AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Federal Register

9–6–01 Thursday
Vol. 66 No. 173 Sept. 6, 2001
Pages 46509–46692

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Federal Register

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Thursday, September 6, 2001

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

Pine Shoot Beetle; Addition to Quarantined Areas

CFR Correction

In Title 7 of the Code of Federal Regulations, parts 300 to 399, revised as of January 1, 2001, appearing on page 34 and 35, § 301.50–3(d) is removed. The text was removed by an amendment published at 64 FR 387, January 5, 1999.

[FR Doc.01–55522 Filed 9–5–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–23–AD; Amendment 39–12428; AD 2001–18–02]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes, that requires a one-time eddy current inspection for cracks of the fuselage butt joint which is forward of the emergency exits on the left- and right-hand sides of the airplane at the level of stringers 27/48. This proposal would also require repair of any cracks detected. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign airworthiness authority. The actions specified by this AD are intended to detect and correct cracks in the area of the emergency escape hatches, which, if undetected, could result in depressurization during flight, possibly leading to structural failure of the airplane.

DATES: Effective October 11, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 11, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes was published in the **Federal Register** on June 27, 2001, (66 FR 34132). That action proposed to require a one-time eddy current inspection for cracks of the fuselage butt joint which is forward of the emergency exits on the left- and right-hand sides of the airplane at the level of stringers 27/48. That action also proposed to require repair of any cracks detected.

Comments

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

Conclusions

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 23 Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required eddy current inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,760, or $120 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–18–02 Fokker Services B.V.: Amendment 39–12428. Docket 2001–NM–23–AD.

Applicability: All Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracks in the area of the emergency escape hatches, which, if undetected, could result in depressurization during flight, possibly leading to structural failure of the airplane, accomplish the following:

Inspection

(a) Prior to the accumulation of 30,000 total flight cycles, or within 12 months after the effective date of this AD, whichever occurs later: Perform a one-time eddy current inspection to detect cracks of the fuselage butt joint forward of the emergency hatches on the left- and right-hand sides of the airplane at the level of stringers 27/48, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF28/53–148, dated August 15, 2000.

Repair

(b) If any crack is found during the inspection required by paragraph (a) of this AD: Prior to further flight, repair the crack per a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Rijksluchtvaartdienst (or its delegated agent).

Reporting

(c) Submit a report of inspection findings (both positive and negative) to Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; and to Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; fax (425) 227–1320. The report is to be submitted at the applicable time specified in paragraph (c)(1) or (c)(2) of this AD. The report must include the inspections results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control Number 2120–0056.

(1) For airplanes on which the inspection is accomplished after the effective date of this AD: Submit a report of findings within 10 days after performing the inspection required by paragraph (a) of this AD.

(2) For airplanes on which the inspection was accomplished prior to the effective date of this AD: Submit a report of findings within 10 days after the effective date of this AD.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(f) Except as specified by paragraph (b) of this AD, the actions shall be done in accordance with Fokker Service Bulletin SBF28/53–148, dated August 15, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Dutch airworthiness directive Dutch airworthiness directive 2000–151, dated November 30, 2000

Effective Date

(g) This amendment becomes effective on October 11, 2001.

Issued in Renton, Washington, on August 27, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22085 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–24–AD; Amendment 39–12429; AD 2001–18–03]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, that requires a one-time inspection for correct installation of the left- and right-hand fuel differential pressure (FDP) switches and for correct connection of the pressure sensing lines to the switches, and corrective action, if necessary. The actions specified by this AD are intended to ensure that a warning light goes on when the fuel filter is partially blocked by ice, so that the blockage of the fuel filter does not increase, leading to reduced fuel flow to the engine and possibly to an engine flame-out. This action is intended to address the identified unsafe condition.

DATES: Effective October 11, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 11, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the Federal Aviation

Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes was published in the **Federal Register** on June 27, 2001 (66 FR 34134). That action proposed to require a one-time inspection for correct installation of the left- and right-hand fuel differential pressure (FDP) switches and for correct connection of the pressure sensing lines to the switches, and corrective action, if necessary.

Comments

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

Cite Foreign Airworthiness Directive

The commenter states that the Dutch airworthiness directive is not cited in the proposed rule, and asks that it be included in the final rule. The FAA agrees with the commenter in that the note citing the Dutch airworthiness directive was inadvertently omitted from the proposed rule. We have added the note to this final rule accordingly.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 44 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required one-time inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,640, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–18–03 Fokker Services B.V.: Amendment 39–12429. Docket 2001-NM–24-AD.

Applicability: All Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure that a warning light goes on when the fuel filter is partially blocked by ice, so that the blockage of the fuel filter does not increase, leading to reduced fuel flow to the engine and possibly to an engine flame-out, accomplish the following:

Inspection/Corrective Action

(a) Within 60 days from the effective date of this AD: Perform a one-time general visual inspection for correct installation of the left- and right-hand fuel differential pressure (FDP) switches and for correct connection of the pressure sensing lines to the FDP switches, in accordance with the Accomplishment Instructions of Fokker Service Bulletin F27/28–63, dated November 21, 1999. If the switches are found to be installed incorrectly, as specified in the service bulletin, prior to further flight, re-install the switches and re-connect the pressure sensing lines to the switches, in accordance with the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Alternative Methods of Compliance

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

may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Fokker Service Bulletin F27/28–63, dated November 21, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Dutch airworthiness directive 1999–154, dated November 30, 1999.

Effective Date

(e) This amendment becomes effective on October 11, 2001.

Issued in Renton, Washington, on August 27, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22086 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–119–AD; Amendment 39–12430; AD 2001–18–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747–400 series airplanes, that currently requires repetitive inspections to detect damage or deflection of the crew rest heat exchanger, and follow-on actions, if necessary. This amendment adds a new requirement for a one-time inspection to determine the part number and shop code of the shell of the crew rest heat exchanger; and follow-on actions, if necessary; which terminate the currently required repetitive inspections. This action is necessary to prevent cracking and buckling of the front edge of the crew rest heat exchanger, which could result in a jam of the rudder or elevator control cables, and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective September 21, 2001.

The incorporation by reference of Boeing Alert Service Bulletin 747–21A2412, Revision 2, dated November 30, 2000, as listed in the regulations, is approved by the Director of the Federal Register as of September 21, 2001.

The incorporation by reference of Boeing Alert Service Bulletin 747–21A2412, dated January 20, 2000, as listed in the regulations, was approved previously by the Director of the Federal Register as of June 8, 2000 (65 FR 33444, May 24, 2000).

Comments for inclusion in the Rules Docket must be received on or before November 5, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–119–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via the Internet must contain ''Docket No. 2001–NM–119–AD'' in the subject line and need not be submitted in triplicate.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Barbara Mudrovich, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2983; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On May 15, 2000, the FAA issued AD 2000–10–12, amendment 39–11736 (65 FR 33444, May 24, 2000), applicable to certain Boeing Model 747–400 series airplanes, to require repetitive inspections to detect damage or deflection of the crew rest heat exchanger, and follow-on actions, if necessary. That action was prompted by reports of cracking and buckling of the front edge of the crew rest heat exchanger on several airplanes. The requirements of that AD are intended to detect and correct damage or deflection of the crew rest heat exchanger, which could result in jamming of the rudder or elevator control cables, and consequent reduced controllability of the airplane.

In the preamble to AD 2000–10–12, the FAA indicated that the actions required by that AD were considered ''interim action'' and that further rulemaking action was being considered. We now have determined that further rulemaking action is indeed necessary, and this AD follows from that determination.

Actions Since Issuance of Existing AD

Since the issuance of AD 2000–10–12, we have reviewed and approved Boeing Alert Service Bulletin 747–21A2412, Revision 2, dated November 30, 2000. (AD 2000–10–12 referred to the original issue of Boeing Alert Service Bulletin 747–21A2412, dated January 20, 2000, as the appropriate source of service information for the required actions.) Among other changes, Revision 2 of the service bulletin adds a new one-time inspection to determine the part number and shop code of the shell assembly of the crew rest heat exchanger. The service bulletin also describes procedures for certain follow-on actions if the shell has a certain part number and shop code, or if the shop code cannot be determined. The follow-on actions involve removing the shell assembly of the heat exchanger; measuring the thickness of the wall of the shell adjacent to the forward flange; remarking the part, if necessary; and replacing the shell assembly of the crew rest heat exchanger with a new shell assembly, if necessary. Accomplishment of the new inspection and applicable follow-on actions eliminates the need for the currently required repetitive inspections for deflection or damage of the crew rest heat exchanger. Accomplishment of the actions specified in Revision 2 of the service bulletin is intended to adequately address the identified unsafe condition.

Additionally, paragraph (b) of AD 2000–10–12 contains a requirement to measure the thickness of the material of

discrepant heat exchanger and send certain discrepant heat exchangers and inspection results to the airplane manufacturer. Because the airplane manufacturer has issued the new service bulletin discussed above, which contains a terminating action for the repetitive inspections required previously, we find that it is no longer necessary to require the measurement and return of discrepant heat exchangers. Paragraph (b) has been revised accordingly, and Note 3 of the existing AD, which contains information related to the return of damaged heat exchangers, has not been included in this AD.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, this AD supersedes AD 2000–10–12 to continue to require repetitive inspections to detect damage or deflection of the crew rest heat exchanger, and follow-on actions, if necessary. This AD adds a new requirement for a one-time inspection to determine the part number and shop code of the shell of the crew rest heat exchanger, and follow-on actions, if necessary, which terminate the currently required repetitive inspections. The actions are required to be accomplished in accordance with the service bulletins described previously, except as discussed below.

