** Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

**A Combined Growth Factor-Deleted and Thymidine Kinase-Deleted Vaccinia Virus Vector for Cancer Therapy**

J. Andrea McCart (NCI), David L. Bartlett (NCI), and Bernard Moss (NIAID)

DHHS Reference Nos. E–181–99/0 filed 28 May 1999 and E–181–99/1 filed 26 May 2000 (PCT/US00/14679)

*Licensing Contact:* Elaine White; 301/496–7056 ext. 282; e-mail: gesee@od.nih.gov.

Tumor-selective, replicating viruses may infect and kill cancer cells and efficiently express therapeutic genes in cancer cells. The current invention embodies mutant vaccinia virus expression vectors. These vectors, which are vaccinia virus growth factor-deleted and thymidine-kinase deleted, are substantially incapable of replicating in non-dividing cells, and as such have specificity for cancer cells. It is therefore believed that the vectors will be of value for cancer therapy either by directly killing cancer cells or by expressing therapeutic agents in cancer cells while sparing normal, non-dividing cells.

**Retroviral Vectors**

MA Eglitis JA Thompson WF Anderson (NHLBI)

Serial No. 08/340,805 filed Nov 17, 1994, now US Patent 5,672,510 issued Sep 30, 1997, which is a continuation of 07/919,062 filed July 23, 1992, which is a CIP of 07/686,167 filed April 16, 1991, which is a CIP of 07/467,791 filed Jan 19, 1990.

*Licensing Contact:* Susan S. Rucker; 301/496–7056 ext. 245; e-mail: ruckers@od.nih.gov.

This patent relates to the field of gene therapy. More, particularly the patent claims two different retroviral vectors which may be used to deliver heterologous genes in gene therapy or other applications requiring the delivery of a heterologous gene to a host. The patent also claims a cloning system which utilizes the vectors to accomplish the transfer of genes from a shuttle vector to the retroviral vector.

The first retroviral vector utilizes a multiple cloning site (MCS) comprising at least four restriction enzyme sites and a length of about 70bp. The restriction enzyme sites are preferably rare restriction enzyme sites. The second vector, known as a SIN (self-inactivating) vector, contains mutations, rather than deletions, in the promoter or the promoter and enhancer regions of the 3′ LTR and may also contain a MCS such as that found in the first vector.

Dated: September 11, 2000.

**Jack Spiegel,**

*Director, Division of Technology, Development and Transfer, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 00–24243 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institute of Health

### Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Office of AIDS Research Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* Office of AIDS Research Advisory Council.

*Date:* October 5–6, 2000.

*Time:* October 5, 2000, 9 a.m. to 5 p.m.

*Agenda:* International research priorities to address the global AIDS pandemic and the role of the National Institutes of Health (NIH) in this critical research area.

*Place:* 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

*Time:* October 6, 2000 a.m. to 12 p.m.

*Agenda:* Vaccine Clinical Trials.

*Place:* 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

*Contact Person:* Linda Reck, Head, Program, Planning and Evaluation, Office of AIDS Research, NIH, Bethesda, MD 20892, (301) 402–8655.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 12, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24240 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Fogarty International Center; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice

is hereby given of a meeting of the Fogarty International Center Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Fogarty International Center Advisory Board.

*Date:* September 19, 2000.

*Open:* 8:30 am to 12:00 pm.

*Agenda:* Report of the Director, and presentations related to Intellectual Property Rights issues.

*Place:* Lawton Chiles International House, 16 Center Drive, (Building 16), Bethesda, MD 20892.

*Closed:* 1:00 pm to adjournment.

*Agenda:* To review and evaluate grant applications.

*Place:* Lawton Chiles International House, 16 Center Drive, (Building 16), Bethesda, MD 20892.

*Contact Person:* Irene W. Edwards, Information officer, Fogarty International Center, National Institutes of Health, Building 31, Room B2C08, 31 Center Drive MSC 2220, Bethesda, MD 20892, 301–496–2075.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health, HHS)

Dated: September 14, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24223 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Center for Complementary & Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council for Complementary and Alternative Medicine.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council for Complementary and Alternative Medicine.

*Date:* September 20, 2000.

*Time:* 1 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 9000 Rockville Pike, Bldg 31, Room 5B50, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Richard Nahin, PHD, Executive Secretary, National Center for Complementary and Alternative Medicine, National Institutes of Health, 9000 Rockville Pike, Room 5B36, Bethesda, MD 20892, 301–496–4792.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Dated: September 13, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24228 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6). Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Minority Programs Review Committee, MARC Review Subcommittee A.

*Date:* October 16–18, 2000.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Bethesda, Delaware Room, 8120 Wisconsin Avenue, Bethesda, MD 20814

*Contact Person:* Richard I. Martinez, PHD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 1AS–19G, Bethesda, MD 20892–6200, (301) 594–2849.

(Catalogue of federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: September 13, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24229 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel.
*Date:* October 13, 2000.
*Time:* 8:30 am to 5:00 pm.
*Agenda:* To review and evaluate grant applications.
*Place:* 8120 Wisconsin Avenue, Vesailles IV Room, Bethesda, MD 20814.
*Contact Person:* Mary Ann Guadagno, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Review on the Aminergic Function in Aging and Alzheimer's Disease.
*Date:* October 17, 2000.
*Time:* 8:00 am to 4:00 pm.
*Agenda:* To review and evaluate grant applications.
*Place:* Sheraton Four Points Barcelo, Denver Southeast 1475 South Colorado Boulevard, Denver, CO 80222.
*Contact Person:* Arthur D. Schaerdel, DVM, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

*Name of Committee:* National Institute on Aging Special Emphasis Panel.
*Date:* October 17, 2000.
*Time:* 10:30 am to 1:00 pm.
*Agenda:* To review and evaluate grant applications.
*Place:* 7201 Wisconsin Avenue, Bethesda, MD 20892.
*Contact Person:* William A. Kachadorian, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

*Name of Committee:* National Institute on Aging Special Emphasis Panel.
*Date:* October 25–26, 2000.
*Time:* 3:00 pm to 5:00 pm.
*Agenda:* To review and evaluate grant applications.
*Place:* Ramada Hotel Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.
*Contact Person:* Jeffrey M. Chernak, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

*Name of Committee:* National Institute on Aging Special Emphasis Panel.
*Date:* November 14, 2000.
*Time:* 1:00 pm to 3:00 pm.
*Agenda:* To review and evaluate grant applications.
*Place:* 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).
*Contact Person:* Ramesh Vemuri, Office of Scientific Review, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Anatomic Physiologic, and Cognitive Pathology of AD.
*Date:* November 20–21, 2000.
*Time:* 6:00 pm to 6:00 pm.
*Agenda:* To review and evaluate grant applications.
*Place:* Hyatt at University Village, 625 South Ashland Avenue, Chicago, IL 60607.
*Contact Person:* Louise L. Hsu, PhD, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 14, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24224 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Environmental Health Sciences Review Committee.
*Date:* November 2–3, 2000.
*Time:* 8:30 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* NIEHS, Building 101 Conference Room, South Campus, Research Triangle Park, NC 27709.
*Contact Person:* Linda K. Bass, PHD, Scientific Review Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–24, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: September 14, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24225 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel.
*Date:* October 18–19, 2000.
*Time:* 8:30 a.m. to 5:30 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Embassy Square, 2000 N Street, NW., Washington, DC 20036.
*Contact Person:* David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel.
*Date:* November 20–21, 2000.
*Time:* 8:30 a.m. to 5:30 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Governor's House Hotel, 17th & Rhode Island Avenue, NW., Washington, DC 20036.
*Contact Person:* Gayathri Jeyarasasingam, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6150, MSC 9608, Bethesda, MD 20892–9608, 301–443–1340.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: September 13, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24227 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of General Medical Sciences Initial Review Group, Biomedical Research and Research Training Review Subcommittee A.

*Date:* November 14–15, 2000.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

*Contact Person:* Carole H. Latker, PHD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 1AS–13, Bethesda, MD 20892, (301) 594–3663.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: September 13, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24230 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences, Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of General Medical Sciences Initial Review Group, Biomedical Research and Research Training Review Subcommittee B.

*Date:* November 14–15, 2000.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

*Contact Person:* Arthur L. Zachary, PHD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 1AS–13H, Bethesda, MD 20892, (301) 594–2886.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: September 13, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24231 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

*Date:* October 17, 2000.

*Date:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Gaithersburg, Washingtonian Room, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.

*Contact Person:* Nancy B. Saunders, Phd, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, ns120v@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 12, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24233 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

*Date:* October 13, 2000.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Chevy Chase, Palladian East Room, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

*Contact Person:* Yen Li, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, yli@niaid.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 12, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24234 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

*Date:* November 10, 2000.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* The Governor's House Hotel, 1615 Rhode Island Ave., NW., Washington, DC 20036.

*Contact Person:* Melissa Stick, PHD, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 12, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24235 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

*Date:* October 5, 2000.

*Time:* 1 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 6700–B Rockledge Drive, SRP, NIAID, NIH, Room 2208, Bethesda, MD 20892–7616 (Telephone Conference Call).

*Contact Person:* Priti Mehrotra, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC, 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 12, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24236 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel, Comparative Mouse Genomics Centers Consortium (U01) RFA.

*Date:* October 10–11, 2000.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hawthorne Suites, 300 Meredith Drive, Durham, NC 27713.

*Contact Person:* J. Patrick Mastin, PHD, Scientific Review Administrator, Scientific Review Branch/DERT, NIEHS, P.O. Box 12233 MD EC–30, Research Triangle Park, NC 27709, (919) 541–1446.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel Environmental Justice: Partnerships for Communication (R25) RFA.

*Date:* October 18–201, 2000.

*Time:* 7 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hawthorne Suites, 300 Meredith Drive, Durham, NC 27713.

*Contact Person:* J. Patrick Mastin, PHD, Scientific Review Administrator, Scientific Review Branch/DERT, NIEHS, P.O. Box 12233 MD EC–30, Research Triangle Park, NC 27709, (919) 541–1446.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: September 12, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24237 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel

*Date:* September 22, 2000.

*Time:* 2:30 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* 45 Natcher Bldg, Rm 5As.25u, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Tommy L. Broadwater, PHD, Chief, Grants Review Branch, National Institutes of Health, NIAMS, Natcher Bldg., Room 5As25U, Bethesda, MD 20892, 301–594–4952.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: September 12, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24238 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

*Date:* September 21, 2000.

*Time:* 12 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Alan L. Willard, PHD, Scientific Review Administrator, Scientific Review Branch. NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–0223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: September 12, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24239 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* September 26, 2000.

*Time:* 12:30 p.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Nancy Hicks, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3158, MSC 7770, Bethesda, MD 20892, (301) 435–0695.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Endocrinology and Reproductive Sciences Integrated Review Group, Reproductive Endocrinology Study Section.

*Date:* September 28–29, 2000.

*Time:* 8 a.m. to 3 p.m.

*Place:* Holiday Inn, Bethesda, MD 20814.

*Contact Person:* Abubakar A. Shaikh, DVM, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 435–1042.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* September 28, 2000.

*Time:* 3 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Paul K. Strudler, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* September 29–30, 2000.

*Time:* 8 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Monarch Hotel, 2400 M Street, NW, Washington, DC 20037.

*Contact Person:* Eugene Vigil, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, (301) 435–1025.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Surgery, Radiology and Bioengineering Integrated Review Group, Surgery and Bioengineering Study Section.

*Date:* October 2–3, 2000.

*Time:* 8 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Teresa Nesbitt, DVM, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, (301) 435–1172, nesbitt@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Musculoskeletal and Dental Sciences Integrated Review Group, Oral Biology and Medicine Subcommittee 1.

*Date:* October 3–4, 2000.

*Time:* 8 a.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Old Town Alexandria, 480 King Street, Alexandria, VA 22314.

*Contact Person:* Priscilla B. Chen, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* October 3, 2000.

*Time:* 1 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Eugene M. Zimmerman, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–435–1220, zimmerng@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Oncological Sciences Integrated Review Group, Pathology B Study Section.

*Date:* October 4–6, 2000.

*Time:* 8 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Georgetown Holiday Inn, Kaleidoscope Room, 2101 Wisconsin Ave. NW., Washington, DC 20007.

*Contact Person:* Martin L. Padarathsingh, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

*Name of Committee:* Infectious Diseases and Microbiology Integrated Review Group, Bacteriology and Mycology Subcommittee 2.

*Date:* October 5–6, 2000.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Chevy Chase, 5520 Wisconsin Avenue NW., Chevy Chase, MD 20815.

*Contact Person:* Lawrence N. Yager, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7808, Bethesda, MD 20892, 301–435–0903, yagerl@csr.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* October 5, 2000.

*Time:* 3 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Paul K. Strudler, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* October 6, 2000.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Bill Bunnag, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, bunnagb@csr.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* October 6, 2000.

*Time:* 10 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Michael Knecht, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 14, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24226 Filed 9–20–00; 8:45 am]

**BILLING CODE 4140–01–M**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Prospective Grant of an Exclusive License: Treatment of Gaucher Disease

**AGENCY:** National Institutes of Health, Public Health Service, DHHS.

**ACTION:** Notice.

**SUMMARY:** This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of a worldwide exclusive license to practice the inventions embodied in the patents and patent applications referred to below to BioPrime, Inc. of New York, New York. The patents and patent applications to be licensed are: U.S. Patent 5,705,153 issued January 6, 1998, ''Glycolipid enzyme-polymer conjugates''; U.S. Patent 5,620,884 issued April 17, 1997, ''Glycolipid enzyme-polymer conjugates''; U.S. Patent 5,879,680 issued March 9, 1999, ''Cloned DNA for Synthesizing Unique Glucocerebrosidase''; U.S. Patent 6,074,864 issued June 13, 2000, ''Cloned DNA for Synthesizing Unique Glucocerebrosidase''; and U.S. Patent Application 09/173,207 filed October 15, 1998, ''DNA Sequencing Surrounding the Glucocerebrosidase Gene''. Related cases include all continuation applications, divisional applications, continuation-in-part applications, and foreign counterpart applications related to the above.

**DATES:** Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before December 20, 2000 will be considered.

**ADDRESSES:** Requests for a copy of these patents or patent applications, inquiries, comments, and other materials relating to the contemplated license should be directed to: Stephen L. Finley, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852; Telephone: (301) 496–7056, ext. 215; Facsimile: (301) 402–0220; E-mail: finleys@od.nih.gov. A

signed Confidential Disclosure Agreement will be required to receive a copy of any pending patent applications.

**SUPPLEMENTARY INFORMATION:** Gaucher Disease is a rare inborn error of metabolism which affects between 10,000 and 20,000 people worldwide, 40% in the United States. Gaucher Disease is the most common lipid storage disease. The symptoms associated with Gaucher Disease result from the accumulation of a lipid called glucocerebroside. This lipid is a byproduct of the normal recycling of red blood cells. When the gene with the instructions for producing an enzyme to break down this byproduct is defective, the lipid accumulates. The lipid is found in many places in the body, but most commonly in the macrophages in the bone marrow. There it interferes with normal bone marrow functions, such as production of platelets (leading to bleeding and bruising) and red blood cells (leading to anemia) and potentially death. The presence of glucocerebroside seems to also trigger the loss of minerals in the bones, causing the bones to weaken, and can interfere with the bone's blood supply.

The field of use is directed to the development of therapies for remedying enzyme deficiencies in the treatment of Gaucher Disease.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: September 11, 2000.

**Jack Spiegel,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer.*

[FR Doc. 00–24241 Filed 9–20–00; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

### National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), National Toxicology Program (NTP); Notice of an International Workshop on *In Vitro* Methods for Assessing Acute Systemic Toxicity, co-sponsored by NIEHS, NTP and the U.S. Environmental Protection Agency (EPA): Workshop Agenda and Registration Information

**SUMMARY:** Pursuant to Public Law 103–43, notice is hereby given of a public meeting sponsored by NIEHS, the NTP, and the EPA, and coordinated by the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) and the NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM). The agenda topic is a scientific workshop to assess the current status of *in vitro* test methods for evaluating the acute systemic toxicity potential of chemicals and to develop recommendations for future research, development, and validation studies. The workshop will take place on October 17–20, 2000, at the Hyatt Regency Crystal City Hotel, 2799 Jefferson Davis Highway, Arlington, VA, 22202. The meeting will be open to the public.

In a previous **Federal Register** notice (Vol. 65, No. 115, pp. 37400–37403), ICCVAM requested information and data that should be considered at the Workshop and nominations of expert scientists to participate in the Workshop. A preliminary list of relevant studies to be considered for the Workshop was also provided. As a result of this request, an ICCVAM interagency Workshop Organizing Committee has selected an international group of scientific experts to participate in this Workshop. NICEATM, in collaboration with ICCVAM, has developed a background summary of data and performance characteristics for available *in vitro* methods. This summary will be made available to invited expert scientists and the public before the Workshop. Requests for the summary can be made to the address given below. This notice provides an agenda, registration information, and updated details about the Workshop.

### Workshop Background and Scope

*A. Background*

Acute toxicity testing is conducted to determine the hazards of various chemicals and products. This information is used to properly classify and label materials as to their lethality in accordance with an internationally harmonized system (OECD, 1998). Non-lethal endpoints may also be evaluated to identify potential target organ toxicity, toxicokinetic parameters, and dose-response relationships. While animals are currently used to evaluate acute toxicity, recent studies suggest that *in vitro* methods may also be helpful in predicting acute toxicity.

Studies by Spielmann *et al.* (1999) suggest that *in vitro* cytotoxicity methods may be useful in predicting a starting dose for *in vivo* studies, and thus may potentially reduce the number of animals necessary for such determinations. Other studies (*e.g.,* Ekwall *et al.,* 2000) have indicated an association between chemical concentrations leading to *in vitro* cytotoxicity and human lethal blood concentrations. A program to assess toxicokinetics and target organ toxicity utilizing *in vitro* methods has been proposed that may provide enhanced predictions of toxicity and potentially reduce or replace animal use for some tests (Ekwall *et al.,* 1999). However, many of the necessary *in vitro* methods for this program have not yet been developed. Other methods have not been evaluated in validation studies to determine their usefulness and limitations for generating information to meet regulatory requirements for acute toxicity testing. Development and validation of *in vitro* methods which can establish accurate dose-response relationships will be necessary before such methods can be considered for the reduction or replacement of animal use for acute toxicity determinations.

This workshop will examine the status of available *in vitro* methods for assessing acute toxicity. This includes screening methods for acute toxicity, such as methods that may be used to predict the starting dose for *in vivo* animal studies, and methods for generating information on toxicokinetics, target organ toxicity, and mechanisms of toxicity. The workshop will develop recommendations for validation efforts necessary to characterize the usefulness and limitations of these methods. Recommendations will also be developed for future mechanism-based research and development efforts that might further improve *in vitro* assessments of acute systemic lethal and non-lethal toxicity.

*B. Objectives of the Workshop*

Four major topics will be addressed:

- *In Vitro* Screening Methods for Assessing Acute Toxicity;

• *In Vitro* Methods for Toxicokinetic Determinations;
• *In Vitro* Methods for Predicting Organ Specific Toxicity; and
• Chemical Data Sets for Validation of *In Vitro* Acute Toxicity Test Methods.

The objectives of the meeting are to:

1. Review the status of *in vitro* methods for assessing acute systemic toxicity:

a. Review the validation status of available *in vitro* screening methods for their usefulness in estimating *in vivo* acute toxicity,

b. Review *in vitro* methods for predicting toxicokinetic parameters important to acute toxicity (*i.e.,* absorption, distribution, metabolism, elimination), and

c. Review *in vitro* methods for predicting specific target organ toxicity;

2. Recommend candidate methods for further evaluation in prevalidation and validation studies;

3. Recommend validation study designs that can be used to characterize adequately the usefulness and limitations of proposed *in vitro* methods;

4. Identify reference chemicals that can be used for development and validation of *in vitro* methods for assessing *in vivo* acute toxicity; and

5. Identify priority research efforts necessary to support the development of mechanism-based *in vitro* methods to assess acute systemic toxicity. Such efforts might include incorporation and evaluation of new technologies, such as gene microarrays, and development of methods necessary to generate dose response information.

**Workshop Information**

*A. Workshop Agenda*

Tuesday, October 17, 2000

8:30 a.m.—Opening Plenary Session
• Workshop Introduction
• Welcome from the National Toxicology Program (NTP)
• Overview of ICCVAM and NICEATM
• Acute Toxicity: Historical and Current Regulatory Perspectives
• Acute Toxicity Data: A Clinical Perspective
10:30 a.m.—*In Vitro* Approaches to Estimate the Acute Toxicity Potential of Chemicals
• Estimating Starting Doses for *In Vivo* Studies using *In Vitro* Data
• An Integrated Approach for Predicting Systemic Toxicity
• Opportunities for Future Progress
Public Comment
Breakout Groups' Charges
12:30 p.m.—Lunch Break
1:45 p.m.—Breakout Groups: Identifying What Is Needed from *In Vitro* Methods
• Screening Methods;
• Toxicokinetic Determinations;
• Predicting Organ Specific Toxicity and Mechanisms; and
• Chemical Data Sets for Validation
5:30 p.m.—Adjourn for the Day

Wednesday, October 18, 2000

8:00 a.m.—Plenary Session—Status Reports by Breakout Group Co-Chairs
9:00 a.m.—Breakout Groups: Current Status of *In Vitro* Methods for Acute Toxicity
• Screening Methods;
• Toxicokinetic Determinations;
• Predicting Organ Specific Toxicity and Mechanisms; and
• Chemical Data Sets for Validation
12:00 p.m.—Lunch Break
1:30 p.m.—Breakout Groups: Current Status of *In Vitro* Methods for Acute Toxicity (Cont'd)
5:30 p.m.—Adjourn for the Day

Thursday, October 19, 2000

8:00 a.m.—Plenary Session—Status Reports by Breakout Group Co-Chairs
9:00 a.m.—Breakout Groups: Future Directions for *In Vitro* Methods for Acute Toxicity
• Screening Methods;
• Toxicokinetic Determinations;
• Predicting Organ Specific Toxicity and Mechanisms; and
• Chemical Data Sets for Validation
12:00 p.m.—Lunch Break
1:30 p.m.—Breakout Groups: Future Directions for *In Vitro* Methods for Acute Toxicity (Cont'd)
5:30 p.m.—Adjourn for the Day

Friday, October 20, 2000

8:00 a.m.—Closing Plenary Session—Reports by Breakout Group Co-Chairs
• Screening Methods;
• Toxicokinetic Determinations;
• Predicting Organ Specific Toxicity and Mechanisms; and
• Chemical Data Sets for Validation
Public Comment
Closing Comments
12:15 p.m.—Adjourn

*B. Workshop Registration*

The Workshop meeting will be open to the public, limited only by the space available. Due to space limitations, advance registration is requested by October 13, 2000. Registration forms can be obtained by contacting NICEATM at the address given below or by accessing the on-line registration form at: *http://iccvam.niehs.nih.gov/invi_reg.htm.* Other relevant Workshop information (*i.e.,* accommodations, transportation, etc.) is also provided at this website.

*C. Public Comment*

The Public is invited to attend the Workshop and the number of observers will be limited only by the space available. Two formal public comment sessions on Tuesday, October 17th and Friday, October 20th will provide an opportunity for interested persons or groups to present their views and comments to the Workshop participants (please limit to one speaker per group). Additionally, time will be allotted during each of the Breakout Group sessions for general discussion and comments from observers and other participants. The Public is invited to present oral comments or to submit comments in writing for distribution to the Breakout Groups to NICEATM at the address given below by October 13, 2000. Oral presentations will be limited to seven minutes per speaker to allow for a maximum number of presentations. Individuals presenting oral comments are asked to provide a hard copy of their statement at registration. For planning purposes, persons wishing to give oral comments are asked to check the box provided on the Registration Form, although requests for oral presentations will also be accepted on-site (subject to availability of time). Persons registering for oral comments or submitting written remarks are asked to include their contact information (name, address, affiliation, telephone, fax, and e-mail).

**Guidelines for Requesting Registration Form and Submission of Public Comment**

Requests for registration information and submission of public comments should be directed to the NTP Interagency Center for the Evaluation of Alternative Toxicological Methods, Environmental Toxicology Program, NIEHS/NTP, MD EC–17, PO Box 12233, Research Triangle Park, NC 27709; 919–541–3398 (phone); 919–541–0947 (fax); *iccvam@niehs.nih.gov* (e-mail). Public comments should be accompanied by complete contact information including name, (affiliation, if applicable), address, telephone number, and e-mail address.

**References**

• OECD (Organisation for Economic Cooperation and Development). (1998). Harmonized integrated hazard classification system for human health and environmental effects of chemical substances. OECD, Paris. (website: *http://www.oecd.org//ehs/Class/HCL6.HTM*)
• Spielmann, H., Genschow, E., Leibsch, M., and Halle, W. (1999) Determination of the starting dose for

acute oral toxicity (LD50) testing in the up and down procedure (UDP) from cytotoxicity data. ATLA, 27(6), 957–966.

• Ekwall, B., Ekwall, B., and Sjorstrom, M. (2000) MEIC evaluation of acute systemic toxicity: Part VIII. Multivariate partial least squares evaluation, including the selection of a battery of cell line tests with a good prediction of human acute lethal peak blood concentrations for 50 chemicals. ATLA, 28, Suppl. 1, 201–234.

• Ekwall, B., Clemedson, C., Ekwall, B., Ring, P., and Romert, L. (1999) EDIT: A new international multicentre programme to develop and evaluate batteries of *in vitro* tests for acute and chronic systemic toxicity. ATLA 27, 339–349.

Dated: September 12, 2000.

**Samuel H. Wilson,**

*Deputy Director, National Institute of Environmental Health Sciences.*

[FR Doc. 00–24244 Filed 9–20–00; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4463–N–04]**

### Notice of FHA Debenture Call

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice announces a debenture recall of certain Federal Housing Administration debentures, in accordance with authority provided in the National Housing Act.

**FOR FURTHER INFORMATION CONTACT:** Richard Keyser, Room 3119P, L'Enfant Plaza, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–7510 x137. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Pursuant to Sections 204(c) and 207(j) of the National Housing Act, 12 U.S.C. 1710(c), 1713(j), and in accordance with HUD's regulation at 24 CFR 203.409 and § 207.259(e)(3), the Federal Housing Commissioner, with approval of the Secretary of the Treasury, announces the call of all Federal Housing Administration debentures, with a coupon rate of 6.625 percent or above, except for those debentures subject to ''debenture lock agreements'', that have been registered on the books of the Federal Reserve Bank of Philadelphia, and are, therefore, ''outstanding'' as of September 30, 2000. The date of the call is January 1, 2001.

The debentures will be redeemed at par plus accrued interest. Interest will cease to accrue on the debentures as of the call date. Final interest on any called debentures will be paid with the principal at redemption.

During the period from the date of this notice to the call date, debentures that are subject to the call may not be used by the mortgagee for a special redemption purchase in payment of a mortgage insurance premium.

No transfer of debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after October 1, 2000. This does not affect the right of the holder of a debenture to sell or assign the debenture on or after this date. Payment of final principal and interest due on January 1, 2001, will be made automatically to the registered holder.

Dated: September 15, 2000.

**William C. Apgar,**

*Assistant Secretary for Housing-Federal Housing Commissioner.*

[FR Doc. 00–24288 Filed 9–20–00; 8:45 am]

BILLING CODE 4210–27–M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Notice of Receipt of Applications for Permit

**Endangered Species**

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–841026

*Applicant:* Thane Wibbels, University of Alabama at Birmingham, Birmingham, AL

The applicant requests a permit to import up to 1000 blood samples and up to 500 tissue samples taken from Kemp's Ridley sea turtles (*Lepidochelys kempii*) in Mexico for enhancement of the species through scientific research. This notification covers activities conducted by the applicant over a five year period.

PRT–032758

*Applicant:* Exotic Feline Breeding Compound, Inc., Rosamond, CA

The applicant requests a permit to import 1 captive-born male Amur leopard (*Panthera pardus orientalis*) from the Novosibirsk Zoo, Russia for the purpose of propagation for the enhancement of the survival of the species.

PRT–032757

*Applicant:* Omaha's Henry Doorly Zoo, Omaha, NE

The applicant requests a permit to import 1 captive-born female Sumatran tiger (*Panthera tigris sumatrae*) from the Surabaya Zoo, Indonesia for the purpose of propagation for the enhancement of the survival of the species.

PRT–031061

*Applicant:* Susan E. Aronoff, Tampa, FL, 33624

The applicant requests a permit to import 1 captive-born male cheetah (*Acinonyx jubatus*) from the Endangered Animal Foundation, Driftweg, the Netherlands to enhance the survival of the species through conservation education.

PRT–830414

*Applicant:* Duke University Primate Center, Durham, NC

The applicant requests re-issuance of a permit to import two male and three female wild-caught golden-crowned sifakas (*Propithecus tattersalli*) from Dariana, Madagascar for the purpose of propagation for the enhancement of the survival of the species. This notification covers requests for re-issuances of the permit by the applicant over a five year period.

PRT–808256

*Applicant:* Duke University Primate Center, Durham, NC

The applicant requests re-issuance of a permit to import one male and two female wild-caught diademed sifakas (*Propithecus diadema*) from the Department of Water and Forest, Maramize, Madagascar for the purpose of propagation for the enhancement of the survival of the species. This notification covers requests for re-issuances of the permit by the applicant over a five year period.

PRT–031796

*Applicant:* Larry Edward Johnson, Boerne, TX

The applicant requests a permit to export two male and two female captive-born ring-tailed lemurs (*Catta lemur*) to Munchi's Zoo, Buenos Aires, Argentina to enhance the survival of the species through conservation education and captive propagation.

PRT–026102

*Applicant:* Elizabeth G. Stone/University of Georgia, Athens, GA

The applicant requests a permit to import salvaged specimens, non-viable eggs, and biological samples from Thick-billed parrots (*Rhynchopsitta pachyrhyncha*) collected in the wild in Mexico, for scientific research. This

notification covers activities conducted by the applicant over the next 5 years.

PRT—033396

*Applicant:* Wonderland of Grandpa Durova, c/o Estate Agency, Inc, Newark, NJ

The applicant requests a permit to import and re-export two captive born chimpanzees (*Pan troglodytes*) to/from the United States to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–033421

*Applicant:* Donald G. Busson, Poway, CA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

**Marine Mammals**

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–032405

*Applicant:* Larry Martin, New Holland, PA

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the M'Clintock Channel polar bear population, Nunavut Territories, Canada for personal use.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: September 18, 2000.

**Charlie Chandler,**

*Chief, Branch of Permits, Division of Management Authority.*

[FR Doc. 00–24324 Filed 9–20–00; 8:45 am]

BILLING CODE 4310–55–U

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Availability of a Draft Environmental Assessment for Federal Agency Participation in the Virgin River Resource Management and Recovery Program

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** This notice advises the public that the Draft Environmental Assessment (DEA) for Federal agency participation in the Virgin River Resource Management and Recovery Program (Program) is available for public review and comment. The purpose of the proposed Federal action described in the DEA is to formally declare the intent of the Fish and Wildlife Service, Bureau of Land Management, and National Park Service to participate in the multi-agency program designed to implement recovery actions for two endangered fish species, the woundfin and the Virgin River chub, as well as conservation actions for the Virgin spinedace, as species being managed as sensitive by the State of Utah and subject of a Conservation Agreement. In addition to implementing recovery actions, the Program facilitates resolution of conflicts between endangered species protection and water development in the Virgin River Basin in Utah. Other participants include the State of Utah Department of Natural Resources, Washington County Water Conservancy District, and Grand Canyon Trust, a local non-profit, environmental conservation group.

**DATES:** Written comments should be received on or before October 30, 2000, to be considered. In addition, an open house will be held on Thursday, September 21, 2000, beginning at 7 p.m. MST, at the Bureau of Land Management Office, 345 East Riverside Drive, St. George, Utah. Program participants will be available to provide information on the Program and answer questions from the public. Copies of the DEA will be mailed to affected government offices and interested parties who specifically requested it. The DEA also is available for viewing or downloading at http://mountain-prairie.fws.gov/nepa/VirginRiver. Those interested persons not on the DEA mailing list may view or download from the internet or may request a copy from the Project Leader at the address below. All interested agencies and individuals are urged to provide comments and suggestions regarding the DEA for our review prior to completion of a final finding. All comments received by October 30 will be considered in our final determination whether to prepare an Environmental Impact Statement or a Finding of No Significant Impact on Federal agency participation in the Virgin River Resource Management and Recovery Program.

All comments received will become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's National Environmental Policy Act Regulations (40 CFR 1506.6). When requested, comment letters with the names and addresses of the individuals who wrote the comments will generally be provided in response to such requests to the extent permissible by law. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If you wish to withhold your name and/or address, you must state this prominently at the beginning of your comments.

**ADDRESSES:** Written comments should be addressed to the Field Supervisor, Utah Ecological Services Field Office, Lincoln Plaza, 145 East 1300 South State Street, Suite 404, Salt Lake City, Utah 84115. Electronic (e-mail) comments also may be submitted to: FW6_VirginRiver@fws.gov. All comments and materials received will be available upon request for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Reed E. Harris, Utah Field Supervisor (see **ADDRESSES** above), at 801–524–5001, extension 126.

**SUPPLEMENTARY INFORMATION:**

### Background

The woundfin was listed as endangered on October 13, 1970 (35 FR 16047). The Virgin River chub was listed as endangered on August 24, 1989 (54 FR 35305). The Virgin River Fishes Recovery Plan (VRFRP), which included recovery of both woundfin and Virgin River chub, was finalized in 1995. Critical Habitat was designated for these

two species on January 26, 2000 (65 FR 4140). The Virgin spinedace was proposed for listing as endangered on May 18, 1994 (59 FR 25875). The Virgin Spinedace Conservation Agreement and Strategy (VSCA) to eliminate or reduce impacts threatening the continued existence of Virgin spinedace was finalized on April 11, 1995, and, subsequently, the proposal to list was withdrawn on February 6, 1996 (61 FR 44010). All three of these fish species are endemic to the Virgin River Basin through Utah, Arizona, and Nevada. The southwestern willow flycatcher is a neo-tropical migratory bird listed as endangered on February 27, 1995 (60 FR 10693) that seasonally occupies sites along the Virgin River and throughout the Desert Southwest. In addition, the Virgin River Basin retains a diversity of native desert animal and plant species, many of which are declining due to impacts from human development in the area.

Despite Federal listing of the two fish species, implementation of recovery actions in the Virgin River to benefit endangered fish have been minimal due to limited funding for recovery over the past 25 years. Furthermore, conflicts have arisen between water development interests and those managing for protection of native species that rely on the river environment. Specifically, contention between the local environmental community and local water developers over operations of the Quail Creek Diversion in the Virgin River near Hurricane, Utah, led to discordant relations and threats of litigation among the agencies and organizations interested in water use.

To resolve this situation, the interested entities agreed to develop the Virgin River Resource Management and Recovery Program that would provide a mechanism to prioritize, fund, and implement recovery actions while allowing water development necessary to meet human needs in the Utah portion of the Virgin River Basin. It is anticipated that the Program will not only provide recovery actions that are necessary to offset impacts from proposed development actions to the native protected species, but further lead to full recovery of the endangered fish species, conservation of the Virgin spinedace, as well as provide benefits to the endangered southwestern willow flycatcher.

The Program will encompass the VRFRP and the VSCA so that actions identified in these documents can be funded, implemented, and evaluated for effectiveness. In addition, the Program will provide measures to offset proposed Federal project impacts during Section 7 consultations in order to prevent future conflict over water development and minimize impacts of Federal projects on protected aquatic species. Goals and objectives of the Program are based on recovery of the endangered fish and conservation of Virgin spinedace in an environment of continuing water development. Although some impacts to native species are expected through future water development projects, recovery actions have been and will continue to be implemented in advance of project impacts such that the status of species and/or its habitat is expected to improve and remain greater than that necessary to offset anticipated impacts. A crediting system has been developed to assess, measure, and track benefits and impacts of projects, and is designed to maintain measured benefits at a higher level than impacts so that the Program is always moving towards recovery and conservation of protected species.

Although participation is limited to Utah portions of the Virgin River Basin at this time, it is expected that the remaining portions of the Virgin River Basin in Arizona and Nevada will be invited to participate in the Program in future years as it becomes better established and demonstrates effectiveness.

It is important to note that participation in this Program does not represent or guarantee legal authority for any water development project. Such projects must be evaluated individually as they are proposed and continue to be subject to all applicable Federal and State laws including NEPA and ESA. This DEA is not intended to provide analysis for specific project impacts, but rather analyzes only effects of Federal participation in the Program.

*Author:* The primary author of this notice is Yvette K. Converse, U.S. Fish and Wildlife Service, 145 East 1300 South State Street, Suite 404, Salt Lake City, Utah 84115 (801–524-5001, extension 135).

## Authority

The authorities for this action are the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and the Endangered Species Act of 1973 (16 U.S.C. 1532 *et seq.*)

Dated: September 15, 2000.

**Spencer F. Conley,**

*Regional Director, Denver, Colorado.*

[FR Doc. 00–24250 Filed 9–20–00; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[OR–030–00–1220–PA: GPO–0374]**

### Notice of Meeting of the Oregon Trail Interpretive Center Advisory Board

**AGENCY:** National Historic Oregon Trail Interpretive Center, Vale District, Bureau of Land Management, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** Notice is given that a meeting of the Advisory Board for the National Historic Oregon Trail Interpretive Center will be held on Tuesday, October 3, 2000 from 8:30 a.m. to 4 p.m. in the Conference Room at the National Historic Oregon Trail Interpretive Center, Oregon Highway 86, Flagstaff Hill, Baker City, OR. At an appropriate time, the Board will recess for approximately one hour for lunch. Public comments will be received from 11 a.m. to 11:15 a.m., October 3, 2000. Topics to be discussed are the Strategic Plan Update and reports from Coordinators of Subcommittees.

**DATES:** The meeting will begin at 8 a.m. and run to 4 p.m. October 3, 2000.

**FOR FURTHER INFORMATION CONTACT:** David B. Hunsaker, Bureau of Land Management, National Historic Oregon Trail, Interpretive Center, P.O. Box 987, Baker City, OR 97814, (Telephone 541–523–1845).

**Juan Palma,**

*Vale District Manager.*

[FR Doc. 00–24279 Filed 9–20–00; 8:45 am]

BILLING CODE 4310–33–M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**(NV–930–1430–ET; NVN–50250)**

### Notice of Proposed Extension of Withdrawal and Opportunity for Public Meeting; Nevada

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of Energy (DOE) has filed an application to extend the withdrawal of 4,255.50 acres of public land in Nye County to maintain the physical integrity of the subsurface environment at Yucca Mountain. The withdrawal being extended is Public Land Order No. 6802. This withdrawal will expire on September 24, 2002, unless extended. The land is currently withdrawn from location under the United States mining laws and from

leasing under the mineral leasing laws by Public Land Order No. 6802.

**DATES:** Comments and requests for a meeting should be received on or before December 20, 2000.

**ADDRESSES:** Comments and meeting requests should be sent to the Nevada State Director, BLM, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520.

**FOR FURTHER INFORMATION CONTACT:** Dennis J. Samuelson, BLM Nevada State Office, 702–861–6532.

**SUPPLEMENTARY INFORMATION:** On September 1, 2000, the DOE filed an application to extend their withdrawal of public land at Yucca Mountain in Nye County (Public Land Order No. 6802, 55 FR 39152, FR Doc. 22615, September 25, 1990). An extension, if approved, would continue the withdrawal of public land from location under the United States mining laws and from leasing under the mineral leasing laws for the following described land:

**Mount Diablo Meridian**

T. 13 S., R. 49 E., (Protraction Diagram No. 44)
Secs. 7, 8, and 9;
Sec. 10, except that part withdrawn by Public Land Order No. 2568;
Sec. 15, except that part withdrawn by Public Land Order No. 2568;
Secs. 16 and 17;
Sec. 20, NE¼;
Sec. 21, N½ and N½S½;
Sec. 22, N½ and N½S½, except that part withdrawn by Public Land Order No. 2568.

The area described contains 4,255.50 acres in Nye County.

The DOE proposes to extend the withdrawal through January 31, 2010. The extension of the withdrawal would maintain the physical integrity of the subsurface environment to ensure that scientific studies for site characterization at Yucca Mountain are not invalidated or otherwise adversely impacted. Site characterization activities will be used to determine the suitability of Yucca Mountain for a permanent nuclear waste repository.

This withdrawal extension will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal extension may present their views in writing to the Nevada State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal extension. All interested persons who desire a public meeting for the purpose of being heard on the proposed extension must submit a written request to the Nevada State Director within 90 days from the date of publication of this notice. 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** and at least one local newspaper 30 days before the scheduled date of the meeting.

Dated: September 14, 2000.

**Jim Stobaugh,**

*Lands Team Lead.*

[FR Doc. 00–24108 Filed 9–20–00; 8:45 am]

BILLING CODE 4310–HC–P

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## DEPARTMENT OF THE INTERIOR

## National Park Service

## Notice of Intent to Repatriate Cultural Items from Grand Portage, MN in the Possession of the Minnesota Historical Society, St. Paul, MN

**AGENCY:** National Park Service, Interior.

**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 cultural items in the possession of the Minnesota Historical Society that meet the definition of ''sacred object'' and ''object of cultural patrimony'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The 11 cultural items consist of 1 woven yarn bag, 2 hand drums, 2 birchbark scrolls, 2 drumsticks, 2 peace medals, and 2 British flags.

In 1930, one hand drum and drumstick were collected by Frances Densmore at Grand Portage, MN, specifically for the Minnesota Historical Society. Accession records identify this hand drum and drumstick as a Grand Medicine man's drum and stick. This hand drum has been identified by representatives of the Grand Portage Band as having been used in ceremonies at Grand Portage, MN.

In 1931, a drumstick identified as a bent drumstick for use with Ojibwe water drums was collected by Frances Densmore at Grand Portage, MN, specifically for the Minnesota Historical Society.

In 1962, two birchbark scrolls were donated to the Minnesota Historical Society by William Bushman, then chairman of the Grand Portage Band of Chippewa Indians. At the time of their acquisition, it was noted that the scrolls were associated with ''Grand Medicine'' or ''Midewiwin'' and that they had been in the possession of the Bushman family for many years.

In 1984, a Midewiwin woven bag and hand drum were donated to the Minnesota Historical Society by Mrs. Evelyn Albinson of Chanhassen, MN. Mrs. Albinson's husband, Elmer Albinson, collected the items at Grand Portage sometime between 1936–1970. Information with the yarn bag indicates that it was used in Midewiwin ceremonies. The drum is described in museum records as belonging to Chief Alec (Alex, Alexis) Posey, a traditional religious leader of the Grand Portage Band of Chippewa Indians.

Extensive anthropological, ethnographic, oral history, and historical documents indicate that these seven cultural items associated with Midewiwin practices would be used only by traditional religious leaders. In Ojibwe culture, objects used by members of the Grand Medicine Society or in Midewiwin practices are part of the traditional activities that have religious significance in the continued observance of such ceremonies. These seven items have been identified by representatives and elders of the Grand Portage Band, Minnesota Chippewa Tribe, Minnesota as Midewiwin items necessary for the practice of traditional Native American religion by present-day adherents.

Based on the above-mentioned information, officials of the Minnesota Historical Society have determined that, pursuant to 43 CFR 10.2 (d)(3), these seven cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Minnesota Historical Society also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these seven items and the Grand Portage Band, Minnesota Chippewa Tribe, Minnesota.

In August, 1979, two British peace medals and two Union Jack flags were donated to the Minnesota Historical

Society by Mrs. John (Helen) Flatte and Mrs. Lucile Cook. Mrs. Flatte is the recognized donor of the British peace medals and Mrs. Cook is the recognized donor of the two Union Jack flags. Mrs. Flatte was married to the last ''hereditary chief,'' Mr. John Flatte.

Oral history presented by representatives of the Grand Portage Band, Minnesota Chippewa Tribe, Minnesota states that ''the medals have been passed on as a hereditary assignment, which provided for one individual of prominent status recognized as the 'first Chief' or 'Principal chief' of his own clan.'' The Ojibwe at Grand Portage initially were organized into biological families and clans who claimed descent from a common mythological ancestor such as the Pike, the Moose, the Marten, or the Caribou. Often these bodies functioned as bands and were under the acknowledged leadership of a clan chief or ''Headman.'' In the case of Mr. John Flatte as hereditary chief, this is recognized as an affinity or consanguinity relationship with the Maymaushkowaush (Crane Clan) family. These peace medals and flags are the Grand Portage Band's communal property, and no individual had the right to alienate or transfer these cultural items. In 1979, the people of the Grand Portage Band were unaware that these peace medals and flags had been presented to and received by the Minnesota Historical Society.

Based on the above-mentioned information, officials of the Minnesota Historical Society have determined that, pursuant to 43 CFR 10.2 (d)(4), these four cultural items have ongoing historical, traditional, and cultural importance central to the culture itself, and could not have been alienated, appropriated, or conveyed by any individual. Officials of the Minnesota Historical Society also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these four items and the Grand Portage Band, Minnesota Chippewa Tribe, Minnesota.

This notice has been sent to officials of the Grand Portage Band and the Minnesota Chippewa Tribe, Minnesota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Marcia G. Anderson, Head of Museum Collections/Chief Curator, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102–1906, telephone (651) 296–0150, before October 23, 2000. Repatriation of these objects to the Grand Portage Band, Minnesota Chippewa Tribe, Minnesota may begin after that date if no additional claimants come forward.

Dated: September 6, 2000.

**John Robbins,**

*Assistant Director, Cultural Resources Stewardship and Partnerships.*

[FR Doc. 00–24253 Filed 9–20–00; 8:45 am]

BILLING CODE 4310–70–F

## INTERNATIONAL TRADE COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** International Trade Commission.

**TIME AND DATE:** September 28, 2000, at 2 p.m.

**PLACE:** Room 101, 500 E Street SW., Washington, DC 20436, Telephone (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–888–890 (Preliminary) (Stainless Steel Angle from Japan, Korea, and Spain)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on October 2, 2000; (Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on October 10, 2000.
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: September 19, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–24417 Filed 9–19–00; 1:41 pm]

BILLING CODE 7020–02–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Proposed Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed collection of financial data for the Indian and Native American Programs Grantee Activities on a modified Standard Form 269 Financial Status Report (ETA 9080). A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressees section of this notice.

**DATES:** Written comments must be submitted to the office listed in the addressees section below on or before November 20, 2000.

**ADDRESSES:** Isabel Danley, Division of Financial Grants Management Policy and Review, Office of Grants and Contract Management, United States Department of Labor, Employment and Training Administration, 200 Constitution Ave. NW, Rm. N–4720, Washington, DC 20210, (202–219–5731 x115—not a foll free number) and, Internet address: IDanley@DOLETA.GOV and/or FAX: (202–208–1551).

**SUPPLEMENTARY INFORMATION:**

### I. Background

Pursuant to Public Law 105–220, dated August 7, 1998 and 20 CFR 652, *et al.,* Workforce Investment Act (WIA) Final Rules dated August 11, 2000, the Department of Labor's Employment and Training Administration has revised the financial reporting instruction for the Indian and Native American (INA) Programs Grantee Activities. The WIA regulations at part 668, subpart A, establish that the general administrative requirements found in 20 CFR part 667 apply to the INA program. The proposed reporting format and corresponding instructions have been developed in accordance with the Reporting Requirements contained in 20 CFR 667.300, including the provision for cumulative accrual reporting by fiscal year of appropriation. The data elements contained on the prototype format will be incorporated into software which will be provided electronically to the INA grantees to enable direct Internet reporting.

**II. Review Focus**

The Department of Labor is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

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

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

**III. Current Actions**

The proposed collection of information must be approved so that the Department can effectively manage and evaluate the WIA Indian and Native American Programs authorized under Title I of the Act in compliance with the requirements set forth in Public Law 105–220 and 20 CFR part 652 *et al.,* Workforce Investment Act; Final Rules, dates August 11, 2000.

*Type of Review:* New.

*Agency:* Employment and Training Administration.

*Title:* Workforce Investment Act (WIA), Employment and Training Administration, Financial Reporting Requirements for Indian and Native American Programs Grantee Activities.

*OMB Number:* 1205–0NEW.

*Agency Numbers:* ETA 9080.

*Frequency:* Quarterly.

*Affected Public:* Federally-recognized Indian tribes, bands, and groups; Alaska Native entities; Hawaiian Native entities; private non-profit Indian-controlled organizations; State Indian Commissions or Councils (Native American Controlled); consortia of any and/or all of the above.

*Reporting Burden:* See the following Reporting Burden Table for INA grantees to report requested WIA financial date electronically on format ETA 9080.

DOL—ETA REPORTING BURDEN FOR WIA TITLE I—INA GRANTEES

| Requirements | PY 1999 | PY 2000 | PY 2001 | PY 2002 |
|---|---|---|---|---|
| Number of Reports Per Entity Per Quarter | 3 | 3 | 3 | 3 |
| Total Number of Reports Per Entity Per Year | 12 | 12 | 12 | 12 |
| Number of Hours Required Per Report | 1 | 1 | 1 | 1 |
| Total Number of Hours Required for Reporting Per Entity Per Year | 12 | 12 | 12 | 12 |
| Number of Entities Reporting | 150 | 150 | 150 | 150 |
| Total Number of Hours Required for Reporting Burden Per Year | 1800 | 1800 | 1800 | 1800 |
| Total Burden Cost @ $25.00 per hour* | $45,000 | $45,000 | $45,000 | $45,000 |

*$25.00 per hour is based on a GS 12 Step 1 salary.

**Note:** Number of reports required per entity per quarter/per year is impacted by the 3 year life of each year of appropriated funds, *i.e.,* PY 1997 and 1998 funds are available for expenditure in PY 1999, thus 3 reports reflect 3 available funding years.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 14, 2000.

**Bryant T. Keilty,**

*Director, Office of Financial and Administrative Management.*

[FR Doc. 00–24258 Filed 9–20–00; 8:45 am]

BILLING CODE 4510–30–M

## NUCLEAR REGULATORY COMMISSION

### Sunshine Act Meeting

*Agency Holding the Meeting:* Nuclear Regulatory Commission.

*Date:* Weeks of September 18, 25, October 2, 9, 16, and 23, 2000.

*Place:* Commissioner's Conference Room, 11555 Rockville Pike, Rockville, Maryland.

*Status:* Public and Closed.

**Matters To Be Considered**

*Week of September 18*

There are no meetings scheduled for the Week of September 18.

*Week of September 25—Tentative*

Friday, September 29

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

9:30 a.m. Briefing on Risk-Informing Special Treatment Requirements (Public Meeting) (Contact: Tim Reed, 301–415–1462)

This meeting will be webcast live at the Web address—*www.nrc.gov/live.html.*

1:30 p.m. Briefing on Threat Environment Assessment (Closed-Ex. 1)

*Week of October 2—Tentative*

Friday, October 6

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

9:30 a.m. Meeting with ACRS (Public Meeting) (Contact: John Larkins, 301–415–7360)

*Week of October 9—Tentative*

There are no meetings scheduled for the Week of October 9.

*Week of October 16—Tentative*

Tuesday, October 17

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

*Week of October 23—Tentative*

Monday, October 23

1:55 p.m. Affirmation Session (Public Meeting) (If needed)

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

* * * * *

**Note:** ''Final Rules—10 CFR Part 35, 'Medical Use of Byproduct Material' and 10 CFR Part 20, 'Standards for Protection Against Radiation' '' were not affirmed on Wednesday, September 13, as previously scheduled. They will be rescheduled for affirmation at a later date.

* * * * *

**Additional Information**

By a vote of 5–0 on September 13, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Final Rule: 'Adjustment of Civil Monetary Penalties'; Proposed Revision to the Enforcement Policy to Conform to the Final Rule Adjusting Civil Monetary Penalties and Minor Administrative Changes to Parts 1 and 13'' be held on September 13, and on less than one week's notice to the public.

By a vote of 5–0 on September 13, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of NORTHEAST

NUCLEAR ENERGY CO. Indirect License Transfer of Millstone Licenses; Petition to Intervene'' be held on September 13, and on less than one week's notice to the public.

By a vote of 5–0 on September 13, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of NORTHERN STATES POWER COMPANY (Monticello Nuclear Generating Plant; Prairie Island Nuclear Generating Plant, Units 1 and 2; and Prairie Island Independent Spent Fuel Storage Installation); Docket Nos. 50–263–LT, 50–282–LT, 50–306–LT, and 70–10–LT; Petitioners' Aug. 15, 2000 Motion for Reconsideration of CLI–00–14 (issued Aug. 1, 2000).'' be held on September 13, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: September 15, 2000.

**William M. Hill, Jr.,**

*SECY Tracking Officer, Office of the Secretary.*

[FR Doc. 00–24362 Filed 9–18–00; 5:07 pm]

**BILLING CODE 7590–01–M**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–2462; 812–11962]**

## Bill Gross' idealab!; Notice of Application

September 15, 2000.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Temporary order and notice of application for an order under section 3(b)(2) of the Investment Company Act of 1940 (the ''Act'').

**SUMMARY:** Applicant Bill Gross' idealab! (''idealab!'') seeks an order under section 3(b)(2) of the Act declaring it to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities. Applicant creates, launches, and operates a network of interactive communications businesses. Applicant also has received a temporary order issued pursuant to section 3(b)(2) of the Act exempting idealab! from all provisions of the Act until the Commission takes final action on the application or until October 24, 2000, if earlier. Previously, on March 28, 2000 and July 26, 2000, temporary orders were issued pursuant to section 3(b)(2) of the Act exempting applicant from all provisions of the Act until September 25, 2000.

*Filing Dates:* The application was filed on January 28, 2000, and amended on March 14, 2000 and July 19, 2000.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 6, 2000 and should be accompanied by proof of service on the applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609; Applicant, 130 West Union Street, Pasadena, CA 91103.

**FOR FURTHER INFORMATION CONTACT:** Janet M. Grossnickle, Branch Chief, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. 202–942–8090).

### Applicant's Representations

1. Idealab!, a California corporation, was founded in 1996 by Bill Gross, its Chairman, Idealab! states that it was formed for the purpose of utilizing real-time interactive communications to satisfy market demand for goods and services through a network of companies (''Network Companies''). Idealab! represents that it is not in the business of investing, reinvesting or trading in securities.

2. Idealab!'s Network Companies fall into two categories: (i) Interactive communications infrastructure and services, and (ii) Internet commerce and content. As of March 1, 2000, Idealab!'s network of interactive communications businesses consisted of 45 Network Companies, 28 of which were majority-owned subsidiaries of idealab! or companies which idealab! controlled within the meaning of section 2(a)(9) of the Act (majority-owned and controlled subsidiaries of idealab!, collectively, ''Controlled Companies'').[1] Idealab! states that it also holds non-controlling interests in 17 other operating companies and 3 companies that make investments in interactive communications companies.

3. Idealab! states that it has structured its business operations by creating a network of interactive communications businesses, with each product or service provided by a separate company, rather than operating as one large company. Idealab! further states that its goal has been to retain 50-70% of the equity in each Network Company it created, but its interests in some have been diluted by strategic investors and, on occasion, by other investors when idealab! was unable to participate in successive rounds of financing. Although idealab! anticipates that it will continue to build important business relationships by permitting strategic investors to acquire equity stakes in some of its Controlled Companies, idealab! believes it will be able to maintain a 25% or greater equity interest in its current and future Controlled Companies.

4. Idealab! represents that it does not provide capital to the Network Companies with a view to profit from the sale of securities, but has been building a network of synergistic interactive communications businesses that it intends to control and operate for the long term. As idealab! builds its network of companies, idealab! expects that it might have a need to sell its interest in certain companies that no longer fit or contribute to the network. Idealab! does not contemplate selling interests in Network Companies in the ordinary course of business. Additionally, idealab! intends to acquire more equity in certain of its Controlled Companies and expects to retain controlling interests in many of the Network Companies while creating and capitalizing more Controlled Companies. Idealab! represents that all of the Controlled Companies are currently ''controlled primarily'' by idealab! within the meaning of rule 3a–1 under the Act, and that all or

[1] Section 2(a)(9) defines ''control'' as the power to exercise a controlling influence over the management or policies of a company. That section creates a presumption that an owner of more than 25% of the outstanding voting securities of a company controls the company. The terms ''Controlled Companies'' and ''Network Companies'' do not include companies that are investment companies or are relying on section 3(c)(1) or 3(c)(7) of the Act.

substantially all of the Controlled Companies will be ''controlled primarily'' by idealab! in the future.

5. Idealab! states that it generates and tests ideas for new interactive communications businesses. Idealab! states that if testing results suggest that the idea could form the basis for a profitable interactive communications business, idealab! forms and capitalizes a new entity. Idealab! states that it then recruits a management team, provides space in its facilities, and provides on-going strategic guidance, creative design, web development, accounting, legal and administrative services to the business. Idealab! represents that it previously referred to itself as an ''incubator'' of Internet companies to connote its activities of creating and then nurturing the development of Internet companies.

**Applicant's Legal Analysis**

1. Idealab! requests an order under section 3(b)(2) of the Act declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities, and therefore not an investment company as defined in the Act.

2. Under section 3(a)(1)(C) of the act, an issuer is an investment company if it is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value in excess of 40% of the value of the issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis. Under section 3(a)(2) of the Act, investment securities include all securities except Government securities, securities issued by employees securities companies, and securities issued by majority-owned subsidiaries of the owner which (i) are not investment companies, and (ii) are not relying on the exclusions from the definition of investment company in section 3(c)(1) or 3(c)(7) of the Act.

3. Idealab! states that, as of March 1, 2000, approximately 71% of its assets consists of investment securities as defined in section 3(a)(2). Accordingly, idealab! may be deemed an investment company within the meaning of section 3(a)(1)(C) of the Act. Idealab! asserts that, as of March 1, 2000, approximately 29% of its total assets were comprised of interests in majority-owned subsidiaries and approximately 46% of idealab!'s assets consisted of companies primarily controlled by idealab! for purposes of rule 3a–1 under the Act. Rule 3a–1 provides an exemption from the definition of investment company if no more than 45% of a company's total assets consist of, and not more than 45% of its net income over the last four quarters is derived from, securities other than Government securities and securities of majority-owned subsidiaries and companies primarily controlled by it. Idealab! states that it believes it will not be able to rely on rule 3a–1 because of the net income generated from the sale of a minority interest in 1999 (discussed below) and because its Controlled Companies are not anticipated to have any significant income for some years and thus will not pay dividends or other distributions to idealab!.

4. Section 3(b)(2) of the Act provides that, notwithstanding section 3(a)(1)(C), the Commission may issue an order declaring an issuer to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities either directly, through majority-owned subsidiaries, or through controlled companies conducting similar types of businesses. Idealab! submits that it meets the requirements of section 3(b)(2) because it is primarily engaged, through its Controlled Companies, in the business of identifying, creating and operating interactive communications businesses.

5. In determining whether an applicant is ''primarily engaged'' in a non-investment company business under section 3(b)(2), the Commission considers the following factors: (i) applicant's historical development, (ii) applicant's public representations of policy, (iii) the activities of applicant's officers and directors, (iv) the nature of applicant's present assets, and (v) the sources of applicant's present income.[2]

a. *Historical Development.* Idealab! states that it was incorporated in 1996 to act as an ''idea'' ''lab'' and to create and operate businesses that use the interactive communications to satisfy market demand for goods and services. Idealab! states that it has operated consistently with this business plan by creating, capitalizing and operating new interactive communications companies based on internally-generated ideas and that it plans to create and capitalize more Controlled Companies in the future. Idealab! represents that it continues to have active involvement in the operation of the Network Companies after their early development stage and throughout their life cycles. Idealab! further states that it recently expended significant financial resources to maintain or increase its controlling positions in various Network Companies.

b. *Public Representations of Policy.* Idealab! states that it has consistently held itself out as being engaged in the business of creating and operating interactive communications companies and has never referred to itself as an investment company. Idealab! states that it describes itself as engaged in the business of identifying, creating and operating interactive communications businesses. Idealab! states that its previous references to ''incubation'' were intended to connote activities of creating and then nurturing interactive communications companies and reflect the fact that idealab! brings companies into existence. Idealab! states that its use of the term ''incubator'' did not mean that idealab! intended to dispose of the Network Companies once they progressed beyond the initial development stage. Idealab! states that some in the press may have perceived idealab! as a venture capital investor. Idealab! asserts that its history of operations and business strategy are substantially distinct from that of a venture capital pool. Idealab! states that it does not provide capital with a view to profit from the sale of securities, but has been building a network of interactive communications businesses that idealab! intends to control and operate for the long-term. Idealab! states that its policy and goal is to be actively involved in operating its Network Companies, rather than investing or trading in securities.

c. *Activities of Officers and Directors.* Idealab! states that the primary activities of its directors and officers are serving idealab!'s Network Companies and creating, testing and implementing ideas for new interactive communications companies. Idealab! states that approximately 85% of the idealab!'s officers' and directors' time is currently spent working with existing Network Companies or evaluating new company concepts, 12% of their time is allocated to assessing potential strategic acquisitions of companies formed by others, and 3% of their time is spent on matters relating to idealab!'s subsidiaries that manage venture capital funds. Idealab! asserts that its officers' and directors' educational and business backgrounds are predominately in the fields of computer technology and business management, and only four of idealab!'s seventeen senior officers and directors have a securities investment background or private equity experience. Idealab! states that its senior management hold positions in, and work closely with, management teams of the Network Companies. In addition, idealab! states that its personnel serve

[2] *Tonopah Mining Company of Nevada*, 26 SEC 426, 427 (1947).

and actively participate on the boards of directors of most of the Network Companies and all of the Controlled Companies. Idealab!'s approximately 200 employees, collectively, spend approximately 60% of their time working with the Network Companies, 25% of their time evaluating new company concepts, and 15% of their time on information systems, accounting and recruitment matters relative to idealab! itself.

d. *Nature of Assets.* Idealab! states that, as of March 1, 2000, idealab!'s Controlled Companies represented 75% of idealab!'s total assets on an unconsolidated basis (excluding government securities and cash items). Idealab! represents that in the future at least 60% of its total assets on an unconsolidated basis (exclusive of Government securities and cash items) will consist of securities issued by Controlled Companies (''60% Test''). For purposes of determining whether the 60% Test has been met, interests in Controlled Companies that are not majority-owned subsidiaries of idealab! will only be included if they are conducting similar types of businesses within the meaning of section 3(b)(2) of the Act.

e. *Sources of Income.* Idealab! states that its Network Companies are emerging interactive communications businesses that typically generate little or no income for idealab! in the form of dividends. Idealab! asserts that its activities as an operating company therefore are more appropriately analyzed by evaluating idealab!'s proportionate share of the revenues of its Controlled Companies as well as idealab!'s total revenues. Idealab! states that, for the four quarters ending October 31, 1999, idealab!'s revenues attributable to its Controlled Companies represented approximately 78% of idealab!'s total revenues.[3] Idealab! states that this figure was derived by comparing (i) idealab!'s consolidated revenues, idealab!'s proportionate share of the revenues of its Controlled Companies that are not majority-owned, and idealab!'s income derived from interests in Controlled Companies to (ii) idealab!'s total revenues comprised of the items in (i) as well as income derived from sales of interests in non-controlled companies and interest income. Idealab! states that in late 1999 it received $193 million of revenue from the sale of stock of eToys, Inc. (''eToys''), a Network Company. Applicant represents that idealab! originally formed eToys as a wholly-owned subsidiary in early 1997. Applicant states that its equity stake was diluted to below 25% as eToys went through successive financing rounds, including an initial public offering in May 1999. Applicant represents that it sold part of its interest in eToys in late 1999 to address applicant's status under the Act. As a result of this disposition, idealab! states that, for the four quarters ending January 31, 2000, idealab!'s revenues attributable to its Controlled Companies represented approximately 39% of idealab!'s total revenues. Idealab! represents that it does not intend to derive a significant percentage of its revenues from income derived from sales of interests in non-controlled companies in the future.

6. Idealab! thus asserts that it qualifies for an order under section 3(b)(2) of the Act.

## Temporary Order

In view of the circumstances set forth in the application, it is found that cause has been shown for granting an extension of the automatic exemption period provided by section 3(b)(2) upon the filing of an application. Accordingly,

*It Is Ordered,* under section 3(b)(2) of the Act, that a temporary order exempting idealab! from all provisions of the Act until the Commission takes final action on the application or, if earlier, until October 24, 2000, the first business day following a thirty-day period after the automatic exemption, as previously extended, expires is hereby granted effective immediately.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–24270 Filed 9–20–00; 8:45 am]

BILLING CODE 8010–01–M

[3] Idealab! states that, for purposes of this analysis, revenues from idealab!'s majority-owned subsidiaries were consolidated, and revenues of other Controlled Companies were attributed to idealab! in proportion to idealab!'s interests in the Controlled Companies. Idealab! uses the equity method of accounting for Controlled Companies that are not majority-owned subsidiaries. Idealab! notes that idealab!'s revenues attributable to its Controlled Companies would represent approximately 76% of idealab!'s total revenues if the revenues of idealab!'s consolidated majority-owned subsidiaries were attributed to idealab! in proportion to idealab!'s interests in the majority-owned subsidiaries.

## SECURITIES AND EXCHANGE COMMISSION

**(Release No. 34–43290; File No. SR–PCX–00–30)**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to a New Fee on Market Makers' Transactions in Designated Equity Option Issues

September 13, 2000.

Pursuant to section 19(b)(1) of the Securities and Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 18, 2000, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items, I, II and III below, which Items have been prepared by the Exchange. On September 11, 2000, the PCX submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to adopt a new fee to be imposed on transactions of market makers (including Lead Market Makers) at the rate and for the use described below. The text of the proposed rule change is available at the principal offices of the PCX.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed new fee is to provide a source of revenue to the Exchange to be used in response to changing competitive circumstances that have arisen and may continue to arise in particular multiply traded equity options issues. These circumstances include the growing practice by some traders on options exchanges of paying brokers for orders in multiply traded issues directed to them. In light of this development and in order to be competitive in multiply traded options, the PCX has determined to impose a new fee on market makers' transactions in designated equity option issues.

All of the funds generated by the new fee will be segregated based upon the trading post where the options subject to the fee are traded. The funds will be made available to the Lead Market Maker (''LMM'') at the trading post where the funds were collected, for the LMM's use in attracting orders in the options traded at that post. This use of funds could include payments from the LMMs to broker-dealers for the orders that the broker-dealers direct to the Exchange. The specific terms governing the orders that qualify for payment and the amount of any payments to be made will be determined by the LMMs in whatever manner they believe is most likely to be effective in attracting order flow to the Exchange in options traded at the LMMs' assigned posts.

LMMs will be obligated to account to the Exchange for the use they make of the funds that the Exchange makes available to them for this purpose, but all determinations concerning the amount the LMMs may pay for orders and the types and sizes of orders that qualify for payment will be made exclusively by the LMMs and not by the Exchange. The Exchange may provide administrative support to the LMMs in such matters as keeping track of the number of qualified orders each firm directs to the Exchange, and making the necessary debits and credits to the accounts of the LMMs and the firms to reflect the payments that are to be made.

The amount of the new fee will be set initially at $0.40 per market maker contract for all equity option issues and will be effective as of July 31, 2000. Market maker to market maker trades and trades between a market maker and an LMM will not be part of the program, although fees will be collected for these trades and then rebated. Any changes to the option issues to which the fee applies, to the rate or rates at which the fee is assessed, or to the Exchange's disposition of funds generated by the fee will be the subject of separate filings with the Commission made pursuant to Section 19(b)(3)(A)(ii) of the Act.[3]

As described above, the proposed fee will be imposed on all Exchange market makers (including LMMs) in the options that are subject to the fee. The PCX believes that, because these same persons will be able to participate in the order flow derived from the program, there will be a fair correlation between those members who pay the costs of the program funded by the new fee and those who receive the benefits of the program.

In accordance with this program involving payment for order flow that may be funded by the Exchange's proposed fee, the Exchange intends to provide PCX order flow providers with objective data on the executions of their option orders so that they can assess the quality of executions they receive on the PCX.[4]

2. Statutory Basis

The PCX believes that the new fee and the program it will fund will serve to enhance the competitiveness of the Exchange and its members. Accordingly, the PCX believes that this proposal is consistent with and furthers the objectives of the Act, including Section 6(b)(5) thereof,[5] which requires the rules of exchanges to be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and Section 11A(a)(1)(C) thereof,[6] which reflects the finding of Congress that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers and among exchange markets.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and Rule 19b–4(f)(2) thereunder.[8] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

The Commission has frequently raised serious concerns about payment for order flow and internalization.[9] Payment for order flow is of concern because brokers who are paid to send their customers' orders to one exchange have a conflict of interest that may reduce their commitment to the duty they owe their customers to find the best execution available. While payment for order flow has been a common practice in the equities markets for some time, only recently has payment for order flow developed in the options markets. Despite these concerns, however, the PCX's proposal involves the imposition of a fee and the Act gives exchanges wide latitude to establish, revise, and collect fees and other charges without prior Commission approval. The Commission invites interested persons to submit written data, views and arguments concerning the foregoing, including whether the proposed rule is consistent with the Act. In particular, the Commission asks persons who submit comments whether the payment for order flow facilitated by the PCX's proposal raises greater or

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] The PCX has filed with the Commission a rule change proposal, File No. SR–PCX–00–31, regarding the furnishing of Pacific Exchange Customer Execution (''PACEX'') Reports to the Exchange's order flow providers.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 788k–1(a)(1)(C).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] *See* Securities Exchange Act Release No. 43228 (Aug. 30, 2000), 65 FR 54330 (Sept. 7, 2000); Securities Exchange Act Release No. 43177 (Aug. 18, 2000), 65 FR 51889 (Aug. 25, 2000); Securities Exchange Act Release No. 43112 (Aug. 3, 2000), 65 FR 49040 (Aug. 10, 2000); Securities Exchange Act Release No. 42450 (Feb. 23, 2000), 65 FR 10577 (Feb. 28, 2000); Securities Exchange Act Release No. 34902 (Oct. 27, 1994), 59 FR 55006 (Nov. 2, 1994). *See also* Securities Exchange Act Release No. 43084 (July 28, 2000).

different concerns than payment for order flow at other options exchanges. After receiving comments, and at any time within 60 days from the date the PCX filed its proposal, the Commission can decide to require the PCX to stop collecting the fee, refile the proposal, and await Commission approval before reinstituting the fee.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–00–30 and should be submitted by October 12, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–24271 Filed 9–20–00; 8:45 am]

BILLING CODE 8010–01–M

[10] 17 CFR 200.30–3(a)(12).

## SELECTIVE SERVICE SYSTEM

## Privacy Act of 1974; Publication of Notice of Systems of Records

**AGENCY:** Selective Service System.

**ACTION:** Notice: publication of systems of records.

**SUMMARY:** The purpose of this notice is to meet the requirement of the Privacy Act of 1974 regarding the annual publication of the agency's notice of systems of records. The complete text of all Selective Service System notices appears below. Authority: 5 U.S.C. 552a.

**Systems of Records**

SSS–2 General Files (Registrant Processing)
SSS–3 Reconciliation Service Records
SSS–4 Registrant Information Bank (RIB) Records
SSS–5 Registrant Processing Records
SSS–6 Reserve and National Guard Personnel Records
SSS–7 Uncompensated Personnel Records
SSS–8 Suspected Violator Inventory System
SSS–9 Master Pay Record
SSS–10 Registrant Registration Records

### SSS–2

**SYSTEM NAME:**

General Files—(Registrant Processing) SSS.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

National Headquarters, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Registrants of the Selective Service System and other individuals and organizations.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Contains current and previous correspondence with individual registrants, private individuals and Government agencies, requesting information or resolution of specific problems related to registrant processing or agency operations.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Section 10(b)(3), Military Selective Service Act (50 U.S.C. App. 460(b)(3)).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Department of Justice—Refer to reports received as to possible violations of the Military Selective Service Act.

Federal Bureau of Investigation—Refer reports received as to possible violations of the Military Selective Service Act.

Department of Defense—Exchange of information respecting status of individuals subject to the provisions of the Military Selective Service Act.

Immigration and Naturalization Service—Response to inquiries concerning aliens.

Department of Health and Human Services—for locations of parents pursuant to the Child Support Enforcement Act (42 U.S.C. 651 *et seq.*)

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper copies maintained in routine filing equipment.

**RETRIEVABILITY:**

Records are indexed alphabetically by last name.

**SAFEGUARDS:**

Measures that have been taken to prevent unauthorized disclosures of records are:

a. Records maintained by authorized personnel only, who have been trained in the rules and regulations concerning disclosures of information; offices are locked when authorized personnel are not on duty.

b. Periodic security checks and other emergency planning.

c. Records transferred for storage are boxed and taped; records in transit for temporary custody of another office are sealed. Records eligible for destruction are destroyed by maceration, shredding or burning.

**RETENTION AND DISPOSAL:**

Hold file intact for five years from date of latest correspondence.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Selective Service, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager.

**RECORD ACCESS PROCEDURES:**

An individual desiring to obtain information on the procedures for gaining access to and contesting records may write to: Director of Selective Service, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager.

It is necessary to furnish the following information in order to identify the individual whose records are requested:

a. Full name of the individual.

b. Date of birth.

c. Selective Service Number (if available).

d. Mailing address to which the reply should be mailed.

**CONTESTING RECORD PROCEDURES:**

See Record Access Procedures, above.

**RECORD SOURCE CATEGORIES:**

Individual registrants and private individuals and organizations, Members of the Congress acting on behalf of constituents.

**SYSTEMS EXEMPTED FOR CERTAIN PROVISIONS OF THE ACT:**

None.

### SSS–3

**SYSTEM NAME:**

Reconciliation Service Records—SSS.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

National Headquarters, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Vietnam era draft evaders and military deserters (whose surnames begin with A through R) who have qualified for a period of alternate service as a condition for reconciliation under Presidential Proclamation 4313, signed September 16, 1974.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Registration Card: Individual's name, address, telephone number, personal description, date of birth, Social Security Account Number, former military service, date of registration, reconciliation service required, date of reconciliation service started and terminated, total reconciliation service, individual's signature.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Presidential Proc. 4313; E.O. 11804; 5 U.S.C. 553; 50 U.S.C. App. 460(b)(3).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Referral to the Department of Justice for appropriate action in cases involving unsatisfactory participation.

Referral to the appropriate military referring authority, upon request, in cases involving the updating of military discharges.

Referral to the Presidential Clemency Board, upon request, in cases necessitating additional review.

Referral to Office of Management and Budget, upon request, in cases undergoing investigative review in conjunction with specific functions of these agencies.

Exchange of information with Reconciliation Services employers regarding the placement, supervision of and performance of Reconciliation Service by returnees who have agreed to perform such service.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

All registration cards and microfiche of registration cards are stored in either metal or wood filing cabinets.

**RETRIEVABILITY:**

The system is alphabetically indexed by last name.

**SAFEGUARDS:**

Measures that have been taken to prevent unauthorized disclosures of records are:

a. Records maintained by authorized personnel only, who have been trained in the rules and regulations concerning disclosures of information; offices are locked when authorized personnel are not on duty.

b. Periodic security checks and other emergency planning.

c. Records transferred for storage are boxed and taped; records in transit for temporary custody of another office are sealed. Records eligible for destruction are destroyed by maceration, shredding or burning.

**RETENTION AND DISPOSAL:**

Registration Cards or microfilm thereof will be retained until the enrollee reaches 85 years of age.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Selective Service, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager.

**RECORD ACCESS PROCEDURES:**

An individual desiring to obtain information on the procedures for gaining access to and contesting records may write to: Director of Selective Service, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager.

**CONTESTING RECORD PROCEDURES:**

See Record Access Procedures, above.

**RECORD SOURCE CATEGORIES:**

Sources of records in the system are primarily established by the individual at the time and place of enrollment, based on oral and written information given by the enrollee. Other sources of information include the Report of Separation From Active Duty (DD Form 214), referral documents from the referring authority and information provided by an enrollee's employer.

**SYSTEMS EXEMPTED FOR CERTAIN PROVISIONS OF THE ACT:**

None.

## SSS–4

**SYSTEM NAME:**

Registrant Information Bank (RIB) Records—SSS

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Data Management Center/Joint Computer Center, Great Lakes, Illinois 60088.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Registrants of the Selective Service System after 1979.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The Registrant Information Bank (RIB) is an automated data processing system which stores information concerning registration, classification, examination, assignment and induction of Selective Service registrants.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Section 10(b)(3) of the Military Selective Service Act (50 U.S.C. App. 460(b)(3)).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Department of Defense—exchange of information concerning registration classification, enlistment, examination and induction of individuals, and for recruiting (prior to April 1, 1982 only on request of the registrant).

Alternative service employers—for exchange of information with employers regarding a registrant who is a conscientious objector for the purpose of placement in and supervision of performance of alternative service in lieu of induction into the military service.

Department of Justice—for review and processing of suspected violations of the Military Selective Service Act, or for perjury, and for defense of a civil action arising from administrative processing under such Act.

Federal Bureau of Investigation—for location of an individual when suspected of violation of the Military Selective Service Act.

Immigration and Naturalization Service—to provide information for use in determining an individual's eligibility for re-entry into the United States and United States citizenship.

Department of State—to provide information for use in determining an individual's eligibility for possible entry into the United States and United States citizenship.

Office of Veterans' Reemployment Rights, United States Department of Labor—to assist veterans in need of information concerning reemployment rights.

Department of Health and Human Services—for locations of parents pursuant to the Child Support Enforcement Act (42 U.S.C. 651 *et seq.*) and for determining the individual's proper Social Security Account Number when there appears to be a discrepancy.

Bureau of the Census—for the purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13.

State and local government agencies—to provide information which may constitute evidence of a violation of State or local law, for law enforcement purposes.

General Public—Registrant's Name, Selective Service Number, Date of Birth and Classification.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on tape, disk, computer printouts and microfilm.

RETRIEVABILITY:

The system is indexed primarily by Selective Service Number.

SAFEGUARDS:

a. On-line access to RIB from terminals is available to authorized personnel, and is controlled by User Identification and password. Batch access controlled via standard data processing software and hardware techniques.

b. Records are handled by authorized personnel only, who have been trained in the rules and regulations concerning disclosures of information; offices are locked when authorized personnel are not on duty and protected by an electronic security access system at all times.

c. Premises are locked and patrolled when authorized personnel are not on duty.

d. Periodic security checks and other emergency planning.

RETENTION AND DISPOSAL:

When eligible for disposal, the computer tapes are erased. The records stored in the Registrant Information Bank (RIB) are retained until the registrant reaches 85 years of age.

The computer printouts are distributed to National Headquarters and destroyed when they have served their purpose by maceration, shredding, or burning. Computer printouts used at the Data Management Center are destroyed by maceration after they have served their purpose or upon records appraisal action.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Selective Service, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager.

RECORD ACCESS PROCEDURES:

An individual desiring to obtain information on the procedures for gaining access to and contesting records may write to: Director of Selective Service, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager.

It is necessary to furnish the following information in order to identify the individual whose records are requested:

a. Full name of the individual.

b. Date of birth.

c. Selective Service Number (if known), Social Security Account Number.

d. Mailing address to which the reply should be mailed.

CONTESTING RECORD PROCEDURES:

See Record Access Procedures, above.

RECORD SOURCE CATEGORIES:

Information submitted by the registrant, Department of Education or Department of Defense create the input information recorded in the

## SSS—Registrant Information Bank (RIB) Records.

SYSTEMS EXEMPTED FOR CERTAIN PROVISIONS OF THE ACT:

None.

SSS–5

SYSTEM NAME:

Registrant Processing Records—SSS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are stored in the Federal Records Center serving the State in which the registrant resided at the time of registration with the Selective Service System.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Registrants of the Selective Service System before 1976.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual Processing Records:

a. Registration Card—a locator card identifying the registrant.

b. Classification Record—a listing of the classes in which the registrant was placed and the dates of the classifications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 3, 10(b)(3) and 15(b) of the Military Selective Service Act (50 U.S.C. App. 453, 460(b)(3), 465(b)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Department of Defense—for exchange of information concerning registration, classification, enlistment, examination and induction of individuals.

Alternative service employers—for exchange of information with employers regarding a registrant who is a conscientious objector for the purpose of placement in and supervision of performance of alternative service in lieu of induction into the military service.

Department of Justice—for review and processing of suspected violations of the Military Selective Service Act, or for perjury, and for defense of a civil action arising from administrative processing under such Act.

Federal Bureau of Investigation—for location of an individual when suspected of violation of the Military Selective Service Act.

Immigration and Naturalization Service—to provide information for use in determining an individual's eligibility for re-entry into the United States.

Department of State—for determination of an alien's eligibility for possible re-entry into the United States and United States citizenship.

Office of Veterans' Reemployment Rights, United States Department of Labor—to assist veterans in need of information concerning reemployment rights.

Department of Health and Human Services—for locations of parents pursuant to the Child Support Enforcement Act (42 U.S.C. 651 *et seq.*) And for determining the individual's proper Social Security Account Number when there appears to be a discrepancy.

State and local government agencies—to provide information which may constitute evidence of a violation of State or local law, for law enforcement purposes.

General Public—Registrant's Name, Selective Service Number, Date of Birth and Classification.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on manually prepared forms and correspondence files.

RETRIEVABILITY:

Records are indexed by name (within local board) and Selective Service Number.

SAFEGUARDS:

Measures that have been taken to prevent unauthorized disclosures of records are:

a. Records maintained by authorized personnel only, who have been trained in the rules and regulations concerning disclosures of information; offices are locked when authorized personnel are not on duty.

b. Periodic security checks and other emergency planning.

c. Records transferred for storage are boxed and taped; records in transit for temporary custody of another office are sealed. Records eligible for destruction

are destroyed by maceration, shredding or burning.

d. Only photostatic copies of records copies of records are withdrawn from Federal Records Centers. Withdrawals are requested by authorized personnel only.

**RETENTION AND DISPOSAL:**

Individual Processing Records:

1. Registration Card—Retained until registrant reaches age 85, records active to age 35.

2. Classification Record—Retained until registrant reaches age 85, record active to age 35.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Selective Service, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager.

**RECORD ACCESS PROCEDURES:**

An individual desiring to obtain information on the procedures for gaining access to and contesting records may write to: Director of Selective Service, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager.

It is necessary to furnish the following information in order to identify the individual whose records are requested:

a. Full name of the individual.

b. Date of birth.

c. Selective Service Number, Order/Serial Number, or date of birth and address at the time of registration if Selective Service Number or Order/Serial Number is not known.

d. Mailing address to which the reply should be mailed.

**CONTESTING RECORD PROCEDURES:**

See Record Access Procedures, above.

**RECORD SOURCE CATEGORIES:**

Information contained in the Registrant Processing Records System is obtained from the individual and supporting documents from other persons, federal, state and local government agencies and institutions.

**SYSTEMS EXEMPTED FOR CERTAIN PROVISIONS OF THE ACT:**

None.

## SSS–6

**SYSTEM NAME:**

Reserve and National Guard Personnel Records—SSS

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

National Headquarters, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Officers and Warrant Officers of the Reserve and National Guard currently assigned to the Selective Service System, and Officers and Warrant Officers formerly so assigned.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The records contain information relating to selection, placement and utilization of military personnel, such as name, rank, Social Security Account Number, date of birth, physical profile, residence and business, addresses, and telephone numbers. Information is also recorded on unit of assignment, occupational codes and data pertaining to training, cost factors, efficiency ratings and mobilization assignments and duties, and other information relating to the status of the member.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

To provide information to the individual member's branch of the Armed Forces as required in connection with their assignment to the Selective Service System.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:**

Records are maintained in file folders and on magnetic tape or disk.

**RETRIEVABILITY:**

Records are indexed by name and Service Number.

**SAFEGUARDS:**

Records are maintained in lockable file containers. Measures that have been taken to prevent unauthorized disclosures of records are:

a. Use of the records or any information contained therein is limited to Selective Service System employees or Reserve Forces Members whose official duties require access.

b. Records maintained by authorized personnel only, who have been trained in the rules and regulations concerning disclosures of information; offices are locked when authorized personnel are not on duty.

c. Periodic security checks and other emergency planning.

d. Records transferred for storage are boxed and taped; records in transit for temporary custody of another office are sealed. Records eligible for destruction are destroyed by maceration, shredding or burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Selective Service, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager.

**RETENTION AND DISPOSAL:**

Personnel records for Selective Service Reserve Forces are retained for one (1) year after separation and then disposed of in accordance with procedures provided by each Branch of Service.

**RECORD ACCESS PROCEDURES:**

SSS Reserve Forces Members or former members who wish to gain access to their records should make their request in writing addressed to: Director of Selective Service, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Military Personnel.

It is necessary to include the Member's full name, rank, branch of service, address, and Social Security Account Number.

**CONTESTING RECORD PROCEDURES:**

See Record Access Procedures, above.