Differences Between Service Bulletin and This AD

This AD differs from the service bulletin in that the service bulletin specifies that the new inspection to determine the part number and shop code of the shell of the crew rest heat exchanger be accomplished at ''the next heavy maintenance visit.'' We find that such a compliance time will not necessarily ensure that the inspection will be done in a timely manner. In developing an appropriate compliance time for the new inspection required by this AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the new inspection (less than one hour). In light of all of these factors, we find an 18-month compliance time for completing the required inspection to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety. We find that this compliance time will also be sufficient to allow the inspections to be conducted during a regularly scheduled maintenance visit for the majority of the affected fleet.

Cost Impact

None of the Model 747–400 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would take approximately 1 work hour to accomplish the inspection currently required by AD 2000–10–12, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection would be $60 per airplane, per inspection cycle.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would take approximately 1 work hour to accomplish the new inspection required by this AD, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new required inspection would be $60 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–119–AD.'' The postcard will be date-stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11736 (65 FR 33444, May 24, 2000), and by adding a new airworthiness directive (AD) amendment 39–12430, to read as follows:

2001–18–04 Boeing: Amendment 39–12430. Docket 2001–NM–119–AD. Supersedes AD 2000–10–12, Amendment 39–11736.

Applicability: Model 747–400 series airplanes, line numbers 1 through 1205 inclusive, certificated in any category, and equipped with dual crown skin heat exchangers.

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

Compliance: Required as indicated, unless accomplished previously.

Restatement of Requirements of AD 2000–10–12

Repetitive Inspections

(a) Within 1,200 flight hours or 90 days after June 8, 2000 (the effective date of AD 2000–10–12, amendment 39–11736), whichever occurs first, perform a general visual inspection of the crew rest heat exchanger to detect deflection or damage, in accordance with Boeing Alert Service Bulletin 747–21A2412, dated January 20, 2000, or Revision 2, dated November 30, 2000. Repeat the inspection thereafter at intervals not to exceed 2,500 flight hours, until paragraph (d) of this AD is accomplished.

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

Corrective Action

(b) If any damage or deflection is detected during any inspection required by paragraph (a) of this AD, prior to further flight, replace the discrepant heat exchanger with a new heat exchanger, in accordance with Boeing Alert Service Bulletin 747–21A2412, dated January 20, 2000, or Revision 2, dated November 30, 2000.

New Requirements of This AD

Note 3: Inspections and replacements accomplished prior to the effective date of this AD in accordance with Boeing Alert Service Bulletin 747–21A2412, Revision 1, dated August 31, 2000; are considered acceptable for compliance with paragraphs (a) and (b) of this AD.

Determination of the Part Number of the Heat Exchanger Shell

(c) Within 18 months after the effective date of this AD, do an inspection to determine the part number of the shell assembly of the crew rest heat exchanger, according to Boeing Alert Service Bulletin 747–21A2412, Revision 2, dated November 30, 2000.

(1) If the part number of the shell is NOT listed in the ''Existing Part Number'' column of the ''Existing Parts Accountability'' table under Section 2.E. of the service bulletin: No further action is required by this AD. This terminates the repetitive inspections required by paragraph (a) of this AD.

(2) If the part number is listed in the ''Existing Part Number'' column of the ''Existing Parts Accountability'' table under Section 2.E. of the service bulletin, but the shop code is NOT A3210: No further action is required by this AD. This terminates the repetitive inspections required by paragraph (a) of this AD.

(3) If the part number is listed in the ''Existing Part Number'' column of the ''Existing Parts Accountability'' table under Section 2.E. of the service bulletin, and the shop code is A3210 or cannot be determined, do paragraph (d) of this AD.

Measurement of Wall of Shell Assembly and Corrective Action

(d) For airplanes on which the shell assembly of the crew rest heat exchanger has the part number listed in the ''Existing Part Number'' column of the ''Existing Parts Accountability'' table under Section 2.E. of Boeing Alert Service Bulletin 747–21A2412, Revision 2, dated November 30, 2000, and the shop code is A3210 or cannot be determined: Before further flight, remove the shell assembly of the heat exchanger and measure the thickness of the wall of the shell adjacent to the forward flange, according to the service bulletin.

(1) If the thickness of the wall of the shell is equal to or greater than 0.028 inch: Remark the part if the part marking was unreadable, and reinstall the shell assembly, according to the service bulletin. No further action is required by this AD. This terminates the repetitive inspections required by paragraph (a) of this AD.

(2) If the thickness is less than 0.028 inch: Replace the shell assembly with a new shell assembly, according to the service bulletin. This terminates the repetitive inspections required by paragraph (a) of this AD.

Spares

(e) As of the effective date of this AD, no one may install a crew rest heat exchanger on any airplane unless paragraphs (c) and (d) of this AD, as applicable, have been done on that heat exchanger.

Alternative Methods of Compliance

(f)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 2000–10–12, amendment 39–11736, are approved as alternative methods of compliance with this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(h) The actions shall be done in accordance with Boeing Alert Service Bulletin 747–21A2412, dated January 20, 2000; or Boeing Alert Service Bulletin 747–21A2412, Revision 2, dated November 30, 2000; as applicable.

(1) The incorporation by reference of Boeing Alert Service Bulletin 747–21A2412, Revision 2, dated November 30, 2000, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Alert Service Bulletin 747–21A2412, dated January 20, 2000, was approved previously by the Director of the Federal Register as of June 8, 2000 (65 FR 33444, May 24, 2000).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal

Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on September 21, 2001.

Issued in Renton, Washington, on August 27, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22087 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–20–AD; Amendment 39–12433; AD 2001–18–07]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Models 1900, 1900C, and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Beech Models 1900, 1900C, and 1900D airplanes. This AD requires you to inspect all four flap flexible shaft assemblies for the correct diagonal wrap and the correct installation. This AD also requires you to replace any flap flexible shaft assembly that has an incorrect diagonal wrap or incorrect installation. This AD is the result of several occurrences of flap extension/retraction failures on the affected airplanes due to the inner flexible shaft ends separating or disengaging. The actions specified by this AD are intended to prevent these flap extension/retraction failures due to incorrectly configured flap flexible shaft assemblies. Such failure could result in an asymmetric flap condition during flight if the flap safety switch fails to function properly.

DATES: This AD becomes effective on October 12, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of October 12, 2001.

ADDRESSES: You may get the service information referenced in this AD from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–20–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul DeVore, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4142; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The FAA has received reports of flap extension/retraction system failures on Raytheon Model 1900D airplanes. The failures occurred when the inner flexible shaft ends separated or disengaged. One of these failures resulted in an asymmetric flap condition when the flap safety switch failed to function properly.

The flap flexible shafts are designed to carry more torque in one direction than the other. If installed on the wrong side of the airplane, the excessive torque load leads to these failures. Raytheon informed us that the flap flexible shafts may have been installed on the wrong side of the airplane on certain Beech Models 1900, 1900C, and 1900D airplanes.

What Are the Consequences if the Condition Is Not Corrected?

Flap extension/retraction failures caused by incorrectly configured flap flexible shaft assemblies could result in loss of flap function or an asymmetric flap condition during flight if the flap safety switch fails to function properly.

Has FAA Taken Any Action to This Point?

The FAA issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Raytheon Beech Models 1900, 1900C, and 1900D airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on June 5, 2001 (66 FR 30093). The NPRM proposed to require you to inspect the inner flexible (drive) shaft of all four flap flexible shaft assemblies for the correct diagonal wrap and the correct installation; and replace any flap flexible shaft assembly that has an incorrect diagonal wrap or incorrect installation.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We determined that these minor corrections:

—Will not change the meaning of the AD; and

—Will not add any additional burden upon the public than was already proposed.

Cost Impact

How Many Airplanes Does This AD Impact?

The FAA estimates that this AD affects 205 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected airplanes?

We estimate the following costs to accomplish the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours × $60 per hour = $120	No parts required for the inspection	$120 per airplane	$24,600

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

Labor cost	Parts cost	Cost per flap shaft
8 workhours per flap shaft × $60 per hour = $480.	$232 per flap shaft	$712 per flap shaft (total of four per airplane).

The manufacturer will provide warranty credit for labor and parts to the extent noted under the Warranty Credit section of Raytheon Mandatory Service Bulletin SB 27–3397, Issued: January, 2001.

Regulatory Impact

Does This AD Impact Various Entities?

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

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–18–07 Raytheon Aircraft Company: Amendment 39–12433; Docket No. 2001–CE–20–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial No.
Beech Model 1900	UA–2 and UA–3.
Beech Model 1900C	UB–1 through UB–74 and UC–1 through UC–174.
Beech Model 1900C (C–12J)	UD–1 through UD–6.
Beech Model 1900D	UE–1 through UE–345; UE–347 through UE–361; UE–364; UE–367; UE–373; and UE–379.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent flap extension/retraction failures due to incorrectly configured flap flexible shaft assemblies. Such failure could result in an asymmetric flap condition during flight if the flap safety switch fails to function properly.

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

Actions	Compliance	Procedures
(1) Inspect the inner flexible (drive) shaft of all four flap flexible shaft assemblies for the correct diagonal wrap and the correct installation.	Within the next 200 hours time-in-service (TIS) after October 12, 2001 (the effective date of this AD), unless already accomplished.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Mandatory Service Bulletin SB 27–3397, Issued: January, 2001.
(2) Replace any flap flexible shaft assembly found to-have an incorrect diagonal wrap or incorrect installation during the inspection required by paragraph (d)(1) of this AD.	Prior to further flight after the inspection required in paragraph (d)(1) of this AD.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Mandatory Service Bulletin SB 27–3397, Issued: January, 2001, and applicable maintenance manual.