**RECORD SOURCE CATEGORIES:**

Information in this system is obtained directly from the individual to whom it applies or is derived from information supplied or is provided by the individual Branch of the Armed Forces.

**SYSTEMS EXEMPTED FOR CERTAIN PROVISIONS OF THE ACT:**

None.

## SSS–7

**SYSTEM NAME:**

Uncompensated Personnel Records—SSS.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

National Headquarters, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Currently appointed uncompensated local board and appeal board members, other persons appointed in advisory or administrative capacity, and former appointees in an uncompensated capacity.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The records contain information relating to selection, appointment and separation of appointees, such as name,

date of birth, mailing address, residence and organization location, position title, minority group code, sex, weight, etc. length of service and occupational title.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 10(b)(3) of the Military Selective Service Act (50 U.S.C. App. 460(b)(3)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Department of Justice—for exchange of information when required in connection with processing of alleged violations of the Military Selective Service Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Records are maintained in file folders and on magnetic tape or disk.

RETRIEVABILITY:

Records are indexed by name of individual record identification number and location.

SAFEGUARDS:

Records are maintained in lockable file containers. Measures that have been taken to prevent unauthorized disclosures of records are:

a. Use of the records or any information contained therein is limited to Selective Service System employees whose official duties require such access.

b. Records maintained by authorized personnel only, who have been trained in the rules and regulations concerning disclosures of information; offices are locked when authorized personnel are not on duty.

c. Periodic security checks and other emergency planning.

d. Records transferred for storage are boxed and taped; records in transit for temporary custody of another office are sealed. Records eligible for destruction are destroyed by maceration, shredding or burning.

RETENTION AND DISPOSAL:

Personnel record for uncompensated personnel are maintained for one (1) year after separation at the servicing personnel office.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Selective Service, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager.

RECORD ACCESS PROCEDURES:

Appointees who wish to gain access to their records should make requests in writing, including their full name, address (state in which appointed), date of birth and Social Security Account Number for former appointees, or record Identification Number for current appointees. Requests should be addressed to: Director of Selective Service, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Civilian Personnel (Uncompensated).

CONTESTING RECORD PROCEDURES:

See Record Access Procedures, above.

RECORD SOURCE CATEGORIES:

Information in this system is obtained directly from the individual or is derived from information he/she has supplied or is provided by the agency official with authority to appoint the individual.

SYSTEMS EXEMPTED FOR CERTAIN PROVISIONS OF THE ACT:

None.

## SSS–8

SYSTEM NAME:

Suspected Violator Inventory System—SSS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Data Management Center/Joint Computer Center, Great Lakes, Illinois 60088.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Alleged violators of the Military Selective Service Act (50 U.S.C. App. 451 *et seq.*).

CATEGORIES OF RECORDS IN THE SYSTEM:

Automated records created by matches between records contained in SSS–10 and other computer files, and other records related to non-registrants. Each record may contain the name, address, Selective Service Number (if any), Social Security Account Number (if any), date of birth, status, and disposition data relating to possible violations of the Military Selective Service Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 10(b)(3) of the Military Selective Service Act (50 U.S.C. App. 460(b)(3)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The names of individuals identified as alleged violators of the Military Selective Service Act will be checked against the SSS–10 registrant file. If the individual has registered, the incoming communication will be destroyed and no further action will be taken. If the individual is not listed in the registrant file or cannot be identified therein where the incoming communication contains sufficient identifying information on the alleged violator to permit sending correspondence to him under the automated tracking system, the name and associated information will be added to that system and the incoming communication will be used to attempt to correspond with the alleged violator, giving him an opportunity to register. After a reasonable attempt is made to register the individual, and he neither registers nor provides documented evidence supporting exemption or where there is insufficient information to add the alleged violator to the automated tracking system, the incoming communication may be forwarded to the Department of Justice for investigation and, if applicable, return to Selective Service with sufficient information for adding to the automated tracking system or comparison with the registrant file. When computer matches of Selective Service files result in production of a list of possible non-registrants, that list may be provided to the Department of Defense and the Department of Transportation to eliminate from the list individuals not required to register. The names, dates of birth, Social Security Account Numbers, and home addresses of possible non-registrants who also have been identified as members of the Reserve components of the U.S. military services, including the U.S. Coast Guard, may be provided to the Department of Defense, including the military services, and the U.S. Coast Guard, Department of Transportation, to obtain current addresses. The names, dates of birth, Social Security Account Numbers, home addresses, and disposition data on possible non-registrants who have been identified as Federal student aid recipients by the Department of Education, may be provided to the Department of Education, after processing by Selective Service, for investigation and, if applicable, forwarding to the Department of Justice for prosecution. The list may also be provided to the Internal Revenue Service to obtain current addresses of suspected non-registrants. After processing the information pertaining to suspected non-registrants will be forwarded to the Department of Justice for investigation and, if applicable, prosecution.

Where Selective Service determines that information as originally submitted

appears to have contained a discrepancy, the names, dates of birth, Social Security Account Numbers, and home addresses of individuals may be returned to the original sources together with information concerning the discrepancy. Information concerning the discrepancy may include correspondence from the individual concerned.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Upon receipt of unsolicited communications regarding alleged violators of the Military Selective Service Act who are not listed in the SSS registrant file, a computer record will be created. This is an automated tracking system which contains the nature of the alleged violator, his Social Security Account Number if available, the date sent to the Department of Justice, the final disposition when received and the case control number. The document is microfilmed, and can be retrieved by a Document Locator Number recorded in the computer record. The original document is destroyed.

When computer matches between Selective Service and other files produce lists of possible non-registrants, the computer file will be produced and maintained. As the list is processed the paper file will be produced from the microfilm records, containing correspondence between possible non-registrants and Selective Service. A computerized tracking file of cases will be maintained.

**RETRIEVABILITY:**

Indexed by Selective Service Number, Social Security Account Number, name and case number (if any).

**SAFEGUARDS:**

a. Records are available to authorized Selective Service personnel only.

b. Paper records are converted to microfilm. A microfilm copy is kept in a locked file cabinet accessible only to authorized personnel. The microfilm original is transferred to a Federal Records Center. The paper records are destroyed after microfilming.

c. Building is secured and patrolled after normal business hours. Access is controlled by an electronic security access system.

d. Computer files will be maintained at the Joint Computer Center at Great Lakes, Illinois.

(1) Security guards for the building will allow access to authorized personnel only.

(2) Computer room will be secured with cipher locks.

(3) Terminal access to the computer system will be restricted to those with valid user ID and password.

(4) A Customer Information Control system will require additional password for interactive access to data base information.

(5) A software security package will protect access to data in the system.

(6) Access to the violator section of the data base will not be possible without specific authorization by the Data Base Administrator.

**RETENTION AND DISPOSAL:**

Upon receipt of unsolicited information regarding an alleged violation of the Military Selective Service Act, SSS will check the registrant file for the individual's name. If the individual has registered, the incoming correspondence will be destroyed and no record will be made or retained by SSS. If the individual is not listed in the registrant file, the individual will be entered into the automated tracking system, and the incoming correspondence will be used to attempt to correspond with the alleged violator, giving him an opportunity to register. After a reasonable attempt is made to register the individual, and he neither registers nor provides documented evidence supporting exemption, the communication may be sent to the Department of Justice. SSS will not retain copies of the incoming correspondence or any record identifying the source of the unsolicited information regarding an alleged violation. When the computer matches identify persons as possible non-registrants, processing may result in the production of a paper file of correspondence and/or other information. SSS will not retain paper copies of this information when cases are referred to the Department of Justice, but will retain microfilm copies. Once the Department of Justice has disposed of the case, as it deems appropriate, the Department of Justice will notify SSS, and the individual's name and related data will be deleted from the tracking system list of possible non-registrants.

All paper forms and correspondence will be destroyed by maceration, shredding or burning after the appropriate information has been recorded. Computer printouts distributed to SSS National Headquarters are destroyed when they have served their temporary purpose by maceration, shredding or burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Selective Service, 1515 Wilson Boulevard, Arlington, VA 22209–2425.

**RECORD ACCESS PROCEDURES:**

If information in the system is desired, write to: Director of Selective Service, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager and furnish the following information in order to identify the individual whose records are requested:

a. Full name.

b. Date of birth.

c. Selective Service Number or Social Security Account Number.

d. Mailing address to which the reply should be mailed.

**CONTESTING RECORD PROCEDURES:**

See Record Access Procedures, above.

**RECORD SOURCE CATEGORIES:**

The information in the system of records regarding alleged violators of the Military Selective Service Act is received via correspondence, telephone calls and computer matches of list of potential registrants.

**SYSTEMS EXEMPTED FOR CERTAIN PROVISIONS OF THE ACT:**

Pursuant to 5 U.S.C. 552a(k)(2) and 32 CFR 1665.6, the Selective Service System will not reveal to the suspected violator the informant's name or other identifying information relating to the informant.

## SSS–9

**SYSTEM NAME:**

Master Pay Record—SSS.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Data Management Center/Joint Computer Center, Great Lakes, Illinois 60088.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Currently assigned civilian employees and former civilian employees who have separated during the current year and first prior calendar year.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Contains payroll information such as name, grade, annual salary, hourly rate, address, Social Security Account Number, birth date, date of hire, service computation date, annual leave category, life insurance and health benefits deductions, savings bond data and other information relating to the status of the employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2) and Title 5, U.S.C.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Selected information by name and Social Security Account Number is furnished the Internal Revenue Service and State and City taxing authorities.

Selected information by name, date of birth, Social Security Account Number is furnished the Office of Personnel Management for retirement, life insurance and health benefit accounts.

Department of Health and Human Services—for locations of parents pursuant to the Child Support Enforcement Act (42 U.S.C. 651 *et seq.*)

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Report Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in binders, on microfiche and magnetic tape.

RETRIEVABILITY:

Records are indexed by Social Security Account Number.

SAFEGUARDS:

The records are maintained in lockable file cabinets.

Measures that have been taken to prevent unauthorized disclosures of records are:

a. Use of the records or any information contained therein is limited to employees whose official duties require such access.

b. Records maintained by authorized personnel only, who have been trained in the rules and regulations concerning disclosures of information; offices are locked when authorized personnel are not on duty.

c. Periodic security checks and other emergency planning.

d. Records transferred for storage are boxed and taped; records in transit for temporary custody of another office are sealed. Records eligible for destruction are destroyed by maceration, shredding or burning.

RETENTION AND DISPOSAL:

The information on the magnetic tapes will be retained for two (2) years, then erased. The microfiche copies will be retained for one (1) year, then destroyed by burning. The computer printouts are retained until updated, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Selective Service, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager.

RECORD ACCESS PROCEDURES:

Current employees or former employees who wish to gain access to their records should make their request in writing, including their full name, address and Social Security Account Number and duty station. Former employees should indicate last duty station with this agency. Inquiries should be mailed to: Director of Selective Service, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Civilian Personnel.

CONTESTING RECORD PROCEDURES:

See Record Access Procedures, above.

RECORD SOURCE CATEGORIES:

Information in the system is obtained from the individual to whom it applies or is derived from information the individual supplied, or is provided by the agency official with authority to appoint the individual.

SYSTEMS EXEMPTED FOR CERTAIN PROVISIONS OF THE ACT:

None.

## SSS–10

SYSTEM NAME:

Registrant Registration Records—SSS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Data Management Center/Joint Computer Center, Great Lakes, Illinois, 60088.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Registrants of the Selective Service System after 1979.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual Registration Records:

a. Registration Form.

b. Computer tape and microfilm copies containing information provided by the registrant on Registration Form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 3, 10(b)(3) and 15(b) of the Military Selective Service Act (50 U.S.C. App. 453, 460(b)(3)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Department of Defense—for exchange of information concerning registration classification, enlistment, examination and induction of individuals and identification of individuals, availability of Standby Reserves and identification of prospects for recruiting.

Department of Justice—for review and processing of suspected violations of the Military Selective Service Act, or for perjury, and for defense of a civil action arising from administrative processing under such Act.

Federal Bureau of Investigation—for location of an individual when suspected of violation of the Military Selective Service Act.

Immigration and Naturalization Service—to provide information for use in determining an individual's eligibility for re-entry into the United States.

Department of State—for determination of an alien's eligibility for possible entry into the United States and United States citizenship.

Office of Veterans' Re-employment Rights, United States Department of Labor—to assist veterans in need of information concerning re-employment rights.

Department of Health and Human Services—for locations of parents pursuant to the Child Support Enforcement Act (42 U.S.C. 651 *et seq.*) And for determining the individual's proper Social Security Account Number when there appears to be a discrepancy.

Bureau of the Census—for the purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13.

State and local government agencies—to provide information which may constitute evidence of a violation of State or local law, for law enforcement purposes.

Alternative service employers—for exchange of information with employers regarding a registrant who is a conscientious objector for the purpose of placement in and supervision of performance of alternative service in lieu of induction into the military service.

General Public—Registrant's Name, Selective Service Number, Date of Birth and Classification.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on microfilm and in the computer system. Microfilm records are indexed by Document

Locator Number, which is stored in the computer record.

**RETRIEVABILITY:**

The system is indexed by Selective Service Number, but records can be located by searching for specific demographic data.

**SAFEGUARDS:**

Measures that have been taken to prevent unauthorized disclosures of records are:

a. Records are maintained by authorized personnel only, who have been trained in the rules and regulations concerning disclosures of information; offices are locked when authorized personnel are not on duty, and are protected by an electronic security access system at all times.

b. Periodic security checks and other emergency planning.

c. Microfilm records transferred to a Federal Records Center for storage are boxed and taped; records in transit for temporary custody of another office are sealed.

d. On-line access to RIB from terminals is controlled by User Identification and password. Batch access controlled via standard data processing software and hardware techniques.

Records eligible for destruction are destroyed by maceration, shredding or burning.

**RETENTION AND DISPOSAL:**

Individual Processing Records:

1. Registration Form—Destroyed by maceration when its information has been transferred onto microfilm and into the computer system. Original microfilm is stored at a Federal Records Center. A microfilm copy is retained at the Data Management Center, in locked steel cabinets. The copies are retained until no longer needed for reference purposes.

2. The record copy of microfilm and computer tape will be retained until the registrant reaches 85 years of age.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Selective Service, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager.

**RECORD ACCESS PROCEDURES:**

The agency office address to which inquiries should be addressed and the location at which an individual may present a request as to whether the Registrant Registration Records System (after 1979) contains records pertaining to himself is: Director of Selective Service, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425, Attn: Records Manager.

It is necessary to furnish the following information in order to identify the individual whose records are requested:

a. Full name of the individual.

b. Selective Service Number or Social Security Account Number, date of birth and address at the time of registration if Selective Service Number is not known.

d. Mailing address to which the reply should be mailed.

**CONTESTING RECORD PROCEDURES:**

See Record Access Procedures, above.

**RECORD SOURCE CATEGORIES:**

Information contained in the Registrant Registration Records System is obtained from the individual.

**SYSTEMS EXEMPTED FOR CERTAIN PROVISIONS OF THE ACT:**

None.

**FOR FURTHER INFORMATION CONTACT:** Rudy Sanchez, Office of the General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

**Gil Coronado,**

*Director.*

[FR Doc. 00–24220 Filed 9–20–00; 8:45 am]

BILLING CODE 8015–01–P

## DEPARTMENT OF STATE

**[Public Notice 3422]**

## Bureau of Educational and Cultural Affairs; The FREEDOM Support Act/Future Leaders Exchange (FSA/FLEX) Program: Host Family and School Placement

**NOTICE:** Request for Proposals.

**SUMMARY:** The Youth Programs Division of the Bureau of Educational and Cultural Affairs announces an open competition for the placement component of the FREEDOM Support Act/Future Leaders Exchange (FSA/FLEX) program. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to recruit and select host families and schools for high school students between the ages of 15 and 17 from the New Independent States (NIS) of the former Soviet Union. In addition to identifying schools and screening, selecting, and orienting families, organizations will be responsible for: Orienting students at the local level; providing support services for students; arranging enhancement activities that reinforce program goals; monitoring students during their stay in the U.S.; providing re-entry training; and assessing student performance and progress. The award of grants and the number of students who will participate is subject to the availability of funding in fiscal year 2001.

### Program Information Overview

*Background*

Academic year 2001/2002 will be the ninth year of the FSA/FLEX program, which now includes over 8,000 alumni. This inbound, academic year component of the NIS Secondary School Initiative was originally authorized under the FREEDOM Support Act of 1992 and is funded by annual allocations from the Foreign Operations and State Department appropriations. The goals of the program are to promote mutual understanding and foster a relationship between the people of the NIS and the U.S.; assist the successor generation of the NIS to develop the qualities it will need to lead in the transformation of those countries in the 21st century; and to promote democratic values and civic responsibility by giving NIS youth the opportunity to live in American society and participate in focused activities for an academic year.

*Objectives*

- To place approximately 1,000 pre-selected high school students from the NIS in qualified, well-motivated host families and welcoming schools.
- To expose program participants to American culture and democracy through homestay experiences and enhancement activities that will enable them to attain a broad view of the society and culture of the U.S.
- To encourage FSA/FLEX program participants to share their culture, lifestyle and traditions with U.S. citizens.

Through participation in the FLEX program, students should:

1. Acquire an understanding of important elements of a civil society. This includes concepts such as volunteerism, the idea that American citizens can and do act at the grassroots level to deal with societal problems, and an awareness of and respect for the rule of law.

2. Acquire an understanding of a free market economy and private enterprise. This includes awareness of privatization and an appreciation of the role of the entrepreneur in economic growth.

3. Develop an appreciation for American culture.

4. Interact with Americans and generate enduring ties.

5. Teach Americans about the cultures of their home countries.

6. Gain leadership capacity that will enable them to initiate and support

activities in their home countries that focus on development and community service in their role as FLEX alumni.

*Other Components*

Two organizations operating as a consortium have been awarded grants to perform the following functions: recruitment and selection of students; targeting recruitment for students with disabilities; assistance in documentation and preparation of IAP–66 forms; preparation of cross-cultural materials; pre-departure orientation; international travel from home to host community and return; facilitation of ongoing communication between the natural parents and placement organization, as needed; maintenance of a student database and provision of data to the Department of State; and ongoing follow-up with alumni after their return to the NIS. Additionally, a separate grant will be awarded for the conduct of a one-week mid-year civic education program in Washington, D.C., for a select number of students who successfully compete for the Washington program. Most of the students with disabilities, as well as a select number of additional students who are identified as needing English language enhancement before entering their host communities, will attend a Language and Cultural Enhancement (LCE) program in July 2001, which will be conducted under a grant awarded exclusively for that purpose. The announcements of the competitions for these grants will be published separately.

**Guidelines**

Organizations chosen under this competition are responsible for the following:

(1) Recruitment, screening, selection, and NIS-specific orientation of host families;

(2) School enrollment;

(3) Local orientation for participants;

(4) Placement of a small number of students with disabilities;

(5) Ensuring that all students identified for the pre-academic-year LCE program have their permanent year-long placement by the time they arrive at the LCE program;

(6) Specialized training of local staff and volunteers to work with NIS students;

(7) Preparation and dissemination of materials to students pertaining to the respective placement organization;

(8) Dispersal of program-specific information, such as alumni activity reports and School Administrator handbooks, to respective persons involved with the program (*e.g.,* host families, school administrators, local coordinators);

(9) Program-related enhancement activities;

(10) Troubleshooting;

(11) Communication with the organizations conducting other program components, when appropriate;

(12) Evaluation of the students' performance;

(13) Quarterly evaluation of the organization's success in achieving program goals;

(14) Re-entry training to prepare students for readjustment to their home environments.

Applicants may request a grant for the placement of at least 20 students. There is no ceiling on the number of students who may be placed by one organization. It is anticipated that 15–20 grants will be awarded for this component of the FLEX program. Placements will be distributed throughout the U.S. Students may be clustered in one or more regions or dispersed. Applicants must demonstrate that training of local staff ensures their competence in providing NIS-specific orientation programs, appropriate enhancement activities, and quality supervision and counseling of students from the NIS. Please refer to the Solicitation Package, available on request from the address listed below, for details on essential program elements, permissible costs, and criteria used to select students.

Grants should begin at the point that the complete applications on selected finalists are delivered to the placement organizations, no later than March 15, 2001. Most participants arrive in their host communities during the month of August and remain for 10 or 11 months until their departure during the period mid-May to late June 2002.

Administration of the program must be in compliance with reporting and withholding regulations for federal, state, and local taxes are applicable. Recipient organizations should demonstrate tax regulation adherence in the proposal narrative and budget.

Applicants should submit the health and accident insurance plans they intend to use for students on this program. If use of a private plan is proposed, the State Department will compare that plan with the Bureau plan and make a determination of which will be applicable.

Participants will travel on J–1 visas issued by the State Department using a government program number. Organizations must comply with J–1 visa regulations in carrying out their responsibilities under the FLEX program. Please refer to Solicitation Package for further information.

**Budget Guidelines**

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Applicants must submit a comprehensive budget for the entire program. Per capita costs should not exceed $5,175. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets.

Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Allowable costs for the program include the following:

(1) A monthly stipend and a one-time incidentals allowance for participants, as established by the Department of State;

(2) Costs associated with student enhancement activities and orientations;

(3) Health and accident insurance.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

*Announcement Title and Number:* All correspondence with the Bureau concerning this RFP should reference the above title and number *ECA/PE/C/PY–01–18.*

**FOR FURTHER INFORMATION CONTACT:** The Office of Youth Programs, ECA/PE/C/PY, Room 568, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, tel. (202) 619–6299, and fax (202) 619–5311, e-mail *amussman@pd.state.gov* to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau of Education and Cultural Affairs Program Officer Anna Mussman on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

*To Download a Solicitation Package via Internet:* The entire Solicitation Package may be downloaded from the Bureau's website at http://exchanges.state.gov/education/rfps. Please read all information before downloading.

**Deadline for Proposals**

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington,

DC time on Monday, November 13. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and 8 copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: *ECA/PE/C/PY–01–18*, Program Management, ECA/EX/PM, Room 336, 301 4th Street, SW., Washington, DC 20547.

**Diversity, Freedom and Democracy Guidelines**

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

**Review Process**

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the State Department Geographic Area Office and Public Diplomacy section at the U.S. embassy overseas, where appropriate. Eligible proposals will be forwarded to panels of Bureau officers for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Under Secretary for Public Diplomacy and Public Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the Bureau's Grants Officer.

**Review Criteria**

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives are recommended. Successful applicants will be expected to submit quarterly reports, which should be included as an inherent component of the work plan.

9. *Cost-effectiveness/cost sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

**Authority**

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation pertaining to the Department of State and FREEDOM Support Act appropriations.

**Notice**

The terms and conditions published in this RFP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

**Notification**

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: September 15, 2000.

**Helena Kane Finn,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.*

[FR Doc. 00–24284 Filed 9–20–00; 8:45 am]

BILLING CODE 4710–05–P

## DEPARTMENT OF STATE

**[Public Notice 3423]**

## Bureau of Educational and Cultural Affairs; Wye River People-to-People Exchange Program

**NOTICE:** Request for Proposals.

**SUMMARY:** The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs (ECA) of the United States Department of State, in cooperation with the Bureau of Near Eastern Affairs (NEA), announces an open competition for grants under the Wye River People-to-People Exchange Program. Public and private non-profit organizations operating in the United States, in the West Bank and Gaza, and in Israel may submit proposals to develop and implement individual exchange projects or multi-faceted programs that involve both Israeli and Palestinian participants. American applicants are required to meet the provisions described in IRS regulation 26 CFR 1.501(c). The Bureau anticipates conducting a series of grant competitions over a two-year period and seeks to award grants totaling approximately $10 million. These assistance awards will be issued by ECA in Washington, by the American Embassy in Tel Aviv, and by the American Consulate General in Jerusalem. Project proposals requesting grant funding of $1 million or more will be accepted, though it is anticipated that most proposals submitted will request funding ranging from $50,000 to $500,000. Grants awarded to American organizations with less than four years' experience in conducting international exchange—programs will be limited to $60,000.

### Program Information

*Overview*

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs, U.S. Department of State, consults with and supports public and private nonprofit organizations in developing and implementing multi-phased, often multi-year, exchanges of professionals, academics, youth leaders, public policy advocates, etc. These exchanges address issues crucial to the communities involved; they represent focused, substantive, and cooperative interaction among individuals representing diverse communities; and they entail both theoretical and experiential learning for all participants. A primary goal is the development of sustained, intercommunal institutional and individual linkages. In addition to providing a context for professional development and collaborative, inter-group problem-solving, these projects are intended to introduce participants to one another's political, social, and economic cultures.

The Wye River People-to-People Exchange Program is based on the premise that people-to-people exchanges—particularly those that focus on sharing efforts and pooling resources to address issues of importance to all parties to the exchange -will enhance mutual understanding, increase both the will and the ability of individuals to cooperate in an environment of mutual respect, and strengthen prospects for peaceful co-existence between communities.

In response to the aspirations of this program, the Office of Citizen Exchanges, in cooperation with the Bureau of Near Eastern Affairs, is soliciting proposals for exchange projects that will contribute to enhanced understanding and cooperation between Palestinians and Israelis by engaging representatives from the two communities in cooperative efforts to address issues of crucial importance to both. The emphasis should be on sustainable, collaborative, balanced efforts. Proposals must be submitted in English and may be submitted by any of the following:

1. American non-profit organizations and institutions, submitting jointly with Palestinian and Israeli counterparts. Grants in this category will be awarded in Washington by ECA.

2. Partnerships between Palestinian and Israeli non-profit organizations and institutions (inclusion of American partner organizations optional). Grants in this category will be awarded by the U.S. Embassy in Tel Aviv and/or the U.S. Consulate General in Jerusalem.

3. Joint Israeli-Palestinian non-profit organizations and institutions (inclusion of American partner organizations optional). Grants in this category will be awarded by the U.S. Embassy in Tel Aviv and/or the U.S. Consulate General in Jerusalem.

Proposal subject areas that will receive priority consideration from the review panels, based on their potential for having a broad public impact in the two communities, are education (including institutional strengthening, teacher training, and curriculum development) and media (joint reporting initiatives; journalism education; specialized reporting, etc.). The panels will also consider proposals in other areas, including, but not limited to, human rights/the protection of women and children, health, environmental education/conservation, and the management and strengthening of public interest groups or non-governmental organizations.

It is essential that proposals demonstrate parity in participation by Palestinians and Israelis in every phase.

Suggested components of proposed exchanges might include:

1. Initial needs assessment/orientation travel (if necessary) by project organizers to gain first-hand knowledge of the issue in the context of each community and to develop contacts and relationships with counterpart organizations/individuals involved;

2. Participant orientation to program purposes, with discussions and site visits to familiarize participants with all aspects of the issue to be addressed and with the cultural context and expectations of other participants;

3. Collaborative development and conduct of seminars and workshops to expand the network of involved individuals and to engage this expanded network in project implementation;

4. On-site training; short internships; cooperative work;

5. The development of pilot projects and the broad dissemination of information about the undertaking; and

6. Longer, intensive, joint Israeli-Palestinian internships.

Applicants are encouraged to be creative in planning project implementation. Activities may include both theoretical orientation and experiential, community-based initiatives designed to achieve concrete objectives. Meetings, workshops, etc. may take place on site, at a neutral venue in the region, or in the United States, should consultation or site visit requirements justify such travel. Travel to consult with specialists or to view examples of working models are legitimate grant expenditures.

Applicants should, in their proposals, identify, to the extent possible, partner organizations and/or individuals in the region or in the United States with which/whom they are proposing to collaborate, and they should justify their choices on the basis of experience and accomplishments. Subcontractual agreements or letters of understanding should be included in all proposals where these are relevant.

**Selection of Participants**

Successful applications should include a description of an open, merit-based participant selection process. Applicants should anticipate consulting and working with the Public Affairs Sections (PAS) of the U.S. Embassy in Tel Aviv and the U.S. Consulate General in Jerusalem in selecting participants, according the Embassy and the Consulate General staff the right to nominate participants.

**Public Affairs Section Involvement**

The Public Affairs Section of U.S. Embassy in Tel Aviv and the Public Affairs Office of the U.S. Consulate General in Jerusalem will play an important role in project implementation. The U.S. Missions will participate in proposal evaluation, and they may be involved with the grantee organization and its partners in project planning, facilitation of in-country activities, nomination of participants, observation of in-country activities, debriefing participants, and evaluating project impact. U.S. Missions are responsible for issuing IAP–66 forms in order for Israeli and Palestinian participants to obtain J–1 visas for entry to the United States in cases in which travel to the United States is appropriate to the implementation of the exchange. They also serve as a link between Israeli and Palestinian partners and participants and between these and the American partners when the grant recipients include an American institution.

Though project administration and implementation are the responsibility of the grantee, the grantee is expected to inform the Public Affairs Officers (PAOs) in Tel Aviv and/or Jerusalem, or their designees, of its operations and procedures and to consult with American Public Affairs personnel in the development of project activities. For American grantee institutions, the PAOs should be consulted regarding country priorities, current security issues, and related logistic and programmatic issues. Each grant, whether issued in Washington, in Tel Aviv, or in Jerusalem, will contain specific/detailed financial and program reporting requirements. Failure to comply with these requirements or failure of the grantee to implement grant activities as proposed may result in the early termination of the grant award.

**Visa Regulations**

Foreign participants on programs sponsored by ECA are granted J–1 Exchange Visitor visas by the U.S. Embassy in the sending country. All programs must comply with J–1 visa regulations. Please refer to the Proposal Submission Instructions (PSI), either for American or for non-American organizations, as applicable, for further information.

**Budget Guidelines**

All applicants must submit a line item budget based on guidance provided in the Proposal Submission Instructions (PSI) of the Solicitation Package. The anticipated range of awards is cited above.

All applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Proposals must provide for cost sharing—in cash or in kind—of 50% of the TOTAL COST of the exchange project. Cost sharing may be derived from diverse sources, including foreign or domestic government contributions, private sector contributions, and/or direct institutional support. Funds originating with other departments or agencies of the U.S. Federal Government may not be used as cost sharing. Applicants may apply for a Wye River Grant in anticipation of receiving cost sharing or matching funds upon selection of the proposed project for an award. In such cases, grants will be formalized and funds become available only when evidence that the required level of cost sharing is available is presented to the Department of State, the U.S. Embassy in Tel Aviv or the U.S. Consulate General in Jerusalem.

Allowable costs include the following:

(1) Direct program expenses;

(2) Administrative expenses, including indirect costs.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

**Announcement Title and Number**

All correspondence with the Bureau, the U.S. Embassy in Tel Aviv or the U.S. Consulate General in Jerusalem concerning this request for proposals should reference the above title (Wye River People-to-People Exchange Program) and number ECA PE/C–00–69.

**For Further Information**

*American organizations should contact:* The Office of Citizen Exchanges, ECA/PE/C, Room 224, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, attention: Thomas Johnston. Telephone number 202/619–5325 or 202/260–0299; fax number 202/619–4350; Internet address to request a Solicitation Package (specific to American organizations): tjohnsto@pd.state.gov. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Thomas Johnston on all inquiries and correspondence.

*Israeli or Palestinian applicants should direct inquiries to:* the U.S. Embassy in Tel Aviv or the U.S. Consulate General in Jerusalem respectively. Inquiries should be addressed to:

*In Tel Aviv (Note: Inquiries from Gaza should be directed to this address):* Programs and Exchanges Office, U.S. Embassy, Tel Aviv. Telephone number: 03–516–3210; e-mail: p-e@usembassy-israel.org.il.

*In Jerusalem (Note: Inquiries from Gaza should be directed to the Tel Aviv address above):* Public Affairs Office, U.S. Consulate General, Jerusalem. Telephone number: 02–622–7207; e-mail: people@pd.state.gov.

Please read the complete **Federal Register** announcement or Request for Proposals (RFP) before sending inquiries or submitting proposals. Once the RFP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

**To Download a Solicitation Package via Internet**

The entire Solicitation Package may be downloaded from the Bureau's website, http://exchanges.state.gov/education/rfps. Please note! There will be two separate sets of Proposal Submission Instructions (PSI) available, one specific to American applicants and one specific to non-American (Israeli and Palestinian) applicants. Please read all information before downloading.

**Deadline for Proposals**

All proposal copies must be received at the Bureau of Educational and Cultural Affairs (in the case of American organizations) by 5 p.m. Eastern Standard Time (EST) or at the Public Affairs Section of the U.S. Embassy in Tel Aviv or at the Public Affairs Office of the U.S. Consulate General in Jerusalem (in the case of Israeli or Palestinian organizations) by 5 p.m. local time on January 5, 2001. Faxed documents will not be accepted at any time. Documents postmarked January 5, 2001, but received on a later date, will not be accepted. Each applicant must

ensure that the proposals are received by the above deadline.

Applications must conform to all instructions in the Solicitation Package. The original and ten copies of the application submitted by American applicants should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C–00–69, Program Management, ECA/EX/PM, Room 336, 301 4th Street, SW., Washington, DC 20547.

American applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5'' diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to the Public Affairs section of the US Embassy and the Public Affairs Office of the US Consulate for their review, with the goal of reducing the time it takes to receive comments for the grants review process.

The original and ten copies of applications submitted by Israeli and Palestinian applicants should be sent to one of the following addresses:

1. Programs and Exchanges, Migdalor Building, 8th Floor, One Ben Yehuda Street, Tel Aviv, Israel.
2. Public Affairs Office, American Consulate General, PO Box 290, Jerusalem 91002.

**Diversity, Freedom and Democracy Guidelines (Specific to American Applicants)**

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to, ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.''

Public Law 106–113 requires that the governments of the countries described above do not have inappropirate influence in the selection process. Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

**Review Process**

The Bureau, the Embassy in Tel Aviv, or the Consulate General in Jerusalem will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as by the Public Diplomacy section of the U.S. Mission overseas. Eligible proposals will be forwarded to panels of State Department officers for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Public Affairs. Final technical authority for assistance awards (grants or cooperative agreements) from the Bureau of Educational and Cultural Affairs resides with the Bureau's Grants Officer. Final technical authority for assistance awards from the U.S. Embassy in Tel Aviv and the U.S. Consulate General in Jerusalem resides with the Public Affairs Officer in the Public Affairs Section/Office in each Mission.

**Review Criteria**

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered, and all carry equal weight in the proposal evaluation.

1. *Quality of the Program Idea:* Proposals should be substantive, well thought out, focused on issues of demonstrable relevance to all proposed participants, and responsive, in general, to the exchange suggestions and guidelines provided above.

2. *Implementation Plan and Ability to Achieve Objectives:* A detailed project implementation plan should establish a clear and logical connection between the interest, the expertise, and the logistic capacity of the applicant and the objectives to be achieved. The plan should discuss, in concrete terms, how the institution proposes to achieve the objectives. Institutional resources—including personnel—assigned to the project should be adequate and appropriate to achieve project objectives. The substance of workshops and site visits should be included as an attachment, and the responsibilities of all partners should be clearly described.

3. *Institution's Record/Ability:* Proposals should include an institutional record of successful exchange programs, with reference to responsible fiscal management and full compliance with reporting requirements. The Bureau will consider the demonstrated potential of new applicants and will evaluate the performance record of prior recipients of Bureau grants as reported by the Bureau grant staff.

4. *Follow-on Activities:* Proposals should provide a plan for sustained follow-on activity (building on the linkages developed under the grant and the activities initially funded by the grant, after grant funds have been exhausted), ensuring that Bureau-supported projects are not isolated events.

5. *Project Evaluation/Monitoring:* Proposals should include a plan to monitor and evaluate the project's implementation, both as the activities unfold and at the end of the program. Reports should include both accomplishments and problems encountered. A discussion of survey methodology or other disclosure/measurement techniques, plus a description of how outcomes are defined in terms of the project's original objectives, is recommended. Successful applicants will be expected to submit a report after each project component is concluded or semi-annually, whichever is less frequent.

6. *Impact:* Proposed projects should, through the establishment of substantive, sustainable individual and institutional linkages and encouraging maximum sharing of information and cross-boundary cooperation, enhance mutual understanding among communities and societies.

7. *Cost Effectiveness and Cost Sharing:* Administrative costs should be kept low. Budgets submitted with proposals should reflect 50 percent (of the total cost of the exchange) cost sharing, comprised of cash or in-kind contributions. Such contributions may represent international or domestic government contributions, private sector contributions, or direct institutional support.

8. *Support of Diversity:* Proposals should demonstrate support for the Bureau's policy on diversity. Features relevant to this policy should be cited in program implementation (selection of participants, program venue and program evaluation), program content, and program administration.

## Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation. The funding authority for grants awarded to foreign entities under the Wye River People-to-People Exchange Program is provided in Title VI—International Affairs Supplemental Appropriations: Bilateral Economic Assistance.

## Notice

The terms and conditions published in this RFP are binding and may not be modified by any Bureau/Department of State representative. Explanatory information provided by the Bureau/Department that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Bureau/Department reserves the right to revise, reduce, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards will be subject to periodic reporting and evaluation requirements.

## Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: September 15, 2000.

**Helena Kane Finn,**

*Principal Deputy Assistant Secretary, Educational and Cultural Affairs, U.S. Department of State.*

[FR Doc. 00–24285 Filed 9–20–00; 8:45 am]

BILLING CODE 4710–11–P

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# DEPARTMENT OF TRANSPORTATION

## Office of the Secretary

**[Docket No. OST–00–7668]**

## Application of Boston-Maine Airways Corp. (d/b/a Pan Am Services) for Issuance of New Certificate Authority

**AGENCY:** Department of Transportation.

**ACTION:** Notice of Order to Show Cause (Order 200–9–17).

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding Boston-Maine Airways Corp. d/b/a Pan Am Services fit, willing, and able, and (2) awarding it a certificate to engage in interstate scheduled air transportation of persons, property, and mail, using small (less than 60 seats) aircraft.

**DATES:** Persons wishing to file objections should do so no later than September 29, 2000.

**ADDRESSES:** Objections and answers to objections should be filed in Docket OST–00–7668 and addressed to Department of Transportation Dockets (SVC–124, Room PL–401), 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment to the order.

**FOR FURTHER INFORMATION CONTACT:** Ms. Janet A. Davis, Air Carrier Fitness Division (X–56, Room 6401), Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: September 15, 2000.

**Susan McDermott,**

*Deputy Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 00–24269 Filed 9–20–00; 8:45 am]

BILLING CODE 4910–62–P

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# DEPARTMENT OF TRANSPORTATION

## Coast Guard

**[USCG–2000–7934]**

## National Boating Safety Advisory Council

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meetings.

**SUMMARY:** The National Boating Safety Advisory Council (NBSAC) and its subcommittees on boat occupant protection, navigation lights, and prevention through people will meet to discuss various issues relating to recreational boating safety. All meetings will be open to the public.

**DATES:** NBSAC will meet on Monday, October 23, 2000, from 8:30 a.m. to 5 p.m. and Tuesday, October 24 from 8:30 a.m. to noon. The Prevention Through People Subcommittee will meet on Saturday, October 21, 2000, from 1:30 p.m. to 4:00 p.m. The Boat Occupant Protection Subcommittee will meet on Sunday, October 22, 2000, from 9:00 a.m. to noon; and the Navigation Light Subcommittee will meet from 1:30 p.m. to 4:00 p.m. These meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before October 13, 2000. Requests to have a copy of your material distributed to each member of the committee or subcommittees should reach the Coast Guard on or before October 6, 2000.

**ADDRESSES:** NBSAC will meet at the Adam's Mark Clearwater Beach Resort, 430 South Gulfview Boulevard, Clearwater Beach, Florida. The subcommittee meetings will be held at the same address. Send written material and requests to make oral presentations to Mr. Albert J. Marmo, Commandant (G–OPB–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. You may obtain a copy of this notice by calling the U.S. Coast Guard Infoline at 1–800–368–5647. This notice is available on the Internet at http://dms.dot.gov or at the Web Site for the Office of Boating Safety at URL address www.uscgboating.org/.

**FOR FURTHER INFORMATION CONTACT:** Albert J. Marmo, Executive Director of NBSAC, telephone 202–267–0950, fax 202–267–4285.

**SUPPLEMENTARY INFORMATION:** Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

## Agendas of Meetings

*National Boating Safety Advisory Council (NBSAC).* The agenda includes the following:

(1) Executive Director's report.
(2) Chairman's session.
(3) Prevention Through People Subcommittee report.
(4) Boat Occupant Protection Subcommittee report.
(5) Navigation Light Subcommittee report.
(6) Recreational Boating Safety Program report.
(7) National Association of State Boating Law Administrators Report.
(8) Discussion on Federal requirements to carry ground tackle on recreational vessels.
(9) Discussion on recreational boating accident reporting criteria.
(10) Report on boating safety interventions for anglers and hunters.

(11) Report on the emergency position indicating radio beacon rental program.

(12) Report on personal watercraft safety labels.

(13) Discussion on proposed changes to the personal flotation device classification system.

(14) Discussion on increasing the serviceable life of pyrotechnic visual distress signals.

(15) Discussion on life raft safety issues.

*Prevention Through People Subcommittee.* The agenda includes the following:

(1) Discuss personal flotation device labels.

(2) Discuss individual member Prevention Through People activities in the recreational boating community.

(3) Discuss the new Boating Under the Influence public awareness campaign concept.

(4) Discuss current regulatory projects, grants and contracts dealing with personal flotation devices.

*Boat Occupant Protection Subcommittee.* The agenda includes the following:

(1) Discuss current regulatory projects, grants and contracts impacting boat occupant protection.

(2) Discuss Personal Watercraft Standards Technical Panel activities.

(3) Review subcommittee charges and develop a status update.

*Navigation Light Subcommittee.* The agenda includes the following:

(1) Discuss issues coordinated with the Navigation Safety Advisory Council.

(2) Discuss navigation light certification rulemaking.

(3) Discuss navigation light grant projects.

**Procedural**

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Director no later than October 13, 2000. Written material for distribution at a meeting should reach the Coast Guard no later than October 13, 2000. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of a meeting, please submit 25 copies to the Executive Director no later than October 6, 2000.

**Information on Services for Individuals With Disabilities**

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: September 16, 2000.

**Kenneth T. Venuto,**

*Rear Admiral, U.S. Coast Guard, Director of Operations Policy.*

[FR Doc. 00–24290 Filed 9–20–00; 8:45 am]

BILLING CODE 4910–15–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

**[Summary Notice No. PE–2000–45]**

## Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before October 8, 2000.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

**FOR FURTHER INFORMATION CONTACT:** Cherie Jack (202) 267–7271, Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on September 12, 2000.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

**Dispositions of Petitions**

*Docket No.:* 29477
*Petitioner:* Aero Instruments and Avionics, Inc.
*Section of the FAR Affected:* 14 CFR 145.45(f)
*Description of Relief South/Disposition:* To permit AIA the extent necessary to assign one copy of its Inspection Procedures Manual (IPM) to each department manager rather than give a copy of the IPM to each of its supervisory and inspection personnel.
*Grant, 08/29/00, Exemption No. 7337*

*Docket No.:* 30135
*Petitioner:* Atlantic Aero, Inc.
*Section of the FAR Affected:* 14 CFR 145.45(a)
*Description of Relief Sought/ Disposition:* To permit AAI to assign copies of Inspection Procedures Manual (IPM) to its supervisory personnel and place copies of the IPM in strategic locations in lieu of giving a copy of the IPM to each of its supervisory and inspection personnel.
*Grant, 08/29/00, Exemption No. 7336*

*Docket No:* 28885
*Petitioner: Freefall Adventures, Inc.*
*Section of the FAR Affected:* 14 CFR 105.43(a)
*Description of Relief Sought/ Disposition:* To permit nonstudent foreign national parachutists to participate in FAI-sponsored parachute jumping events without complying with the parachute packing and equipment requirements of § 105.43(a).
*Grant, 08/29/00, Exemption No. 7335*

*Docket No.:* 26559
*Petitioner:* Helicopter Association International and the Association of Air Medical Services
*Section of the FAR Affected:* 14 CFR 43.3(a)
*Description of Relief Sought/ Disposition:* To permit pilots employed by member operators of HAI or AAMS or other similarly-situated certificated operators to remove and reinstall liquid oxygen containers in their aircraft after receiving and documenting appropriate training by a properly certificated airframe mechanic.

*Grant, 08/29/00, Exemption No. 6002C*

*Docket No.:* 26378

*Petitioner:* DaimlerChysler Aerospace, MTU Maintenance Hannover GmbH (MTU)

*Section of the FAR Affected: 14 CFR 145.47(c)(1)*

*Description of Relief Sought/ Disposition:* To permit MTU to extend its certification privileges as an FAA-approved foreign repair station to contract the maintenance and repair of engine components of International Aero Engines AG Model V2500 turbine engines to facilities that are not FAA-certificated repair stations, U.S.-original equipment manufacturers, or approved manufacturing licensees for such engines.

*Grant, 08/25/00, Exemption No. 5337D*

*Docket No.:* 26608

*Petitioner:* Phillips Alaska, Inc.

*Section of the FAR Affected:* 14 CFR 43.3(a), 43.7(a), 91.407(a)(2), 91.417(a)(2)(v), and 121.379

*Description of Relief Sought/ Disposition:* To permit ARCO Alaska, Inc. (ARCO Alaska), and British Petroleum Exploration, Inc. (BPX), to use the approved maintenance recordkeeping procedures for Alaska Airlines, Inc. (ASA) for Boeing 737–200 aircraft leased and operated by ARCO Alaska and BPX. It also permits ASA to perform maintenance, preventive maintenance, alterations, inspections, major repairs, and major alterations, and subsequently return to service Boeing 737–200 aircraft leased and operated by ARCO Alaska and BPX in accordance with ASA's continuous airworthiness maintenance program and maintenance procedures.

*Grant, 08/25/00, Exemption No. 5667D*

[FR Doc. 00–23814 Filed 9–20–00; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2000–7006]**

## Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** The FMCSA announces its decision to exempt 56 individuals from the vision requirement in 49 CFR 391.41(b)(10).

**DATES:** September 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366–2519, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 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. DOT Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable 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 web page at: *http://www.access.gpo.gov/nara.*

### Background

Sixty-one individuals petitioned the FHWA for an exemption of the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are John W. Arnold, James H. Bailey, Victor F. Brast, Jr., John P. Brooks [published as James P. Brooks in the Notice of Intent on April 14, 2000], Robert W. Brown, Benny J. Burke, Derric D. Burrell, Anthony J. Cesternino, Ronald W. Coe, Sr., Richard A. Corey, James A. Creed, William G. Croy, Craig E. Dorrance, Willie P. Estep, Duane H. Eyre, James W. Frion, Lee Gallmeyer, Shawn B. Gaston, James F. Gereau, Rodney M. Gingrich, Esteban Gerardo Gonzalez, Harlan Lee Gunter, Thanh Van Ha, James O. Hancock, Paul A. Harrison, Joseph H. Heidkamp, Jr., Thomas J. Holtmann, Larry D. Johnson, Gary Killian, Marvin L. Kiser, Jr., David R. Lambert, James R. Lanier, Donald Eugene Lee, James Stanley Lewis, Thomas J. Long, Newton Heston Mahoney, Ronald L. Martsching, Robert Evans McClure, Jr., Duane D. Mims, James A. Mohr, William A. Moore, Leonard James Morton, Timothy W. Noble, Kevin J. O'Donnell, Gary L. Reveal, John W. Robbins, Jr., Doyle R. Roundtree, Charles L. Schnell, David L. Slack, Everett J. Smeltzer, Philip Smiddy, James C. Smith, Terry L. Smith, James N. Spencer, Teresa Mary Steeves, Roger R. Strehlow, Timothy W. Strickland, John T. Thomas, Darel E. Thompson, Ralph A. Thompson, and Kevin Wayne Windham.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' Accordingly, the FMCSA evaluated the petitions on their merits and made a preliminary determination that the waivers should be granted. On April 14, 2000, the agency published notice of its preliminary determination and requested comments from the public (65 FR 20245). The comment period closed on May 15, 2000. Three comments were received, and their contents were carefully considered by the FMCSA in reaching the final decision to grant the petitions.

The FMCSA has not made a decision on five applicants (Donald Eugene Lee, Thomas J. Long, Robert Evans McClure, Jr., Gary L. Reveal, and Charles L. Schnell). Subsequent to the publication of the preliminary determination, the agency received additional information from its check of these applicants' motor vehicle records, and we are evaluating that information. A decision on these five petitions will be made in the future.

### Vision and Driving Experience of the Applicants

The vision requirement provides:

> A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.'' 49 CFR 391.41(b)(10).

Since 1992, the FHWA has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., ''Visual Requirements and Commercial Drivers,'' October 16, 1998, filed in the docket.) The panel's

conclusion supports the FMCSA's (and previously the FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 56 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, corneal and macular scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but 14 of the applicants were either born with their vision impairments or have had them since childhood. The 14 individuals who sustained their vision conditions as adults have had them for periods ranging from 8 to 41 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, can perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of a valid commercial driver's license (CDL) or non-CDL to operate a CMV. Before issuing a CDL, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate the CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, however, require more.

While possessing a valid CDL or non-CDL, these 56 drivers have been authorized to drive a CMV in intrastate commerce even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 50 years. In the past 3 years, the 56 drivers had 10 convictions for traffic violations among them. Three drivers were involved in accidents in their CMVs, but did not receive a citation. The drivers were convicted of three moving traffic violations; two of them were for speeding and one was for ''Disobey Traffic Signal.''

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in an April 14, 2000, notice (65 FR 20245). Except for two applicants (Thanh Van Ha and James N. Spencer), the docket comments did not focus on the specific merits or qualifications of any applicant; therefore, we have not repeated the individual profiles here. The qualifications of Mr. Ha and Mr. Spencer are further examined below in the discussion of comments. With one exception, our summary analysis of the applicants as a group is supported by the information published at 65 FR 20245. In Mr. Killian's case, his accident was not reported in the April 14, 2000, notice because it was discovered on a subsequent check of his motor vehicle record. The police report indicated that Mr. Killian's vehicle was sideswiped by the other vehicle and the other driver was charged with ''Left of Center.'' Mr. Killian has no other accidents or convictions in a CMV on his driving record for the 3-year review period.

**Basis for Exemption Determination**

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting these drivers to drive in interstate commerce as opposed to restricting them to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, the FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. Recent driving performance is especially important in evaluating future safety according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket.

We believe we can properly apply the principle to monocular drivers because data from the vision waiver program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996.) That experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors, such as age, sex, geographic location, mileage driven and conviction history, are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971.) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 56 applicants, we note that cumulatively the applicants have had only three accidents and 10 traffic violations in the last 3 years. None of the accidents resulted in the issuance of a citation against the applicant. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, the FMCSA concludes their ability to drive safely can be projected into the future.

We believe the applicants' intrastate driving experience provides an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the

driver to more pedestrian and vehicular traffic than exist on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, the FMCSA finds that exempting applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the 56 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in its driver qualification file, or keep a copy in his/her driver qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

**Discussion of Comments**

The FMCSA received three comments in this proceeding. The comments were considered and are discussed below.

The Licensing Operations Division of the California Department of Motor Vehicles commented opposing the granting of an exemption to Mr. James N. Spencer and Mr. Thanh Van Ha. California is opposed to granting an exemption to Mr. Spencer because he was cited in 1995 for driving a CMV on the wrong side of the road, and he was involved in accidents while operating a CMV in both 1995 and 1996, in which the officer identified him as being the party most responsible for the accidents. California also argues that, although the above violations and accidents are outside the FMCSA's 3-year review period for exemptions, the actions are serious enough to warrant a denial of the exemption.

The FMCSA has established the 3-year requirement of driving with a vision impairment before being eligible for a waiver because: (1) It takes time for a person with a vision deficiency to compensate for that deficiency; (2) the best predictor of safety and future performance of a driver is his past record of accidents and violations; and (3) the 3-year standard corresponds to the longest period of time that states uniformly keep driving records.

Mr. Spencer currently holds a valid intrastate CDL with endorsements for both doubles and triples issued on July 23, 1997, by the State of California. His driving record with the State of California does not reflect the instances cited by the Department of Motor Vehicles. While the FMCSA might agree that an applicant's exceptionally poor driving record outside the established 3-year period might give us pause to reconsider the merits of issuing an exemption, we do not believe that Mr. Spencer's current record warrants a denial. In fact, it appears that his driving has improved over the years as his record indicated no accidents and no violations in the last three years. Nonetheless, we will continue to monitor his driving, along with all other drivers issued exemptions, and will take action to revoke the exemption, if and when warranted.

The State of California is opposed to granting an exemption to Mr. Ha because he does not hold a California commercial driver's license (CDL) and he has never passed a commercial knowledge test or demonstrated compensation for his vision deficiency on a commercial driving test.

The FMCSA requires an applicant for a vision exemption to submit documentation showing that he or she currently holds a intrastate CDL or a license (non-CDL) to operate a CMV. Mr. Ha submitted a copy of a valid California Class C license which allows him to operate a Class C vehicle (having a gross vehicle weight rating of 26,000 pounds or less). California does not require a CDL to operate a Class C vehicle unless the vehicle is used to transport hazardous materials/wastes requiring placards. Mr. Ha has 10 years experience operating a straight truck having a gross vehicle weight rating over 10,000 pounds, a CMV as defined in 49 CFR 390.5. Mr. Ha has satisfied California licensing requirements, including a written test and road test, to operate a Class C vehicle. Consequently, we do not think that Mr. Ha's application for a vision exemption should be denied because he does not possess a CDL and has not passed the knowledge and skills testing required of applicants for CDLs.

The Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to the FMCSA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs), including the driver qualification standards. Specifically, the AHAS: (1) Asks the agency to clarify the consistency of the exemption application information, (2) objects to the agency's reliance on conclusions drawn from the vision waiver program, (3) raises procedural objections to this proceeding, (4) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)), and finally, (5) suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

Most of the issues raised by the AHAS were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), and 65 FR 159 (January 3, 2000). We will not address these points again herein but refer interested parties to those earlier discussions. However, the AHAS has raised some new issues, and these are addressed in the following discussion.

Relative to the comments on the consistency of the information presented to the public, the AHAS questions how various aspects of that information are verified. In particular, the AHAS states that the public is not advised about outside verification of each applicant's miles driven, the number of years driving commercial vehicles, the type of vehicle driven, and the most recent 3-year driving record. The number of years driving commercial vehicles is not the precise experience criteria used to determine an applicant's acceptability for an exemption. That determination is made on the most recent 3 years experience before application. That experience and the type of truck driven is verified by the applicant's employer.

The recent 3-year driving record is verified through the Commercial Driver

License Information System (CDLIS). This is another criteria used to determine if an applicant is acceptable. Total miles driven is not a criteria used to decide acceptability. It has not been stated any place that mileage is a critical criteria. It is, therefore, not verified. Mileage is presented as an indication of overall experience with commercial motor vehicles.

The AHAS states that the FMCSA needs to provide an accurate mileage figure for the recent 3-year period. This mileage is needed, it is stated, to determine whether applicant's crashes and violations are accumulated at low or high exposure in the three years preceding the application. While this may be an interesting determination in some contexts, it is not relevant to the determination of the driver's acceptability. An applicant is acceptable relative to a driving record if there are no crashes for which the driver was issued a citation nor was a contributing factor. It is not relevant whether these types of crashes occur at high or low exposure. If they are present, the driver is disqualified.

The AHAS states that the FMCSA should require a minimum average annual miles driven or total mileage in order to qualify for an exemption. In making this statement, the AHAS notes that mileage driven by applicants in the **Federal Register** notice ranges from as little as 40,000 and 66,000 miles (for 4 and 3 years, respectively) to over three million miles for applicants with 20 or more years driving experience. The AHAS further states that drivers in the Vision Waiver Program appear to have far more driving miles than the applicants to the exemption program (no data were offered). This comparison seems to be presented to support the need for a minimum number of miles to be driven before these drivers can apply for an exemption. This comparison is not valid because the data from the Vision Waiver Program do not support the AHAS statement. An examination of the data from the years the program was in operation shows the annual mileage driven ranged from as little as 1,000 miles to a maximum of 160,000 miles. The median annual miles driven was about 40,000 with 25 percent of the waiver holders usually driving less than 17,000 per year. Defining a required minimum mileage for application would enact a spurious screening standard.

Claiming that a maximum mileage standard is not feasible does not mean that miles driven has no value as a measure. It is part of the basis for establishing whether a program has achieved a ''level of safety that is equivalent to, or greater than, the level of safety that would have been achieved'' absent from exemption. The other part of the safety determination is the number of accidents experienced by an exemption group where accidents and mileage are related through a statistical model named Poisson regression. In this model, the relationship is given as the number of accidents (na) being equal to a rate (r) times mileage (m) (na=r x m ). The rate in this model is usually referred to as the accident rate per some convenient unit of miles driven (1 million, for example). This rate is the basis through which the safety level of a program is determined and miles driven are an integral part of the determination. This framework, however, does not suggest that there is a minimum level of mileage that could be arbitrarily used for a screening decision.

The AHAS states that, while the FMCSA provides some information on the applicant's separate experience with combination tractor-trailers and the straight trucks, the agency has not assessed the relative value in terms of driving experience between driving these two types of vehicle configurations. This statement is somewhat unclear. If it is made in the context of the paragraph, then the relative value of the experience is presumed to be related to the granting of an exemption. This would suggest that there should be separate experience specifications for each type of CMV and that an exemption would be issued for a particular type of vehicle. Relative to this, the AHAS also points to research literature concerned with the differences between the two types of trucks. This literature, however, does not address the operation of the two types of CMVs in relation to the visual conditions which are the focus of the exemption program. The best evidence of possible disparities in the operation of the CMV types is taken from the earlier Vision Waiver Program, the AHAS doubts notwithstanding. The data taken from the program show that those driving straight trucks had an accident that was slightly higher than that of the combination truck operators (2.15 accidents per million miles driven versus 1.76). This difference was not statistically significant. As a result, it appears that a consideration of truck type in the application process is not necessary.

The same conclusion can be drawn in relation to the AHAS statement concerned with driving routines. The AHAS states that the FMCSA has not made any attempt to distinguish between the kinds of driving routine the applicants experienced based on the type of driving they had done. To support the need to do this, they note that the agency distinguishes between five types of drivers and driving regimens in its recently issued proposed rule on driver rest and sleep for safe operations. This proposal is concerned with driver fatigue. There is no evidence that there is a differential effect of fatigue on drivers with the vision conditions that are the focus of exemptions. Consequently, the FMCSA does not believe there is a need to issue exemptions for specific types of driving routine.

In a supplemental comment to the docket, the AHAS states its concern with the use of a 3-year driving record to screen drivers who apply for exemptions. They first claim that it is misleading to report a driving record for the most recent 3-year period in conjunction with drivers' self report of the total number of years driving. This is misleading, they state, because the addition of the unverified total years of driving gives the impression of a longer period of safe driving. The FMCSA had no intention of conveying this type of interpretation. Total years driving was reported, as was mileage, to give an overall indication of experience. For the purposes of screening, a recent 3-year driving record is the critical focus relative to safe driving.

The AHAS then argues that a 3-year record may not be sufficient to guarantee a level of safety that is equivalent to or greater than that present in the absence of an exemption program. In support of this, it points to the comments filed by the Department of Motor Vehicles (DMV) for the State of California relative to a driver from that State who applied for an exemption (Mr. James N. Spencer at 65 FR 20245, April 14, 2000). The California DMV opposed the granting of an exemption to this driver because of his accident involvement and citation record in years 4 and 5 before application for an exemption. The FMCSA finds this comment inconsistent because the driver has a valid California intrastate CDL issued on July 23, 1997, by the State of California.

The FMCSA believes that the submission of a driving record for a period longer than 3 years is not necessary. As the AHAS correctly points out, not all states maintain driving records for more than 3 years. Requiring some drivers to submit 3-year records and others to submit ones for a longer duration, as the AHAS suggests, would be arbitrary and capricious.

The FMCSA believes that using a 3-year driving record as a screening procedure in the application process is

very adequate to insure the required level of safety. The basis for this is that there is compelling evidence to show the efficacy of a 3-year window. This evidence is taken from the earlier Vision Waiver Program where the driving record in the most recent 3 years was used to screen all applicants to that program. That program existed from July 1992 until March 1996 and, during that period, those holding waivers had an accident rate of 1.902 accidents per million miles driven. In the comparable period, the national accident rate for large trucks was 2.348 (General Estimates System; 1992–1995, a database managed by the National Highway Traffic Safety Administration). These data verify that a 3-year screening period ensures the required safety level for almost 4 years after application. This is sufficient for safety in a 2-year exemption period where the recipient must renew his or her exemption using a new, most recent 3-year driving record. The process used in the exemption program is even more rigorous than that used in the waiver program. If drivers have an accident in an exemption period for which they receive a citation or are a contributing factor, they will be ineligible to renew their exemption. Under this framework, the exemption program is even more conservative than the Vision Waiver Program which clearly demonstrated its acceptable level of safety.

Notwithstanding the FMCSA's ongoing review of the vision standard, as evidenced by the medical panel's report dated October 16, 1998, and filed in this docket, the FMCSA must comply with *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration,* 95 F.3d 715 (8th Cir. 1996), and grant individual exemptions under standards that are consistent with public safety. Meeting those standards, the 56 veteran drivers in this case have demonstrated to our satisfaction that they can continue to operate a CMV with their current vision safely in interstate commerce because they have demonstrated their ability in intrastate commerce. Accordingly, they qualify for an exemption under 49 U.S.C. 31315 and 31136(e).

## Conclusion

After considering the comments to the docket and based upon its evaluation of the 56 exemption applications in accordance with the *Rauenhorst* decision, the FMCSA exempts John W. Arnold, James H. Bailey, Victor F. Brast, Jr., John P. Brooks [published as James P. Brooks in the Notice of Intent on April 14, 2000], Robert W. Brown, Benny J. Burke, Derric D. Burrell, Anthony J. Cesternino, Ronald W. Coe, Sr., Richard A. Corey, James A. Creed, William G. Croy, Craig E. Dorrance, Willie P. Estep, Duane H. Eyre, James W. Frion, Lee Gallmeyer, Shawn B. Gaston, James F. Gereau, Rodney M. Gingrich, Esteban Gerardo Gonzalez, Harlan Lee Gunter, Thanh Van Ha, James O. Hancock, Paul A. Harrison, Joseph H. Heidkamp, Jr., Thomas J. Holtmann, Larry D. Johnson, Gary Killian, Marvin L. Kiser, Jr., David R. Lambert, James R. Lanier, James Stanley Lewis, Newton Heston Mahoney, Ronald L. Martsching, Duane D. Mims, James A. Mohr, William A. Moore, Leonard James Morton, Timothy W. Noble, Kevin J. O'Donnell, John W. Robbins, Jr., Doyle R. Roundtree, David L. Slack, Everett J. Smeltzer, Philip Smiddy, James C. Smith, Terry L. Smith, James N. Spencer, Teresa Mary Steeves, Roger R. Strehlow, Timothy W. Strickland, John T. Thomas, Darel E. Thompson, Ralph A. Thompson, and Kevin Wayne Windham from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in its driver qualification file, or keep a copy in his/her driver qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

**Authority:** 49 U.S.C. 322, 31315 and 31136; 49 CFR 1.73.

Issued on: September 18, 2000.

**Julie Anna Cirillo,**

*Acting Assistant Administrator, Federal Motor Carrier Safety Administration.*

[FR Doc. 00–24396 Filed 9–20–00; 8:45 am]

BILLING CODE 4910–22–P

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[FMCSA Docket No. 2000–7165]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** The FMCSA announces its decision to exempt 60 individuals from the vision requirement in 49 CFR 391.41(b)(10).

**DATES:** September 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366–2519, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 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. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara.*

## Background

Sixty-three individuals petitioned the FMCSA for an exemption of the vision requirement in 49 CFR 391.41(b)(10),

which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Elijah Allen, Jr., Charles Leon Baney, Walter F. Blair, Jullie A. Bolster, Gary Bryan, Timothy John Bryant,Thomas A. Burke, Monty Glenn Calderon, Ronald Lee Carpenter, Charles Casey Chapman, Milton Coleman, David Earl Corwin, Adam D. Craig, Eric L. Dawson, III, Richard L. Derick, Joseph A. Dunlap, John C. Edwards, Jr., Calvin J. Eldridge, Ronald G. Ellwanger, Marcellus Albert Garland, George J. Ghigliotty, Ronald E. Goad, Steven F. Grass, Randolph D. Hall, Reginald I. Hall, Sherman William Hawk Jr., Daniel J. Hillman, Gordon William Howell, Roger Louis Jacobson, Robert C. Jeffres, Alfred C. Jewell, Jr., Anton R. Kibler, James Alonzo Kneece, Ronnie L LeMasters, Samuel Joseph Long, Steven G. Luther, Lewis V. McNeice, Barry B. Morgan, Richard O'Neal, Jr., Dewey Owens, Jr., Richard E. Perry, Douglas McArthur Potter, Gregory Martin Preves, James M. Rafferty, Paul C. Reagle, Sr., Glenn E. Robbins, Daniel Salinas, Salvador Sarmiento, Wayne Richard Sears, Garry R. Setters, Hoyt M. Shamblin, Lee Russell Sidwell, Jesse M. Sikes, Harold A. Sleesman, James E. Smith, Daniel A Sohn, Denney Vern Traylor, Noel Stuart Wangerin, Brian W. Whitmer, Jeffrey D. Wilson, Joseph F. Wood, William E. Woodhouse, and Rick A. Young. Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' Accordingly, the FMCSA evaluated the petitions on their merits and made a preliminary determination that the waivers should be granted. On May 23, 2000, the agency published notice of its preliminary determination and requested comments from the public (65 FR 33406). The comment period closed on June 22, 2000. One comment was received, and its content was carefully considered by the FMCSA in reaching the final decision to grant the petitions.

The FMCSA has not made a decision on three applicants (Gary Bryan, Steven F. Grass and Glenn E. Robbins). Subsequent to the publication of the preliminary determination, the agency received additional information from its check of these applicants' motor vehicle records, and we are evaluating that information. A decision on these three petitions will be made in the future.

**Vision and Driving Experience of the Applicants**

The vision requirement provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber. 49 CFR 391.41(b)(10).

Since 1992, the FHWA has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., ''Visual Requirements and Commercial Drivers,'' October 16, 1998, filed in the docket). The panel's conclusion supports the FMCSA's (and previously the FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 60 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, retinal detachment, macular and corneal scarring, ocular histoplasmosis and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. Over half of the applicants were either born with their vision impairments or have had them since childhood. The other individuals who sustained their vision conditions as adults have had them for periods ranging from 5 to 32 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, can perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of a valid commercial driver's license (CDL). Before issuing a CDL, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate the CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, however, require more.

While possessing a valid CDL, these 60 drivers have been authorized to drive a CMV in intrastate commerce even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 5 to 49 years. In the past 3 years, the 60 drivers had three convictions for traffic violations among them. Three drivers were involved in accidents in their CMVs, but there were no injuries and none of the CMV drivers received a citation. The drivers were convicted of two moving traffic violations, one of them was for speeding and one was for ''Traffic Control Device.''

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in a May 23, 2000, notice (65 FR 33406). Since the docket comments did not focus on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants as a group, however, is supported by the information published at 65 FR 33406.

**Basis for Exemption Determination**

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting these drivers to drive in interstate commerce as opposed to restricting them to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, the FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. Recent driving performance is especially important in evaluating future safety according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket.

We believe we can properly apply the principle to monocular drivers because data from the vision waiver program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996). That experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions to those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors, such as age, sex, geographic location, mileage driven and conviction history, are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 60 applicants, we note that cumulatively the applicants have had only three accidents and two traffic violation in the last 3 years. None of the accidents resulted in bodily injury or issuance of a citation against the applicant. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, the FMCSA concludes their ability to drive safely can be projected into the future.

We believe applicants' intrastate driving experience provides an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exist on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 5 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, the FMCSA finds that exempting applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the 60 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in its driver qualification file, or keep a copy in his/her driver qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

**Discussion of Comments**

The FMCSA received one comment in this proceeding. The comment was considered and is discussed below.

The Advocates for Highway and Auto Safety (AHAS) expresses opposition to the FMCSA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs), including the driver qualification standards. Specifically, the AHAS: (1) asks the agency to clarify the consistency of the exemption application information, (2) objects to the agency's reliance on conclusions drawn from the vision waiver program, (3) raises procedural objections to this proceeding, (4) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)), and finally, (5) suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by the AHAS were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), and a Final Determination for 56 drivers, FMCSA Docket No.2000–7006, also published in today's **Federal Register**. We will not address these points again herein but refer interested parties to those earlier discussions for reasons why the points were rejected.

Notwithstanding the FMCSA's ongoing review of the vision standard, as evidenced by the medical panel's report dated October 16, 1998, and filed in this docket, the FMCSA must comply with *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration,* 95 F.3d 715 (8th Cir. 1996), and grant individual exemptions under standards that are consistent with public safety. Meeting those standards, the 60 veteran drivers in this case have demonstrated to our satisfaction that they can continue to operate a CMV with their current vision safely in interstate commerce because they have demonstrated their ability in intrastate commerce. Accordingly, they qualify for an exemption under 49 U.S.C. 31315 and 31136(e).

**Conclusion**

After considering the comments to the docket and based upon its evaluation of the 60 waiver applications in accordance with the *Rauenhorst* decision, the FMCSA exempts Elijah Allen, Jr., Charles Leon Baney, Walter F. Blair, Jullie A. Boster, Timothy John Bryant, Thomas A. Burke, Monty Glenn

Calderon, Ronald Lee Carpenter, Charles Casey Chapman, Milton Coleman, David Earl Corwin, Adam D. Craig, Eric L. Dawson, III, Richard L. Derick, Joseph A. Dunlap, John C. Edwards, Jr., Calvin J. Eldridge, Ronald G. Ellwanger, Marcellus Albert Garland, George J. Ghigliotty, Ronald E. Goad, Randolph D. Hall, Reginald I. Hall, Sherman William Hawk, Jr., Daniel J. Hillman, Gordon William Howell, Roger Louis Jacobson, Robert C. Jeffres, Alfred C. Jewell, Jr., Anton R. Kibler, James Alonzo Kneece, Ronnie L. LeMasters, Steven G. Luther, Samuel Joseph Long, Lewis V. McNeice, Barry B. Morgan, Richard O'Neal, Jr., Dewey Owens, Jr., Richard E. Perry, Douglas McArthur Potter, Gregory Martin Preves, James M. Rafferty, Paul C. Reagle, Sr., Daniel Salinas, Salvador Sarmiento, Wayne Richard Sears, Garry R. Setters, Hoyt M. Shamblin, Lee Russell Sidwell, Jesse M. Sikes, Harold A. Sleesman, James E. Smith, Daniel A. Sohn, Denny Vern Traylor, Noel Stuart Wangerin, Brian W. Whitmer, Jeffrey D. Wilson, Joseph F. Wood, William E. Woodhouse, and Rick A. Young from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in its driver qualification file, or keep a copy in his/her driver qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

**Authority:** 49 U.S.C. 322, 31315 and 31136; 49 CFR 1.73.

Issued on: September 18, 2000.

**Julie Anna Cirillo,**

*Acting Assistant Administrator, Federal Motor Carrier Safety Administration.*

[FR Doc. 00–24397 Filed 9–20–00; 8:45 am]

BILLING CODE 4910–22–P

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket Number FRA 2000–7912]**

### Petition for Waiver of Compliance; Union Pacific Railroad; Waiver Petition

In accordance with Title 49 Code of Federal Regulations (CFR) Sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received from Union Pacific Railroad Company (UP), a Class I railroad, a request for waiver of compliance with certain provisions of the Federal Roadway Worker Protection Standards, 49 CFR 214. The specific sections of the Rule for which waiver is sought are 49 CFR 214.329, Train approach warning provided by watchmen/lookouts, and 49 CFR 214.329, On-track safety procedures for lone workers.

UP requests relief that will permit the use of a system described by UP as the automatic train approach warning system (TAWS). UP proposes that roadway work groups be permitted to substitute TAWS for watchmen/lookouts as the method of train approach warning when fouling a track within equipped interlockings and controlled points. UP also proposes that lone workers be permitted to use TAWS as a method of train approach warning within the limits of those interlockings and controlled points without a requirement to establish working limits.

FRA published, on December 16, 1996, a Final Rule amending 49 CFR 214 with the addition to it of the Roadway Worker Protection Standards, which became effective on January 15, 1997. The regulation mandates clearly defined methods of protection against moving trains and railroad equipment for railroad employees who perform certain maintenance and inspection duties on and near railroad tracks. On December 16, 1996, UP filed a petition for waiver of certain provisions of that Rule to permit the use of TAWS in place of watchmen/lookouts. FRA subsequently denied that petition, docketed as WPS–97–1, without prejudice, due to concerns over several aspects of TAWS as it was then configured. UP indicates that this petition includes several enhancements which are intended by UP to address those concerns.

According to UP, the TAWS has been in place at controlled points on much of UP's heaviest tonnage routes since 1978. TAWS functions by illuminating a blue rotating light and sounding an audible alarm to alert roadway workers at least one minute prior to the entry of a train to an interlocking or controlled point. It has become part of the UP standard package at all new controlled points installed on UP. UP states that there have been no recorded instances of failure of the TAWS to perform its intended function.

UP avers that the TAWS, properly utilized, is more effective than a watchman/lookout, providing a longer warning time and not being susceptible to distraction or fatigue. Information provided by UP indicates that the TAWS is an integral part of the signal and train control system, incorporating the same level of reliability and principles of fail-safe design.

UP has included with the petition a set of detailed rules and instruction for the operation and use of both types of devices for the purpose of providing warning of approaching trains to roadway workers.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2000–7912 and must be submitted to the DOT Docket Management Facility, Room PL–401 (Plaza level) 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, D.C. on September 18, 2000.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

[FR Doc. 00–24289 Filed 9–20–00; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### Alternatives Analysis/Draft Environmental Impact Statement (AA/DEIS) for Transit Bridge Study in Broward County, Florida.

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of Intent to prepare a Draft Environmental Impact Statement.

**SUMMARY:** The Federal Transit Administration (FTA) (the Federal lead agency) and the Broward County Metropolitan Planning Organization (BCMPO) (the local lead agency) intend to prepare an Alternatives Analysis/Draft Environmental Impact Statement (AA/DEIS) for the Transit Bridge Study in Broward County, Florida. The AA/DEIS is being prepared in conformance with the National Environmental Policy Act (NEPA) and will also address the requirements of other federal and state environmental laws. The AA/DEIS will address the social, economic and environmental effects of a limited number of transportation improvements identified in the ''Scoping Process'' which will be undertaken as part of this study. The work being performed also satisfy the FTA's alternatives analysis requirements and guidelines. BCMPO will perform this effort in coordination with the following agencies: the Broward County Department of Planning and Environmental Protection, the Broward County Mass Transit Division, the Florida Department of Transportation, the City of Hollywood, the Miami-Dade Transit Agency, and the Metropolitan Planning Organization for the Miami Urbanized Area.

The AA/DEIS will evaluate transportation improvements in a series of alternate corridors between Pro-Player Stadium in northern Miami-Dade County and the Hollywood Tri-Rail Station (Hollywood Boulevard at I–95). The EIS will also evaluate a No-Build Alternative and Transportation Systems Management alternative. In addition, reasonable alternatives suggested during the scoping process will be considered.

Scoping will be accomplished through correspondence with interested persons, organizations, and federal, state and local agencies, as well as through public meetings. See **SUPPLEMENTARY INFORMATION** below for details.

**DATES:** Comment Due Date: Written comments on the scope of alternatives and impacts to be considered should be sent to Broward County MPO by October 27, 2000. See **ADDRESSES** below. One Public Scoping Meeting and one Agency Scoping Meeting will be held on the following dates and times: Agency Scoping Meeting—September 21, 2000 from 10:00 to noon; Public Scoping Meeting—September 26, 2000 from 6:00 to 8:00 p.m. See **ADDRESSES** below.

**ADDRESSES:** Written comments should be sent to Mr. Mario Aispuro, Associate Planner, Broward County Metropolitan Planning Organization, 115 South Andrews Avenue, Fort Lauderdale, Florida, 33301. Phone (954) 357–6645.

The Scoping meetings will be held at the following locations:

1. September 21, 2000 from 10:00 a.m. to noon. South Florida Regional Planning Council, 3440 Hollywood Boulevard, Hollywood, Florida 33021.
2. September 26, 2000 from 6:00 to 8:00 p.m., South Regional/Broward Community College Library, 7300 Pines Boulevard, Pembroke Pines, Florida 33024.

Directions to meeting sites and information about special accommodation (Spanish translation, signing for hearing impaired, wheelchair access, etc.) are available. Contact Ms. Sheryl Dickey at Dickey Consulting Services , P.O. Box 892, Fort Lauderdale, Florida 33302. Phone (954) 467–6822.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elizabeth Martin, Community Planner, Federal Transit Administration Region 4. Phone (404) 562–3500.

**SUPPLEMENTARY INFORMATION:**

## I. Scoping

FTA and Broward County MPO invite interested individuals, organizations, businesses, and federal, state and local agencies to participate in defining the alternatives to be evaluated and identifying any significant social, economic, or environmental issues related to the alternatives. Comments on the appropriateness of the alternatives and impact issues are encouraged. Specific suggestions on additional alternatives to be examined and issues to be addressed are welcome and will be considered in the development of the final study scope. Comments may be made orally at the meetings or in writing prior to October 27, 2000.

Broward County MPO representatives will be present at the scoping meetings to describe the corridor alternatives, answer any questions, and receive comments. Additional opportunities for public participation will be provided throughout the AA/DEIS preparation to review findings and results and to solicit comments. Interested persons will be notified of project progress through ongoing community information distributed to the project mailing list that will include all scoping participants.

Additional background information on the need for the project, the AA/DEIS process, alternatives, and impact issues to be addressed by the AA/DEIS is contained in a document entitled ''Project Scoping.'' Copies of the document will be distributed to affected federal, state and local agencies. The document will also be available at the Scoping Meetings. Others may request the document from Ms. Sheryl Dickey. See **ADDRESSES** above.

## II. Description of Study Area and Project Need

The study area includes a portion of Broward County and northern Miami-Dade County. It extends approximately 8.5 miles between NW 27th Avenue in the vicinity of Calder Race Track/Pro Player Stadium (the northern terminus of the Miami-Dade North Transit Corridor) and the Hollywood Tri-Rail station at Hollywood Boulevard and I–95. The area is currently served by Broward County Transit and Miami-Dade Transit bus service. There is no existing rail rapid transit or commuter service in the study area.

The study area includes an area of increasing residential and employment density. Availability of right-of-way in the study area is constrained. Travel demand is expected to increase between Broward and Miami-Dade Counties in the future. The capacity of the roadway system, particularly on US 441/SR 7, is already exceeded.

In response to the study area needs, Broward County MPO and the Department of Planning and Environmental Protection conducted the University Drive Transit Corridor Study. The results of the University Drive Transit Corridor Study completed in May 1996 and a number of subsequent initiatives at the MPO level during 1997 and 1998 concluded with the identification of the Transit Bridge corridor end points (Calder Race Track/Pro Player Stadium along NW 27th Avenue on the south and the Hollywood Tri-Rail Station at I-95/Hollywood Boulevard on the north). A suggested alignment includes the use of the Florida Turnpike right-of-way. The transit improvements are intended to increase the capacity of the

transportation network, improve accessibility and mobility, diversify transportation choices, and help achieve regional air quality goals by providing alternatives to the single-occupant vehicle and by reducing vehicle miles traveled.

**III. Alternatives**

The transportation alternatives proposed for consideration in this project include:

1. No-Build Alternative, which involves no change to transportation services or facilities in the Corridor beyond already committed projects;
2. A Transportation System Management Alternative, which focuses on operational and low to medium cost capital improvements to bus transit routes and services in the project area;
3. Fixed Guideway Alternatives, which include dedicated busway and rail alternatives employing a combination of existing highways, streets, and rail rights-of-way. A range of specific alignments will be considered.

**IV. Potential Impacts for Analysis**

The FTA and Broward County MPO intend to evaluate significant social, environmental, and economic impacts of the alternatives analyzed in the AA/DEIS. Primary factors to be addressed include: land use, economic development, traffic and parking, coordination with ongoing transportation projects, grade crossing safety, noise and vibration, community impacts, environmental justice, historic/archaeological sites, water quality, air quality, contaminated materials, and capital and operating costs. Impacts on other factors including aesthetics, parklands, ecosystems, threatened and endangered species, and energy will also be assessed. Other potential impact issues may be added as a result of scoping and agency coordination efforts. Mitigation measures will be identified for significant environmental impacts.

The proposed impact assessment and evaluation will take into account both positive and negative effects, direct and indirect impacts, short-term (construction) and long-term impacts, and cumulative effects.

**V. FTA Procedures**

In accordance with the federal transportation planning regulations (23 CFR Part 450) and the federal environmental impact regulations and related procedures (23 CFR 771), the AA/DEIS will evaluate reasonable alternatives, assess the potential impacts associated with reasonable alternatives, and provide the public with the opportunity to comment. The AA/DEIS will be prepared in a manner that is consistent with the 1996 University Drive Corridor Study, which considered a fixed-transit connection between Miami-Dade and Broward Counties. The AA/DEIS will be circulated to solicit public and agency comments on the proposed action. Based on the comments received on the Draft AA/DEIS, Broward County MPO will prepare the Final DEIS. Opportunity for public comment will be provided throughout the corridor planning process.

Issued on September 18, 2000.

**Jerry Franklin,**

*Regional Administrator, Federal Transit Administration.*

[FR Doc. 00–24322 Filed 9–20–00; 8:45 am]

BILLING CODE 4910–57–P

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 33922]**

### Acadiana Railway Company, Inc.—Lease Exemption—Union Pacific Railroad Company

Acadiana Railway Company, Inc. (AKDN), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease and operate 5.0 miles of rail line from Union Pacific Railroad Company (UP) between milepost 0.0 at McCall, LA, and milepost 5.0 at Lula, LA. AKDN states that its projected revenues as a result of this transaction will not result in its becoming a Class II or Class I rail carrier, and certifies that its projected annual revenues will not exceed $5 million.

The transaction was scheduled to be consummated on or after September 13, 2000.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33922, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Karl Morell, BALL JANIK LLP, Suite 225, 1455 F Street, NW., Washington, DC 20005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 14, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 00–24164 Filed 9–20–00; 8:45 am]

BILLING CODE 4915–00–P

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Docket No. AB–573X; AB–6 (Sub–No. 388X) and AB–33 (Sub–No. 160X)]**

### Trinidad Railway, Inc.—Abandonment Exemption—in Las Animas County, CO; The Burlington Northern Company and Santa Fe Railway Company—Discontinuance of Trackage Rights Exemption—in Las Animas County, CO; Union Pacific Railroad Company—Discontinuance of Trackage Rights Exemption—in Las Animas County, CO

Trinidad Railway, Inc. (Trinidad), The Burlington Northern and Santa Fe Railway Company (BNSF), and the Union Pacific Railroad Company (UP) (collectively, applicants) have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Trackage Rights* for Trinidad to abandon and BNSF and UP to discontinue trackage rights over an approximately 30.0-mile line of railroad from milepost 2.0 at Jensen (west of Trinidad), to the end of the line at the former New Elk Mine at milepost 30.0 (east of Stonewall), in Las Animas County, CO.[1] The line traverses United States Postal Service Zip Codes 81082, 81070, and 81091.

Applicants have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within

[1] Trinidad states that it is retaining the first two miles of the line operated by BNSF and UP. Stating that the line covers a distance of up to 30.0 miles, the notices indicates that there is a discrepancy over the actual length of the rail line.

Trinidad acquired the involved line from the Colorado & Wyoming Railway Company as part of the transaction authorized in *Trinidad Railway, Inc.—Acquisition and Operation Exemption-The Colorado & Wyoming Railway Company,* Finance Docket No. 32183 (ICC served Nov. 23, 1992).

BN's trackage rights were the subject of an exemption in *Burlington Northern Railroad Company—Trackage Rights Exemption—Trinidad Railway, Inc.,* Finance Docket No. 32232 (ICC served Jan. 29, 1993).

the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 21, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 2, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 11, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representatives: John D. Heffner, Esq., Attorney for Trinidad Railway, Inc., Rea, Cross & Auchincloss, Suite 570, 1707 L Street, N.W., Washington, DC 20036; Michael E. Roper, Esq., Senior General Attorney, The Burlington Northern and Santa Fe Railway Company, 2500 Lou Menk Drive, Fort Worth, TX 76131; and James P. Gatlin, Esq., General Attorney, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Applicants have filed an environmental report which addresses the effects of the abandonment and discontinuance, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by September 26, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Trinidad shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Trinidad's filing of a notice of consummation by September 21, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 14, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 00–24163 Filed 9–20–00; 8:45 am]

**BILLING CODE 4915–00–P**

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

## DEPARTMENT OF THE TREASURY

### Fiscal Service

### Surety Companies Acceptable on Federal Bonds: United Casualty and Surety Insurance Company

**AGENCY:** Financial Management Service, Fiscal Service, Department of Treasury.

**ACTION:** Notice.

**SUMMARY:** This is Supplement No. 1 to the Treasury Department Circulare 570; 2000 Revision, published July 1, 2000, at 65 FR 40868.