(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, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Paul DeVore, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4142; facsimile: (316) 946–4407.

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

(h) *Are any service bulletins incorporated into this AD by reference?* You must accomplish the actions required by this AD in accordance with Raytheon Aircraft Mandatory Service Bulletin SB 27–3397, Issued: January, 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on October 12, 2001.

Issued in Kansas City, Missouri, on August 28, 2001.

Larry E. Werth,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22174 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–239–AD; Amendment 39–12434; AD 2001–18–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–300 Series Airplanes Modified by Supplemental Type Certificate SA7019NM–D

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767–300 series airplanes modified by supplemental type certificate SA7019NM–D, that requires modification of the in-flight entertainment (IFE) system to install a switch to remove power from the IFE system, and revision of flight crew and cabin crew procedures. This action is necessary to ensure that the flight crew and cabin crew are able to remove electrical power from the IFE system when necessary and are advised of appropriate procedures for such action. Inability to remove power from the IFE system during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Effective October 11, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 11, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from BFGoodrich Aerospace, 3100 112th Street SW., Everett, Washington 98204–3500. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen S. Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 767–300 series airplanes modified by supplemental type certificate SA7019NM–D was published in the **Federal Register** on June 28, 2001 (66 FR 34377). That action proposed to require modification of the in-flight entertainment (IFE) system to install a switch to remove power from the IFE system and revision of flight crew and cabin crew procedures.

Comments

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

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

None of the airplanes affected by this AD are on the U.S. Register. All airplanes included in the applicability of this AD currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD. However, the FAA considers that this AD is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it will take approximately 40 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts will cost approximately $2,740 per airplane. Based on these figures, the cost impact of the required modification would be $5,140 per airplane.

Should an affected airplane be imported and placed on the U.S. Register in the future, it will take approximately 1 work hour per airplane to accomplish the required manual revisions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required manual revisions would be $60 per airplane.

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

Regulatory Impact

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

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

Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–18–08 Boeing: Amendment 39–12434. Docket 2000–NM–2309–AD.

Applicability: Model 767–300 series airplanes modified by supplemental type certificate (STC) SA7019NM–D, dated July 14, 1995; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure that the flight crew and cabin crew are able to remove electrical power from the in-flight entertainment (IFE) system when necessary and are advised of appropriate procedures for such action, accomplish the following:

Modification and Manual Revisions

(a) Within 18 months after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD.

(1) Install a master power control switch for the video system and associated wiring, in accordance with BFGoodrich Engineering Order 23–32–767–031, dated August 16, 2000.

(2) Following installation of the master power control switch in accordance with paragraph (a)(1) of this AD, prior to further flight, insert BFGoodrich 767 Flight Attendant Manual Supplement D2000–160, dated August 16, 2000, into the Flight Attendant Manual, and insert BFGoodrich B767 Airplane Flight Manual (AFM) Supplement D2001–025, dated February 26, 2001, into the Emergency Procedures section of the AFM.

Spares

(b) As of the effective date of this AD, no person shall install an IFE system in accordance with STC SA7019NM–D, dated July 14, 1995, on any airplane, unless it is modified, and the Flight Attendant Manual and AFM are revised, in accordance with this AD.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with BFGoodrich Engineering Order 23–32–767–031, including Parts List Attachment and Wire List Attachment, dated August 16, 2000; BFGoodrich 767 Flight Attendant Manual Supplement D2000–160, dated August 16, 2000; and BFGoodrich B767 Airplane Flight Manual Supplement D2001–025, dated February 26, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from BFGoodrich Aerospace, 3100 112th Street SW., Everett, Washington 98204–3500. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on October 11, 2001.

Issued in Renton, Washington, on August 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22110 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is updating the animal drug regulations to reflect changes to previously approved new animal drug applications (NADAs). Several sponsors currently listed as sponsors of approved applications and specified in the animal drug approval regulations are incorrect. This action is being taken to improve the accuracy of the regulations.

DATES: This rule is effective September 6, 2001.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–4567.

SUPPLEMENTARY INFORMATION: FDA has found several errors in the agency's regulations concerning sponsors of approved applications of medicated animal feeds. To correct those errors, FDA is amending 21 CFR 510.600(c)(1) and (c)(2) to remove names and corresponding drug labeler codes for Carnation Co., Illini Feeds, and Tevcon Ind., Inc., because these firms are no longer the holders of any approved NADAs. The agency is also amending the animal drug approval regulations by removing the entry associated with Carnation Co.'s NADA 104–424 in 21 CFR 558.58, which is no longer an approved NADA.

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedure are unnecessary because FDA is merely correcting nonsubstantive errors.

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

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling,

Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entries for ''Carnation Co.'', ''Illini Feeds'', and ''Tevcon Ind., Inc.'' and in the table in paragraph (c)(2) by removing the entries for ''047019 and 037310''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.58 [Amended]

4. Section 558.58 *Amprolium and ethopabate* is amended in the table in paragraph (d)(1) by removing paragraph (d)(1)(v).

Dated: August 29, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–22381 Filed 9–5–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1313

[DEA–197F]

RIN 1117–AA53

Waiver of Advance Notification Requirement To Import Acetone, 2-Butanone (MEK), and Toluene

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule.

SUMMARY: This rule finalizes, without change, the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on October 25, 2000, (65 FR 63822; as corrected at 65 FR 67796, November 13, 2000) to amend DEA regulations to waive the advance notification requirement to import the solvents acetone, 2-Butanone (MEK), and toluene, which are regulated as List II chemicals. DEA determined that the advance notification requirement is not necessary for these chemicals for effective chemical diversion control. No comments to the NPRM were received. This change to the regulations will ease regulatory burdens for the regulated industry and administrative burdens for DEA.

EFFECTIVE DATE: October 9, 2001.

FOR FURTHER INFORMATION CONTACT: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

What Does This Final Rule Accomplish?

This final rule finalizes, without change, the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on October 25, 2000 (65 FR 63822; as corrected at 65 FR 67796), to amend Title 21, Code of Federal Regulations (CFR) § 1313.12 to waive the advance notification requirement for imports of the solvents acetone, 2-Butanone (MEK), and toluene, which are regulated as List II chemicals. This rule also finalizes a number of technical corrections to the regulations.

By What Authority Is DEA Waiving the Advance Notification Requirement?

The intent of the chemical control provisions of the Controlled Substances Act (CSA) is to curb the diversion of regulated chemicals to the illicit manufacture of controlled substances. This diversion can occur through distribution, importation and exportation of these chemicals. One of the principal components of chemical control with respect to imports and exports is the requirement that advance notification be provided to DEA prior to an importation or exportation of a listed chemical (21 U.S.C. 971). This advance notification allows DEA an opportunity to review the transaction and determine whether it might result in diversion of the chemical to the illicit manufacture of a controlled substance. The advance notification requirement is conditioned by the provision that DEA can waive the requirement for imports or exports of listed chemicals for which the Administrator determines that such advance notification is not necessary for effective chemical diversion control (21 U.S.C. 971(e)(3), 21 CFR 1313.12(c)(2) and 21 CFR 1313.21(c)(2)).

Why Is DEA Waiving the Advance Notification Requirement for Importation of Acetone, 2-Butanone (MEK), and Toluene?

DEA has determined that the advance notification requirement for acetone, 2-Butanone, and toluene is not necessary for effective chemical diversion control and, therefore, is waiving this requirement for these three List II chemicals.

Acetone, 2-Butanone (MEK) and toluene are widely used as industrial chemicals in the United States. The principal concern for DEA in regard to these solvents is their use in the illicit manufacture of cocaine. Cocaine is manufactured overseas; at this time, it is not manufactured in the United States. Diversion of these solvents for illegal manufacture of controlled substances has not been identified as a significant problem in the United States.

What Comments Did DEA Receive Regarding the Proposed Rule?

DEA received no comments to the NPRM.

What Will Be Required for Imports of Acetone, 2-Butanone (MEK), and Toluene?

With waiver of the advance notification requirement, importers of acetone, 2-Butanone (MEK) and toluene will not be required to submit individual DEA Form 486s in advance of each importation. Instead, importers will submit summary quarterly reports of all import transactions as described in 21 CFR 1313.12(e) pursuant to 21 U.S.C. 971(e)(3).

What Is the Impact of This Rulemaking on the Regulatory Burden for the Regulated Industry?

This final rule reduces the paperwork burden for the regulated industry. Approximately two thirds of all 15-day advance notifications of importation (on average 2000 advance notifications annually) are for the solvents acetone, 2-Butanone (MEK), and toluene, equating to an initial paperwork burden reduction of 420 hours. In lieu of this paperwork requirement, DEA is requiring that importers of acetone, 2-Butanone (MEK) and toluene complete a quarterly summary report of all transactions. This quarterly summary report is estimated to impose a regulatory burden of 200 hours per year. Therefore, this change creates a net reduction of 220 annual paperwork burden hours for the regulated industry.

Technical Corrections to the Regulations

DEA also proposed a number of technical corrections to the regulations, which are finalized in this rulemaking.

In 21 CFR 1313.12(b) and 21 CFR 1313.21(b) the reference to the ''Drug Control Section'' is being changed to the ''Chemical Control Section'' to reflect organizational changes within DEA. In 21 CFR 1313.21(e), the text noting that no DEA Form 486 is required for exportations subject to 21 CFR 1313.21(c)(2) was inadvertently omitted. This text has been reinserted. Further, an error occurred in 21 CFR 1313.21(e) relating to exports where the word ''importation'', rather than the word ''exportation'', was inadvertently used in the sentence: ''The report shall contain the following information regarding each individual importation:''. The word ''exportation'' is being substituted to correct this error.

Regulatory Certifications

Regulatory Flexibility Act

The Deputy Assistant Administrator hereby certifies that this rulemaking has been drafted 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 on a substantial number of small entities. Waiving the 15-day advance notification requirement for imports of acetone, 2-Butanone, and toluene will ease the regulatory burden for the regulated industry.

Executive Order 12866

The Deputy Assistant Administrator further certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866 Section 1(b). DEA has determined that this is not a significant regulatory action. This rulemaking will ease regulatory burdens for the regulated industry. Therefore, this action has not been reviewed by the Office of Management and Budget.

Executive Order 12988

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

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Paperwork Reduction Act

This rulemaking waives the advance notification requirement for acetone, 2-Butanone and toluene. This change creates a net reduction of 220 annual paperwork burden hours for the regulated industry.

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 will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement 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

The Drug Enforcement Administration makes every effort to write clearly. If you have suggestions as to how to improve the clarity of this regulation, call or write Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, telephone (202) 307–7297.

List of Subjects in 21 CFR Part 1313

Administrative practice and procedure, Drug traffic control, Exports, Imports, List I and List II chemicals, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1313 is amended to read as follows:

PART 1313—[AMENDED]

1. The authority citation for part 1313 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b), 971.

2. Section 1313.12 is amended by revising paragraphs (b) and (f) to read as follows:

§ 1313.12 Requirement of authorization to import.

* * * * *

(b) A completed DEA Form 486 must be received at the following address not later than 15 days prior to the importation: Drug Enforcement Administration, P.O. Box 28346, Washington, DC 20038.

A copy of the completed DEA Form 486 may be transmitted directly to the Drug Enforcement Administration, Chemical Control Section, through electronic facsimile media not later than 15 days prior to the importation.

* * * * *

(f) The 15 day advance notification requirement set forth in paragraph (a) has been waived for imports of the following listed chemicals:

(1) Acetone.

(2) 2-Butanone (or Methyl Ethyl Ketone or MEK).

(3) Toluene.

3. Section 1313.21 is amended by revising paragraph (b) and the introductory text of paragraph (e) to read as follows:

§ 1313.21 Requirement of authorization to export.

* * * * *

(b) A completed DEA Form 486 must be received at the following address not later than 15 days prior to the exportation: Drug Enforcement Administration, P.O. Box 28346, Washington, DC 20038. A copy of the completed DEA Form 486 may be transmitted directly to the Drug Enforcement Administration, Chemical Control Section, through electronic facsimile media not later than 15 days prior to the exportation.

* * * * *

(e) For exportations where advance notification is waived pursuant to paragraph (c)(2) of this section, no DEA Form 486 is required, however, the regulated person shall file quarterly reports to the Drug Enforcement Administration, Chemical Control Section, P.O. Box 28346, Washington, DC 20038, by no later than the 15th day of the month following the end of each quarter. The report shall contain the following information regarding each individual exportation:

* * * * *

Dated: August 27, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 01–22321 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD09–01–119]

RIN 2115–AE46

Special Local Regulations for Marine Events; Milwaukee River, Milwaukee, WI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the Milwaukee River Challenge crew boat races, an event to be held on the waters of the Milwaukee River, Milwaukee, Wisconsin. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the Milwaukee River, Milwaukee, Wisconsin during the event.

DATES: This rule is effective from 12 m. (noon) until 6 p.m. (local) on September 22, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–119] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 S. Lincoln Memorial Drive, Milwaukee, WI 53207 from 7 a.m. until 3:30 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

A notice of proposed rulemaking (NPRM) was not published for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard received the permit request for special local regulations on August 1, 2001. We were notified of the need for special local regulations with insufficient time to publish an NPRM, allow for comments, and publish a temporary final rule prior to the event on September 22, 2001.

Background and Purpose

On September 22, 2001, Laacke and Joys Inc. will sponsor the Milwaukee River Challenge crew boat races from 12 m. (noon) until 6 p.m. on the waters of the Milwaukee River, Milwaukee, Wisconsin. A fleet of spectator vessels is expected to gather near the event site to view the crew boat races. Normal river traffic will be shut down for a period of six hours between the Chicago Street and Humboldt Avenue bridges. Except for participants in the Milwaukee River Challenge crew boat races and persons or vessels authorized by the Patrol Commander, no person or vessel may enter or remain in the regulated area.

The regulated area for the boat races will encompass all waters of the Milwaukee River and the adjacent shoreline between the Chicago Street and Humboldt Avenue bridges.

Regulatory Evaluation

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

We expect the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of the Milwaukee River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the vicinity of the Milwaukee River, Milwaukee, Wisconsin from 12 m. (noon) until 6 p.m. (local) on September 22, 2001.

The effect of this regulation will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact U.S. Coast Guard Marine Safety Office Milwaukee. (See **ADDRESSES.**)

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(h) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A new temporary § 100.35-T09–996 is added to read as follows:

§ 100.35-T09–996 Milwaukee River, Milwaukee, Wisconsin.

(a) *Definitions.*

(1) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer who has been designated by the Commander, Coast Guard Group Milwaukee.

(2) *Official patrol.* The Official Patrol is any vessel assigned or approved by Commanding Officer, Marine Safety Office Milwaukee with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Regulated area.* All waters of the Milwaukee River and adjacent shoreline between the Chicago Street bridge and the Humboldt Avenue bridge.

(b) *Special local regulations.*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(c) Effective period. From 12 m. (noon) until 6 p.m. on September 22, 2001.

Dated: August 28, 2001.

K.A. Carlson,

Captain, U.S. Coast Guard, Acting Commander, Ninth Coast Guard District.

[FR Doc. 01–22397 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–030]

Drawbridge Operating Regulation; Inner Harbor Navigation Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the SR 46 (St. Claude Avenue) bridge across the Inner Harbor Navigation Canal, mile 0.5 (GIWW mile 6.2 East of Harvey Lock) in New Orleans, Orleans Parish, Louisiana. This deviation allows the Board of Commissioners of the Port of New Orleans to close the bridge to navigation from 7 a.m. until 5 p.m. on Saturday, September 22, 2001. This temporary deviation is issued to allow for the repair of the riverside operating strut guide of the bridge.

DATES: This deviation is effective from 7 a.m. until 5 p.m. on Saturday, September 22, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The St. Claude Avenue bascule bridge across the Inner Harbor Navigation Canal, mile 0.5 (GIWW mile 6.2 East of Harvey Lock) in New Orleans, Orleans Parish, Louisiana, has a vertical clearance of 1 foot above high water in the closed-to-navigation position and unlimited in the open-to-navigation position. Navigation on the waterway consists mainly of tugs with tows and some ships. The bridge owner requested a temporary deviation from the normal operation of the drawbridge in order to accommodate repair work on the bridge. These repairs are necessary for the continued operation of the bridge.

This deviation allows the draw of the St. Claude Avenue bascule bridge across the Inner Harbor Navigation Canal, mile 0.5 (GIWW mile 6.2 East of Harvey Lock), to remain closed to navigation from 7 a.m. until 5 p.m. on Saturday, September 22, 2001.

Dated: August 27, 2001.

Roy J. Casto,

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

[FR Doc. 01–22396 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–027]

Drawbridge Operating Regulation; Port Allen Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the Union Pacific Railroad vertical lift bridge across the Gulf Intracoastal Waterway, Morgan City to Port Allen (Alternate Route), mile 56.0, on the Port Allen Canal near Morley, West Baton Rouge Parish, Louisiana. This deviation allows the Union Pacific Railroad to close the bridge to navigation from 7 a.m. until 7 p.m. on Monday, September 10, 2001 and from 7 a.m. until 7 p.m. on Wednesday, September 12, 2001. Presently, the draw is required to open on signal. This temporary deviation is issued to allow for the removal of the existing bridge joint components and set new panels on the moveable and the fixed ends of the bridge.

DATES: This deviation is effective from 7 a.m. on Monday, September 10, 2001 until 7 p.m. on Wednesday, September 12, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad vertical lift span bridge across the Gulf Intracoastal Waterway, Morgan City to Port Allen (Alternate Route), mile 56.0, on the Port Allen Canal near Morley, West Baton Rouge Parish, Louisiana, has a vertical clearance of 7 feet above high water in the closed-to-navigation position and 73 feet above mean high water in the open-to-navigation position. Navigation on the waterway consists mainly of tugs with tows. The Union Pacific Railroad requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the maintenance and repair work on the bridge. These repairs are necessary for the continued operation of the bridge.

This deviation allows the draw of the Union Pacific Railroad vertical lift span drawbridge across the Gulf Intracoastal Waterway, Morgan City to Port Allen (Alternate Route), mile 56.0, on the Port Allen Canal, to remain closed to navigation from 7 a.m. until 7 p.m. on Monday, September 10, 2001 and from 7 a.m. until 7 p.m. on Wednesday, September 12, 2001.

Dated: August 27, 2001.

Roy J. Casto,

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

[FR Doc. 01–22393 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–038]

RIN 2115–AE47

Drawbridge Operation Regulations: West Bay, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operating regulations for the West Bay Bridge, at mile 1.2, across West Bay in Osterville, Massachusetts. This final rule will increase the advance notice requirement for April and extend the evening operating hours at the bridge during the boating season. This action is expected to better meet the present needs of navigation.