**FOR FURTHER INFORMATION CONTACT:** Surety Bond Branch at (202) 874–6850.

**SUPPLEMENTARY INFORMATION:** A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following Company under 31 U.S.C. 9304 to 9308. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 2000 Revision, on page 40903 to reflect this addition:

UNITED CASUALTY AND SURETY INSURANCE COMPANY. BUSINESS ADDRESS: 170 Milk Street, Boston, MA 02109. PHONE: (617) 542–3232. UNDERWRITING LIMITATION b/: $233,000. SURETY LICENSES c/: DC, MA, NY, ND, PA. INCORPORATED IN: Massachusetts.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO) Subscription Service, Washington, DC, Telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00536–5.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: September 14, 2000.

**Wanda J. Rogers,**

*Director, Financial Accounting and Services Division, Financial Management Service.*

[FR Doc. 00–24323 Filed 9–20–00; 8:45 am]

**BILLING CODE 4810–35–M**

Federal Register

Thursday,
September 21, 2000

# Part II

# Department of the Interior

## Fish and Wildlife Service

## 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; Final Rule To List the Santa Barbara County Distinct Population of the California Tiger Salamander as Endangered; Final Rule

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018–AF81**

# Endangered and Threatened Wildlife and Plants; Final Rule To List the Santa Barbara County Distinct Population of the California Tiger Salamander as Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the Fish and Wildlife Service (Service), list the Santa Barbara County Distinct Vertebrate Population Segment (DPS) of the California tiger salamander (*Ambystoma californiense*) as endangered under the Endangered Species Act of 1973, as amended (Act). Of six habitat complexes, consisting of 27 documented breeding sites and associated uplands, five have suffered moderate to severe levels of habitat destruction or degradation between 1996 and 2000. Plans to convert additional sites from grazing to intensive agriculture are being developed and implemented. We emergency listed the population segment on January 19, 2000. The emergency listing was effective for 240 days. Immediately upon publication, this action continues the protection provided by the temporary emergency listing.

**DATES:** This final rule is effective September 15, 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, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California, 93003.

**FOR FURTHER INFORMATION CONTACT:** Grace McLaughlin or Carl Benz, Ventura Fish and Wildlife Office, at the address listed above (telephone: 805/644–1766; facsimile: 805/644–3958).

**SUPPLEMENTARY INFORMATION:**

## Background

The California tiger salamander was first described as a distinct species, *Ambystoma californiense*, by Gray in 1853 from specimens collected in Monterey (Grinnell and Camp 1917). Storer (1925) and Bishop (1943) likewise considered the California tiger salamander as a distinct species. However, Dunn (1940), Gehlbach (1967), and Frost (1985) considered the California tiger salamander a subspecies (*Ambystoma tigrinum californiense*) that belonged within the *A. tigrinum* complex. Based on recent morphological and genetic work, geographic isolation, and ecological differences among the members of the *A. tigrinum* complex, the California tiger salamander is considered to be a distinct species (Shaffer and Stanley 1991; Jones 1993; Shaffer and McKnight 1996; Irschick and Shaffer 1997). The California tiger salamander was recognized as a distinct species in the November 21, 1991, Animal Notice of Review (56 FR 58804).

The California tiger salamander is a large, stocky, terrestrial salamander with a broad, rounded snout. Adults may reach a total length of 207 millimeters (mm) (8.2 inches (in)), with males generally averaging about 200 mm (8 in) in total length and females averaging about 170 mm (6.8 in) in total length. For both sexes, the average snout—vent length is approximately 90 mm (3.6 in). The small eyes have black irises and protrude from the head. Coloration consists of white or pale yellow spots or bars on a black background on the back and sides. The belly varies from almost uniform white or pale yellow to a variegated pattern of white or pale yellow and black. Males can be distinguished from females, especially during the breeding season, by their swollen cloacae (a common chamber into which the intestinal, urinary, and reproductive canals discharge), more developed tail fins, and larger overall size (Stebbins 1962; Loredo and Van Vuren 1996).

California tiger salamanders are restricted to California, and their range does not overlap with any other species of tiger salamander (Stebbins 1985). Within California, the Santa Barbara County population is separated by the Coast Ranges, particularly the La Panza and Sierra Madre Ranges, and the Carrizo Plain from the closest other population, which extends into the Temblor Range in eastern San Luis Obispo and western Kern Counties (Shaffer *et al.* 1993).

The California tiger salamander inhabits low elevation, typically below 427 meters (m) (1400 feet (ft)), vernal pools and seasonal ponds and the associated grassland, oak savannah, and coastal scrub plant communities of the Santa Maria, Los Alamos, and Santa Rita Valleys in western Santa Barbara County (Shaffer *et al.* 1993; Sam Sweet, University of California, Santa Barbara, *in litt.* 1993, 1998a, 2000a). Although California tiger salamanders are adapted to natural vernal pools, manmade or modified ephemeral and permanent pools are now frequently used (Fisher and Shaffer 1996). California tiger salamanders prefer open grassland to areas of continuous woody vegetation (Trenham in revision). Although California tiger salamanders still exist across most of their historic range in Santa Barbara County, the habitat available to them has been reduced greatly. The ponds available to the salamanders for breeding have been degraded and reduced in number and the associated upland habitats inhabited by salamanders for most of their life cycle have been degraded and reduced in area through changes in agriculture practices, urbanization, building of roads and highways, chemical applications, and overgrazing (S. Sweet *in litt.* 1993, 1998a,b; Gira *et al.* 1999; Santa Barbara County Planning and Development 2000).

The salamanders breeding in and living around a pool or seasonal pond, or a local complex of pools or seasonal ponds, constitute a local subpopulation. The rate of natural movement of salamanders among subpopulations depends on the distance between the ponds or complexes and on the intervening habitat (*e.g.,* salamanders may move more quickly through sparsely covered and more open grassland versus more densely vegetated scrublands).

Subadult and adult California tiger salamanders spend much of their lives in small mammal burrows found in the upland component of their habitat, particularly those of ground squirrels and pocket gophers (Loredo and Van Vuren 1996) at depths ranging from 20 centimeters (cm) (7.9 in) to 1 m (3.3 ft) beneath the ground surface (Trenham in revision). California tiger salamanders use both occupied and unoccupied small mammal burrows but, since burrows collapse within 18 months if not maintained, an active population of burrowing mammals is necessary to sustain sufficient underground refugia for the species (Loredo *et al.* 1996). California tiger salamanders may remain active underground into summer, moving small distances within burrow systems (Trenham in revision). During estivation (a state of dormancy or inactivity in response to hot, dry weather), California tiger salamanders eat very little (Shaffer *et al.* 1993). Once fall and winter rains begin, they emerge from these retreats on nights of high relative humidity and during rains to feed and to migrate to the breeding ponds (Stebbins 1985, 1989; Shaffer *et al.* 1993).

Adults may migrate long distances between summering and breeding sites. The distance from breeding sites may depend on local topography and

vegetation, the distribution of ground squirrel or other rodent burrows, and climatic conditions (Stebbins 1989, Hunt 1998). In Santa Barbara County, juvenile California tiger salamanders have been trapped more than 360 m (1,200 ft) away while dispersing from their natal (birth) pond (Ted Mullen, Science Applications International Corporation (SAIC), personal communication, 1998), and adults have been found along roads more than 2 km (1.2 mi) from breeding ponds (S. Sweet *in litt.* 1998a). Although most marked salamanders have been recaptured at the pond where they were initially captured, in one study approximately 20 percent of California tiger salamanders hatched in one pond traveled to ponds a minimum of 580 m (1900 ft) away to breed (Trenham 1998; Trenham *et al.* in review). Non-dispersing California tiger salamanders, however, tend to stay closer to breeding ponds; 95 percent of California tiger salamanders at a study site in Monterey County probably stay within 173 m (568 ft) of the pond in which they bred. Once established in underground burrows, California tiger salamanders may move short distances within burrows or overland to other burrows, generally during wet weather. Dispersal distance is closely tied to precipitation; California tiger salamanders travel further in years with more precipitation (Trenham in revision). As with migration distances, the number of ponds used by an individual over its lifetime will be dependent on landscape features.

Migration to breeding ponds is concentrated during a few rainy nights early in the winter, with males migrating before females (Twitty 1941; Shaffer *et al.* 1993; Loredo and Van Vuren 1996; Trenham 1998; Trenham *et al.* 2000). Males usually remain in the ponds for an average of 6 to 8 weeks, while females stay for approximately 1 to 2 weeks. In dry years, both sexes may stay for shorter periods (Loredo and Van Vuren 1996, Trenham 1998). In years where rainfall begins late in the season, females may forego breeding altogether (Loredo and Van Vuren 1996, Trenham *et al.* 2000).

Female California tiger salamanders mate and lay their eggs singly or in small groups (Twitty 1941; Shaffer *et al.* 1993). The number of eggs laid by a single female ranges from approximately 400 to 1,300 per breeding season (Trenham 1998). The eggs typically are attached to vegetation near the edge of the breeding pond (Storer 1925, Twitty 1941), but in ponds with no or limited vegetation, they may be attached to objects (rocks, boards, etc.) on the bottom (Jennings and Hayes 1994). After breeding, adults leave the pond and typically return to small mammal burrows (Loredo *et al.* 1996; Trenham in revision), although they may continue to come out nightly for approximately the next 2 weeks to feed (Shaffer *et al.* 1993).

Eggs hatch in 10 to 14 days with newly hatched larvae ranging from 11.5 to 14.2 mm (0.45 to 0.56 in) in total length. Larvae feed on algae, small crustaceans, and mosquito larvae for about 6 weeks after hatching, when they switch to larger prey (P.R. Anderson 1968). Larger larvae will consume smaller tadpoles of Pacific treefrogs (*Hyla regilla*), California red-legged frogs (*Rana aurora*), western toads (*Bufo boreas*), and spadefoot toads (*Scaphiopus hammondii*), as well as many aquatic insects and other aquatic invertebrates (J.D. Anderson 1968; P.R. Anderson 1968). The larvae also will eat each other under certain conditions (H.B. Shaffer and S. Sweet cited in Paul Collins, Santa Barbara Museum of Natural History, *in litt.* 2000a). Captive salamanders appear to locate food by vision and smell (J.D. Anderson 1968).

Amphibian larvae must grow to a critical minimum body size before they can metamorphose (change into a different physical form) to the terrestrial stage (Wilbur and Collins 1973). Feaver (1971) found that California tiger salamander larvae metamorphosed and left the breeding ponds 60 to 94 days after the eggs had been laid, with larvae developing faster in smaller, more rapidly drying ponds. In general, the longer the ponding duration, the larger the larvae and metamorphosed juveniles are able to grow. The larger juvenile amphibians grow, the more likely they are to survive and reproduce (Semlitsch *et al.* 1988; Morey 1998).

In the late spring or early summer, before the ponds dry completely, metamorphosed juveniles leave the ponds and enter small mammal burrows after spending up to a few days in mud cracks or tunnels in moist soil near the water (Zeiner *et al.* 1988; Shaffer *et al.* 1993; Loredo *et al.* 1996). Like the adults, juveniles may emerge from these retreats to feed during nights of high relative humidity (Storer 1925; Shaffer *et al.* 1993) before settling in their selected estivation sites for the dry summer months. Newly metamorphosed juveniles range in size from 41 to 78 mm (1.6 to 3.1 in) snout-vent length (Trenham *et al.* 2000).

Many of the pools in which California tiger salamanders lay eggs do not hold water long enough for successful metamorphosis. Generally, 10 weeks is required to allow sufficient time to metamorphose. The larvae will desiccate (dry out and perish) if a site dries before larvae complete metamorphosis (P.R. Anderson 1968, Feaver 1971). Pechmann *et al.* (1989) found a strong positive correlation with ponding duration and total number of metamorphosing juveniles in five salamander species. In one study, successful metamorphosis of California tiger salamanders occurred only in larger pools with longer ponding durations (Feaver 1971), which is typical range-wide (Jennings and Hayes 1994). Even though there is little difference in the number of pools used by salamanders between wet and dry years, pool duration is the most important factor to consider in relation to persistence and survival (Feaver 1971; Shaffer *et al.* 1993; Seymour and Westphal 1994, 1995).

Lifetime reproductive success for other tiger salamanders is typically low, with fewer than 30 metamorphic juveniles per breeding female. Trenham *et al.* (2000) found even lower numbers for California tiger salamanders, with roughly 12 lifetime metamorphic offspring per breeding female. In part, this is due to the extended length of time it takes for California tiger salamanders to reach sexual maturity; most do not breed until 4 or 5 years of age. While individuals may survive for more than 10 years, less than 50 percent breed more than once (Trenham *et al.* 2000). Combined with low survivorship of metamorphs (in some populations, less than 5 percent of marked juveniles survive to become breeding adults (Trenham 1998)), reproductive output in most years is not sufficient to maintain populations. This suggests that the species requires occasional ''boom'' breeding events to prevent extirpation (temporary or permanent loss of the species from a particular habitat) or extinction (Trenham *et al.* 2000). With such low recruitment, isolated subpopulations can decline greatly from unusual, randomly occurring natural events as well as from human-caused factors that reduce breeding success and individual survival. Factors that repeatedly lower breeding success in isolated ponds that are too far from other ponds for migrating individuals to replenish the population can quickly drive a local population to extinction.

**Distinct Vertebrate Population Segment**

The evidence supports recognition of Santa Barbara County California tiger salamanders as a DPS for purposes of listing, as defined in our February 7, 1996, Policy Regarding the Recognition of Distinct Vertebrate Population Segments (61 FR 4722). The definition of ''species'' in section 3(16) of the Act

includes ''any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' When listing a population under the Act as a DPS, three elements are considered—(1) the discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (*i.e.,* is the population segment, when treated as if it were a species, endangered or threatened?) (61 FR 4722).

The DPS of California tiger salamanders in Santa Barbara County is discrete in relation to the remainder of the species as a whole. The DPS is geographically isolated and separate from other California tiger salamanders; no mixing of the population with other California tiger salamander populations occurs. As detailed below, this finding is supported by an evaluation of the species' genetic variability.

Genetic analyses of the California tiger salamander suggest that levels of interchange among populations are very low, and that populations or subpopulations are genetically isolated from one another (Jones 1993; Shaffer *et al.* 1993). Allozyme variation (distinct types of enzymes (proteins) in the cells, which are formed from an individual's inherited genes) and mitochondrial DNA sequence data indicate the existence of at least seven genetically distinct California tiger salamander populations (Shaffer *et al.* 1993). Although the allozyme variation reported by Shaffer *et al.* (1993) is quite low, it does indicate patterns of geographic isolation. Probably because of this isolation, the population in Santa Barbara County is one of the two most genetically distinct, and these salamanders are more similar to California tiger salamanders on the eastern side of the Central Valley than to those in the closest populations found in the Temblor Range (Shaffer *et al.* 1993). The populations in the Temblor Range are about 67.5 km or 44 mi by air, from the Santa Barbara County population, while the eastern Central Valley populations are 200 km or 128 mi by air, across mountain ranges, an arid plain, and the Central Valley, all of which are inhospitable zones for California tiger salamanders. The Santa Barbara County population may be a relict population of a much more widespread group that extended across the area where the Tehachapi and Transverse Ranges now extend. The uplift of those ranges changed the terrain and the local climatic conditions, isolating salamanders in what is now northwestern Santa Barbara County. The Temblor Range salamanders appear to be a more recent extension from the populations south of San Francisco Bay. Based upon what is probably the largest genetic data set for a non-human vertebrate (H. Bradley Shaffer, University of California, Davis (UCD), *in litt.* 2000a), the sequence divergence between the Santa Barbara County tiger salamanders and other samples from throughout the species' range is on the order of 1.7 to 1.8 percent (Shaffer *et al.* 1993; H.B. Shaffer *in litt.* 1998, 2000a). Shaffer's mitochondrial DNA sequence data (Shaffer and McKnight 1996, and unpublished data) suggest that the seven distinct populations differ markedly in their genetic characteristics, with Santa Barbara County tiger salamanders having gene sequences not found in any other California tiger salamander populations (H.B. Shaffer *in litt.* 1998). California tiger salamanders in Santa Barbara County may have been separated from the other populations for about 1 to 1.5 million years (Shaffer *et al.* 1993; Shaffer and McKnight 1996; H.B. Shaffer *in litt.* 1998). Shaffer *et al.* (1993) and Shaffer (*in litt.* 1998) suggest that differentiation at this level is sufficient to justify species-level recognition; Shaffer will probably describe Santa Barbara County tiger salamanders as a distinct species when he and his colleagues submit their results for publication (H.B. Shaffer *in litt.* 2000b).

The genetic differences between Santa Barbara County California tiger salamanders and the remainder of the species as a whole are accompanied by a morphological difference that is diagnostic for the DPS. Individuals in Santa Barbara County have a distinct color pattern consisting of a yellow band, rather than distinct spots, along the lateral side of the animal, and a distinct yellow pattern on the lateral margins of the belly (H.B. Shaffer *in litt.* 2000b; Scott Stanley, American Museum of Natural History, New York, New York, *in litt.* 2000; S. Sweet *in litt.* 2000a).

The Santa Barbara County California tiger salamander population is biologically and ecologically significant to the species. As discussed above, the Santa Barbara County population is genetically distinct from other populations of California tiger salamanders, and individuals exhibit genetic characteristics not found in other California tiger salamanders. The Santa Barbara County population is also significant in that it constitutes the only population of California tiger salamanders west of the outer Coast Ranges, and it is the southernmost population of the species. The DPS covered in this final rule is found only in Santa Barbara County. The extinction of the Santa Barbara County California tiger salamander population would result in the loss of a significant genetic entity, the curtailment of the range of the species as a whole, and the loss of a top predator in the aquatic systems that Santa Barbara County California tiger salamanders inhabit. Based on geographic isolation, the lack of evidence of gene flow with other populations, and marked genetic differentiation, we conclude that the Santa Barbara County population of California tiger salamanders meets the discreteness and significance criteria in our Policy Regarding the Recognition of Distinct Vertebrate Population Segments and qualifies as a DPS. We discuss the Santa Barbara County population's conservation status below.

**Status and Distribution**

Currently, California tiger salamanders are found in six metapopulations in Santa Barbara County. Collectively, salamanders in these regions constitute a single genetic population or DPS, reproductively separate from the rest of the California tiger salamanders (Jones 1993; Shaffer *et al.* 1993; Shaffer and McKnight 1996). Ponds and associated uplands in southwestern (West Orcutt) and southeastern (Bradley-Dominion) Santa Maria Valley, west Solomon Hills/north Los Alamos Valley, east Los Alamos Valley, Purisima Hills and Santa Rita Valley constitute the six discrete regions or metapopulations where California tiger salamanders are documented in Santa Barbara County (S. Sweet *in litt.* 1998a, 2000b; Monk & Associates 2000a). Ponds and upland habitats occupied by the California tiger salamander on the crest of the Purisima Hills between the Los Alamos and Santa Rita Valleys may provide a genetic link between these two metapopulations (S. Sweet *in litt.* 2000b).

For the purposes of this rule, a metapopulation is defined as a group of subpopulations or ''local populations'' linked by genetic exchange. Of 14 breeding sites or subpopulations within this DPS documented at the time of the emergency listing, 1 was destroyed in 1998, the upland habitat around 3 had been converted into more intensive agriculture practices (*i.e.,* vineyards, gladiolus fields, and row crops) which may have eliminated the salamander subpopulations, 1 was surrounded by agriculture and urban development, 2 were affected by overgrazing, 4 were

believed to be threatened with conversion to vineyards or other intensive agriculture practices, and the remaining 3 were in areas rapidly undergoing conversion to vineyards and row crops (Sweet *et al.* 1998; Sweet *in litt.* 1998a, b; Santa Barbara County Planning and Development 1998; Grace McLaughlin, Service, personal observations 1998). Since the publication of the emergency rule, nine breeding ponds have been verified in two pool complexes previously designated as potential breeding areas (Purisima Hills and eastern Los Alamos), and four new ponds have been found in known complexes (S. Sweet *in litt.* 2000a, pers. comm. 2000a; Monk & Associates 2000a; Lawrence Hunt, Biological Consultant, *in litt.* 2000). The ponds are all within 2 kilometers (km) (1.2 miles (mi)) of previously mapped known or potential ponds. Of the new ponds and surrounding upland habitats, only the Purisima Hills complex, with six ponds, is relatively free from threats. Of the other seven ponds, three are threatened by vineyard development (although discussions aimed at providing protection for the California tiger salamander and its habitat are underway), one is adjacent to an intensively farmed area near Highway 101 and two are adjacent to roads; one of the latter is near a reservoir occupied by bullfrogs. The seventh pond may not be large enough to sustain a viable population of California tiger salamanders over the long term. A larger nearby pond, only 76 m (250 ft) away, appears to have suitable habitat but may not have had successful breeding for several years due to the introduction of catfish by the previous owner (S. Sweet pers. comm. 2000a).

Additional breeding ponds could exist within each of the metapopulations noted above, but searches in other areas with apparently suitable habitat have not identified additional probable habitat areas or subpopulations (Christopher 1996; John Storrer, Biological Consultant, *in litt.* 1997, 1998a, b, c; P. Collins *in litt.* 1998, 2000b, pers. comm. 1999; S. Sweet *in litt.* 1998a, 2000b; L. Hunt *in litt.* 2000; Monk & Associates 2000a). All of the known and potential localities of the California tiger salamander in Santa Barbara County are largely on private lands, none are protected by signed and implemented habitat conservation plans, and access is limited. Although one habitat management plan, which was written before the listing at the request of the Army Corps of Engineers (Corps) as mitigation for a Clean Water Act violation, has been implemented recently, we do not know if it will ensure the continued existence of the California tiger salamanders population on that property. Discussions with several other landowners show promise of developing agreements that will provide sufficient high quality habitat for the long-term persistence of California tiger salamanders on their lands.

Although historical evidence of California tiger salamanders from San Luis Obispo County exists in the Santa Barbara Museum of Natural History's vertebrate collection (Collins *in litt.* 2000a), no California tiger salamanders have been found during more recent survey efforts in appropriate habitat in southern San Luis Obispo County (Scott and Harker 1998, California Army National Guard 2000, S. Sweet *in litt.* 2000a). Any California tiger salamanders found in southern San Luis Obispo County would probably be part of the Santa Barbara County DPS, although genetic testing would need to be conducted to verify this, in the event that any are discovered.

**Previous Federal Action**

On September 18, 1985, we published the Vertebrate Notice of Review (50 FR 37958), which included the California tiger salamander as a category 2 candidate species for possible future listing as threatened or endangered. Category 2 candidates were those taxa for which information contained in our files indicated that listing may be appropriate but for which additional data were needed to support a listing proposal. The January 6, 1989, and November 21, 1991, Candidate Notices of Review (54 FR 554 and 56 FR 58804, respectively) also included the California tiger salamander as a category 2 candidate, soliciting information on the status of the species. On February 21, 1992, we received a petition from Dr. H. Bradley Shaffer of the University of California, Davis, to list the California tiger salamander as an endangered species. We published a 90-day petition finding on November 19, 1992 (57 FR 54545), concluding that the petition presented substantial information indicating that listing may be warranted. On April 18, 1994, we published a 12-month petition finding (59 FR 18353) that the listing of the California tiger salamander was warranted but precluded by higher priority listing actions. We elevated the species to category 1 status at that time, which was reflected in the November 15, 1994, Notice of Candidate Review (59 FR 58982). Category 1 candidates were those taxa for which we had on file sufficient information on biological vulnerability and threats to support preparation of listing proposals. In a memorandum dated November 3, 1994, from the acting Assistant Regional Director to the Field Supervisor, the recycled 12-month finding on the petition and a proposed rule to list the species under the Act were given a due date of December 15, 1995. However, on April 10, 1995, Public Law 104–6 imposed a moratorium on listings and critical habitat designations and rescinded $1.5 million from the listing program funding. The moratorium was lifted and listing funding was restored through passage of the Omnibus Budget Reconciliation Act on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. The listing of the California tiger salamander throughout its range was precluded by the need to address higher priority species, although the status of the entire species is currently under review.

On January 19, 2000, we published an emergency rule to list the Santa Barbara County distinct population segment of the California tiger salamander as endangered (65 FR 3096), concurrently with a proposed rule (65 FR 3110) to list the species as endangered. Our decision to emergency list this DPS of the California tiger salamander was based on information contained in the original petition, information referenced in the petition, and new information available to us. We re-opened the comment period associated with the proposed rule twice (65 FR 15887 and 65 FR 31869). We held a public hearing on March 24, 2000.

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 are no longer subject to prioritization under the Listing Priority Guidance. This final rule is a Priority 2 action and

is being completed in accordance with the current Listing Priority Guidance. We have updated this rule to reflect new information concerning changes in distribution, status, and threats since publication of the emergency and proposed rules.

**Summary of Comments and Responses**

In the January 19, 2000, proposed rule (65 FR 3110), we requested all interested parties to submit factual reports or information that might contribute to development of a final rule. A 60-day comment period closed on March 20, 2000. We contacted appropriate Federal agencies, State agencies, county and city governments, scientific organizations, and other interested parties and requested comments, and notified affected landowners of the emergency listing. We submitted public notices of the proposed rule, which invited general public comment, to the *Santa Maria Times* and the *Santa Barbara News-Press,* both in Santa Barbara County, on January 19, 2000. We requested peer review in compliance with our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34270).

We received several requests for a public hearing and on March 24, 2000, we re-opened the public comment period (65 FR 15887) until May 4, 2000, to accommodate that hearing, which was held on April 20, 2000. On May 19, 2000, we published an additional re-opening of the public comment period (65 FR 31869), extending the comment period until June 5, 2000.

During the public comment period, we received written comments and new information from 657 individuals, businesses and organizations, with several commenters submitting comments during more than one comment period. We received oral comments from 37 people at the public hearing; 22 provided written comments also. In all, 231 commenters opposed the listing, and 426 supported continued protection for the DPS. Issues raised by the commenters, and our response to each, are summarized below.

*Issue 1:* One commenter stated that additional research on the life history and habitat needs of the Santa Barbara County population of California tiger salamanders is needed before making a decision to list. Specifically, the commenter felt that we disregarded the possibility of tiger salamanders using seasonal drainages as breeding habitat.

*Our Response:* We respectfully disagree. None of the surveys and research conducted on the Santa Barbara County population of California tiger salamanders over the past 25 years have indicated that this population has markedly different habitat requirements or life history traits than other California tiger salamanders. While we did not discuss the use of ponded areas within seasonal drainages as breeding habitat, we do recognize that such use occurs in a limited number of cases (about 2 to 10 percent across the entire range of the species (Dwight Harvey, Service, Sacramento, California, *in litt.*)). Based on aerial photographs going back to the 1930s, we recognized that the ponds identified as Railroad and Pipeline are modifications of natural features. The fact remains that the California tiger salamander is a pond breeding, not stream breeding, species, and water must be impounded, naturally or artificially, for a long enough period for development from egg to metamorphosis to occur. In most of the small seasonal streams in northern Santa Barbara County, flow rates are too rapid and surface water duration is too short to allow tiger salamanders to breed.

*Issue 2:* One commenter requested that we identify the range of dates that a breeding pool must remain hydrated in order to qualify as suitable California tiger salamander breeding habitat in Santa Barbara County.

*Our Response:* The range of dates within which California tiger salamanders breed varies from year to year depending on the timing and amount of rainfall (see ''Background'' section). Therefore, we are unable to provide specific dates within which a breeding pond must remain hydrated. Also, researchers have found that female California tiger salamanders will often forgo breeding in years with unusually late rainfall. We do know that California tiger salamanders require a minimum of 10 weeks to complete the transition from egg to metamorphosed juvenile; larvae that have a longer time period before metamorphosis are more likely to survive to adulthood and reproduce.

*Issue 3:* One commenter suggested that the salamanders may have migrated to other areas as a result of habitat loss and degradation.

*Our Response:* We do not agree. We believe that most California tiger salamanders in areas subject to habitat conversion are killed in the process. Deep-ripping and repeated plowing of grazing or oil production lands during conversion to vineyards and intensive cropping destroys the burrows in which the salamanders spend most of their lives. The mechanical actions kill burrow residents directly, or unearth them, leaving them exposed to risks of being run over by equipment, and death from dehydration or predation.

*Issue 4:* One commenter stated that the genetic data relied on were insufficient, as all samples were taken from one pond, and none from surrounding counties.

*Our Response:* While the data presented by Shaffer and McKnight (1996) did incorporate samples from only one Santa Barbara County pond, samples from three other counties were also included (Madera, Alameda, and Solano). Clear differences were demonstrated among those four sites. That paper also included data from 20 additional taxa (species, subspecies, and populations) within the tiger salamander (*Ambystoma tigrinum*) complex. Additional data cited in the emergency listing (Shaffer and Stanley 1991; Irschick and Shaffer 1997; Shaffer *et al.* 1993; Shaffer *in litt.* 1998; H.B. Shaffer's unpublished mitochondrial DNA sequence data) incorporated data from 56 localities representing 12 populations, including 3 sites from the Santa Barbara population, 15 sites in Monterey County, 6 sites in San Benito County, and 5 sites representing 1 population along the San Luis Obispo-Kern County line, the latter two being the only counties with California tiger salamanders that share borders with Santa Barbara County. Samples from populations in 8 other counties (Yolo, Sonoma, Solano, Alameda, Stanislaus, Fresno, Tulare, and Madera) were also examined. It is clear from Dr. Shaffer's and his colleague's data that the Santa Barbara County animals are genetically distinct from other California tiger salamander populations, including those in ''surrounding'' counties.

We submitted the emergency rule and Dr. Shaffer's published and unpublished material to four additional reviewers in addition to those who provided comment on the distribution, status, threats, and ecology of the California tiger salamander. We received comments from a fish and reptile geneticists and from a bacterial geneticist. Both stated that they believe we interpreted Dr. Shaffer's data correctly, and applied it appropriately and in accordance with our policy on distinct population segments.

*Issue 5:* One commenter stated that it is questionable whether the reduction in habitat in one county poses a threat to the species as a whole.

*Our Response:* We did not emergency list nor propose to list the California tiger salamander across its range. We emergency listed and proposed for continued protection only the Santa Barbara County distinct population segment of the California tiger

salamander. The reasons for recognition of this DPS are in accordance with our policy and guidelines and are explained in the emergency rule and in this document. The best available scientific evidence supports our conclusion that the Santa Barbara County population of California tiger salamanders is discrete, is significant to the species as a whole, and is in danger of extinction throughout most of its historic range. We are currently reviewing the status of the entire species across its remaining range.

*Issue 6:* Several commenters suggested that we used insufficient scientific evidence or did not use the best scientific and commercial data available in making our decision. Several commenters implied that, in making our decision to emergency list the Santa Barbara County California tiger salamander, we relied on ''anecdotal information, speculation, and scientific studies of dubious validity'' or stated that the information was ''based on questionable science.''

*Our Response:* We respectfully disagree. We used the scientific and commercial information available to us during our status review process and at the time of the listing to make our decision. We based our decision on museum specimens and the accompanying collection data, aerial photographs documenting the land use changes over the last 60 years, reports produced by the County Agricultural Commissioner's and Planning and Development Department, articles published in peer-reviewed, professional scientific journals, and additional work conducted by the authors of some of those articles.

We have received and sought out additional information during the public comment periods and public hearings, requested appropriate professional peer review as required under our policies, reviewed all the information available to us, and presented that information in this document. As documented in the emergency listing and this rule, we have considerable evidence concerning the rates of land use changes and the inadequacy of regulatory mechanisms to protect the salamander, and extensive scientific evidence documenting the uniqueness of the Santa Barbara population, risks to amphibian species from habitat loss and fragmentation, disease, and predation by and competition from non-native species.

*Issue 7:* Several commenters stated that insufficient data has been collected to estimate the size of the Santa Barbara County population of California tiger salamanders or that we must know how many California tiger salamanders existed ''before, how many now, and what has affected their sustainability''; and believed we should have surveyed all possible ponds and contacted all landowners before emergency listing the population. One commenter implied that the loss of habitat may not have led to a decrease in population size.

*Our Response:* We agree that we do not have an estimate of the size of the Santa Barbara County population of California tiger salamanders. Our decision to list this population is based on significant threats associated with recent habitat loss and expectations of continued loss and fragmentation of the remaining habitat, as detailed in the Background, Status and Distribution, and Summary of Factors Affecting the Species sections (see factor E discussion, in particular), and not on absolute numbers of animals. It is not necessary to know how many individuals existed before habitat loss and degradation, etc., began to take their toll, nor is it necessary to know precise numbers of existing individuals. Amphibian populations naturally undergo large fluctuations in population size as a result of random natural events such as drought and fires. The loss of crucial upland habitats and the loss of individuals through agricultural and development activities can leave small populations that are unable to withstand decreases in size as a result of such events. Additional information on the effects of habitat loss and fragmentation that became available after the publication of the emergency rule has been incorporated into this final rule.

In our 12-month petition finding, published April 18, 1994, we concluded that we had sufficient information to warrant proposing the listing of the species as a whole, but that the preparation of a proposal was precluded by the need to complete higher priority actions. That conclusion was based on information provided in the petition and in our files. We published Candidate Notices of Review in 1996 (61 FR 7596), 1997 (62 FR 4938), and 1999 (64 FR 57534) that included the California tiger salamander and requested the submission of additional information on the status and distribution of the species. We have carefully considered information relevant to the status of and threats to the Santa Barbara County distinct population segment that became available since our 1994 12-month petition finding. The decision to move forward with an emergency listing for this population was based on the rapid changes in the quantity and quality of the habitat available.

We have documented the factors that led to the rapid loss of habitat and increases in threats to the Santa Barbara County population. As our efforts and those of other agencies in working with landowners had failed to stem the rapid rate of habitat loss, and the existing regulatory mechanisms were inadequate to ensure protection for the population and its habitats, we believe that immediate protection under the Act was necessary to protect the remaining California tiger salamanders in Santa Barbara County.

*Issue 8:* Several commenters stated that the California tiger salamander is more widespread in Santa Barbara County than we presented in the emergency rule, and stated that they had seen them in a variety of places.

*Our Response:* Service and other biologists investigated many of these sightings. None of the sightings were verified as California tiger salamanders. We concluded that most of the sightings were of arboreal (tree dwelling) salamanders, *Aneides lugubris,* a smaller, purple-brown colored salamander with very tiny scattered yellow spots. We will investigate two other cases, one in an area where non-native tiger salamander larvae have been found, and one in area that appears to have suitable California tiger salamander habitat, when environmental conditions are appropriate.

*Issue 9:* Two commenters stated that there are more than 20 sites available and in good condition for the California tiger salamander, not 14 as stated in the rule. One commenter stated that the emergency rule did not give adequate attention to additional potential sites that could supply breeding habitat for California tiger salamanders.

*Our Response:* At the time of the publication of the emergency rule, the California tiger salamander was known from 14 current and historical sites in Santa Barbara County. We acknowledged in the emergency rule that other potential breeding ponds or pond complexes may exist, but could not be surveyed by local biologists due to access restrictions from private landowners. The rule also stated that possible California tiger salamander breeding ponds were probably facing types and levels of threats similar to those documented for the known ponds. Since the publication of the emergency rule, surveys have found new ponds. These findings are discussed in this final rule. Our assumption at the time of the emergency rule that most of the potential ponds face threats (*e.g.,* conversion to intensive agriculture, impacts from roads and exotic species)

similar to those affecting the known ponds has been substantiated. Only one metapopulation appears to be relatively free of significant threats and may be protected through conservation easements.

*Issue 10:* One commenter questioned the viability of the Tanglewood Complex as a breeding site, as this was based on a record from one larval California tiger salamander.

*Our Response:* The discovery of a larval California tiger salamander in the vicinity of the Tanglewood Complex suggested the presence of a nearby breeding locality, as juvenile California tiger salamanders do not move great distances when migrating from breeding ponds in the fall. We agree that in the absence of actual breeding pond surveys on the Tanglewood complex, it is conceivable that the larvae had not come from that location, but rather some unknown nearby location. Since publication of the emergency rule, a survey of the vernal ponds on the Tanglewood property has confirmed a breeding population of California tiger salamanders, as represented by multiple larvae captured onsite. Additional ponds within 2 km (1.2 mi) of the Tanglewood ponds also have breeding California tiger salamanders (see ''Background'' section).

*Issue 11:* One commenter suggested that, as there was no recent petition specific to the Santa Barbara population of California tiger salamanders, we have no legal basis for listing the population.

*Our Response:* Receipt of a petition to list a species is not required in order for us to undertake a status review and develop a proposal to list or an emergency rule. We have the independent authority to undertake assessments and status reviews of species considered as candidates for listing, and to list those species where their protection under the Act is warranted. Dr. Shaffer's 1992 petition was not rejected, as the commenter claimed, but was found in the 12-month petition finding to be ''warranted but precluded,'' meaning that there was enough information to support a listing, but that there were higher priority listings to complete.

*Issue 12:* One commenter suggested that we list the Santa Barbara County California tiger salamander as threatened, rather than endangered, to give the Service the option of proceeding with a special 4(d) rule that would exempt from the prohibitions of section 9 of the Act certain activities that would otherwise constitute take of California tiger salamanders.

*Our Response:* The criteria for designating species as threatened or endangered are outlined in section 4(a)(1) of the Act and regulations that we issued in (50 CFR part 424). Based upon information that we have received regarding the status and distribution of the species, we believe that the California tiger salamander is in danger of extinction throughout all or a significant portion of its range in Santa Barbara County, and therefore, fits the definition of endangered as defined in the Act. This is discussed in detail in the ''Summary of Factors Affecting the Species'' section.

*Issue 13:* One commenter suggested that in the absence of information regarding specific threats to the distinct population segment (*e.g.,* overutilization, disease, predation), we should not have based our decision ''solely on the conversion of native habitat. * * *''

*Our Response:* Under section 4 of the Act and the regulations (50 CFR part 424) issued to implement the listing provisions of the Act, we may determine a species to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). The rates of habitat degradation and loss in Santa Barbara County are sufficient to warrant the listing of the Santa Barbara DPS. However, we did not base our decision solely on the rate of conversion of habitat, but also on the inadequacy of existing Federal, State, and local regulatory mechanisms to protect the salamanders and their habitat, and the risks faced by salamanders due to intensified agricultural activities, urbanization, and habitat fragmentation. As the threat of habitat loss is still present, and neither the regulatory mechanisms nor their enforcement has changed since the emergency listing, both factors still threaten the continued existence of the Santa Barbara DPS.

*Issue 14:* Several commenters stated or implied that the threats to salamander habitat do not exist, the Service has portrayed the threats inaccurately, the County has received no applications for projects to eliminate breeding pools, and threats to the breeding pools would be subject to the Clean Water Act, the Act, and the Santa Barbara County Grading Ordinance.

*Our Response:* We respectfully disagree that we have portrayed the threats inaccurately. We have documented the threats based on aerial photography and site visits. We agree that projects or actions that would eliminate breeding pools would be subject to review under the Clean Water Act and the Santa Barbara County Grading Ordinance, but specific consideration of impacts to California tiger salamander habitat would not necessarily be required under these laws if the Santa Barbara DPS is not a listed entity. In addition, a primary factor cited in the emergency listing was the conversion of the upland habitats surrounding the breeding ponds to environments that will not support tiger salamanders, and the fact that the salamanders would be killed during the deep-ripping processes in preparation for vineyard installation and other land clearing activities. Activities in upland habitats are not normally under Corps Clean Water Act jurisdiction. Implementation of the County Grading Ordinance has not resulted in adequate protection of the salamander's upland habitats.

*Issue 15:* One commenter stated that information provided by the County was incorrect and biased and was intended to mislead the Service.

*Our Response:* As the commenter did not cite specific references, we believe he was referring to the location and status information in Santa Barbara County Planning and Development (1998) and Sweet, Collins and Hunt (1998). The information was compiled by recognized scientists with knowledge of the species, its habitat, and the threats to its continued existence. Determinations of known, potential, and other possible ponds were made based on specimens housed in museums in Santa Barbara County and elsewhere, U.S. Geological Survey topographic maps, Fish and Wildlife Service National Wetland Inventory maps, and aerial photographs archived at the County of Santa Barbara Planning Division. All of these sources are available to the general public, either through public agencies or private commercial resources. We also used a report prepared by Santa Barbara County Planning and Development Department, the Agricultural Commissioner and the UC Cooperative Extension (Gira *et al.* 1999), that provides information on agricultural land use and trends in the county.

*Issue 16:* We received several comments that a potential range map, that we released at the April 20, 2000, public hearing, constituted new information as it increased the number of landowners affected by the listing.

*Our Response:* Under the emergency rule and the proposed rule, all California tiger salamanders within Santa Barbara County are protected, whether they are found in the previously documented range or outside of those areas. The emergency rule states that the known habitat for the California tiger salamander in Santa Barbara County is vernal pools and seasonal ponds and the associated

coastal scrub, grassland, and oak savannah plant communities of the Santa Maria, Los Alamos, and Santa Rita Valleys in western Santa Barbara County. The map released by us indicated the distribution of possible suitable habitat for the California tiger salamander in Santa Barbara County and was based on the best information currently available to us. The map was designed to assist landowners in identifying where these areas are, and to provide guidelines as to the areas most likely affected by the listing. The map does not alter the obligations or responsibilities of Santa Barbara County landowners and land managers with respect to the Santa Barbara County population of California tiger salamanders under the Act, under the emergency, proposed, or final rules.

*Issue 17:* Several commenters believe that the Grading and Zoning Ordinances are sufficient to protect the species; one provided additional information in support of this belief.

*Our Response:* As detailed in the rule, we believe that the County ordinances, the past implementation and enforcement of those ordinances by County agencies, and the adherence to those ordinances by some landowners were not sufficient to protect the salamander and its habitat. This is further supported by the Santa Barbara County 1998–99 Grand Jury Report, released May 6, 1999, which found

> ''The agricultural community * * * frequently proceeds with grading or other agricultural conversions without permits. * * * Members of the agricultural community choose to pay the fines and suffer other consequences * * *'' (Pg. 9)

One commenter provided information on nine violations of County and Federal laws, a letter from the U.S. Environmental Protection Agency (EPA) expressing concern over potential violations of the Clean Water Act and asking for County assistance in reviewing those cases, two letters to landowners requesting consultation with the County regarding sensitive resources, and a memo to the Board of Supervisors regarding enforcement of the Grading Ordinance. We believe the information provided and additional information relevant to the cases under review supports our conclusion that the existing regulatory mechanisms, including their application and enforcement have been inadequate to protect California tiger salamanders and their habitat in Santa Barbara County. Adequate mechanisms, processes and enforcement, prevent illegal actions from occurring in the first place. Once salamanders are killed and their habitat is destroyed or severely degraded, the damage is done, the loss of individuals and populations has occurred. It is very difficult, as documented in the emergency and final rules, to rehabilitate degraded habitat, particularly vernal pools and other seasonal wetlands, when the hydrology has been altered by deep soil disturbances.