DATES: This rule is effective October 9, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–01–038) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 9, 2001, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; West Bay, Massachusetts, in the **Federal Register** (66 FR 23638). We received no comment letters in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The West Bay Bridge, mile 1.2, across West Bay has a vertical clearance of 15 feet at mean high water and 17 feet at mean low water.

The existing regulations for the bridge listed at 33 CFR 117.622, require the bridge to open on signal, April 1 through October 31, as follows:

(1) April 1 through June 14 and October 12 through October 31; 8 a.m. to 4 p.m.

(2) June 15 through June 30; 8 a.m. to 6 p.m.

(3) July 1 through Labor Day; 8 a.m. to 8 p.m.

(4) Labor Day through October 11; 8 a.m. to 5 p.m.

(5) At all other times from April 1 through October 31, the draw shall open on signal if at least four-hours advance notice is given.

(6) From November 1 through March 31, the draw shall open on signal if at least twenty-four hours advance notice is given.

The bridge owner, the Town of Barnstable, asked the Coast Guard to change the drawbridge operation regulations to allow the bridge to open on signal, from April 1 through April 30

if at least a twenty-four hours advance notice is given by calling the number posted at the bridge.

The bridge was authorized to remain closed for repairs in April for the last two years. The number of bridge openings in April for the last five years are as follows:

1995	1996	1997	1998	1999	2000
54	46	45	70	0	0

In return for the advance notice requirement at all times in April, the bridge owner would crew the bridge two to three hours later at night during the boating season.

The bridge owner voluntarily expanded on signal service during the summer of 1999 and 2000, by extending the operating hours at the bridge at night. This was possible as a result of the cost savings derived from not crewing the bridge, 8 a.m. to 4 p.m., during the month of April while it was closed for repairs.

The bridge owner held a town meeting on January 25, 2001, in Osterville, Massachusetts, to receive verbal and written comment regarding this proposed change to the drawbridge operation regulations. The bridge has essentially operated for the past two years in accordance with the operating hours included in this rule. The proposed changes were fully supported by the local attendees at the special town meeting. Attendees at the meeting included the local marina operators, mariners and citizens of Osterville. Mariners can reach open water when the West Bay Bridge is not crewed by navigating through Cotuit.

Discussion of Comments and Changes

The Coast Guard received no comment letters. No changes will be made to this final rule.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). This conclusion is based on the fact that the bridge will open at all times for vessel traffic.

Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.622 is revised to read as follows:

§ 117.622 West Bay

The draw of the West Bay Bridge, mile 1.2, at Osterville, shall operate as follows:

(1) From November 1 through April 30, the draw shall open on signal if at least a twenty-four hours advance notice is given.

(2) From May 1 through June 15, the draw shall open on signal from 8 a.m. to 6 p.m.

(3) From June 16 through September 30, the draw shall open on signal from 7 a.m. to 9 p.m.

(4) From October 1 through October 31, the draw shall open on signal from 8 a.m. to 6 p.m.

(5) At all other times from May 1 through October 31, the draw shall open on signal if at least a four-hours advance notice is given by calling the number posted at the bridge.

Dated: August 17, 2001.

G.N. Naccara,

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

[FR Doc. 01–22394 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–028]

Drawbridge Operating Regulation; Atchafalaya River, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the Union Pacific Railroad vertical lift bridge across the Atchafalaya River, mile 107.4, near Melville, St. Landry and Point Coupee Parishes, Louisiana. This deviation allows the Union Pacific Railroad to close the bridge to navigation from 7 a.m. until 7 p.m. on Monday, October 15, 2001 and from 7 a.m. until 7 p.m. on Wednesday, October 17, 2001. This temporary deviation is issued to allow for the removal of the existing bridge joint components and set new panels on the moveable and the fixed ends of the bridge.

DATES: This deviation is effective from 7 a.m. on Monday, October 15, 2001 until 7 p.m. on Wednesday, October 17, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad vertical lift span bridge across the Atchafalaya River, mile 107.4, near Melville, St. Landry and Point Coupee Parishes, Louisiana, has a vertical clearance of 4 feet above high water in the closed-to-navigation position and 54 feet above mean high water in the open-to-navigation position. Navigation on the waterway consists mainly of tugs with tows. The Union Pacific Railroad requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the maintenance and repair work on the bridge. These repairs are necessary for the continued operation of the bridge.

This deviation allows the draw of the Union Pacific Railroad vertical lift span drawbridge across the Atchafalaya River, mile 107.4, to remain closed to navigation from 7 a.m. until 7 p.m. on Monday, October 15, 2001 and from 7 a.m. until 7 p.m. on Wednesday, October 17, 2001.

Dated: August 27, 2001.

Roy J. Casto,

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

[FR Doc. 01–22395 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4135a; FRL–7049–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for 14 Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for 14 major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_X) located in the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is approving these revisions in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on October 22, 2001 without further notice, unless EPA receives adverse written comment by October 9, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ray Chalmers at (215) 814–2061, or by e-mail at chalmers.ray@epa.gov. Please

note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) All sources covered by a CTG issued prior to November 15, 1990; (3) All other major non-CTG rules were due by November 15, 1992. The Pennsylvania SIP has approved RACT regulations and requirements for all sources and source categories covered by the CTGs.

On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Philadelphia area, a major source of VOC is defined as one having the potential to emit 25 tons per year (tpy) or more, and a major source of NO_X is also defined as one having the potential to emit 25 tpy or more. Pennsylvania's RACT regulations require sources, in the Philadelphia area, that have the potential to emit 25 tpy or more of VOC and sources which have the potential to emit 25 tpy or more of NO_X to comply with RACT by May 31, 1995. The regulations contain technology-based or operational ''presumptive RACT emission limitations'' for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a ''generic'' RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by-case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; *or* (2) demonstrates that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status in the Philadelphia area. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Philadelphia area.

It must be noted that the Commonwealth has adopted and is implementing additional ''post RACT requirements'' to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as a SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call regulations. On August 10, 2001, EPA signed its final rule approving the Commonwealth's NO_X SIP call regulations as a SIP revision and expects it to be published in the **Federal Register** in the near future. Federal approval of a case-by-case RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

II. Summary of the SIP Revisions

On December 8, 1995, March 21, 1996, January 21, 1997, July 24, 1998, April 20, 1999, March 23, 2001 (two separate submissions), and July 5, 2001; PADEP submitted revisions to the Pennsylvania SIP to establish and impose RACT for several major sources of VOC and/or NO_X. This rulemaking pertains to fourteen (14) of those sources. The remaining sources are or have been the subject of separate rulemakings. These sources are all located in the Philadelphia area. The table below identifies the sources and the individual plan approvals (PAs) or operating permits (OPs) in which RACT has been imposed. A summary of the VOC and NO_X RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	PA # or OP #	Source type	Pollutant
Perkasie Industries	Bucks	OP–09–0011	Lighting Fixture Production	VOC
Quaker Chemical Corporation.	Montgomery	OP–46–0071	Specialty Chemicals Producer	VOC & NO_X

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES—Continued

Source	County	PA # or OP #	Source type	Pollutant
Rohm and Haas—Bucks County Plant.	Bucks	OP–09–0015	Chemical Producer	VOC & NO_X
Rohm and Haas—Philadelphia Plant.	Philadelphia	PA–51–1531	Chemical Producer	VOC & NO_X
SBF Communications Graphics.	Philadelphia	PA–2197	Printing Facility	VOC
Schlosser Steel, Inc	Montgomery	OP–46–0051	Structural Steel Products	VOC
SEPTA's Berridge/ Courtland Maintenance Shop.	Philadelphia	PA–51–4172	Bus Repair & Maintenance Facility	VOC
Smith-Edwards-Dunlap Company.	Philadelphia	PA–2255	Printing Facility	VOC
Southwest Water Pollution Control Plant/Biosolids Recycling Center.	Philadelphia	PA 51–9515	Wastewater Treatment Plant	VOC & NO_X
Stroehman Bakeries, Inc	Montgomery	PA–46–0003	Bakery	VOC
Sunoco, Inc. (R&M) Refinery.	Philadelphia	PA–1501/1517	Refinery	VOC & NO_X
Tasty Baking Company	Philadelphia	PA–2054	Bakery	NO_X
Transcontinental Gas Pipeline Corp.—Compressor Station #200.	Chester	PA–15–0017	Natural Gas Compressor Station	VOC & NO_X
Worthington Steel Company.	Chester	OP–15–0016	Steel Product Producer	VOC & NO_X

A. Perkasie Industries Corporation

Perkasie Industries Corporation (Perkasie), located in Bucks County, Pennsylvania, manufactures fluorescent lighting fixtures. Perkasie is a major source of VOC. The manufacturing installations and processes at this source are subject to category specific SIP-approved RACT requirements adopted by the Commonwealth in accordance with the applicable CTGs. The clean -up operations require a case-by-case RACT determination. The PADEP issued OP–09–0011 to Perkasie on August 14, 1996 to establish RACT. In OP–09–0011, Pennsylvania imposed work practice standards and limited the VOC emissions from the clean-up operations to less than 3 pounds per hour, 15 pounds per day, and 2.7 tons per year. Under OP–09–0011, Perkasie is required to use EPA approved test methods to determine the VOC properties of all coatings as described in 25 Pa Code 139, and to meet the recordkeeping and reporting requirements of 25 Pa Code 129.95.