*Issue 18:* Several commenters expressed the view that much of the California tiger salamander's habitat is agricultural land that has been in production since 1900 and suggested that if the salamander has survived it shows how well farmers have taken care of the land.

*Our Response:* Although much of the acreage in Santa Barbara County has been cultivated in the past, the scale and the nature of agriculture has changed over time. Historically, land was dry farmed in a patchwork, with fields laying fallow. This allowed California tiger salamanders to persist over time, as they always had some upland areas as refugia. However, as stated in our emergency rule and in this document, intensive agriculture has increased greatly in Santa Barbara County, and resulted in the permanent conversion of upland refugia to land uses that are incompatible with the long-term persistence of California tiger salamanders, including vineyards, intensive agriculture, and urban development. The changes have included the increased use of various chemicals that can have negative effects on salamanders, as well as changes in crops and farming methods that are not conducive to salamander survival.

*Issue 19:* Several commenters addressed the issue of roadkill, assuming that the greatest impact is roadkill and that we have done nothing to address that issue; another offered suggestions to reduce roadkill. Commenters also stated that any impact from the conversion of alleged habitat to crops is minimal at best compared to roadkill, that no peer-reviewed study proves that farming and ranching is incompatible with the protection of the species, and that we must eliminate losses from roadkill before addressing losses from farming practices.

*Our Response:* We respectfully disagree with the comments, but realize that we could have made our concerns more clear. The greatest impact to California tiger salamanders in Santa Barbara County is not roadkill, but the killing of all age classes of California tiger salamanders in burrows when deep-ripping and other land-clearing activities (such as conversion of grazing and oil production lands to intensive cropping or housing developments) occur. The Twitty (1941) and Launer and Fee (1996) citations in the emergency rule refer to roadkills near ponds in northern California on Stanford University property, and were provided as additional documentation of threats to amphibians in general and California tiger salamanders specifically. The only estimate of roadkill in Santa Barbara County is Sweet (*in litt.* 1993), which states that an average of 40 percent of salamanders seen on or along roads are dead. However, this does not mean that 40 percent of the mortality of California tiger salamander is due to collisions with vehicles; the study did not investigate other sources of mortality. Sweet's report concludes that ''the sizes of breeding adults do *not* point toward a major influence by road-kill.'' (Emphasis in original.) We have been working with CalTrans (beginning in May 1999) at one of the two sites of highest concern to undertake measures to encourage California tiger salamanders to use alternate routes under roads, to install more drains in berms so adults that do get on roads have more options, and to prevent juveniles from getting up on roads in the first place. Information on the rates of habitat loss and proximity of breeding sites to roads are presented in the ''Status and Distribution'' and ''Summary of Factors Affecting the Species'' sections.

The conclusions we have drawn as to the impact of farming and overgrazing on California tiger salamanders are based upon what is known about how specific activities are conducted, the likely physical and chemical effects of those activities on the landscape, and the likelihood that these effects on the landscape will in turn have an impact on California tiger salamanders, given what we know about their biology. For example, deep ripping of soil is very likely to kill any salamanders in the layers of soil being ripped, including those inside burrows, at other locations in the soil, or on the surface. Other alterations of the salamander's habitat, such as road-building and conversion to fields of seasonal crops and vineyards, can also kill salamanders directly during conversions (see factor E, below).

Such alterations can dramatically change the physical and chemical structure of the habitat through which salamanders migrate to breeding ponds or upland habitat. When considered in light of the biology of California tiger salamanders, these alterations of the environment reduce the chances that salamanders will be able to traverse these habitats successfully. For

example, changes in the moisture regimes, microlandscape, and ground cover could require migrating salamanders to cross rapid runoff; expose animals to toxic levels of fertilizers, pesticides, fungicides, and herbicides; interfere with the ability of salamanders to travel the distances necessary to make it to the breeding pond or upland habitat while rain or moisture conditions are suitable; or increase their susceptibility to predators. We do not have data generated from studies that demonstrate such effects unequivocally. We are basing these conclusions on our interpretations of what we do know about these human activities, the biology and life history of salamanders, and studies that have documented the changes in species numbers and abundances as a result of land use changes (see factor E discussion).

*Issue 20:* Several commenters expressed concern that all rodent control operations would have to be halted, with devastating effects to agricultural operations. Some stated that halting such programs would also jeopardize those ponds that have been created or modified by damming and berming, as the burrowing activities could cause failures of those dams and berms.

*Our Response:* Not all methods of rodent control are expected to have the same level of effects on California tiger salamander populations. We have recommended to landowners that they avoid destruction of burrows or the release of toxic chemicals, including pesticides, into burrows of ground squirrels and gophers within 2 km (1.2 mi) of breeding ponds. As stated in the emergency rule, ''Rodent control programs must be analyzed and implemented carefully in California tiger salamander habitat so the persistence of the salamanders is not threatened.'' Appropriate methods and timing of control efforts can be determined through the Act's section 10 incidental take permit process as habitat conservation plans (HCP) for the salamanders are developed, evaluated once implemented, and revised if necessary. Likewise, the impacts of burrowing rodents on dams and berms, and methods to reduce those impacts, can be addressed in HCPs.

*Issue 21:* The reasons for the emergency determination were not clearly demonstrated.

*Our Response:* We respectfully disagree. We believe that, in both the emergency rule and this document, we have clearly presented and documented the status and distribution of this distinct population segment, the threats facing the remaining subpopulations, and the imminency of those threats.

*Issue 22:* Several commenters stated that several landowners were in the process of developing habitat conservation plans, of which the Service was unaware or chose to ignore. Another commenter stated that the Service should offer farmers and ranchers a proposal to create a habitat conservation plan for the area, and that to use the threat of regulation to forward this plan only ensures its failure.

*Our Response:* Although we did not discuss it in the emergency listing, we were aware of conservation efforts by several landowners. We met with one vineyard manager in the Fall of 1998 to try to ensure sufficient protection of California tiger salamander habitat following violations of the Clean Water Act. The management plan that was developed after that meeting, without further Service input, may not, in our opinion, ensure protection for the salamander and its habitat that is adequate to ensure the survival of the population in perpetuity. In another case the Service has provided funds to assist other agencies and landowners in developing conservation plans, including the purchase of conservation easements. To date, no final agreements have been reached.

We cannot defer or avoid listing a species that is at risk of extinction on the basis of intentions to develop conservation agreements or plans. We cannot assume that such plans will be developed and implemented, or that they will be successful in providing long-term protection.

A habitat conservation plan is a document required when applying for an incidental take permit pursuant to section 10(a)(1)(B) of the Act. Incidental take permits are required when activities will result in ''take'' of threatened or endangered species. While Service personnel provide detailed guidance and technical assistance throughout the process, the development of an HCP is driven by the applicant. The purpose of the habitat conservation plan is to ensure that the effects of incidental take authorized under the permit will be adequately minimized and mitigated.

*Issue 23:* Several commentors suggested that we should be focusing on public, not private lands to conserve the Santa Barbara County population of California tiger salamanders, and that we should move salamanders onto government property. One commenter stated that landowners have offered to set up preserves on their land.

*Our Response:* One purpose of the Act (section 2(b)) is to provide a means to protect the ecosystems upon which threatened and endangered species depend. Although species introductions may be a potentially important recovery tool, they are less effective when they occur in habitat that has not been occupied by the species in the past. Vandenberg Air Force Base, the closest government property near the range of the California tiger salamander in Santa Barbara County, has been surveyed extensively for tiger salamanders; to date, tiger salamanders have not been found there. Similarly, tiger salamanders have not been found on Los Padres National Forest. This may be due to differences in soil types and microclimate conditions, or it may be an historical artifact of where California tiger salamanders were able to disperse. Transplanting California tiger salamanders to lands where they do not occur naturally would do nothing to protect the ecosystems in which they evolved and are found, and probably would not be successful. Therefore, the need to list the species would not be precluded. We must address all causes of losses and threats to the population, including those that occur on private lands.

*Issue 24:* One commenter states that the 2 km (1.2 mi) home range reported in the emergency listing is too generous an estimate of how far California tiger salamanders will actually migrate from breeding ponds to summer retreat habitat. The commenter believes that it is more important that the Service focus on (1) preserving the watersheds that support California tiger salamander breeding ponds and, (2) ensuring that adequate rodent populations occur within these watersheds so as to provide adequate summer retreat habitat for particular California tiger salamander breeding ponds.

*Our Response:* California tiger salamanders have been known to travel 2 km (1.2 mi) or more from their breeding pond. We agree that 2 km overestimates the distance that most California tiger salamanders are likely to travel from breeding ponds. As stated in the emergency rule and this document, the distance traveled from breeding sites depends on many site-specific factors, such as topography and vegetation, the distribution of ground squirrel or other rodent burrows, and climatic conditions. Although the likelihood of encountering these salamanders tends to decrease with distance from their breeding pond, we cannot provide a firm distance beyond which there is no risk. No studies have been undertaken in Santa Barbara County to determine how far California tiger salamanders disperse from breeding ponds. The

colonization of a newly created pond in the Los Alamos Valley from a pond approximately 227 m (750 ft) away suggests that California tiger salamander regularly move large distances. Additionally, a 5 year study at the Hastings preserve in Monterey found that a large portion (20 percent) of California tiger salamanders traveled to ponds that were 580 m (1900 ft) away (see the Background section).

We agree that preserving the watersheds supporting California tiger salamander breeding ponds and maintaining adequate rodent populations to supply refugia for salamanders is more important than establishing a fixed boundary beyond which salamanders are likely to be found. It is possible, in some cases, that a 2 km (1.2 mi) distance would not incorporate all of the watershed, or that lands beyond that distance should be evaluated as dispersal habitat. The exact configuration of habitat necessary to protect the salamanders will be site-specific.

*Issue 25:* Some commenters believe farmers have helped salamanders by building dams which prolonged optimum conditions for the salamanders, giving the larvae the maximum opportunity to grow large and healthy before completing metamorphosis.

*Our Response:* The enlarging of existing natural ponds or the creation of new ponds within a grazing-dominated landscape may have been beneficial to the California tiger salamander in many cases. However, the creation and maintenance of permanent or nearly permanent bodies of water within intensely cropped areas or vineyards has not been documented as providing suitable habitat for tiger salamanders. In many cases, California tiger salamanders are no longer found in ponds within such systems (Shaffer *et al.* 1993). Management of such ponds for agricultural uses, such as drawing down the ponds for frost protection, which is likely to occur when California tiger salamander larvae are present, can be in conflict with the needs of the salamanders. Permanent ponds also provide breeding habitat for exotic fish and frogs that can prey on and compete with California tiger salamanders.

*Issue 26:* Many commenters stated that the Service should compensate private landowners for the loss of revenue that occurs when California tiger salamanders are found on their land. Another reminded us that the ''taking'' of land is unconstitutional without compensation.

*Our Response:* Listing under the Act does not imply that private land would be ''locked up'' without the ability for reasonable use. Recovery planning for this species may include recommendations for land acquisition or easements involving private landowners. These efforts would be undertaken with the cooperation of the landowners. We do work with landowners to identify activities and modifications to activities that will not result in take, to develop measures to minimize the potential for take, and to provide authorizations for take through section 7 and 10 of the Act. We encourage landowners to work in partnership with us to develop plans that ensure land uses can be carried out in a manner consistent with the conservation of listed species.

*Issue 27:* Several commenters stated that we should take the potential economic impacts of the listing into account in our decision-making process. One commenter stated that we must take into account the economic impact of identifying any particular area as critical habitat.

*Our Response:* Under section 4(b)(1)(A) of the Act, we must base a listing decision solely on the best scientific and commercial data available. The legislative history of this provision clearly states the intent of Congress to ''ensure'' that listing decisions are ''* * * based solely on biological criteria and to prevent nonbiological criteria from affecting such decisions * * *'' H.R. Rep. No. 97–835, 97th Cong., 2d Sess. 19 (1982). As further stated in the legislative history, ''* * * economic considerations have no relevance to determinations regarding the status of species * * *'' Id. at 20. Because we are specifically precluded from considering economic impacts, either positive or negative, in a final decision on a proposed listing, we did not consider the economic impacts of listing the Santa Barbara County population of the California tiger salamander.

We agree that we must take into account the economic impact of identifying a particular area as critical habitat. We have not proposed or designated critical habitat for the California tiger salamander. If the decision is made to designate critical habitat for the Santa Barbara County DPS of the California tiger salamander, we will publish a proposed rule and a draft economic analysis of the proposed designation, and accept public comments on both. Following the receipt of public comments, we will complete the economic analysis of the impact of the critical habitat designation and then publish a final rule.

*Issue 28:* Several commenters believe that the issuance of permits by the Service serves to unfairly restrict the number of people allowed to conduct surveys and habitat assessments and thus limits public input and avoids peer review.

*Our Response:* The Service does not require permits for conducting habitat assessments and thus does not limit the number of people able to conduct surveys for suitable habitat or to provide us with information regarding habitat quality. However, in order to properly assess the validity and reliability of such reports and information, it is incumbent on us to examine the qualifications of people submitting the reports and information. Relative to the issuance of recovery permits under Section 10 of the Act, which allow sampling for larvae and adults in suitable habitat, the law requires us to review all applications for such permits to ensure that only those people with appropriate training and experience conduct activities that will actually ''take'' a salamander (*e.g.,* netting, trapping, hand capture, harassing). This requirement reduces the risks to the animals, and promotes the conservation and recovery of the species.

**Peer Review**

In accordance with our July 1, 1994, Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities (59 FR 34270), we solicited review from eight experts in the fields of ecology, conservation, genetics, taxonomy and management. The purpose of such a review is to ensure that listing decisions are based on scientifically sound data, assumptions, and analyses, including input from appropriate experts. Six reviewers sent us letters during the public comment periods supporting the listing of the Santa Barbara County DPS of the California tiger salamander. Several provided additional documentation on the distribution of and threats to the salamanders; one provided additional genetic data. Their information has been incorporated, as appropriate. Two reviewers specifically evaluated the genetic data on which the determination of the DPS was made; both stated that the data clearly and strongly supported our interpretations and decision.

**Summary of Factors Affecting the Species**

After a thorough review and consideration of all information available, we have determined that the Santa Barbara County population of the California tiger salamander warrants classification as an endangered species.

We followed procedures found at section 4 of the Act and regulations (50 CFR Part 424) issued to implement the listing provisions of the Act. We may determine a species to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Santa Barbara County DPS of the California tiger salamander (*Ambystoma californiense*) are as follows:

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

California tiger salamanders now occur in scattered subpopulations within six isolated areas or metapopulations across the species' historic range in Santa Barbara County. Based on the topography and habitat type of the lands that have been converted to agriculture and urban development, we conclude that the number of breeding ponds, the extent of upland habitats, and the quality of the remaining habitats have been reduced greatly since Europeans first settled the region. While those areas remained in grazing lands or oil production, which generally have relatively low effects on the subpopulations, the species was relatively secure. However, based on aerial photography from the 1930s through the year 2000 (archived at the Santa Barbara County Planning and Development Department), the conversion to intensive agriculture and urban developments has resulted in the loss of breeding habitat from the destruction or alteration of natural vernal pools and seasonal ponds, and the loss of upland habitat used for estivation and migration.

Pools and ponds are destroyed when they are filled during grading and leveling operations or deep-ripping. Deep-ripping or deep slip plowing is a technique that uses a 4- to 7-foot deep plow to break up the hardpan (layer of dense soil or material that prevents water percolation) or compacted soil to allow water to drain deeper into the soil and prevent water retention or ponding. Alternatively, seasonal ponds may be converted to irrigation ponds, which are often managed in ways that are not conducive to salamander survival (L. Hunt *in litt.* 1998). The repeated plowing and discing or deep-ripping of upland habitats can alter the hydrology of the pools, thus destroying them (Coe 1988), and can kill salamanders outright and destroy the small mammal burrow systems in which they live most of the year.

Intensive agricultural practices began in the Santa Maria River and San Antonio Creek Valleys more than 130 years ago (Elihu Gevirtz, Santa Barbara County Planning and Development Department, pers. comm. 1999), probably eliminating many breeding ponds and associated upland habitats. The increasingly rapid conversion of these lands and those in the Los Alamos and Santa Rita Valleys to intensive agricultural practices is characterized by the increase, through 1997, in row crop acreage by more than 9,900 hectares (ha) (more than 25,000 acres (ac)) since 1986 and the installation of approximately 4,000 ha (10,000 ac) of vineyards from 1996 to 1999, more than doubling the acreage planted to grapes (Gira *et al.* 1999). This is further supported by the fact that, since 1992, irrigated cropland in Santa Barbara County has increased by approximately 15,700 ha (38,850 ac) to a total of 47,700 hectares (118,270 acres), or a 49 percent increase; approximately 5,670 ha (14,000 ac), or 36 percent of the growth, occurred from 1997 through 1999 (Santa Barbara County Planning and Development Department 2000). We noted in the emergency rule that these conversions have resulted in the destruction of two breeding ponds (one suspected and one documented) and the grading of 90 and 100 percent of their drainage basins, and the grading of 50 to 100 percent of the drainage basins of five documented and two suspected breeding ponds in the last 5 years (Santa Barbara County Planning and Development Department 1998). Of the ponds discovered since the emergency rule, a substantial portion of the adjacent upland habitat of at least one has been graded in the past year (B. Fahey, pers. obs. 2000; Santa Barbara County Planning and Development Department aerial photography collection). There are proposals to develop vineyards around 7 other documented breeding ponds in 2 complexes, but we are involved in discussions with the landowners and managers to provide for the protection of the California tiger salamander and its habitat (Hunt 1998; G. McLaughlin, pers. obs. 1998, 2000; Santa Barbara County Planning and Development 1998; Sweet *et al.* 1998; S. Sweet *in litt.* 1998a,b, 2000b; Monk & Associates 2000a). The threats from agriculture, urbanization, overgrazing, fragmentation, and roadkill are severe in four metapopulations, moderate in one, and minimal in the sixth. The current and potential threats are discussed below by region (West Orcutt, Bradley-Dominion, North Los Alamos, East Los Alamos, Purisima Hills, and Santa Rita).

The five known breeding sites in southwestern Santa Maria Valley (west of Highway 101 and Santa Maria), comprising the West Orcutt metapopulation, are on grazing and other agricultural lands. Vernal pools in the area have been lost or adversely affected by rapid development in the Santa Maria Valley (E. Gevirtz, pers. comm. 1999). Thirty years ago, a housing development directly affected one breeding site in this metapopulation; California tiger salamanders have been reported from water meter vaults at residences within this development (L. Hunt *in litt.* 2000). Ongoing agriculture within the vernal pool complex can have negative effects on the hydrology, expose salamanders to contaminants, and kill terrestrial phase salamanders outright. Two sites are subject to mortality from roadkill due to their proximity to roads: One is by the heavily-traveled Black Road and the other is near a dirt road subject to yearly grading. Two remaining breeding ponds are separated from each other by a railroad that may disrupt migration routes and reduce genetic interchange. These sites are also threatened by overgrazing, as evidenced by terracing of the hillsides and a lack of vegetative cover (G. McLaughlin, pers. obs. 1998; Jones and Stokes Associates, Inc., no date) (see discussion on grazing in Factors C and E, below).

Before 1996, the four documented and three possible breeding sites (Sweet *et al.* 1998) in southeastern Santa Maria Valley, which constitute the Bradley-Dominion metapopulation, were surrounded by oil production and grazing lands. This is probably the most at-risk metapopulation, due to agricultural intensification. Since 1996, agricultural land conversion for vineyards, vegetable row crops, and flowers has destroyed one documented and one suspected breeding site, possibly extirpated salamanders from two other documented sites and one possible breeding site, and threatens the remaining possible breeding site (S. Sweet *in litt.* 1993; 1998a,b). Although California tiger salamanders were found migrating across roads in the vicinity of the possible breeding sites throughout the 1980s, salamanders have not been observed since the early 1990s, when the grazing lands were converted to vineyards (S. Sweet *in litt.* 1998a). One documented breeding site may not have held water long enough in 2000 to support successful breeding (Bridget Fahey, Service, pers. obs. 2000), and although surveys of two other breeding sites were not conducted, the uplands surrounding one pond have been converted to intensive agriculture (S. Sweet *in litt.* 1998a,b; G. McLaughlin, pers. obs. 1998, 2000). It is likely that

the adult breeding population at that site has been greatly reduced.

A storage facility for agricultural products is within the watershed of the remaining documented breeding site (S. Sweet *in litt.* 1998a; Theresa Stevens, Santa Barbara County Planning and Development, pers. comm. 1999). Precautions have been taken to reduce the threats of runoff and spills into the natural pond (Analise Merlo, Santa Barbara County Planning and Development, pers. comm. 1999) that could make the habitat less suitable for salamanders during the breeding or development seasons. A road between this pond and a nearby pond, the watershed of which was converted to gladiolus fields in 1998, disrupts migration between the ponds and the uplands, has caused the deaths of many salamanders, and contributes to potentially lethal contamination of the ponds (S. Sweet *in litt.* 1993, 1998a).

The North Los Alamos Valley or Las Flores metapopulation, although fragmented by Highway 101, was considered to be an important breeding site for the species provided existing conditions could be maintained (Stebbins 1989). However, recent changes in land ownership and management have resulted in the conversion from grazing lands to vineyards east of the highway. The direct effects of this conversion resulted in the loss of one vernal pool and the severe degradation of upland habitats surrounding that pool and another documented breeding site (Hunt 1998). California tiger salamanders were not found during a survey of the remaining pond in March 2000 (Walter Sadinski, Service, pers. obs. 2000), although they were present in other ponds in the metapopulation at that time (Monk & Associates 2000b). Additional surveys and monitoring will be needed to determine if adult California tiger salamanders are still present in the vicinity of the pool and if the remaining upland habitat around the pond is sufficient to support a California tiger salamander population. We still have concerns that habitat around seven vernal pools and seasonal ponds on the west side of Highway 101 that are documented breeding sites may be converted from grazing lands to intensive agriculture (Santa Barbara County Planning and Development Department 1998; S. Sweet *in litt.* 1998a; L. Hunt *in litt.* 1999; Abe Lieder, Santa Barbara County Planning and Development Department, *in litt.* 1999; Morgan Wehtje, California Department of Fish and Game (CDFG), pers. comm. 1999), but we are involved in discussions with landowners and managers regarding protections for the salamander and its habitat. One of these ponds is in danger of being completely filled in by siltation due to increased soil erosion from the vineyard on the east side of the highway (P. Collins *in litt.* 2000a; Jeanette Sainz, landowner, pers. comm. to B. Fahey 2000). Half of the uplands adjacent to a recently-discovered California tiger salamander breeding pond were converted to intensive agriculture in the fall of 1999, probably killing many of the adult salamanders in the uplands associated with that pond (P. Collins *in litt.* 2000a; B. Fahey and G. McLaughlin, pers. obs. 2000). Continued farming of that area will likely result in further losses.

The recently discovered Purisima Hills metapopulation, consisting of six small ponds and surrounding upland habitats on the crest of the Purisima Hills, is in an area previously identified as probable California tiger salamander habitat (Sweet *et al.* 1998). The ponds are probably satellites to the larger Laguna Seca pond, a reported although unconfirmed California tiger salamander breeding site (S. Sweet *in litt.* 2000b). Salamanders from this metapopulation may provide evidence of an historic genetic link between the Los Alamos and Santa Rita Valley metapopulations, although the intensive agriculture currently along State Highway 135 in the Los Alamos Valley probably now constitutes a barrier to gene flow. This metapopulation is the least threatened of the Santa Barbara County California tiger salamander metapopulations; the owner of the property has expressed interest in working with the Land Trust of Santa Barbara County to establish conservation easements protecting both the California tiger salamanders and open land on the site (Van de Kamp 2000). The land use around these ponds consists of cattle grazing.

The east Los Alamos metapopulation consists of three small ponds in an open savannah grassland (Monk & Associates 2000a). Currently, the property is used for cattle grazing (G. McLaughlin, pers. obs. 2000); however, the site is proposed for vineyard installation (Tony Korman and Susan Cagann, Kendall Jackson, pers. comm. 2000). The property is bordered to the north by Highway 101, which, along with extensive vineyards, probably serves as a barrier between this site and some potential breeding ponds on the north side of the highway.

In the Santa Rita Valley metapopulation, the westernmost area occupied by the California tiger salamander has been severely affected by agricultural grading, conversion to row crops, and livestock facilities (S. Sweet *in litt.* 1993, 1998a,b; G. McLaughlin, pers. obs. 1998, 2000; Service files). A site in the eastern part of the valley has two vernal pools that have been deepened to create a permanent water source for cattle and have had introductions of mosquitofish (*Gambusia affinis*) and sunfish (*Lepomis* spp.). Bullfrogs also are at the site (G. McLaughlin, pers. obs. 2000). The upland habitat to the north of the pools is still in very good condition. The pools are adjacent to Highway 246, resulting in considerable road mortality of salamanders during their breeding migrations (S. Sweet *in litt.* 1993, 1998a). Efforts to reduce roadkill are under discussion. Upland habitats around two possible breeding ponds northeast of the second site were deep-ripped in 1998 in preparation for conversion to vineyards (L. Hunt *in litt.* 1998; Santa Barbara County Planning and Development Department 1998). Vineyards have been installed (G. McLaughlin pers. obs. 1999, 2000), and one of the ponds was enlarged and deepened in 1999 (E. Gevirtz, pers. comm. 1999; Jim Mace, U.S. Army Corps of Engineers, pers. comm. 1999). This change may make the pond less desirable for the California tiger salamander and more likely to be inhabited by exotic fish, crayfish, and bullfrogs. The remaining undisturbed habitat is probably insufficient to support California tiger salamanders over the long term.

Oil production began within the range of the salamander approximately 100 years ago, with the discovery of oil in the Solomon Hills (within the range of the Los Alamos tiger salamander metapopulation). By 1910, production had begun in the Santa Maria Valley (E. Gevirtz, pers. comm. 1999). Although oil production is less disruptive to the upland habitats than agriculture, oil sump ponds, particularly those located where natural ponds and pools once existed, may act as toxic sinks. While attracting salamanders seeking breeding sites, these ponds may contain levels of contaminants that may kill adults, eggs, and larvae outright, or cause deformities in the developing larvae thus precluding their survival (see discussion on contaminants in Factor E of this section).

The primary cause of the reduced distribution of the California tiger salamander in Santa Barbara County is the conversion of native habitat to intensive agricultural practices and urban development. In addition, the largest remaining subpopulations are in areas most severely threatened by human encroachment (Shaffer *et al.* 1993; S. Sweet *in litt.* 1993, 1998a; E. Gevirtz *in litt.* 1998). Besides direct loss

of habitat, the widespread conversion of land to agricultural and residential uses has led to the fragmentation of the range of the tiger salamander and isolation of remaining subpopulations in Santa Barbara County (Shaffer *et al.* 1993; S. Sweet *in litt.* 1993, 1998a). Even relatively minor habitat modifications, such as construction of roads, pipelines, fences, and berms that traverse the area between breeding and refuge sites, can increase habitat fragmentation, impede or prevent breeding migrations, and result in direct and indirect mortality (Mader 1984; S. Sweet *in litt.* 1993, 1998; Findlay and Houlahan 1996; Launer and Fee 1996; Gibbs 1998).

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

Although tiger salamanders have been used for bait and imported larvae (''waterdogs'') are still sold in California, we have no information indicating that California tiger salamanders are used for this purpose (see discussion under Factor E of this section). Therefore, we do not believe overutilization is a threat to the Santa Barbara County population of California tiger salamanders.

*C. Disease or Predation*

Disease

The direct effect of disease on the Santa Barbara County population of California tiger salamanders is not known and the risks to the DPS have not been determined. Because California tiger salamanders are found in so few sites in Santa Barbara County, and because the sites are found across a relatively small area, disease must be considered a potential threat to the persistence of the DPS. Sam Sweet (pers. comm. 1998) reported that one landowner in the Los Alamos Valley has seen large numbers of dead and dying salamanders in a pond, but the cause was not determined. Several pathogenic (disease-causing) agents, including at least one bacterium (Worthylake and Hovingh 1989), a water mold (fungus) (Kiesecker and Blaustein 1997; Lefcort *et al.* 1997), and a virus (McLean 1998), have been associated with die-offs of closely related tiger salamanders, as well as other amphibian species. Each of these pathogens could devastate one or all of the remaining subpopulations or metapopulations if introduced into Santa Barbara County.

Worthylake and Hovingh (1989) reported on repeated die-offs of tiger salamanders (*Ambystoma tigrinum*) in Desolation Lake in the Wasatch Mountains of Utah. Affected salamanders had red, swollen hind legs and vents, and widespread hemorrhage of the skin and internal organs. The researchers determined that the die-offs were due to infection with the bacterium *Acinetobacter.* The number of bacteria in the lake increased with increasing nitrogen levels as the lake dried. The nitrogen was believed to come from both atmospheric deposition and waste from sheep grazing in the watershed (Worthylake and Hovingh 1989). *Acinetobacter* spp. are common in soil and animal feces. Overstocking of livestock in pond watersheds could lead to high levels of nitrogen in ponds and contribute to increased bacterial levels.

Lefcort *et al.* (1997), in Georgia, found that tiger salamanders raised in natural and artificial ponds contaminated with silt were susceptible to infection by the water mold *Saprolegnia parasitica.* The fungus first appeared on the feet, then spread to the entire leg. All infected animals died. Die-offs of western toads (*Bufo boreas*), Cascades frogs (*Rana cascadae*), and Pacific treefrogs (*Hyla regilla*) also have been associated with *Saprolegnia* infections (Kiesecker and Blaustein 1997). *Saprolegnia* spp. are widespread in natural waters and commonly grow on dead organic material (Wise 1995).

High nitrogen and silt levels from overgrazing or other agricultural or urban runoff may increase susceptibility to disease and may interact with other risk factors (*e.g.,* habitat loss, introduced species) to jeopardize the persistence of a local population. Two of the three ponds in the West Orcutt metapopulation area are in overgrazed grasslands and are at risk of receiving runoff that has both high nitrogen and high silt levels. Four ponds in the Los Alamos metapopulation and the two ponds in the Santa Rita metapopulation are on grazing lands; although the levels of grazing are not excessive, silt and nitrogen levels must be considered when assessing the health of these populations. One of the ponds in the Los Alamos Valley was the site of a die-off of California tiger salamanders, but the cause was unknown (S. Sweet pers. comm. 1998).

In addition to the *Acinetobacter* discussed above, an iridovirus (viruses with DNA as the genetic material that occur in insects, fish, and amphibians and may cause death, skin lesions, or no symptoms) has been identified by the U.S. Geological Service (USGS), National Wildlife Health Center in Madison, Wisconsin, as the cause of deaths of large numbers of tiger salamanders at Desolation Lake, Utah. Infected salamanders moved slowly in circles and had trouble remaining upright. They had red spots and swollen areas on the skin. Viruses associated with die-offs of tiger and spotted salamanders in two other States, Maine and North Dakota, have been isolated (McLean 1998). In 1995, researchers reported similar die-offs attributed to an iridovirus in southern Arizona and near Regina, Saskatchewan, Canada (McLean 1998). Iridoviruses are found in both fish and frogs and may have been introduced to some sites through fish stocking programs. Little is known about the historical distribution of iridoviruses in salamander populations. A virus could enter California via bait shops where eastern tiger salamanders are legally sold in certain counties (California Code of Regulations (CCR) Title 14, Division 1, Subdivision 1, Chapter 2, Article 3, Sec. 4, 1999), or where they are illegally sold in other areas. The virus may be carried by birds, such as herons and egrets, that feed on the salamanders. Such a virus could be devastating to the Santa Barbara County population of California tiger salamanders.

Predation

Predation and competition by introduced or nonnative species potentially affect at least four of the six Santa Barbara County California tiger salamander metapopulations. Shaffer *et al.* (1993) consider bullfrogs (*Rana catesbeiana*), mosquitofish, and other introduced fish to be biological indicators of ponds that have been disturbed to a degree that California tiger salamanders are excluded. Competition is discussed under Factor E of this section.

Bullfrogs prey on California tiger salamander larvae (P.R. Anderson 1968). Morey and Guinn (1992) documented a shift in amphibian community composition at a vernal pool complex, with California tiger salamanders becoming proportionally less abundant as bullfrogs increased. Although bullfrogs are unable to establish permanent breeding populations in unaltered vernal pools and seasonal ponds, dispersing immature frogs take up residence in vernal pools during winter and spring (Morey and Guinn 1992) and may prey on native amphibians, including larval California tiger salamanders. Lawler *et al.* (1999) found that less than 5 percent of California red-legged frog tadpoles survived to metamorphosis when raised with bullfrog tadpoles (initially, ponds held 720 red-legged frog tadpoles and 50 bullfrog tadpoles; approximately 50 percent of the bullfrogs successfully metamorphosed). Due to the documented effects of bullfrogs on other

amphibian species, we believe that they are likely to have similar effects on California tiger salamanders and that the presence of bullfrogs in salamander habitat threatens the persistence of the salamander populations. Bullfrogs are found within 1.6 km (1 mi) of one vernal pool complex in Santa Barbara County (S. Sweet pers. comm. 1999), and within two other pond complexes (L. Hunt *in litt.* 2000; G. McLaughlin, pers. obs. 2000), posing threats to those three metapopulations.

Mosquitofish, instead of pesticides, often are placed into ponds by vector control agencies to eliminate mosquitoes. Mosquitofish are used by every vector control district in the State and in some districts represent the majority of their control efforts (Ken Boyce, California Mosquito and Vector Control Association, *in litt.* 1994). These fish were first introduced to California in 1922 and have since become well-established throughout the State's water systems (K. Boyce *in litt.* 1994). In general, mosquitofish are stocked in very small numbers because they quickly reproduce to the maximum population levels that a particular habitat may sustain. Mosquitofish are extremely tolerant of polluted water with low levels of dissolved oxygen and have an extremely wide range of temperature tolerance (Boyce 1994). Mosquitofish prey on the California newt (*Taricha torosa*) (Gamradt and Kats 1996) and Pacific treefrog (Goodsell and Kats 1999) larvae in both field and laboratory experiments, even given the optional prey of mosquito larvae (Goodsell and Kats 1999; Lee Kats, Pepperdine University, pers. comm. 1999). Both newt and Pacific treefrog larvae were found in stomachs of wild-caught mosquitofish (Goodsell and Kats 1999; L. Kats, pers. comm. 1999). Robert Stebbins observed mosquitofish ingesting and then spitting out California newt larvae, causing severe damage to the newts in the process (Graf 1993). Schmieder and Nauman (1993) found that mosquitofish significantly affected the survival of both prefeeding and large larvae of California red-legged frogs. Lawler *et al.* (1999) did not find a reduction in survival rates of California red-legged frog tadpoles raised in the presence of mosquitofish versus controls with no mosquitofish, but those tadpoles that did survive weighed less than control tadpoles and metamorphosed later, and most were injured by the fish. Smaller size at metamorphosis may reduce survival to breeding age and reproductive potential (Semlitsch *et al.* 1988; Morey 1998). Salamanders may be especially vulnerable to mosquitofish predation due to their fluttering external gills, which may attract these visual predators (Graf 1993). Loredo-Prendeville *et al.* (1994) found no California tiger salamanders in ponds with mosquitofish. Due to the documented effects of mosquitofish on other amphibian species, we believe that they are likely to have similar effects on California tiger salamanders and that the use of mosquitofish in salamander habitat threatens the persistence of the salamander populations.

In addition to mosquitofish, other introduced fish, both native and non-native, threaten the California tiger salamander. The introduction of bass and sunfish to many ponds that may have been breeding habitat for California tiger salamanders has probably eliminated salamanders from those sites. The distribution of the California tiger salamander in the north Los Alamos metapopulation may be limited by catfish (*Ictalurus* sp.) that were introduced several years ago into a pond that appears to have suitable breeding habitat. Although a pond less than 76 m (250 ft) away appears less suitable for breeding, it is occupied by California tiger salamanders (S. Sweet *in litt.* 2000b). If the reproductive output from the smaller pond is not enough to sustain the population and the fish are not removed, that breeding population could be lost. Two other ponds in the north Los Alamos metapopulation had bluegill (*Lepomis macrochirus*), largemouth bass (*Micropterus salmoides*), and fathead minnow (*Pimephales promelas*) in 1999 (P. Collins *in litt.* 2000a). The introduced fish populations were extirpated when the ponds dried in the fall, but they may have caused the loss of most or all of the larvae produced that year. A number of ponds in or near occupied California tiger salamander habitat in the West Orcutt area have been home to introduced fish for 20 years (Brady Daniels, Kiewitt Pacific, pers. comm. 2000), probably eliminating any California tiger salamanders that may have bred there.

Louisiana red swamp crayfish (*Procambarus clarki*) also apparently prey on California tiger salamanders (Shaffer *et al.* 1993) and may have eliminated some populations (Jennings and Hayes 1994). The crayfish prey on California newt eggs and larvae, in spite of toxins that the species has developed, and may be a significant factor in the loss of newts from several streams in southern California (Gamradt and Kats 1996). These crayfish are found in two salamander breeding sites in Santa Barbara County, but their effect on egg and larval survival is unknown (S. Sweet pers. comm. 1999).

California tiger salamander larvae also are preyed upon by many native species. In healthy salamander populations such predation is probably not a significant threat, but when combined with other impacts, such as predation by nonnative species, contaminants, or habitat alteration, it may cause a significant decrease in population viability. Native predators include great blue herons (*Ardea herodias*) and egrets (*Casmerodius albus*), western pond turtles (*Clemmys marmorata*), various garter snakes (*Thamnophis* species.), larger California tiger salamander larvae, larger spadefoot toad (*Scaphiopus hammondii*) larvae, and California red-legged frogs (Mike Peters, Service, *in. litt.* 1993; Hansen and Tremper 1993).

*D. The Inadequacy of Existing Regulatory Mechanisms*

The primary cause of the decline of the Santa Barbara County population of California tiger salamanders is the loss, degradation, and fragmentation of habitat from human activities. Federal, State, and local laws have not been sufficient to prevent past and ongoing losses of California tiger salamander habitat.

Federal

Section 404 of the Clean Water Act (CWA) authorizes the U.S. Army Corps of Engineers (Corps) to issue individual or general permits for the discharge of dredged or fill material into waters of the United States, which include perennial, intermittent, and ephemeral streams, wetlands (*e.g.,* vernal pools), and other seasonal ponds typically used by breeding salamanders. Projects that involve only the excavation of pools whereby the discharge is limited to ''incidental fallback'' of fill material, and projects that alter the watershed and hydrological regime of the pool but do not involve ''discharge'' into the pool do not require a section 404 permit (Coe 1988). General permits include both nationwide and regional permits and may allow projects to proceed without the scrutiny afforded through the individual permitting process.

Of particular concern relative to the persistence of California tiger salamanders are activities conducted under Nationwide Permits (NWP) (33 CFR part 330 Appendix A). Previously, NWP 26 covered fill of wetlands up to 3 acres; as of March 9, 2000, new NWPs 39, 41, 42, and 43, and modifications to NWPs 3, 7, 12, 14, 27, and 40 replace NWP 26 (65 FR 12817). The new and modified NWPs authorize many of the

same activities that NWP 26 authorized, but are activity-specific. The maximum acreage limits of most of the new and modified NWPs is 0.2 ha (0.5 ac). Most of the new and modified NWPs require notification to the District Engineer for activities that result in the loss of greater than 0.04 ha (0.1 ac). These permits thus authorize less fill than the previous NWP 26. Under several of the NWPs that authorize activities that might impact California tiger salamanders, the filling of less than 0.04 ha (0.1 ac) of isolated waters can be undertaken without notifying the Corps of the proposed activity unless a listed species or designated critical habitat might be affected or is in the vicinity of the project (NWP General Condition 11). However, the determination of the potential presence of and/or impacts to listed species or designated critical habitat is left to the applicant, who may not have sufficient expertise to make such a determination.

Under several NWPs, if the activity will affect between 0.04 and 0.2 ha (0.1 and 0.5 ac) of wetlands, an applicant is required to notify the Corps, but the Corps is not required to notify resource agencies unless the project may affect a listed species or designated critical habitat. Because vernal pools are often small and scattered across the landscape, projects, even very large development projects that fill hundreds of vernal pools, can be authorized under NWPs. Numerous small projects in a given area also could be authorized, cumulatively resulting in the loss of significant amounts of wetland and associated upland habitats, with significant negative effects on local and regional biodiversity (Semlitsch and Brodie 1998).

Projects affecting more than 0.2 ha (0.5 ac) of isolated waters also can be authorized under NWPs after the Corps circulates a pre-construction notification (PCN) to the Service and other resource agencies for review and comments. For such projects, the Corps can place special conditions requiring minimization of impacts and/or compensatory mitigation on authorizations granted under NWPs. The Corps must require an individual permit for these projects if it determines the project will have more than minimal individual or cumulative effects. However, the Corps generally is reluctant to withhold authorization under NWPs unless a listed threatened or endangered species is known to be present. Also, the Corps often confines its evaluation of impacts to those areas under its jurisdiction (*i.e.,* wetlands and other waters of the United States). One review of ambystomatid salamander studies reported that 100 percent of post-breeding adults and newly metamorphosed juveniles were found outside the federally delineated wetland boundary (Semlitsch 1998). Therefore, existing federal regulations are inadequate to protect tiger salamanders, as impacts to uplands and mitigation for upland habitat losses usually are not addressed by the Corps. Preservation of existing pools without protection of large blocks of suitable uplands is unlikely to result in the persistence of viable salamander populations because the salamanders require both aquatic and upland habitats during their life cycle. Thus, even with the new limits on filling of wetlands, section 404 is unlikely to provide sufficient protection of small isolated wetlands and the surrounding watersheds.

An individual permit is required for projects that do not qualify under the terms of a General Permit, and for projects that are determined by the Corps to have greater than minimal impacts or to be contrary to the public interest. Individual permits are subject to review by the Service, other resource agencies, and the public. When we review the permit, we may recommend measures to avoid, minimize, or mitigate losses. In some cases, compensatory mitigation (*e.g.,* the creation of artificial wetlands) is incorporated in the Corps permit as a Special Condition. However, problems associated with such compensatory measures often decrease or eliminate the habitat value for salamanders at the sites (DeWeese 1994).