B. Quaker Chemical Corporation

Quaker Chemical Corporation (Quaker), located in Montgomery County, Pennsylvania, is a batch process specialty chemicals manufacturing facility. Quaker manufactures approximately 400 different intermediate and final proprietary products through blending and/or reacting of raw materials in process vessels. Quaker is a major source of NO_X and VOC. The majority of the manufacturing installations and processes at this source are subject to category specific SIP-approved VOC RACT requirements adopted by the Commonwealth in accordance with the applicable CTGs and to SIP-approved presumptive RACT requirements to control NO_X. Other small installations and processes require a case-by-case RACT determination. Pennsylvania issued permit OP–46–0071 to Quaker to impose RACT. The equipment which has the potential to emit small amounts of VOCs includes a pilot plant, laboratory hoods, Building #4 material storage vessels, fuel oil storage tanks, the B and C tank farms, the sparkler filter mixing system, and combustion units. OP–46–0071 requires that Quaker keep the following information for these sources: (1) The throughput or usage of each chemical processed, (2) the VOC contents of the chemicals and their Material Safety Data Sheets (MSDS), (3) the quantity of coatings applied through the spray booth, the composition of those coatings and their MSDS, and (4) any other data or records required to conform to 25 Pa. Code 129.95(e). The NO_X emitting units covered by OP–46–0071 include Boilers House Boilers No.1 and 2, each rated at 29.4 MMBtu/hr firing natural gas and NO. 6 fuel oil; several small combustion units, rated from 5MMBtu/hr to 0.3 MMBtu/hr, which fire natural gas only; the Administration Building Generator, rated at 1.4 MMBtu/hr firing natural gas; and the Fire Pump with a rated capacity of 150 hp firing diesel. OP–46–0071 requires that Boiler House Boilers No. 1 and 2 be maintained as follows: (1) An annual adjustment must be performed including inspection, adjustment, cleaning or replacement of the fuel burning equipment (the burners and all moving parts) necessary for operation in accordance with manufacturer's specifications, (2) an inspection must be performed of the flame pattern or characteristics and adjustments made necessary to minimize total emissions of NO_X, (3) an inspection must be performed of the air-to-fuel ratio control system and adjustments made to ensure the proper calibration and operation as specified by the manufacturer. Quaker must keep a permanent log book of the maintenance procedures performed including: (1) The date of the procedure, (2) the name of the service company and technicians, (3) the final operating rate or load, (4) the final NO_X and carbon monoxide emission rates, and (5) the final excess oxygen. Fuel records must be maintained for fuel used in these boilers including: (1) certification from the supplier of the type of fuel and its nitrogen content, and (2) identification of the sampling method and sampling protocol. The operation of the Administration Building Generator and the fire pump must not exceed 500hrs/ year each. The company must operate and maintain all these units in accordance with the manufacturer's specifications and good air pollution control practices.

C. Rohm and Haas

Rohm and Haas, located in Bucks County, Pennsylvania is a diverse chemical manufacturing facility with a variety of continuous and batch type processes. It is a major source of NO_X and VOC. The majority of the manufacturing installations and processes at this source are subject to category specific SIP-approved VOC RACT requirements adopted by the Commonwealth in accordance with the applicable CTGs and to SIP-approved presumptive RACT requirements to control NO_X. Other installations and processes require a case-by-case RACT determination. The PADEP issued Rohm and Haas OP–09–0015 to impose RACT. The company's VOC and NO_X emission sources are located in the following six areas: Emulsions Area, AtoHaas Area, Polymers Area, Plastics Additives Area, Facilities Area, and Bristol Research Park. The units or processes in these areas include, but are not limited to: polymerization reactors, monomer emulsion tanks, additive tanks, mix tanks, storage tanks, wastewater collection tanks, blend tanks, drain tanks, transfer piping, whitewater pits, pelletizers, kettles, inhibitor mix tanks, a cold methyl methacrylate transfer station, distillation vacuum jets, tank truck loading, railcar loading, and bulk loading operations. Pennsylvania identified and determined RACT for these numerous units and/or processes. Pennsylvania specified that RACT for VOC emitting units or processes which already vent to existing scrubbers or incinerators is continued use of the scrubbers or incinerators. Pennsylvania also required the Company to vent additional units or processes to the existing scrubbers or incinerators, and specified that RACT for these units or processes also consists of use of the scrubbers or incinerators. For the fugitive VOC emissions, Pennsylvania specified that RACT consists of use of good operating practices and a visual leak detection and repair program. Pennsylvania established short term and annual VOC limits on the combined equipment and/or processes in each area, and also on the numerous individual units or processes. Pennsylvania identified four boilers located in the Facilities Area as the most significant sources of NO_X emissions. Pennsylvania specified that RACT for two of the boilers is use of low NO_X burners and that the other two boilers are to be operated only as emergency standby units. OP–09–0015 imposes a NO_X emission limit of 0.47 lbs of NO_X/MMBtu on all four boilers. OP–09–0015 imposes extensive testing and recordkeeping requirements accordance with the applicable SIP-approved regulations as necessary to determine compliance. It imposes extensive, specific conditions for the monitoring of the operational parameters of the process and air pollution control equipment at the facility.

D. Rohm and Haas

Rohm and Haas also has a plant located in Philadelphia, Pennsylvania which manufactures chemical products used for industrial and water treatment operations and for pest control. The facility is a major source of NO_X and VOC. The majority of the manufacturing installations and processes at this source are subject to category specific SIP-approved VOC RACT requirements adopted by the Commonwealth in accordance with the applicable CTGs and to SIP-approved presumptive RACT requirements to control NO_X. Other installations and processes require a case-by-case RACT determination. The Philadelphia Air Management Services (AMS) issued Rohm and Haas PA–51–1531 to establish RACT. The PADEP submitted PA–51–1531 to EPA as a SIP revision on behalf of the AMS. The facility has a large variety of units or processes that emit VOC. The units or processes which are the most significant sources of VOC include the Building #21, #R–12, #26, #85, #R–11, #80, and #34 vents, the vacuum distillation vent from the cation bead production process, the Semiworks Kathon area vents, the consolidated Goal process, and fugitive leaks. There are emission controls in place for many of these sources including consolidated Goal process scrubbers #U–526, #U–585, #U–588, and #U–594, the #R–11 Wyssmont scrubber, the Building #80 Amines scrubber, the Building #85 methanol wash scrubber, the Building #34 afterburner, the MMA Tank Car Conservation Vent, and a non-contact chilled water condenser. PA–51–1531 requires the use of this control equipment as RACT. PA–51–1531 specifies the following VOC RACT emissions limits:

Source	VOC (lbs/hour)	VOC (tons/year) (calculated for a rolling 12 month period)
U–526 Scrubber	1.0	1.0
U–585 Scrubber	0.5	0.2
U–588 Scrubber	0.5	1.0
U–594 Scrubber	21.5	6.5
Building R11 Wyssmont Scrubber	7	6
Building R11 Vent Group 4 Condenser	8	6
Building 85 Methanol Washing Scrubber	15	1
Building 21 Multiproducts Area		7
Building R12 Multiproducts Area		12.5
Semi-works Kathon Area		8
Building 26 Tritons Area		4.2

The PA also requires the Company to implement a visual leak detection and repair (LDAR) program for fugitive emissions from the Goal production area and for fugitive emissions from transfer piping in the Building #85 separations area. Under the LDAR monitoring of all components will be conducted on a quarterly basis. PA–51–1531 requires Rohm and Haas to submit a quarterly Fugitive Emissions Monitoring Report which includes (1) the number of leaks by type of equipment occurring within each process unit during the reporting period, (2) the number of leaks that could not be repaired within 15 days, (3) the reason for unsuccessful or delayed repair beyond 15 days, (4) the percent leak by equipment type within each process unit and for the total covered processes, (5) a list of all process units not monitored during the quarter because the process was not in operation for the whole quarter, (6) the lists of actual components found leaking in each process unit, and (7) a list of the changes that remove change, or add process equipment (except for minor piping changes) to the fugitive emission program. Testing and recordkeeping/

reporting requirements have been imposed in accordance with SIP-approved regulations necessary to determine compliance with the RACT requirements. The facility's sources of NO_X emissions subject to case-by-case NO_X RACT requirements consist of three boilers, each with a heat capacity of 120 MMBtu per hour. Although these boilers have been shutdown, the AMS did determine and impose RACT for them, in the event that Rohm and Haas seeks emission reduction credits from the shutdown. PA 51–1531 specifies that NO_X RACT for these three boilers consists of installation of low NO_X burners, burner cap trials, and the elimination of waste solvent burning. PA 51–1531 limits the NO_X emissions from each boiler to 204 tons per twelve month rolling period and limits the total NO_X emissions from all three boilers to 612 tons per rolling twelve month period.

E. SBF Communication Graphics

SBF Communication Graphics (SBF), located in Philadelphia, Pennsylvania is a printing facility. It is a major source of VOC. The AMS issued PA–2197 to SBF, and the PADEP submitted it to EPA as a SIP revision. SBF is equipped with 8 non-heatset web offset lithographic printing presses and with 3 heatset web offset lithographic printing presses. These presses produce most of the facility's VOC emissions. The AMS determined that material substitution, i.e., the use of inks, fountain solutions and cleaning solutions with lower VOC contents, constitutes RACT. The PA specifies specific VOC content limitations, by weight, for inks, fountain solutions, and cleaning solutions used at SBF. The PA specifies that the VOC fraction of the ink (minus water), as applied to the substrate, shall not exceed 25% by weight. It requires that the VOC content of the fountain solution, as applied, shall be maintained at or below 5.0 percent by weight, and it shall contain no alcohol. Finally, the PA specifies that cleaning solutions shall either: (1) have a VOC content less than or equal to 30 percent by weight, or (2) have a VOC composite partial pressure, as used, less than or equal to 10 mm Hg at 68 degrees F, or 3) have a total usage which does not exceed 55 gallons over any 12-month rolling period. The PA imposes extensive and specific recordkeeping and reporting requirements necessary to determine compliance with the VOC RACT requirements.