The creation of artificial wetlands and ponds as breeding habitat for tiger salamanders has been used as a compensatory mechanism for the loss of natural wetlands and pools. However, the long-term viability and suitability of artificially created wetlands has not been established. In 1994, the Service completed a report evaluating 30 wetland creation projects authorized through the Corps of Engineers section 404 program (DeWeese 1994). Twenty-two projects ranged in age from three to five years old, and eight projects were greater than five years old at the time of the study. We found that, although it appeared our goal of ''no net loss of acreage'' was being met or exceeded, the value of the habitat created, which included the local wildlife species that would be expected to use the habitat, was low. This was especially the case for vernal pools and seasonal wetlands that had a value of only 20 and 40 percent (respectively) of what existed previously. Particular problems were noted for these habitat types, which often were inundated (flooded) for longer than natural systems or more frequently. The study concluded that, of the 600 ac (243 ha) of proposed mitigation, half were meeting less than 75 percent of the mitigation conditions. Mitigation and compensation for impacts to larger wetlands under section 404 have failed to reduce threats to California tiger salamanders.

The conversion of grazing land to intensive agricultural uses that may adversely affect the California tiger salamander generally is unregulated at any level of government. For example, the Corps has promulgated regulations that exempt some farming, forestry, and maintenance activities from the regulatory requirements of section 404 (33 CFR 323.4). Therefore, not all activities that destroy or degrade vernal pools require Corps authorization. Certain normal farming activities, including discing and plowing to depths less than 16 in (41 cm), can degrade or destroy vernal pools without requiring a permit because these activities are exempt under the Clean Water Act. However, deep-ripping, which disrupts the water-retaining hardpan that underlies vernal pools and other seasonal wetlands, of lands formerly used for ranching (*i.e.,* grazing) or dry-land farming (*e.g.,* non-irrigated hay production) represents a ''change in use'' of the lands and is not considered a normal and ongoing farming activity. As such, the practice triggers section 404(f)(2) of the CWA, and requires review by and a permit from the Corps (R.H. Wayland III, EPA, and D.R. Burns, Corps, *in litt.* 1996). However, as discussed previously, the Corps typically asserts jurisdiction only over the actual wetlands, not over the surrounding uplands.

State

The State of California recognizes the California tiger salamander as a species of special concern under the California Endangered Species Act (CESA), and has placed this species on the list of protected amphibians, which means that it may not be taken without a special (*i.e.,* scientific collecting) permit (CRC, Title 14, Section 41). However, this protection applies only to actual possession or intentional killing of individual animals, and affords no protection to habitat. Activities that destroy habitat and kill salamanders in the process are not regulated.

The California Environmental Quality Act (CEQA) offers some opportunities to protect rare, threatened and endangered plants and animals and declares that it is the policy of the State to ''(p)revent the elimination of fish or wildlife species due to man's activities, ensure

that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities.'' (California Public Resources Code, section 21001(c) 1999). Species do not have to be listed under the Federal or California ESAs to meet the determination of rare (California Code of Regulations (CRC), Title 14, Chapter 3, Section 15380(b)(2)). Species that have been classified as ''species of special concern'' are considered rare for the purposes of CEQA. When the CEQA process is triggered, it requires full disclosure of the potential environmental impacts of proposed projects. However, the CEQA review process is not triggered unless issuance of a permit associated with a project is considered ''discretionary'' rather than ''ministerial.'' The public agency with primary authority or jurisdiction over the project is designated as the lead agency and is responsible for conducting a review of the project and consulting with the other agencies concerned with the 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.'' Once significant effects are identified, the lead agency has the option to require mitigation for effects through changes in the projects or to decide that overriding social or economic considerations make mitigation infeasible. In the latter case, projects may be approved that cause significant environmental damage, such as destruction of rare species. Protection of listed or rare species through CEQA depends, first, on whether discretionary approval is required for a project and, second, where such approval is required, on how the agency exercises its discretion. The effectiveness of this statute in protecting California tiger salamanders and their vernal pool and upland habitats has not been consistent.

Local

In Santa Barbara County, no specific regulatory protection exists for vernal pools, surrounding uplands, and their associated species, including California tiger salamanders. Some provisions are discretionary and could provide some measure of protection. For example, the Santa Barbara County Grading Ordinance (Ordinance 3937, Chapter 14 of the County Code) states that the issuance of a grading permit is discretionary (Section 14–6(a)), and that ''no person shall cause or allow a significant environmental impact to occur as a result of new grading as defined herein, including grading that is otherwise exempt from these regulations.'' In one case in 1998, the Planning Department required, after the fact, a permit, the preparation of an environmental impact report, and mitigation for the discing of a vernal pool and the deep-ripping of uplands associated with that and an adjacent, larger pool in preparation for vineyard installation (Albert J. McCurdy, Deputy Director, Santa Barbara County Planning and Development, *in litt.* 1998a). Those requirements were overturned by the County Board of Supervisors (A. McCurdy *in litt.* 1998b). The Corps did require a small set-aside of approximately 5.7 ha (14 ac) to provide a narrow buffer around both ponds, as mitigation for the discing of the smaller pool (David Castanon, Army Corps of Engineers, *in litt.* 1999). In another case, grazing lands surrounding another pool were converted to row crops to the edge of the pool. Although discing and other activities clearly degraded the wetland, no agency has required any review, permits, or mitigation for the activities. Santa Barbara County is developing new regulations to address the protection of various components of California tiger salamander habitat, but those have not been completed, nor do we know how effectively those regulations will be implemented and enforced (John Patton, Santa Barbara County Planning and Development, *in litt.* 2000).

A recent report on the status of agricultural grading and the enforcement of the County's grading ordinance found that 93 percent of the new cultivation since 1997 in Santa Barbara County has taken place without the need for County permits (Santa Barbara County Planning and Development Department 2000). This same report states that ''overall, the County's enforcement of the Grading Ordinance appears to have had little negative direct effect on the agricultural industry * * *'' and that ''the program has not succeeded in encouraging operators of agricultural expansion projects to consult with the agricultural assistance team on whether permits are required prior to beginning grading.'' Finally, a Grand Jury report published in 1999 states that the Santa Barbara County agricultural community frequently proceeds with agricultural conversions without a permit, preferring to suffer the consequences later rather than undertake the time-consuming permit process (Santa Barbara County Grand Jury 1999).

Typically, California tiger salamander habitat has been eliminated without offsetting mitigation measures. Most mitigation plans that have been required were designed specifically for vernal pool plants and did not consider the upland habitats, including mammal burrows, needed by salamanders, or their dispersal needs. As indicated above, the artificial creation of vernal pools and seasonal wetlands as compensatory mitigation has not been proven scientifically to be successful over the long term (Zedler and Black 1988, Ferren and Gevirtz 1990, Zedler and Calloway 1999). Race and Fonseca (1996) reviewed numerous published and unpublished documents, which collectively analyzed more than 2,000 permitted wetland mitigation projects, and concluded that significant wetland losses will continue unless compliance with existing regulations and permits is improved, more habitat is generated, and more fully functioning wetlands are created.

*E. Other Natural or Manmade Factors Affecting Its Continued Existence*

Several other factors, including habitat fragmentation, contaminants, hybridization with and competition from introduced species, and effects from oil production and over-grazing may have negative effects on California tiger salamanders and their aquatic and upland habitats.

Fragmentation

Amphibian populations are prone to local extinction due to human-caused fragmentation (Findlay and Houlahan 1996, Gibbs 1998). This risk is heightened for the California tiger salamander, as it is distributed throughout the landscape in a metapopulation framework, with salamanders at some sites temporarily extirpated and then recolonizing from neighboring sites. Reducing the California tiger salamander's distribution to a few isolated ponds greatly reduces the species' ability to persist over time (H.B. Shaffer *in litt.* 2000b). The primary factors that cause habitat fragmentation are road construction, urbanization, and intensive agriculture (Mader 1984; Saunders *et al.* 1991). All documented localities of California tiger salamanders in Santa Barbara County are affected by railroads, highways, or other roads that have caused extensive fragmentation of the landscape. Even the relatively pristine Purisima Hills ponds are either bounded by or very close to a dirt road (S. Sweet *in litt.* 2000b). The dispersal and migration distances of California tiger salamanders require a large amount of barrier-free landscape (Shaffer *et al.* 1993; Loredo *et al.* 1996). Large roads and highways represent permanent physical obstacles and can block

California tiger salamanders from moving to new breeding habitat or prevent them from returning to their breeding ponds or estivation sites. Roads can accelerate fragmentation by increasing mortality and preventing recolonization of sites that would otherwise be only temporarily extirpated (Trombulak and Frissell 2000).

Road construction can significantly reduce the breeding population of a pond and, in some cases, cause the loss of a large portion of a metapopulation. Road construction results in the death of slow-moving animals and causes soil compaction underneath and adjacent to the road bed (Trombulak and Frissell 2000). Any California tiger salamanders in underground burrows in the path of the road or in the impact area are likely to be crushed during road construction. Once the road is open to traffic, salamanders are at risk of being run over on their first dispersal migration from the pond, and on future migrations to and from the ponds for breeding.

Two Santa Barbara County tiger salamander breeding ponds are within 0.4 km (0.2 mi) of a railroad that runs between them, possibly reducing migration and genetic interchange between the ponds. In addition to the barriers created by fill deposited in small canyons and watercourses, the railroad tracks themselves can act as barriers to migrating salamanders (Thomas R. Jones, Museum of Zoology, University of Michigan, *in litt.* 1993). The animals have difficulty getting under the tracks unless adequate holes are present.

All of the remaining breeding sites in Santa Barbara County are near roads of various sizes. Eight are within 0.5 km (0.3 mi) of a major U.S. highway, one is bounded by a State highway, two are adjacent to secondary roads (as was the pond destroyed in 1998), and five are within 0.5 km (0.3 mi) of secondary roads. Although the remaining ponds are adjacent to or near dirt roads (Sweet *et al.* 1998a; Service files), the threats to those ponds from roadkill and the effects of fragmentation are less than the threats to ponds bounded by or near heavily traveled paved roads. Findlay and Houlahan (1996) found that roads within 2 km (1.2 mi) of wetlands adversely affected the number of amphibian species in the wetlands. Roads alter many of the physical characteristics of the environment that may be important to California tiger salamanders, including soil density, soil water content, dust, surface-water flow, patterns of runoff, and sedimentation (Trombulak and Frissell 2000). The deleterious effects of roads on many ecological factors reach an average of 0.6 km (0.4 mi) from the road itself and are especially harmful to species such as salamanders that are often genetically programmed to migrate in a certain direction for breeding (Forman and Deblinger 2000).

Amphibians are especially vulnerable to being killed on roads due to life histories involving migration between breeding and upland habitats and their slow movements (Trombulak and Frissell 2000). Large numbers of California tiger salamanders, up to 9 to 12 per km (15 to 20 per mi) of road (Joe Medeiros, Sierra College, pers. comm. 1993), are killed as they cross the roads on breeding migrations (Hansen and Tremper 1993; S. Sweet *in litt.* 1993). Of California tiger salamanders found on roads, 25 to 72 percent are dead (Twitty 1941; S. Sweet *in litt.* 1993; Launer and Fee 1996). However, Sweet's report states that ''the sizes of breeding adults do *not* point toward a major influence by road-kill.'' (Emphasis in original.) Curbs and berms as low as 9 to 12 cm (3.5 to 5 in), which allow salamanders to climb onto the road but can restrict or prevent their movements off the roads, are of particular concern, as they effectively turn the roads into death traps (Launer and Fee 1996; S. Sweet *in litt.* 1998a). Such berms exist on the State highway and the secondary road adjacent to three ponds in Santa Barbara County.

Although few currently used breeding ponds are within 0.5 km (0.3 mi) of urban developments, the rapid expansion of Santa Maria and nearby communities will continue to fragment the remaining habitat. The urbanization of the Santa Maria River and Orcutt Creek Valleys divided what was probably a large, relatively contiguous tiger salamander population extending from the Casmalia Hills in the west to Fulger Point in the east into isolated subpopulations (West Orcutt and Bradley-Dominion) that are no longer capable of genetic interchange. One pond in the West Orcutt area is adjacent to an urban development, the owner of the other two ponds in that area has expressed a desire to develop his property (E. Gevirtz, pers. comm. 1999), and home sites are offered in the Bradley-Dominion area (G. McLaughlin, pers. obs. 1998, 2000).

Contaminants

Hydrocarbon and other contamination from oil production and road runoff; the application of numerous chemicals for agricultural production, roadside maintenance, and urban/suburban landscape maintenance; and rodent and vector control programs may all have negative effects on tiger salamander populations, as detailed below.

Direct mortality is not the only risk factor associated with roads, as oil and other contaminants in runoff have been detected in adjacent ponds and linked to die-offs of and deformities in California tiger salamanders and spadefoot toads and die-offs of invertebrates that form most of both species' prey base (S. Sweet *in litt.* 1993). Lefcort *et al.* (1997) found that oil had limited direct effects on 5-week-old marbled (*Ambystoma opacum*) and eastern tiger salamanders (*A.t. tigrinum*), but that salamanders from oil-contaminated natural ponds metamorphosed earlier at smaller sizes and those from oil-contaminated artificial ponds had slower growth rates than larvae raised in non-contaminated ponds. Their studies did not address effects on eggs and early larval stages, where the effects may be more pronounced. Hatch and Burton (1998) and Monson *et al.* (1999) investigated the effects of one component of petroleum products and urban runoff (fluoranthene, a polycyclic aromatic hydrocarbon) on spotted salamanders (*A. maculatum*), northern leopard frogs (*Rana pipiens*), and African clawed frogs (*Xenopus laevis*). In laboratory and outdoor experiments, using levels of the contaminant comparable to those found in service station and other urban runoff, the researchers found reduced survival and growth abnormalities in all species and that the effects were worse when the larvae were exposed to the contaminant under natural levels of sunlight, rather than in the laboratory under artificial light.

Sedimentation from road construction, maintenance, and runoff is another form of contamination that may affect California tiger salamander breeding ponds. Roads alter the hydrology of slopes, in part by diverting water into surface-water systems that can cause erosion, create gullies, and deposit increased loads of sediments into wetland systems (Trombulak and Frissell 2000). Road traffic can spread dust, which can settle into ponds, affecting aquatic and emergent vegetation and causing asphyxiation of eggs. Increased sedimentation could also degrade habitat by filling pools otherwise usable by the species; there is evidence that this is occurring at one pond in the Solomon Hills/west Los Alamos metapopulation (P. Collins *in litt.* 2000a, J. Sainz pers. comm. to B. Fahey 2000). The ability of the California tiger salamander to detect aquatic food items could be impaired from increased sedimentation, as can

susceptibility to diseases (see factor C, above).

Agricultural Contaminants

Even though most of the crop lands in California have been in agricultural production since 1900, the application and associated effects of large amounts of pesticides, herbicides, fungicides, and nitrogen fertilizers on the landscape have been addressed only recently (Burow *et al.* 1998a, b). The concentrations of these chemicals and their immediate effects on various species have been difficult to assess mainly due to lack of water sample data and lack of samples close to the sources of application where the effects on wildlife are most severe. In 1986–87 and from 1993 to 1997, USGS and California Department of Pesticide Regulation (CDPR) personnel sampled well and ground water at 156 locations throughout the range of the California tiger salamander (CDPR 1998; Burow *et al.* 1998a, b). From these samples, 29 different chemicals potentially toxic to amphibians in general and California tiger salamanders specifically were detected.

In Santa Barbara County, more than 1 million kilograms (kg) (2.2 million pounds (lb)) of agricultural chemicals were used in 1994 on strawberries, grapes, lettuce, broccoli, and carrots, which were the five major crop types grown on or near tiger salamander sites at that time (California Department of Food and Agriculture (CDFA) Internet Website). These chemicals included metam-sodium, methyl bromide, maneb, fosetyl-aluminum, acephate, cryolite, chlorpyrifos, fenamiphos, malathion, and endosulfan; some of these are extremely toxic to aquatic organisms, including amphibians and the organisms on which they prey. Many more agricultural chemicals may have lethal or sublethal effects on California tiger salamanders; those discussed here provide only a sample of the actual and potential threats.

Metam-sodium, a broad spectrum carbamate used for soil sterilization, was one of the main chemicals applied on broccoli and lettuce grown in 1994, when more than 114,000 kg (more than 250,000 lb) were used in Santa Barbara County (CDFA). Metam-sodium is extremely toxic to fish (Meister 1997). Although no test data are available for amphibians, the effects are likely to be similar.

Chlorpyrifos is a highly toxic organophosphate insecticide applied as granules, wettable powder, dustable powder, or emulsifiable concentrate (EXTOXNET 1996a). Chlorpyrifos was detected at a concentration of 0.006 micrograms/liter (µg/l) in domestic well water close to vineyards at one location (Burow *et al.* 1998a); however, animals migrating across recently treated fields may be exposed to much higher concentrations. The compound is absorbed through the skin of mammals (EXTOXNET 1996a); amphibians, with their more permeable skins, absorb the chemical even more readily. General agricultural use of chlorpyrifos is considered to pose a serious threat to wildlife (EXTOXNET 1996a). More than 6,000 kg (13,000 lb) were used in Santa Barbara County in 1994 (CDFA).

Fenamiphos, a phosphorothioate, is used on many crops to control a wide variety of nematodes (roundworms). The compound is absorbed by roots and translocated throughout the plant. The toxicity of fenamiphos to aquatic species varies from moderate to high. Fish are extremely sensitive to fenamiphos (EXTOXNET 1996b). Fenamiphos has been linked to fish and bird kills and is known to have a high potential of leaching into the groundwater. Nearly 12,000 kg (26,000 pounds) were used in Santa Barbara County in 1994 (CDFA).

Malathion has caused effects such as mortality, delays in metamorphosis, and decreased size at metamorphosis in several species of frogs and toads at concentrations as low as 0.2 milligrams (mg/l) (Devillers and Exbrayat 1992). Malathion was detected at concentrations up to 0.1 µg/l in test wells near fields on which it has been used (Burow 1998a). More than 3,500 kg (7,800 lb) of malathion were used in Santa Barbara County in 1994 (CDFA).

Although test data for amphibian species could not be found, methyl bromide is extremely toxic and is used to kill weeds, insects, nematodes, and rodents (Salmon and Schmidt 1984). Methyl bromide is used primarily on strawberries in Santa Barbara County, which are grown extensively in the eastern Santa Maria Valley (Bradley-Dominion metapopulation). More than 225,000 kg (500,000 lb) were used in Santa Barbara County in 1994 (CDFA).

Azinphos-methyl (AZM) is an organophosphate insecticide and miticide used on many crops. The EPA (EXTOXNET 1996c) classifies this pesticide as class I, which are highly toxic compounds. Harris *et al.* (1998) reported a green frog (*Rana clamitans*) 16-day LC50 of >5.0 mg/L for Guthion WP, a preparation of 50 percent AZM. Dolah *et al.* (1997) reported that, in South Carolina streams, measured concentrations of AZM at greater than 17 µg/L have coincided with documented fish kills. They reported that at a concentration of 20 µg/L, 100 percent mortality occurs within a short time. The use of AZM in the vicinity of the California tiger salamander could affect recruitment and survival directly, or affect the food supply.

Endosulfan is a sulfur-containing organochlorine used for the control of many insects on a wide variety of crops. Studies by Berrill *et al.* (1998) reported severe toxicity to amphibians from exposure to endosulfan, including extensive paralysis to several species of frog and toad tadpoles, delayed metamorphosis and high death rates. Harris *et al.* (1998) reported that green frogs exposed to Thiodan® (a 47 percent mixture of endosulfan) had a 16-d LC50 of greater than 5.0 mg/L. It is apparent that endosulfan is extremely toxic at low concentrations to amphibians.

Five of the six metapopulations of California tiger salamanders breeding sites in Santa Barbara County may be directly or indirectly affected by toxic agricultural chemical contaminants because there is intensive agriculture within their drainage basins. Even if toxic or detectable amounts of pesticides are not found in the breeding ponds or groundwater, salamanders may still be directly affected, particularly when chemicals are applied during the migration and dispersal seasons.

Rodent Control

California tiger salamanders spend much of their lives in underground retreats, typically in the burrows of ground squirrels and gophers (Loredo *et al.* 1996; Trenham 1998a). Widespread ground squirrel control programs were begun as early as 1910 and are carried out on more than 4 million ha (9.9 million ac) in California (Marsh 1987). It is unclear how effective such control programs were in reducing ground squirrel populations. According to Marsh (1987), when a ground squirrel population is at or near carrying capacity, it must be reduced by at least 90 percent annually for several years to significantly reduce the population.

It may not be practical to attain such high reduction rates over large areas typical of rangelands, but it may be possible to reduce populations to low numbers (Salmon and Schmidt 1984). In some primarily agricultural counties, the ground squirrel population has been reduced and maintained at perhaps 10 to 20 percent of the carrying capacity. Rodent control programs are conducted by individual land owners and managers on grazing, vineyard, and crop production lands (Rosemary Thompson, Senior Biologist, SAIC, *in litt.* 1998).

Until about 1990, ground squirrel control programs using compound 1080 (sodium fluoroacetate) were carried out

on lands in Santa Barbara County (R. Thompson *in litt.* 1998). Compound 1080 is extremely toxic to nontarget fish, birds, and mammals (EPA 1990) and may have contributed to reductions in salamander populations in the areas where it was used.

Poisoned grains are the most common method used to control ground squirrels on rangelands, and there is little risk of ingestion by California tiger salamanders. However the use of these grains may impact the California tiger salamanders indirectly if washed into burrows or ponds used by the species. Two of the most commonly used rodenticides, chlorophacinone and diphacinone, are anticoagulants that cause animals to bleed to death. They can be absorbed through the skin and are considered toxic to fish and wildlife (EPA 1985, EXTOXNET 1996d). Both, along with strychnine, are used in Santa Barbara County to control rodents (R. Thompson, *in litt.* 1998). Zinc phosphide, an acute rodenticide and a restricted material, turns into a toxic gas once ingested. Although the effects of these poisons on California tiger salamanders have not been assessed, use along roadways or railways may result in contamination of salamander breeding ponds, with undetermined effects. Gases, including aluminum phosphide, carbon monoxide, and methyl bromide, can be introduced into burrows either by using cartridges or by pumping. When such fumigants are used, all animals inhabiting the burrow are killed (Salmon and Schmidt 1984).

In addition to possible direct effects of rodent control chemicals, control programs probably have an adverse indirect effect on California tiger salamander populations. Control of ground squirrels could significantly reduce the number of burrows available for use by the species (Loredo-Prendeville *et al.* 1994). Because the burrow density required to support California tiger salamanders in an area is not known, the loss of burrows as a result of control programs and its affect on salamanders cannot be quantified at this time. However, Shaffer *et al.* (1993) believe that rodent control programs may be responsible for the lack of California tiger salamanders in some areas. Active ground squirrel colonies probably are needed to sustain tiger salamanders because inactive burrow systems become progressively unsuitable over time. Loredo *et al.* (1996) found that burrow systems collapsed within 18 months following abandonment by or loss of the ground squirrels. Although the researchers found that California tiger salamanders used both occupied and unoccupied burrows, they did not indicate that the salamanders used collapsed burrows. Current risks to the salamander in Santa Barbara County from rodent control programs are unknown.

Mosquito Control

A commonly used method to control mosquitoes, including in Santa Barbara County (Kenneth Leanard, Santa Barbara County Vector Control, pers. comm. 1999) is the application of methoprene, which increases the level of juvenile hormone in insect larvae and disrupts the molting process. Lawrenz (1984–85) found that methoprene (Altosid® SR–10) retarded the development of selected crustacea that had the same molting hormones ( *i.e.*, juvenile hormone) as insects and anticipated that the same hormone may control metamorphosis in other arthropods. Because the success of many aquatic vertebrates relies on an abundance of invertebrates in temporary wetlands, any delay in insect growth could reduce the numbers and density of prey available (Lawrenz 1984–85). The use of methoprene thus could have an indirect adverse effect on the California tiger salamander by reducing the availability of prey. In more recent studies, although methoprene did not cause increased mortality of gray treefrog (*Hyla versicolor*) tadpoles (Sparling and Lowe 1998), it caused reduced survival rates and increased malformations in northern leopard frogs (*Rana pipiens*) (Ankley *et al.* 1998) and increased malformations in southern leopard frogs (*R. utricularia*) (Sparling 1998). Blumberg *et al.* (1998) also correlated exposure to methoprene with delayed metamorphosis and high mortality rates in northern leopard and mink (*R. septentrionalis*) frogs. Methoprene appears to have both direct and indirect effects on the growth and survival of larval amphibians.

Other insecticides (*e.g.*, temephos) have caused reductions in the growth rates of gray treefrog tadpoles, increased mortality rates in green frog (*R. clamitans*) tadpoles (Sparling and Lowe 1998), and increased mortality rates in southern leopard frogs (Sparling 1998). Few data are available on the effects of most insecticides on salamanders. A bacterium, *Bacillus thuringensis israeli* (Bti), is also used in Santa Barbara County for mosquito control (K. Leanard, pers. comm. 1999). Its effects on the salamander prey base have not been quantified. Because of a lack of information regarding which mosquito control chemicals are used and where, and about the chemicals' effects on salamanders, the degree to which the practices directly affect the California tiger salamander in Santa Barbara County cannot be determined at this time.

Introduced Species

Introduced species can have negative effects on California tiger salamander populations through competition and hybridization (Shaffer *et al.* 1993; H.B. Shaffer *in litt.* 1999). Competition from fish that prey on mosquito larvae and other invertebrates can reduce the survival of salamanders. Both California tiger salamanders (Stebbins 1962; J. D. Anderson 1968; Holomuzki 1986) and mosquitofish feed on micro and macro-invertebrates; large numbers of mosquitofish may out-compete the salamander larvae for food (Graf 1993). As urban areas continue to expand, the introduction of mosquitofish into previously untreated ponds may result in the elimination of California tiger salamanders from additional breeding sites. The introduction of other fish either inadvertently (fathead minnow, *Pimephales promelas*) (P. Collins, pers. comm. 1999) or for recreational fishing (*e.g.*, bass (*Micropterus salmoides, M. dolomieu*), sunfish (S. Sweet, pers. comm. 1999) or other purposes may also affect the prey base, reducing growth and survival rates of salamanders. Fish such as bass, green sunfish (*L. cyanellus*), carp (*Cyprinus carpio*), and bullhead (*Ictalurus* spp.) may also prey on tiger salamander larvae, reducing or eliminating populations (Shaffer *et al.* 1993).

Introduced Tiger Salamanders

Various nonnative subspecies of the tiger salamander, *Ambystoma tigrinum,* have been imported into much of California for use as fish bait. The practice is still legal in California but is now restricted to fewer counties and is regulated by the California Department of Fish and Game (CCR Title 14, Division 1, Subdivision 1, Chapter 2, Article 3, Section 4 1999). Although importation into Santa Barbara County is illegal, introduced tiger salamanders have been documented at one locality west of the Santa Rita Valley (S. Sweet, pers. comm. 1998). A recently discovered breeding population on the Lompoc Federal Prison property are probably non-native tiger salamanders as well (Storrer *in litt.* 2000); tissue from these larvae are being analyzed to confirm their identity. Although they have not been documented in California tiger salamander habitat, nonnative salamanders could potentially be introduced into breeding sites or into nearby ponds. The introduced salamanders may out-compete the California tiger salamander, or

interbreed with the natives to create hybrids that may be less adapted to the California climate or are not reproductively viable past the first or second generations (Bury and Lukenbach 1976; Shaffer *et al.* 1993). More recent evidence suggests that the hybrids are viable, and that they breed with California tiger salamanders (H.B. Shaffer *in litt.* 1999). With so few remaining subpopulations of California tiger salamanders in Santa Barbara County, the loss of any to hybridization with or competition from introduced species is of serious concern.

Grazing

Grazing in many cases has positive, or at least neutral, effects on the California tiger salamander (H.B. Shaffer and Peter Trenham, UCD, pers. comm. 1998; S. Sweet, pers. comm. 1998; 1999). By keeping vegetation shorter, grazing can make areas more suitable for ground squirrels, whose burrows are used by California tiger salamanders. In Santa Barbara County, the only remaining sites with large amounts of suitable salamander habitat currently are being grazed. Although cattle drink large quantities of water, sometimes causing temporary pools to dry faster than they otherwise would (Sheri Melanson, Service, *in litt.* 1993) and possibly causing breeding pools to dry too quickly for salamanders to be able to metamorphose (Feaver 1971), these rangelands are the only undeveloped habitat in the area and thus provide the only chance for salamanders to maintain large, sustainable populations. Although Melanson (*in litt.* 1993) noted that vernal pool species continued to reproduce under a November-to-April grazing regime, California tiger salamanders were either absent or found in low numbers in portions of pools that were heavily trampled by cattle. Continued trampling of a pond's edge by cattle can increase the surface area of a pond and may increase water temperature and speed up the rate of evaporation and thus reduce the amount of time the pond contains enough water (S. Sweet, pers. comm. 1998). Cattle hoofprints could trap salamanders as water levels in pools recede, and reduction in water quality caused by cattle excrement may negatively affect the animals mainly by increasing potentially detrimental nitrogen levels. High nitrogen levels have been associated with blooms of deadly bacteria (Worthylake and Hovingh 1989), and silt has been associated with fatal fungal infections (Lefcort *et al.* 1997) (see Factor C of this section). However, grazing generally is compatible with the continued use of rangelands by the California tiger salamander as long as intensive burrowing rodent control programs are not implemented on such areas and grazing is not excessive (T. Jones *in litt.* 1993; Shaffer *et al.* 1993; S. Sweet pers. comm. 1998, 1999).

Water Drawdowns

Many of the ponds in northern Santa Barbara County are subject to drawdowns for agricultural uses, including irrigation and frost control. Water is removed from the pond using submersible pumps. This has a two-fold effect to California tiger salamander inhabiting these ponds: (1) Salamander larvae and adults may be sucked into the pump mechanism during drawdowns for frost control, killing them in the process (P. Collins *in litt.* 2000a), and (2) ponds may be subject to premature drying in the spring and summer, resulting in the stranding of larvae before they are able to metamorphose.

In developing this final rule, we have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the Santa Barbara County population of California tiger salamanders. This DPS is one of the two most genetically differentiated populations of the species, probably deserving recognition as a separate species, and is restricted to very few areas, all of which are threatened to some degree by agricultural conversion, fragmentation, or urban development. As discussed under Factor A of this section, ponds and upland habitats are being lost at a rapid rate in five of the six regions of the county in which the species occurs, and no preserves have been established to protect the species. As discussed in Factor E of this section, this salamander is a DPS and still occurs in a significant part of its historic range, but the remaining subpopulations are becoming increasingly fragmented and thus vulnerable to threats associated with isolation and small population size. From the discussion under Factor D of this section, it is clear that Federal, State, and local regulations and ordinances, individually and collectively, do not provide adequate protection for California tiger salamanders or assure that California tiger salamanders will continue to survive in Santa Barbara County.

Of the 26 known breeding sites, 24 are located exclusively on privately owned land and the other 2 are partially on Santa Barbara County property. Upland habitats surrounding 25 of the ponds are exclusively privately owned; the remaining habitat is a patchwork of county and private lands. No conservation agreements or easements adequate to ensure the long term viability of any metapopulation are in place. Given the extremely rapid rate of recent and projected habitat loss and degradation, this Santa Barbara DPS is in imminent danger of extinction throughout most of its historic range, and may have been eliminated from one area (Bradley-Dominion) in the last 2 years. The survival of the Santa Barbara DPS of the California tiger salamander now depends on protecting as many breeding sites and their associated upland habitats from further degradation and destruction as possible, and on the rapid rehabilitation of sites that have been seriously degraded in the last few years. The remaining subpopulations in Santa Barbara County are vulnerable to extinction from random natural or human-caused events unless sufficient habitat can be protected and the subpopulations increased in size. Immediately upon publication, this final rule will continue the protection for this DPS of California tiger salamanders, which began when we emergency listed this DPS on January 19, 2000.

Critical Habitat

In the last few years, a series of court decisions have overturned our 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 have examined the question of whether critical habitat for the Santa Barbara County California tiger salamander would be prudent.

Due to the small number of populations the Santa Barbara County California tiger salamander is vulnerable to unrestricted collection, vandalism, or other disturbance. However, we have examined the evidence available for Santa Barbara County California tiger salamander and have not found specific evidence of taking, vandalism, collection, or trade of this 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 this 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 find that critical habitat is prudent for the Santa Barbara County California tiger salamander.

Critical habitat is not determinable when one or both of the following situations exist: the information needed to analyze the impacts of the designation is lacking, or the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat (50 CFR 424.12). We believe we understand the biological needs of the Santa Barbara County California tiger salamander sufficiently well to identify an area appropriate to designate as critical habitat. However, our review of the comments we received following the emergency listing of the Santa Barbara County California tiger salamander indicates the potential impacts of a critical habitat designation are not so well understood that we can complete the analyses required under subsection 4(b) of the Act. Accordingly, we have found that critical habitat for the California tiger salamander is not determinable at this time.

When we find that critical habitat is not determinable, our regulations (50 CFR 424.17) provide that, within one year of the date of the final rule listing the species, we must publish a final rule designating critical habitat, based on the best information available at the time. We will undertake critical habitat determinations and designations during FY 2001 as allowed by our funding allocation for that year. As explained in detail in the Listing Priority Guidance (64 FR 57114), our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. 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 the species, and the magnitude and immediacy of those threats. We will develop a proposal to designate critical habitat for the Santa Barbara County California tiger salamander as soon as feasible, considering our workload priorities and available funding.

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 results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed species 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 the species' 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 proposed species or result in destruction or adverse modification of proposed critical habitat. If a species subsequently is listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal agency action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us. Federal agency actions that may affect the Santa Barbara County population of California tiger salamanders and may require conference and/or consultation with us include, but are not limited to, those within the jurisdiction of the Corps, Bureau of Reclamation, Natural Resources Conservation Service, Federal Farm Bureau, and Federal Highway Administration.

Listing this species provides for the development of a recovery plan, which would bring together Federal, State, local, and private efforts for the conservation of the species. The plan would establish a framework for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan would set recovery priorities and estimate costs of various tasks necessary to accomplish them. It also would describe site-specific management actions necessary to achieve conservation and survival of the Santa Barbara County population of California tiger salamanders. Additionally, pursuant to section 6 of the Act, we would be able to grant funds to the State for management actions promoting the protection and recovery of the salamander.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, 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, or collect; or attempt any such conduct), import or export, ship 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 also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to our agents and those of State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. For endangered species, such permits are available for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities.

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

We believe that, based on the best available information, the following

actions are not likely to result in a violation of section 9, provided these actions are carried out in accordance with any existing regulations and permit requirements:

(1) Possession of a Santa Barbara County California tiger salamander legally acquired prior to the effective date of the emergency rule, published on January 19, 2000, and being held consistent with regulations at 50 CFR 17.4;

(2) Actions that may affect the Santa Barbara County California tiger salamander that are authorized, funded, or carried out by a Federal agency, when the action is conducted in accordance with an incidental take statement issued by us under section 7 of the Act;

(3) Actions that may affect the Santa Barbara County California tiger salamander that are not authorized, funded, or carried out by a Federal agency, when the action is conducted in accordance with an incidental take permit issued by us under section 10(a)(1)(B) of the Act. To obtain a permit, an applicant must develop a habitat conservation plan and apply for an incidental take permit that minimizes and mitigates impacts to the species to the maximum extent practicable; and

(4) Actions that may affect the Santa Barbara County California tiger salamander that are conducted in accordance with the conditions of a section 10(a)(1)(A) permit for scientific research or to enhance the propagation or survival of the species.

We believe that, without appropriate authorization from us pursuant to sections 7 and 10 of the Act, the following actions may result in a violation of section 9; however, possible violations are not limited to these actions:

(1) Unauthorized collecting, trapping, capturing, killing, harassing, sale, delivery, or movement, including interstate, and foreign commerce, or harming, or attempting any of these actions, of Santa Barbara County California tiger salamanders without a permit (research activities where salamanders are trapped or captured will require a permit under section 10(a)(1)(A) of the Endangered Species Act);

(2) Destruction or alteration of the Santa Barbara County California tiger salamander occupied habitat through the discharge of fill material into breeding sites; draining, ditching, tilling, stream channelization, drilling, pumping, or other activities that interrupt surface or ground water flow into or out of the vernal pool and seasonal pond habitats of this species (*i.e.*, due to the construction, installation, or operation and maintenance of roads, impoundments, discharge or drain pipes, storm water detention basins, wells, water diversion structures, etc.);

(3) Discharges or dumping of toxic chemicals, silt, or other pollutants into, or other alteration of the quality of waters supporting Santa Barbara County California tiger salamanders that results in death or injury of the species or that results in degradation of their occupied habitat;

(4) Release of exotic species (including, but not limited to, bullfrogs, eastern tiger salamanders, mosquitofish, bass, sunfish, bullhead, catfish, crayfish) into Santa Barbara County tiger salamander breeding habitat; and

(5) Destruction or alteration of uplands associated with vernal pool or seasonal pond habitats used by Santa Barbara County California tiger salamanders during estivation and dispersal, or modification of migration routes such that migration and dispersal are reduced or precluded.

Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Requests for copies of the regulations regarding listed species and inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (503/231–2063, facsimile 503/231–6243).

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 wildlife, see 50 CFR 17.21 and 17.22.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the Field Supervisor, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Authors

The primary authors of this final rule are Grace McLaughlin and Bridget Fahey, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, and Dwight Harvey, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

**List of Subjects in 50 CFR Part 17**

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

**Regulation Promulgation**

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as 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 section 17.11(h) by adding the following, in alphabetical order under AMPHIBIANS, 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 | | | | | | |
| * | * | * | * | * | * | | * |
| AMPHIBIANS | | | | | | | |
| * | * | * | * | * | * | | * |
| Salamander, California tiger | *Ambystoma californiense* | U.S.A. (CA) | U.S.A. (CA–Santa Barbara County). | E | 667E, 702 | NA | NA |

Dated: September 14, 2000.

**Jamie Rappaport Clark,**

*Director, Fish and Wildlife Service.*

[FR Doc. 00–24173 Filed 9–15–00; 3:09 pm]

**BILLING CODE 4310–55–P**

Federal Register

Thursday,
September 21, 2000

# Part III

# Federal Communications Commission

**47 CFR Part 27**

**Service Rules for The 746–764 and 746–794 MHz Bands, Correction; Proposed Rules**

**Service Rules for The 746–764 and 746–794 MHz Bands; Correction; Rules and Regulations**

**Service Rules for The 746–764 and 746–794 MHz Bands; Rules and Regulations**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 27

**[WT Docket No. 99–168, CS Docket No. 98–120, MM Docket No. 00–39]**

### Service Rules for the 746–764 and 776–794 MHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking; correction.

**SUMMARY:** On July 12, 2000, the Commission published in the **Federal Register** a document which solicited comment on various aspects of the spectrum clearance process for the 746–764 and 776–794 MHz band. In the preamble portion of that document, MM Docket No. 00–39 was inadvertently omitted from the caption identifying the proceeding docket numbers relevant to the decision. This document corrects that omission.

**DATES:** Effective September 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** Jane Phillips, 202–418–1310.

**SUPPLEMENTARY INFORMATION:** The Commission, in the preamble of a Further Notice of Proposed Rulemaking, FR Doc 00–17649, published in the **Federal Register** of July 12, 2000 (65 FR 42960) neglected to include MM Docket No. 00–39 in the caption listing the docket numbers effected by the action.

In FR Doc 00–17649, published on July 12, 2000, make the following correction. On page 42960, in the first column, in the docket line, add MM Docket No. 00–39.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 00–21346 Filed 9–20–00; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 27

**[WT Docket No. 99–168, CS Docket No. 98–120, MM Docket No. 00–39; DA 00–1680]**

### Service Rules for the 746–764 and 776–794 MHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** On July 12, 2000, the Commission published in the **Federal Register** a document, which responded to petitions for reconsideration seeking changes in service rules adopted previously in this proceeding regarding commercial use of the 747–762 MHz and 777–792 MHz bands. This document makes corrections to that document.

**DATES:** Effective September 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** Jane Phillips, 202–416712–01.

**SUPPLEMENTARY INFORMATION:** The Commission, in the preamble of the Memorandum Opinion and Order, FR Doc 00–17648, published in the **Federal Register** of July 12, 2000 (65 FR 42879) neglected to include MM Docket No. 00–39 in the caption listing the docket numbers effected by the action. This document corrects that omission. This document also corrects 47 CFR 27.50 by including a reference to power limits for fixed stations transmitting in the 776–777 MHz band and the 792–794 MHz band.

In FR Doc 00–17648, published on July 12, 2000, make the following correction.

1. On page 42879, in the second column, in the caption identifying the relevant docket numbers, add MM Docket No. 00–39.

2. In the same document, on page 42882, in column three, (correct paragraph (b)(2) to read as follows:

**§ 27.50 Power and antenna height limits.**

* * * * *

(b) * * *

(2) Control stations and mobile stations transmitting in the 747–762 MHz band and the 776–794 MHz band and fixed stations transmitting in the 776–777 MHz band and the 792–794 MHz band are limited to 30 watts ERP;

* * * * *

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 00–21342 Filed 9–20–00; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 27

**[WT Docket No. 99–168; DA 00–450, and DA 00–1680]**

### Service Rules for the 746–764 and 776–794 MHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** On January 20, 2000, the Commission published in the **Federal Register** a document, which established service rules governing the initial assignment of licenses, by competitive bidding, and the subsequent regulatory treatment of commercial services to be provided on the 746–764 and 776–794 MHz bands. This document corrects errors contained in that decision.

**DATES:** Effective September 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** Jane Phillips, 202–418–1310.

**SUPPLEMENTARY INFORMATION:** The Commission published a First Report and Order in the **Federal Register** of January 20, 2000 (65 FR 3139, January 20, 2000), FR Doc. 00–1332. The Commission now: (1) Amends § 27.13(b) by correcting the date as of which a license issued for the 747–762 MHz and 777–792 MHz bands will terminate from January 1, 2014, to January 1, 2015; and (2) corrects the phrase 30 days to 31 days; in § 27.66(b).

Accordingly, the publication on January 20, 2000 of the final regulations which were the subject of FR Doc 00–1332, is corrected as follows:

**§ 27.13 [Corrected]**

1. On page 3146, in the second column, in § 27.13, paragraph (b), in line 4, correct ''January 1, 2014,'' to read ''January 1, 2015.''

**§ 27.66 [Corrected]**

2. On page 3149, in the second column, in § 27.66, paragraph (b), in line 8, correct ''30 days'' to read ''31 days.''

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 00–21343 Filed 9–20–00; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 27

**[WT Docket No. 99–168, DA 00–1680]**

### Service Rules for the 746–764 and 776–794 MHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** On April 4, 2000, the Commission published in the **Federal Register** a document, which established service rules for licensing Guard Bands that encompass six megahertz of spectrum in the 746–764 MHz and 776–794 MHz bands which have been reallocated for commercial use from their previous use for the broadcasting service. This document corrects an erroneous reference to CC Docket No. 99–168 in the preamble of that document.

**DATES:** Effective September 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** Jane Phillips, 202–418–1310.

**SUPPLEMENTARY INFORMATION:** The Commission, in the preamble of FR Doc 00–8144, published in the **Federal Register** of April 4, 2000, (65 FR 17594), incorrectly referred to CC Docket No. 99–168 in the caption listing the docket numbers effected by the action. This document corrects that omission.

In FR Doc 00–8144, published on April 4, 2000, make the following correction: On page 17594, in the third column, in the docket line, correct ''CC Docket No. 99–168'' to read ''WT Docket No. 99–168.''

Federal Communications Commission.

**Magalie Roman Salas,**

*Ssecretary.*

[FR Doc. 00–21345 Filed 9–20–00; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 27

**[WT Docket No. 99–168; DA 00–450 and DA 00–1680]**

### Service Rules for the 746–764 and 776–794 MHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; clarifying amendments.

**SUMMARY:** This document amends 47 CFR part 27 to accurately reflect recent Commission decisions regarding service

rules for the 746–764 and the 776–794 MHz band. Specifically, the Commission amended part 27 in two documents. The first document, FR Doc. 00–1332, published at 65 FR 3139, and the second, FR Doc. 00–8144, published at 65 FR 17594, inadvertently failed to revise certain rules that should have been updated to conform with these amendments.

**DATES:** Effective September 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** Jane Phillips, 202–418–1310.

**SUPPLEMENTARY INFORMATION:**

## Background

The Commission amended its service rules for the 746–764 and 776–794 MHz bands in two recent decisions. The First Report and Order (FR Doc. 00–1332) was published at 65 FR 3139, January 20, 2000, and the Second Report and Order (FR Doc. 00–8144) at 65 FR 17594, April 4, 2000). These rule changes affected other rules in the current CFR, which were inadvertently not amended at that time to reflect the new amendments.

## Need for Clarifying Rules

The existing rule sections affected by these recent decisions must be amended to conform with the actions taken in the two Commission decisions. The current amendments will ensure that the Commission's rules are current, useful, and correct.

## List of Subjects in 47 CFR Part 27

Telecommunications.

Accordingly, 47 CFR Part 27 is amended as follows:

## PART 27—WIRELESS COMMUNICATIONS SERVICES

1. The authority citation for part 27 continues to read as follows:

**Authority:** 47 U.S.C. 154, 301, 302, 303, 307, 309, and 332, unless otherwise noted.

### § 27.15 [Amended]

2. Section 27.15(a)(1) is amended by revising the reference ''section 27.324'' to read ''§ 1.948.''

3. The heading of subpart D is revised to read as follows:

## Subpart D—Competitive Bidding Procedures for the 2305–2320 MHz and 2345–2360 MHz Bands

4. Revise the section heading for § 27.201 as set forth below, and revise the reference to ''WCS'' to read ''WCS in the 2305–2320 MHz and 2345–2360 MHz bands.''

### § 27.201 WCS in the 2305–2320 MHz and 2345–2360 MHz bands subject to competitive bidding.

* * * * *

### §§ 27.202, 27.205, 27.209, and 27.210 [Amended]

5. Remove references to ''WCS'' and add in its place, ''WCS in the 2305–2320 and 2345–2360 bands'' wherever they appear in the following sections:

§ 27.202

§ 27.205(a)

27.209(a)

The example following § 27.210(d)(3)(ii)(C)

Examples 1 and 2 following § 27.210(d)(5)

6. Section 27.308 is revised to read as follows:

### § 27.308 Technical content of applications.

All applications required by this part shall contain all technical information required by the application forms or associated public notice(s). Applications other than initial applications for a WCS license must also comply with all technical requirements of the rules governing the applicable frequency band (see subparts C, D, F, and G of this part, as appropriate).

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 00–24075 Filed 9–20–00; 8:45 am]

BILLING CODE 6712–01–P

Federal Register

Thursday,
September 21, 2000

# Part IV

# Department of Labor

## Office of the Secretary

**29 CFR Part 5**

**Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction; Proposed Rule**

**DEPARTMENT OF LABOR**

**Office of the Secretary**

**29 CFR Part 5**

**RIN 1215–AB21**

## Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

**AGENCY:** Wage and Hour Division, Employment Standards Administration, Labor.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Labor proposes to amend two related definitions in the regulations issued under the Davis-Bacon and related Acts that set forth rules for administration and enforcement of the Davis-Bacon prevailing wage requirements that apply to federal and federally-assisted construction projects. These regulations define the Davis-Bacon Act language *construction, prosecution, completion, repair* and *site of the work*. The Department believes that revisions to these definitions are needed to clarify the regulatory requirements in view of three appellate court decisions, which concluded that the Department's application of these regulatory definitions was at odds with the language of the Davis-Bacon Act that limits coverage to workers employed ''directly upon the site of the work,'' and to address situations that were not contemplated when the current regulations were promulgated. The Department, therefore, seeks public comment on proposed revisions to the regulatory definitions of *construction* and *site of the work*.

**DATES:** Comments are due on or before October 23, 2000.

**ADDRESSES:** Submit written comments to T. Michael Kerr, Administrator, Wage and Hour Division (Attention: Goverment Contracts Team), Employment Standards Administration, U.S. Department of Labor, Room S–3018, 200 Constitution Avenue, NW, Washington, D.C. 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card.

As a convenience to commenters, comments may be transmitted by facsimile (''FAX'') machine to (202) 693–1432. This is not a toll-free number.

**FOR FURTHER INFORMATION CONTACT:** Timothy Helm, Office of Enforcement Policy, Government Contracts Team, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3018, 200 Constitution Avenue, NW, Washington, D.C. 20210. Telephone (202) 693–0574. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:**

### I. Paperwork Reduction Act

This regulation does not contain any new information collection requirements and does not modify any existing requirements. Thus, this regulation is not subject to the Paperwork Reduction Act.

### II. Background

*A. Statutory and Regulatory Framework*

Section 1 of the Davis-Bacon Act (''DBA'' or ''Act'') requires that ''the advertised specifications for contracts * * * for construction, alteration and/or repair, including painting and decorating, of public buildings or public works * * * shall contain a provision stating the minimum wages to be paid to various classes of laborers and mechanics * * * and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers *employed directly upon the site of the work* * * * the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, * * * and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work. * * * '' 40 U.S.C. 276a (emphasis added).

Section 2 of the Act requires that every covered contract provide that in the event the contracting officer finds that ''any laborer or mechanic employed by the contractor or any subcontractor *directly on the site of the work covered by the contract* has been or is being paid less than required wages, the government ''may terminate the contractor's right to proceed with the work or such part of the work as to which there has been a failure to pay the required wages'' and to hold the contractor liable for the costs for completion of the work. 40 U.S.C. 276a–1 (emphasis added).

The Congress directed the Department of Labor, through Reorganization Plan No. 14 of 1950 (5 U.S.C. App., effective May 24, 1950, 15 FR 3176, 64 Stat. 1267), to ''prescribe appropriate standards, regulations and procedures'' to be observed by federal agencies responsible for the administration of the Davis-Bacon and related Acts ''[i]n order to assure coordination of the administration and consistency of enforcement.'' 64 Stat. 1267.

On April 29, 1983, the Department promulgated a regulation (29 CFR 5.2(l)) defining the term *site of the work* within the meaning of the Davis-Bacon Act (see 48 FR 19540). This regulation reflected the Department's longstanding, consistent interpretation of the Act's *site of the work* requirement. See, *e.g., United Construction Company,* Wage Appeals Board (WAB) Case No. 82–10 (January 14, 1983); *Sweet Home Stone,* WAB Case Nos. 75–1 & 75–2 (August 14, 1975); *Big Six, Inc.,* WAB Case No. 75–3 (July 21, 1975); *T.L. James & Co.,* WAB Case No. 69–2 (August 13, 1969); CCH Wage-Hour Rulings ¶ 26,901.382, Solicitor of Labor letter (July 29, 1942).

The Department's regulations provide a three-part definition of *site of the work.* The first part at 29 CFR 5.2(l)(1) provides that ''the *site of the work* is the physical place or places where the construction called for in the contract will remain when work on it has been completed and, as discussed in paragraph (l)(2) of this section, other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the site.''

The second part at 29 CFR 5.2(l)(2) provides that ''fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc.'' are part of the *site of the work* provided they meet two tests—a geographic test of being ''so located in proximity to the actual construction location that it would be reasonable to include them,'' and a functional test of being ''dedicated exclusively, or nearly so, to performance of the contract or project.''

The third part at 29 CFR 5.2(l)(3) states that fabrication plants, batch plants, borrow pits, tool yards, job headquarters, etc., ''of a commercial supplier or materialman which are established by a supplier of materials for the project before the opening of bids and not on the project site, are not included in the *site of the work*.'' In other words, facilities such as batch plants and borrow pits are not covered if they are ongoing businesses apart from the federal contract work.

The regulatory definition of the statutory terms *construction, prosecution, completion,* or *repair* in section 5.2(j)(1) applies the *site of the work* concept. It defines these statutory terms as including the following:

> [a]ll types of work done on a particular building or work *at the site thereof*, including work at a facility which is dedicated to and deemed a part of the *site of the work within the meaning of § 5.2(l)*—including without

limitation (i) [a]lteration, remodeling, installation (where appropriate) on the *site of the work* of items fabricated off-site; (ii) [p]ainting and decorating; (iii) [m]anufacturing or furnishing of materials, articles, supplies or equipment *on the site of the building or work* * * *; and (iv) [t]ransportation between the actual construction location and a facility which is dedicated to such construction and deemed a part of the *site of the work within the meaning of § 5.2(l).*

(Emphasis added.)

*B. The Department of Labor's Longstanding Interpretation of the Regulatory Site of the Work Definition*

Prior to the recent appellate court rulings, the Department's longstanding, consistent application of the regulatory definition of *site of the work*—the area where laborers and mechanics are to be paid at least the prevailing wage rates, as determined by the Secretary of Labor—included both the location where a public building or work would remain after work on it had been completed, and nearby locations used for activities directly related to the covered construction project, provided such locations were dedicated exclusively (or nearly so) to meeting the needs of the covered project.

The Wage Appeals Board, which acted with full and final authority for the Secretary of Labor on matters concerning the labor standards provisions of the Davis-Bacon and related Acts (see 29 CFR 5.1 and 7.1 (c)),[1] consistently interpreted 29 CFR 5.2(l) to include as part of the *site of the work*, for purposes of Davis-Bacon coverage, support facilities dedicated exclusively to the covered project and located within a reasonable distance from the actual construction site. Consistent with the regulations, the Board also treated the transportation of materials and supplies between the covered locations and transportation of materials or supplies to or from a covered location by employees of the construction contractor or subcontractor as covered Davis-Bacon work. *See, e.g., Patton-Tully Transportation Co.,* WAB No. 90–27 (March 12, 1993) (5.4 to 14 miles, and 16 to 60 miles); *Winzler Excavating Co.,* WAB No. 88–10 (October 30 1992) (12½ miles); *ABC Paving Co.,* WAB Case No. 85–14 (September 27, 1985) (3 miles).

[1] On April 17, 1996, the Secretary redelegated jurisdiction to issue final agency decisions under, *inter alia,* the Davis-Bacon and related Acts and their implementing regulations, to the newly created Administrative Review Board (ARB or the Board).

*C. Federal Appellate Decisions and Subsequent Decision of the Administrative Review Board (ARB)*

The D.C. Circuit first discussed the Department's *site of the work* definition in *Building and Construction Trades Department, AFL–CIO* v. *United States Department of Labor Wage Appeals Board,* 932 F.2d 985 (D.C. Cir. 1991) (*Midway*). That case involved truck driver employees of the prime contractor's wholly owned subsidiary, who were delivering materials from a commercial supplier to the construction site. The material delivery truck drivers spent ninety percent of their workday on the highway driving to and from the commercial supply sources, ranging up to 50 miles round trip and stayed on the *site of the work* only long enough to drop off their loads, usually for not more than ten minutes at a time.

At issue before the D.C. Circuit was whether the ''material delivery truckdrivers'' were within the scope of *construction* as defined by the regulatory provision then in effect at section 5.2(j), which defined the statutory terms *construction, prosecution, completion,* or *repair* to include, among other things, ''the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor.'' The court held that ''the phrase 'mechanics and laborers employed directly upon the site of the work' restricts coverage of the Act to employees who are working directly on the physical site of the public building or public work being constructed.'' 932 F.2d at 992. The court further stated that ''[m]aterial delivery truckdrivers who come onto the site of the work merely to drop off construction materials are not covered by the Act even if they are employed by the government contractor,'' and consequently held that ''29 C.F.R. § 5.2(j), insofar as it includes off-site material delivery truck drivers in the Act's coverage, is invalid.'' *Id.*

The court expressly declined to rule on the validity of the regulation defining the *site of the work* at 29 CFR 5.2(l). 932 F.2d at 989 n.6, 991 n.12. However, it expressed the view that Congress intended to limit Davis-Bacon coverage to ''employees working directly on the physical site of the public building or public work under construction.'' 932 F.2d at 990 n.9, 991.

On May 4, 1992, the Department promulgated a revised section 5.2(j) to accommodate the holding in *Midway.* 57 FR 19204. The revised regulation limits coverage of offsite transportation to ''[t]ransportation between the actual construction location and a facility which is dedicated to such construction and deemed a part of the site of the work within the meaning of § 5.2(l).'' 29 CFR 5.2(j)(1)(iv) (1993).

In the two more recent rulings, *Ball, Ball and Brosamer* v. *Reich,* 24 F. 3d 1447 (D.C. Cir. 1994) (*Ball*) and *L.P. Cavett Company* v. *U.S. Department of Labor,* 101 F.3d 1111 (6th Cir. 1996) (*Cavett*), the D.C. Circuit and Sixth Circuit, respectively, focused on the proper geographic scope of the statutory phrase *site of the work* in relation to borrow pits and batch plants established specifically to serve the needs of covered construction projects. In *Ball,* the D.C. Circuit ruled that the Department's application of section 5.2(l)(2) was inconsistent with the Act to the extent it covers sites that are at a distance from the actual construction location. The case involved workers at the borrow pit and batch plant of a subcontractor who obtained raw materials from a local sand and gravel pit and set up a portable batch plant for mixing concrete. The pit and batch plant were dedicated exclusively to supplying material for the completion of the 13-mile stretch of aqueduct that the prime contractor had contracted to construct. As described by the court, ''the borrow pit and batch plant were located about two miles from the construction site at its nearest point.'' 24 F.3d at 1449.

In holding that the Davis-Bacon prevailing wage requirements do not apply to the borrow pit and batch plant workers, the court cited *Midway,* in which it had found ''no ambiguity in the text [of the Davis-Bacon Act]'' and thought it clear that ''the ordinary meaning of the statutory language is that the Act applies only to employees working directly on the physical site of the public building or public work under construction.'' 24 F.3d at 1452. The court added that ''the reasoning in *Midway* obviously bears on the validity of § 5.2(l)(2) to the extent that the regulation purports to extend the coverage of the Davis-Bacon Act beyond the actual physical site of the public building or public work under construction,'' (*id.*), and accordingly ruled that ''the Secretary's regulations under which Ball was held liable are inconsistent with the Davis-Bacon Act. *See* 29 CFR § 5.2(l)(1).'' 24 F.3d at 1453. The court nevertheless indicated that the regulations at section 5.2(l)(2) might satisfy the geographic limiting principle of the Davis-Bacon Act and *Midway* if the regulatory phrase in section 5.2(l)(2) ''so located in proximity to the actual construction location that it would be reasonable to include them'' were

applied ''only to cover batch plants and gravel pits located in actual or virtual adjacency to the construction site.'' 24 F.3d at 1452.

In *Cavett* (arising under the Federal-Aid Highway Act, a Davis-Bacon related Act), the Sixth Circuit held that truck drivers hauling asphalt from a temporary batch plant to the highway under construction three miles away were not due prevailing wages. The contract involved resurfacing of an Indiana state road, and as characterized by the court, ''the Department of Labor included in the site of the work both a batch plant located at a quarry more than three miles away from the highway construction project and the Indiana highway system that was used to transport materials from the batch plant to the construction project.'' 101 F.3d at 1113–1114.

Relying on the D.C. Circuit's reasoning in *Midway* and *Ball,* the Sixth Circuit disagreed with the views of the lower court that the statutory language was ambiguous and that the *Ball* decision recognized ambiguity in the statutory text when it declined to decide whether coverage could extend to batch plants adjacent to or virtually adjacent to the boundaries of the completed project. The Sixth Circuit reasoned that it was not inconsistent for the *Ball* court to ''conclude that while a facility in virtual adjacency to a public work site might be considered part of that site, a facility located two (or in this case three) miles away from the site would not.'' 101 F.3d at 1115. Thus, agreeing with *Ball*, the Sixth Circuit concluded that the statutory language means that ''only employees working directly on the physical site of the work of the public work under construction have to be paid prevailing wage rates.'' *Id.*

Subsequent to the rulings in *Midway, Ball*, and *Cavett*, the Department's Administrative Review Board (ARB) addressed the Davis-Bacon Act's *site of the work* provision in *Bechtel Contractors Corporation (Prime Contractor), Rogers Construction Company (Prime Contractor), Ball, Ball and Brosamer, Inc., (Prime Contractor), and the Tanner Companies, Subcontractor,* ARB Case No. 97–149, March 25, 1998, reaffirming ARB Case No. 95–045A, July 15, 1996.

This case involved a dispute over whether the Davis-Bacon provisions applied to work performed at three batch plants established and operated in connection with construction work on the Central Arizona Project (CAP), a massive Bureau of Reclamation construction project consisting of 330 miles of aqueduct and pumping plants. The batch plants were located less than one-half mile from various pumping stations that were being constructed as part of the project. The Board initially ruled on the case on July 15, 1996 (*Bechtel I*) and later reaffirmed that decision on March 25, 1998 (*Bechtel II*).

The Board observed that the D.C. Circuit's recent decision in *Ball* had ''created a good deal of confusion with respect to the coverage of the DBA.'' *Bechtel I*, slip op. at 6. The Board declined to read *Ball* or *Cavett* to mean that the statutory phrase ''directly upon the site of the work'' limits the wage standards of the DBA to ''the physical space defined by contours of the permanent structures that will remain at the close of work.'' *Id.* Rather, the Board read *Ball* and *Cavett* as only precluding the Secretary from enforcing section 5.2(l)(2) of the regulations in a manner that did not respect the geographic limiting principle of the statute, while reserving ruling on section 5.2(l)(1), since that provision was not at issue in those cases. *Bechtel II*, slip op. at 5; *Bechtel I*, slip op. at 6. The Board stated that interpretation of section 5.2(l)(1) requires examination of the question of whether the temporary facilities are so ''located in virtual adjacency'' to the site of the work that it would be reasonable to include them. *Id.*

The Board found that the work performed at the plants satisfied the test set out in section 5.2(l)(1), since aerial photographs of the construction sites showed the temporary batch plants to be located on land integrated into the work area adjacent to the pumping stations. The Board believed there was no principled basis for excluding the batch plant workers since they were employed on sites of the work to the same extent as the workers who cleared the land and the workers who inventoried, assembled, transported or operated tools, equipment or materials on nearby or adjacent property. The Board also observed that

> it is the nature of such construction, *e.g.,* highway, airport and aqueduct construction, that the work may be long, narrow and stretch over many miles. Where to locate a storage area or a batch plant along such a project is a matter of the contractor's convenience and is not a basis for excluding the work from the DBA. The map of the project introduced at hearing * * * abundantly illustrates that the project consisted of miles of narrow aqueduct connected by pumping stations. The only feasible way to meet the needs of the aqueduct construction was to have the concrete prepared at a convenient site and transported to the precise area of need. This equally holds true for the storage and distribution of other materials and equipment. Faced with such a project, the Board finds that work performed in actual or virtual adjacency to one portion of the long continuous project is to be considered adjacent to the entire project.

*Bechtel I*, slip op. at 6.

**III. Discussion of the Proposed Rule**

Issuance of this NPRM is needed to clarify the effects of *Midway, Ball,* and *Cavett,* particularly in view of confusion they may have generated (as suggested by the ARB in *Bechtel I*), and also to address situations not contemplated by the current regulations.

The Department has also reviewed the NPRM published in 1992 (57 FR 19208 (May 4, 1992)) in conjunction with the rule promulgated to conform with the *Midway* decision; the NPRM would have further defined and limited the circumstances in which on-site work by laborers and mechanics primarily engaged in offsite transportation would be subject to Davis-Bacon requirements. After a review of the comments and the subsequent developments in the court cases, the Department has concluded that no further rulemaking on this issue is necessary or appropriate. As stated in the preamble to the companion rule: ''Those truck drivers who transport materials to or from the 'site of the work' would not be covered for any time spent off-site, but would remain covered for any time spent directly on the 'site of the work.' '' 57 FR 19205. It remains the Department's view that truck drivers employed by construction contractors and subcontractors must be paid at least the rate required by the Davis-Bacon Act for any time spent on-site which is more than *de minimis.* In this connection, the Department notes that in the *Midway* case, the drivers stayed on-site only long enough to drop off their loads, which was usually not more than ten minutes at a time. 932 F.2d at 987.

*1. Site of the Work—Section 5.2(l)*

While neither *Ball* nor *Cavett* enjoined the Department from enforcing the regulatory *site of the work* definition as set forth at 29 CFR 5.2(l)(2), these courts found the Department's application of the regulation to be contrary to the plain meaning of the language of the Davis-Bacon Act. In view of the appeals courts' rulings, the Department no longer believes that it can assert Davis-Bacon prevailing wage coverage with respect to material or supply sources, tool yards, job headquarters, etc., which are dedicated to the covered construction project unless they are adjacent or virtually adjacent to a location where the

building or work, or a significant portion thereof, is being constructed.

Therefore, a revision to section 5.2(l)(2) is proposed to so limit coverage. The Department does not believe it would be appropriate to propose to define the terminology ''adjacent or virtually adjacent'' because the actual distance may vary depending upon the size and nature of the project. See *Bechtel II,* slip op. at 6 (''The question of whether a temporary facility is virtually adjacent to the 'site of the work' is one to be examined on a case-by-case basis.'') However, the Department invites comments on whether this terminology should be defined, and if so, in what manner.

In addition, the current *site of the work* definition at section 5.2(l) does not adequately address certain situations which the Department believes warrant coverage. For example, new construction technologies have been developed that make it practical and economically advantageous to build major segments of complex public works, such as lock and dam projects and bridges, at locations some distance up-river from the locations where the permanent structures will remain when their construction is completed.

Innovative construction methods exist which take advantage of recently developed underwater concrete construction technologies, making it feasible for whole sections of such structures to be constructed up-river and floated down-river to be put in place to form the structure being built. In such situations, much of the construction of the public work is performed at a secondary site other than where it will remain after construction is completed.

The regulatory definition in section 5.2(l)(1) states that coverage ''is limited to the physical place or places where construction called for in the contract will remain * * * and other adjacent or nearby property.'' Literal application of the regulatory language would appear to exclude from coverage, construction at a location some distance from the final resting place of a project, even if a significant portion of the project is actually constructed at that location. At its most extreme, it is possible that a project may be built in its entirety at one location and then moved to its final resting place. The Department does not believe such a result is consistent with either the language or intent of the Davis-Bacon Act. Rather, it is the Department's view that a location established specifically for the purpose of constructing a significant portion of a ''public building or public work'' is reasonably viewed as construction performed directly upon the site of the public building or public work within the meaning of the Davis-Bacon Act. The Department notes that to the best of its information, projects which are built in such a manner are currently rare, although they may become more common with advances in technology. It is *not* our intention that the proposed amendment to the definition of *site of the work* would create a major exception to the normal rule limiting the *site of the work* to the place where the building or work will remain when the construction is completed.

The Department considers that the previously discussed court decisions, which involved material supply locations and the transportation between such locations and the construction site of the project, do not preclude Davis-Bacon coverage where significant portions of projects, such as bridges and dams, are actually being constructed at secondary locations.

Just as we believe this situation was not contemplated when the Department's regulations were drafted, we believe that it was not contemplated by the various court decisions. *See Ball,* 24 F.3d at 1452 (''the reasoning of *Midway* obviously bears on the validity of § 5.2(l)(2) to the extent that the regulation purports to extend the coverage of the Davis-Bacon Act beyond the actual physical site of the building or public work under construction''). As pointed out by the Board in *Bechtel,* the courts' statements limiting coverage to work ''on the physical site of the public building or public work under construction,'' should not be interpreted as restricting coverage ''to the physical space defined by contours of the permanent structures that will remain at the close of work.''

The Department, therefore, proposes a revision to section 5.2(l)(1) to include within the *site of the work,* secondary sites, other than the project's final resting place, which have been established specifically for the performance of the Davis-Bacon covered contract and at which a significant portion of the public building or work called for by the contract is constructed.

*2. Coverage of Transportation—Section 5.2(j)*

Concerning transportation, section 5.2(j)(1)(iv) currently covers all transportation between the actual construction location and other locations dedicated to the project and considered a part of the site of the work within the meaning of section 5.2(l). The Department is proposing to amend section 5.2(j)(l) in two respects:

First, the Department is proposing to amend section 5.2(j)(1)(iv) to conform to the appellate decisions, which held as a general matter that transportation of materials occurring off the actual construction site was not ''directly upon the site of the work,'' and thus not covered by Davis-Bacon provisions. Therefore, under this proposal, off-site transportation of materials, supplies, tools, etc., ordinarily would not be covered. Such transportation would be covered only if the transportation is between the construction work site and a site located ''adjacent or virtually adjacent'' to the construction site.

In addition, in conjunction with the proposed amendment to section 5.2(l)(1), discussed above, a new section 5.2(j)(1)(iv)(B) would provide that transportation of portion(s) of the building or work between a secondary covered construction site and the site where the building or work will remain when it is completed is subject to Davis-Bacon requirements. It is the Department's view that under these circumstances the *site of the work* is literally moving between the two work sites, and therefore the laborers or mechanics who transport these portions or segments of the project are reasonably viewed as ''employed directly upon the site of the work.''

The Department seek comments on these proposed regulatory changes to section 5.2(l) and section 5.2(j)(1), as set forth below.

## IV. Executive Order 12866; Small Business Regulatory Enforcement Fairness Act; Unfunded Mandates Reform Act

This proposed rule is not a ''significant regulatory action'' within the meaning of section 3(f) of Executive Order 12866. The rule is not expected to (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a section 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. The modifications to regulatory language as proposed in this NPRM would limit coverage of off-site material and supply work from

Davis-Bacon prevailing wage requirements as a result of appellate court rulings. In addition, the proposed regulation would make a limited amendment to the *site of the work* definition to address an issue not contemplated under the current regulatory language—those instances where significant portions of buildings or works may be constructed at secondary sites which are not in the vicinity of the project's final resting place. It is believed that such instances will be rare, and that any increased costs which may arise on such projects would be offset by the savings due to the proposed limitations on coverage.

The Department has similarly concluded that this proposed rule is not a ''major rule'' requiring approval by the Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*). It will not likely result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For purposes of the Unfunded Mandates Reform Act of 1995, this rule does not include any federal mandate that may result in excess of $100 million in expenditures by state, local and tribal governments in the aggregate, or by the private sector. Furthermore, the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1532, do not apply here because the proposed rule does not include a Federal mandate. The term *Federal mandate* is defined to include either a Federal intergovernmental mandate or a Federal private sector mandate. 2 U.S.C. 658(6). Except in limited circumstances not applicable here, those terms do not include an enforceable duty which is a duty arising from participation in a voluntary program. 2 U.S.C. 658(7)(A). A decision by a contractor to bid on Federal and federally assisted construction contracts is purely voluntary in nature, and the contractor's duty to meet Davis-Bacon Act requirements arises from participation in a voluntary Federal program.

## V. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have federalism implications. The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

## VI. Regulatory Flexibility Analysis

The Department has determined that the proposed regulation will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. The proposal would implement modifications resulting from court decisions interpreting statutory language, which would reduce the coverage of Davis-Bacon prevailing wage requirements as applied to construction contractors and subcontractors, both large and small, on DBRA covered contracts. In addition, the proposed regulation would make a limited amendment to the *site of the work* definition to address an issue not contemplated under the current regulatory language—those instances where significant portions of buildings or works may be constructed at secondary sites which are not in the vicinity of the project's final resting place. It is believed that such instances will be rare, and that any increased costs which may arise on such projects would be offset by the savings due to the proposed limitations on coverage. The Department of Labor has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration. Notwithstanding the above, the Department has prepared the following Regulatory Flexibility Analysis:

### *(1) Reasons Why Action Is Being Considered*

The Department is issuing this NPRM to clarify the regulatory requirements concerning the Davis-Bacon Act's *site of the work* language in view of three appellate court decisions. These decisions concluded that the Department's application of its regulations to cover certain activities related to off-site facilities dedicated to the project was at odds with the Davis-Bacon Act language that limits coverage to workers employed ''directly upon the site of the work.'' This NPRM is therefore necessary to bring the Department's regulatory definitions of the statutory terms *construction, prosecution, completion,* and *repair* at 29 CFR 5.2(j), and *site of the work* at 29 CFR 5.2(l) into conformity with these court decisions.

The Department is also issuing this NPRM in order to address situations that were not contemplated when the current regulations concerning *site of the work* were promulgated. This NPRM proposes to make clear under the Department's regulations that the Davis-Bacon Act's scope of coverage includes work performed at locations established specifically for the purpose of constructing a significant portion of a building or work, as well as transportation of portions of the building or work to and from the project's final resting place. These regulatory changes are necessitated by the development of new construction technologies, whereby major segments of a project can be constructed at locations some distance from where the permanent structure(s) will remain after construction is completed.

### *(2) Objectives of and Legal Basis for Rule*

These regulations are issued under the authority of the Davis-Bacon Act, 40 U.S.C. 276a, *et seq.*, Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix, and the Copeland Act, 40 U.S.C. 276c. The objectives of these regulations are to clarify the effects of three appellate court decisions (*Midway, Ball,* and *Cavett*) and eliminate any confusion they may have engendered in the Federal construction community, and to address a coverage issue not contemplated by the current regulations.

### *(3) Number of Small Entities Covered Under the Rule*

Size standards for the construction industry are established by the Small Business Administration (SBA), and are expressed in millions of dollars of annual receipts for affected entities, *i.e.,* Major Group 15, Building Construction—General Contractors and Operative Builders, $17 million; Major Group 16, Heavy Construction (non-building), $17 million; and Major Group 17, Special Trade Contractors, $7 million. The overwhelming majority of construction establishments would have annual receipts under these levels. According to the Census, 98.7 percent of these establishments have annual receipts under $10 million. Therefore, for the purpose of this analysis, it is assumed that virtually all establishments potentially affected by this rule would meet the applicable criteria used by the SBA to define small businesses in the construction industry.

### *(4) Reporting, Recordkeeping, and Other Compliance Requirements of the Rule*

There are no additional reporting or recording requirements for contractors under the proposed rule. There may be rare instances where, pursuant to the NPRM, contractors, including small

entities, engaged in the construction of a major portion of a Davis-Bacon project at a secondary site specifically established for such purpose would be required to comply with Davis-Bacon wage and recordkeeping requirements with respect to certain laborers and mechanics in circumstances where they currently are not covered by regulations issued under the Act.

*(5) Relevant Federal Rules Duplicating, Overlapping, or Conflicting With the Rule*

There are currently no Federal rules that duplicate, overlap, or conflict with this proposed rule.

*(6) Differing Compliance or Reporting Requirements for Small Entities*

The proposed rule contains no reporting, recordkeeping, or other compliance requirements specifically applicable to small businesses or that differ from such requirements applicable to the Davis-Bacon contracting industry as a whole. Such different treatment would not seem feasible since virtually all employers in the industry are small businesses.

*(7) Clarification, Consolidation, and Simplification of Compliance and Reporting Requirements*

The primary purpose of the proposed rule is to clarify the application of Davis-Bacon requirements as a result of various appellate court decisions.

*(8) Use of Other Standards*

The proposed regulation addresses only statutory coverage. It does not prescribe performance or design standards.

*(9) Exemption From Coverage for Small Entities*

Exemption from coverage under this rule for small entities would not be appropriate given the statutory mandate of the Davis-Bacon Act that all contractors (large and small) performing on DBRA-covered contracts pay their workers prevailing wages and fringe benefits as determined by the Secretary of Labor.

**VII. Document Preparation**

This document was prepared under the direction of John R. Fraser, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

**List of Subjects in 29 CFR Part 5**

Administrative practice and procedure, Government contracts, Investigations, Labor, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

For the reasons set out in the preamble, Title 29, Part 5, is proposed to be amended as follows:

## PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

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

**Authority:** 40 U.S.C. 276a–276a–7; 40 U.S.C. 276c; 40 U.S.C. 327–332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; 29 U.S.C. 259; and the statutes listed in § 5.1(a) of this part.

2. Section 5.2 is amended by revising paragraphs (j) and (l) to read as follows:

**§ 5.2 Definitions.**

* * * * *

(j) The terms *construction, prosecution, completion, or repair* mean the following:

(1) All types of work done on a particular building or work at the site thereof, including work at a facility which is deemed a part of the site of the work within the meaning of § 5.2(l) by laborers and mechanics employed by a construction contractor or construction subcontractor (or, under the United States Housing Act of 1937; the Housing Act of 1949; and the Native American Housing Assistance and Self-Determination Act of 1996, all work done in the construction or development of the project), including without limitation—

(i) Altering, remodeling, installation (where appropriate) on the site of the work of items fabricated off-site;

(ii) Painting and decorating;

(iii) Manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work (or, under the United States Housing Act of 1937; the Housing Act of 1949; and the Native American Housing Assistance and Self-Determination Act of 1996, in the construction or development of the project);

(iv)(A) Transportation between the site of the work within the meaning of § 5.2(l)(1) and a facility which is dedicated to the construction of the building or work and deemed a part of the site of the work within the meaning of paragraph (l)(2) of this section; and

(B) Transportation of portion(s) of the building or work between a site where a significant portion of such building or work is constructed, which is a part of the site of the work within the meaning of paragraph (l)(1) of this section, and the physical place or places where the building or work will remain.

(2) Except for laborers and mechanics employed in the construction or development of the project under the United States Housing Act of 1937; the Housing Act of 1949; and the Native American Housing Assistance and Self-Determination Act of 1996, and except as provided in paragraph (j)(1)(iv)(A) of this section, the transportation of materials or supplies to or from the site of the work by employees of the construction contractor or a construction subcontractor is not ''construction'' (etc.) (see *Building and Construction Trades Department, AFL–CIO* v. *United States Department of Labor Wage Appeals Board (Midway Excavators, Inc.),* 932 F.2d 985 (D.C. Cir. 1991)).

* * * * *

(l) The term *site of the work* is defined as follows:

(1) The *site of the work* is the physical place or places where the building or work called for in the contract will remain; and any other site where a significant portion of the building or work is constructed, *provided* that such site is established specifically for the performance of the contract or project;

(2) Except as provided in paragraph (l)(3) of this section, job headquarters, tool yards, batch plants, borrow pits, etc., are part of the *site of the work,* provided they are dedicated exclusively, or nearly so, to performance of the contract or project, *and provided* they are adjacent or virtually adjacent to the *site of the work* as defined in paragraph (l)(1) of this section;

(3) Not included in the *site of the work* are permanent home offices, branch plant establishments, fabrication plants, tool yards, etc., of a contractor or subcontractor whose location and continuance in operation are determined wholly without regard to a particular Federal or federally assisted contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, tool yards, etc., of a commercial or material supplier, which are established by a supplier of materials for the project before opening of bids and not on the site of the work as stated in paragraph (l)(1) of this section, are not included in the *site of the work.* Such permanent, previously established facilities are not part of the *site of the work,* even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

* * * * *

Signed in Washington, D.C., on this 18th day of September, 2000.

**T. Michael Kerr,**

*Administrator.*

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

## RULES GOING INTO EFFECT SEPTEMBER 21, 2000

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Common carrier services:
- Wireless communication services—
  - 746-764 and 776-794 MHz bands; service rules; clarification; published 9-21-00
- Wireless telecommunications services—
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**LABOR DEPARTMENT**

**Employment and Training Administration**

Alien temporary employment labor certification process:
- H-1C nonimmigrants as registered nurses; published 9-21-00

Aliens:
- Temporary employment in U.S.—
  - Attestations by facilities employing H-1C nonimmigrant aliens as registered nurses; published 8-22-00

**TRANSPORTATION DEPARTMENT**

**Federal Aviation Administration**

Airworthiness directives:
- Bombardier; published 8-17-00

**TREASURY DEPARTMENT**

**Internal Revenue Service**

Income taxes:
- Capital gains, partnership, Subchapter S, and trust provisions; published 9-21-00

## COMMENTS DUE NEXT WEEK

**AGRICULTURE DEPARTMENT**

**Agricultural Marketing Service**

Oranges, grapefruit, tangerines, and tangelos grown in—
- Florida; comments due by 9-25-00; published 9-15-00

**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

Land Remote Sensing Policy Act of 1992:
- Private land remote-sensing space systems; licensing requirements; comments due by 9-29-00; published 7-31-00

Marine mammals:
- Incidental taking—
  - North Pacific Acoustic Laboratory; low frequency sound source operation; comments due by 9-25-00; published 8-24-00

**COMMODITY FUTURES TRADING COMMISSION**

Commodity Exchange Act:
- Futures commission merchants and introducing brokers; minimum financial requirements
  - Capital charge on unsecured receivables due from foreign brokers; comments due by 9-27-00; published 8-28-00

**DEFENSE DEPARTMENT**

Federal Acquisition Regulation (FAR):
- Civilian Agency Acquisition Council and Defense Acquisition Regulations Council; definitions for classified acquisitions; comments due by 9-26-00; published 7-28-00
- Final contract voucher submission; comments due by 9-25-00; published 7-27-00
- North American Industry Classification System; comments due by 9-25-00; published 7-26-00

**EDUCATION DEPARTMENT**

Postsecondary education:
- Federal Family Education Loan Program and William D. Ford Federal Direct Loan Program; comments due by 9-25-00; published 8-10-00
- Higher Education Act; Title IV programs; application, reapplication, and certification processes; streamlining, etc.; comments due by 9-25-00; published 8-10-00

**ENVIRONMENTAL PROTECTION AGENCY**

Air pollutants, hazardous; national emission standards:
- Polymers and resins—
  - Compliance date (Group IV); indefinite stay; comments due by 9-28-00; published 8-29-00
  - Compliance date (Group IV); indefinite stay; comments due by 9-28-00; published 8-29-00

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 9-28-00; published 8-29-00
- Indiana; comments due by 9-28-00; published 8-29-00

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
- Michigan; comments due by 9-29-00; published 8-30-00

Superfund program:
- National oil and hazardous substances contingency plan—
  - National priorities list update; comments due by 9-25-00; published 7-27-00
  - National priorities list update; comments due by 9-28-00; published 8-28-00
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**FARM CREDIT ADMINISTRATION**

Farm credit system:
- Loan policies and operations—
  - Loan purchases and sales; definitions; comments due by 9-25-00; published 7-26-00

**FEDERAL COMMUNICATIONS COMMISSION**

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- Maine; comments due by 9-25-00; published 8-7-00

Radio services, special:
- Private land mobile services—
  - Public safety 700 MHz band; comments due by 9-25-00; published 8-25-00

Radio stations; table of assignments:
- Vermont; comments due by 9-25-00; published 8-24-00

Television broadcasting:
- Cable television systems—
  - Multichannel video and cable television service; 1998 biennial review; comments due by 9-26-00; published 9-5-00

**GENERAL SERVICES ADMINISTRATION**

Federal Acquisition Regulation (FAR):
- Civilian Agency Acquisition Council and Defense Acquisition Regulations Council; definitions for classified acquisitions; comments due by 9-26-00; published 7-28-00
- Final contract voucher submission; comments due by 9-25-00; published 7-27-00
- North American Industry Classification System; comments due by 9-25-00; published 7-26-00

**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Food and Drug Administration**

Biological products:
- In vivo radiopharmaceuticals used for diagnosis and monitoring—
  - Medical imaging drugs and biologics, development; evaluation and approval; industry guidance; comments due by 9-29-00; published 7-31-00

**INTERIOR DEPARTMENT**

**Fish and Wildlife Service**

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- Critical habitat designations—
  - Spectacled eider and Steller's eider; comments due by 9-25-00; published 8-24-00
- Southwestern Washington/ Columbia River coastal cutthroat trout; take prohibitions clarification; comments due by 9-29-00; published 9-6-00

**INTERIOR DEPARTMENT**

**Hearings and Appeals Office, Interior Department**

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**JUSTICE DEPARTMENT**

**Drug Enforcement Administration**

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**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

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Civilian Agency Acquisition Council and Defense Acquisition Regulations Council; definitins for classified acquisitions; comments due by 9-26-00; published 7-28-00

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North American Industry Classification System; comments due by 9-25-00; published 7-26-00

**NUCLEAR REGULATORY COMMISSION**

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FuelSolutions addition; comments due by 9-25-00; published 7-11-00

**POSTAL SERVICE**

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**SECURITIES AND EXCHANGE COMMISSION**

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**TRANSPORTATION DEPARTMENT**

**Coast Guard**

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**TRANSPORTATION DEPARTMENT**

**Federal Aviation Administration**

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**TRANSPORTATION DEPARTMENT**

**Federal Highway Administration**

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**National Highway Traffic Safety Administration**

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**Alcohol, Tobacco and Firearms Bureau**

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**TREASURY DEPARTMENT**

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## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

**H.R. 4040/P.L. 106–265**

To amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees, members of the uniformed services, and civilian and military retirees, provide for the correction of retirement coverage errors under chapters 83 and 84 of such title, and for other purposes. (Sept. 19, 2000; 114 Stat. 762)

**Last List August 23, 2000**

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