F. Schlosser Steel, Inc.

Schlosser Steel, Inc., located in Montgomery County, Pennsylvania supplies structural steel products. The facility includes coating operations which make it a major source of VOC. The majority of the installations and processes at this source are subject to category specific SIP-approved regulations adopted by Pennsylvania in accordance with the applicable CTG(s). For other installations and processes, the PADEP has imposed case-by-case RACT in OP–46–0051. OP–46–0051 limits VOC emissions from parts washing and cleaning operations be less than 3 pounds per hour, 15 pounds per day, and 2.7 tons per year. It requires that the company train its personnel in proper use of equipment which generates VOCs, establish a cleaning solvent accounting system, and conduct a leak inspection and maintenance plan. The PADEP has imposed the testing, recordkeeping and reporting requirements necessary to demonstrate compliance with all applicable SIP-approved RACT regulations including 25 Pa Code 129.52 and 129.91–95.

G. SEPTA's Berridge/Courtland Maintenance Shop

The Southeastern Pennsylvania Transportation Authority's (SEPTA's) Berridge/Courtland Maintenance Shop, located in Philadelphia, Pennsylvania, repairs and maintains buses. The shop is a major source of VOC. The major of the VOC emitting installations and processes at this source are subject to category specific SIP-approved RACT requirements adopted in accordance with the applicable CTG(s). For other installations and processes, the Philadelphia AMS issued PA–51–4172 to establish RACT. The PADEP submitted PA–51–4172 to EPA has a SIP revision on behalf of AMS. The AMS established RACT on a case-by-case basis for the shop's spray booths, lithographic presses, and the silk screen shop. With respect to spray booth operations, PA–51–4172 specifies that SEPTA must ensure that HVLP type spray guns are utilized in all spraying operations and that spray guns are cleaned with a device that collects spent solvent for proper disposal and minimizes solvent emission during and between cleaning. For the lithographic presses, PA–51–4172 specifies that SEPTA shall use a fountain solution and water mixture with a VOC content no greater than 5% by weight unchilled or 8% by weight chilled to 55 degrees F. PA–51–4172 also specifies that any cleaning solution used for blanket and roller cleaning on a sheet-fed offset lithographic press shall have: (1) A VOC content, as applied, less than or equal to 30 percent by weight, or (2) a VOC composite partial vapor pressure, as used, less than or equal to 10 mm Hg at 68 degrees F. For degreasers not covered by SIP-approved 25 Pa Code 129.63, PA–51–4172 requires that ''all containers containing VOC materials shall be covered when not in use; cleaned parts shall be thoroughly drained before removal; a permanent label shall be posted for operating requirements; solvent shall be transferred so as to keep evaporation below 20%; and, waste solvent shall be stored in covered containers. PA–51–4172 imposes the recordkeeping and reporting requirements necessary to determine compliance with all SIP-approved RACT regulations including 25 Pa Code 129.91–129.94.

H. Smith-Edwards-Dunlap, Company

The Smith-Edwards-Dunlap, Company, located in Philadelphia, Pennsylvania, prints poster boards, letterheads, business cards, etc. The facility is a major source of VOCs. The Philadelphia AMS issued PA–2255 to Smith-Edwards-Dunlap, Company to establish RACT. The PADEP submitted PA-2255 to EPA has a SIP revision on behalf of AMS. The units at the facility which emit VOCs are 13 lithographic printing presses. The PA specifies that VOC RACT for these presses is materials substitution to the use of inks, fountain solutions, and cleaning solutions with lower VOC contents. The permit requires that the VOC fraction of the ink (minus water), as applied to the substrate, shall not exceed 25% by weight. The permit also requires that the VOC fraction of all fountain solutions shall not exceed 20% by volume. Finally, the permit requires that each cleaning solution used in quantities of 55 gallons or more over any rolling twelve month period have a VOC content, as applied, of less than or equal to 30% by weight, or a VOC composite partial vapor pressure, as used, of less than or equal to 10 mm Hg at 68 degrees F. PA-2255 imposes the extensive recordkeeping and reporting requirements necessary to demonstrate compliance with the RACT determinations and 25 Pa Code 129.91 -129.94.

I. Southwest Water Pollution Control Plant/Biosolids Recycling Center

The Philadelphia Water Department's Southwest Water Pollution Control Plant/Biosolids Recycling Center is a publicly owned waste water treatment plant and biosolids recycling center. The facility is a major source of NO_X and VOC. The majority of the installations and processes at this source are subject to category specific, or presumptive SIP-approved RACT

requirements. For other VOC emitting installations and processes, the Philadelphia AMS issued PA 51–9515 to the facility to impose RACT. The facility emits VOCs from both the Biosolids Recycling Center (i.e., composting) operation and the wastewater treatment process. PA 51–9515 requires that the Biosolids Recycling Center compost pile aeration blower exhausts be vented to biofilters. PA 51–9515 requires that the excess gas produced by the wastewater treatment process's anaerobic digestion of sludge be flared through waste gas burners. It also specifies that the wastewater treatment process adhere to its approved good maintenance and operation program, and that the composting operation adhere to good maintenance and operation of the existing biofilters and of the compost pile aeration system. PA 51–9515 imposes extensive testing requirements for VOC from its wastewater using EPA Method 624 and the ''TOXCHEM+'' computer program. PA 51–9515 also imposes extensive recordkeeping and reporting requirements as necessary to determine compliance with all SIP-approved RACT regulations including 25 Pa Code 129.91—129.94.

J. Stroehman Bakeries, Inc.

Stroehman Bakeries, Inc., located in Montgomery County, Pennsylvania produces a variety of breads, rolls, and buns. The bakery is a major source of VOC. The bakery generates ethanol, a VOC, because of the yeast used to produce the baked goods during the baking process. The PADEP issued Stroehman Bakeries PA–46–0003 to establish RACT. PA–46–0003 specifies that RACT for the bread oven and for the roll and bun oven is use of use of a catalytic oxidizer with a minimum inlet temperature of 550 degrees F. PA–46–0003 imposes VOC emissions limits of 3.1lbs/hr and 13.7 tpy from the bread oven and 1.2lbs/hr and 5.4 tpy from the roll and bun oven. PA–46–0003 requires source testing in accordance with 25 Pa Code 139 and imposes additional testing conditions to demonstrate compliance. PA–46–0003 requires that the test(s) results be reported to PADEP and that all records be for a period of not less than two years.

K. Sunoco, Inc. (R&M)

Sunoco, Inc. (R&M) operates a refinery located in Philadelphia, Pennsylvania. The refinery is a major NO_X and VOC emitting facility. The majority of the installations and processes at this source are subject to category specific SIP-approved VOC regulations adopted by Pennsylvania in accordance with the applicable CTG(s), and to SIP-approved presumptive RACT requirements to control NO_X. For other installations and processes, the AMS issued PA–1501/1517 to establish RACT. The PADEP submitted PA-1501/1517 to EPA as a SIP revision on behalf of AMS. PA–1501/1517 imposes NO_X RACT requirements for the # 868 Fluid Catalytic Cracking Unit (FCCU) regenerator and for numerous heaters and boilers. PA–1501/1517 specifies that RACT for the FCCU consists of good combustion practices and limits the NO_X emissions from the #868 FCCU to 569 tons per year on a rolling 365 day basis. PA–1501/1517 also includes case-by-case RACT determinations for numerous boilers and heaters. The permit specifies that NO_X RACT for six units: the H–1 heater at Unit 433, the B–104 heater at Unit 1232, and Boilers #37, #38, #39, and #40 at the #3 Boilerhouse, is the use of ultra-low NO_X burners. The permit specifies that RACT for the remaining combustion sources is combustion tuning. The permit also specifies NO_X emissions limits for all of these units. For certain units, the permit also specifies maximum heat input limits. The NO_X RACT limitations for the heaters and boilers are shown in the table below:

Unit	Limit when burning gas (lbs. NO_x/MMBTU	Limit when burning oil (lbs. NO_x/MMBTU	Heat input cap (MMBTU/hour)
#3 Boiler House—#37, #38, #39 and #40 Boilers.	0.330	0.330	495 MMBTU/hour for Boilers #37, #38, and #39. 660 MMBTU/hour for Boiler #40
#22 Boiler House—#1, #2, and #3 Boilers	0.20	NA	NA
Heater F–1 @ Unit 137	0.230	0.230	415
Heater F–2 @ Unit 137	0.257	0.4	155
Heater F–3 @ Unit 137	NA	0.4	NA
Heater H101 @ Crude Unit 210A	0.089	0.4	NA
Heater H201 @ Crude Unit 210B	0.173	0.4	242
Heater 13H1 @ Crude Unit 210C	0.104	0.4	NA
Heater B–101 @ Unit 231	0.122	NA	91
Process Heater H–1 @ Unit 433	0.060	NA	243
Heater 1H–1 @ Unit 859	0.123	0.4	76
Heater 1H–2 @ Unit 859	0.123	0.4	70
Heater 1H3 @ Unit 859	0.134	0.4	NA
Heater 2H–2 @ Unit 860	0.350	0.4	NA
Heater 2H–3 @ Unit 860	0.163	0.4	NA
Heater 2H–4 @ Unit 860	0.270	0.4	NA
Heater 2H–5 @ Unit 860	0.163	0.4	NA
Heater 2H–7 @ Unit 860	0.157	0.4	NA
Boiler 2H–9 @ Unit 860	0.20	0.20	NA
Heater 3H1N @ Hydrogen Plant 861	0.133	NA	125
Heater 3H1S @ Hydrogen Plant 861	0.133	NA	123
Heater PH–1 @ Unit 864	0.167	0.4	NA
Heater PH–3 @ Unit 864	0.284	0.4	80
Heater PH–4 @ Unit 864	0.102	0.4	57
Heater PH–5 @ Unit 864	0.283	0.4	90
Heater PH–11 @ Unit 864	0.145	0.4	NA
Heater PH–12 @ Unit 864	0.119	0.4	NA
Heater 11–H1 @ Unit 865	0.113	0.4	NA
Heater B–104 @ Unit 1232	0.177	NA	70
Process Heater H–400 @ Unit 1332	0.156	NA	186
Process Heater H–401 @ Unit 1332	0.156	NA	NA

Unit	Limit when burning gas (lbs. NO_x/MMBTU	Limit when burning oil (lbs. NO_x/MMBTU	Heat input cap (MMBTU/hour)
Heater H–2 @ Unit 1332	0.300	NA	NA

The facility emits fugitive VOC emissions from valves, pumps, flanges, compressors in VOC service and from cooling towers. PA–1501/1517 specifies that Sunoco must utilize an emissions leak detection and repair (LDAR) program as RACT to reduce emissions from the valves, pumps, flanges and compressors in VOC service, and conduct an inspection and maintenance/monitoring program as RACT to reduce fugitive VOC emissions from cooling towers. PA–1501/1517 imposes the recordkeeping and reporting requirements necessary to determine compliance with its VOC and NO_X RACT requirements in accordance with 25 Pa Code 129.91–129.94.

L. Tasty Baking Company

The Tasty Baking Company is located in Philadelphia, Pennsylvania. The bakery is a major source of NO_X emissions. The bakery does not generate VOC because it does not use yeast in its baking process. The small boilers at this source are subject to specific SIP-approved presumptive RACT requirements. The Philadelphia AMS issued PA–2054 to establish RACT an Alison 501–KB5 gas turbine rated at 45.4 MMBtu/hr. The PADEP submitted PA–2054 to EPA as a SIP revision on behalf of AMS. PA–2054 specifies that NO_X RACT for this gas turbine consists of the use of water injection, and establishes NO_X emission limits 10 lbs/hr and 44 tpy. PA–2054 imposes the testing, recordkeeping and reporting requirements necessary to demonstrate compliance with its RACT requirements in accordance with 25 Pa Code 129.91–129.94.

M. Transcontinental Gas Pipeline Corp.—Compressor Station #200

Transcontinental Gas Pipeline Corporation operates a natural gas compressor station, designated as Station #200, in Chester County, Pennsylvania. Station 200 is a major NO_X and VOC emitting facility. Many of the installations and processes at this source are subject to specific SIP approved, or presumptive RACT requirements. For other installations and processes, PADEP imposes RACT requirements in PA–15–0017. The facility is equipped with 13 natural gas fueled reciprocating engines. PADEP determined that RACT for these 13 engines consists of the use of low emission combustion (LEC) equipment modifications. LEC equipment modifications include installation or modification of turbochargers, aftercoolers, inlet air systems, exhaust systems, power cylinder heads, fuel gas systems, ignition systems, cooling water systems, pistons, cylinder liners and camshafts. In addition to these equipment specifications, PA–15–0017 also imposes the following NO_X and VOC emissions limits:

Unit #	Model	NO_X emissions limit (lb/hour)	VOC emissions limit (lb/hour)
1 to 6 (Post RACT horsepower 2050)	BA–8T	18.1	9.0
7 to 9 and 13 (Post RACT horsepower 2100)	TLA–6	18.54	9.2
10 to 11 (Post RACT horsepower 3400)	TCV–10	30.0	14.9
12 (Post RACT horsepower 5500)	TCV–16	48.56	24.1

PA–15–0017 also includes the testing, recordkeeping and reporting conditions necessary to demonstrate compliance with its RACT requirements.

N. Worthington Steel Company

Worthington Steel Company's Malvern Plant, located in Chester County, Pennsylvania, is a steel processing and painting facility. The facility is a major source of NO_X and VOC emissions. Many of the installations and processes at this source are subject to category-specific SIP approved, or presumptive RACT requirements. For the coil coating line (including clean-up operations) and the 23 Safety Kleen cold cleaners, PADEP issued OP–15–0016 to establish RACT. For the coil coating operation, OP–15–0016 restricts the VOC content of each coating to 2.6 lbs/gallon (minus water) as applied to the substrate. OP–15–0016 also requires that the clean-up solvent used at the coil coating equipment shall not result in VOC emissions in excess of pounds per hour, 15 pounds per day, and 2.7 tons per year. OP–15–0016 restricts the clean-up solvent used in its cold cleaners shall not result in VOC emissions in excess of 3 lbs/hr, 15 lbs/day and 2.7 tpy. OP–15–0016 requires the recordkeeping and reporting requirements necessary to determine compliance with 129.91–129.95.

There are 65 small NO_X emitting units (space heaters, small boilers, and process annealing furnaces) that fire natural gas (units designated as C1–C41; C47—C51; and C55–C65), No. 2 fuel oil (C42–C46), or a combination of natural gas/fuel oil (C52–C54). These small units range in size from a rated heat input of less than 0.13 MMBtu/hr to 10.46 MMBtu/hr. Thirty-nine (39) of the 65 units are rated at less than 1MMBtu/hr, 22 are rated at or below 4MMBtu/hr, and 4 are rated from 6.27 to 10.46 MMBTU. OP–15–0016 requires that these units be operated and maintained done in accordance with manufacturer's specifications and good air pollution control practices which is consistent with the SIP-approved presumptive RACT requirements set forth in 25 Pa. Code Section 129.93(c)(1). Forty-seven (47) of these 65 small NO_X emitting units are limited to 4380 hours of operation per year.

III. EPA's Evaluation of Pennsylvania's SIP Revisions

EPA is approving these SIP submittals because the Philadelphia AMS and PADEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The AMS and PADEP have also imposed recordkeeping, monitoring, and/or testing requirements sufficient to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the SIP revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and/or NO_X RACT for 14 major of sources located in the Philadelphia area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse

comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 22, 2001 without further notice unless EPA receives adverse comment by October 9, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section , or paragraph for that source or subset of sources will be withdrawn.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' See 66 FR 28355, May 22, 2001. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. 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.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for 14 named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 5, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from 14 individual sources in Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 28, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(169) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(169) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and/or NO_X RACT for 14 sources located in the Philadelphia-Wilmington-Trenton area, submitted by the Pennsylvania Department of Environmental Protection on December 8, 1995, March 21, 1996, January 21, 1997, July 24, 1998, April 20, 1999,

March 23, 2001 (two separate submissions), and July 5, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations, in the form of plan approvals, operating permits, or compliance permits on December 8, 1995, March 21, 1996, January 21, 1997, July 24, 1998, April 20, 1999, March 23, 2001 (two separate submissions), and July 5, 2001.

(B) Plan approvals (PA), or Operating permits (OP) issued to the following sources:

(*1*) Stroehmann Bakeries, Inc., PA–46–0003, effective on May 4, 1995, except for the expiration date.

(*2*) Schlosser Steel, Inc., OP–46–0051, effective February 1, 1996, except for the expiration date.

(*3*) Perkasie Industries Corporation, OP–09–0011, effective August 14, 1996, except for the expiration date.

(*4*) Quaker Chemical Corporation, OP–46–0071, effective September 26, 1996, except for the expiration date.

(*5*) Worthington Steel Company, OP–15–0016, effective July 23, 1996, except for the expiration date.

(*6*) Transcontinental Gas Pipeline Corp., PA–15–0017, effective June 5, 1995, except for the expiration date.

(*7*) Rohm and Haas Company, Bucks County Plant, OP–09–0015, effective April 20, 1999, except for the expiration date.

(*8*) SEPTA—Berridge/Courtland Maintenance Shop, PA–51–4172, effective July 27, 1999, except for condition 2.C. and condition 5.

(*9*) Southwest Water Pollution Control Plant/Biosolids Recycling Center, PA–51–9515, effective July 27, 1999, except for condition 1.A.(1), condition 1.A.(2), condition 2.A., condition 2.B., and condition 7.

(*10*) Rohm and Haas Company, Philadelphia Plant, PA–51–1531, effective July 27, 1999, except for condition 7.

(*11*) Sunoco, Inc. (R&M), PA–1501/1517, for Plant ID: 1501 and 1517, effective August 1, 2000, except for conditions 1.A. (4) as it pertains to the H–600, H–601, H–602, H–1, and H–3 heaters; 1.A. (7)–(10); 1.A. (12) as it pertains to HTR 1H4; 1.A. (13) as it pertains to HTR PH2 and HTR PH7; 1.A. (15) as it pertains to HTR 11H2; 1.A. (16); 1.A. (18) as it pertains to HTR 2H1, HTR 2H6, and HTR 2H8; 1.A. (19); 1.A. (21); 1.A.(22); 2.B. as it pertains to Gas Oil HDS Unit 866: HTR 12H1; 2.E.; 2.L.; and condition 6.

(*12*) SBF Communication Graphics, PA–2197, for Plant ID: 2197, effective July 21, 2000.

(*13*) Smith-Edwards-Dunlap, Company, PA–2255, for Plant ID: 2255, effective July 14, 2000.

(*14*) Tasty Baking Co., PA–2054, for Plant ID: 2054, effective April 9, 1995.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the sources listed in paragraph (c)(169)(I)(B) of this section.

[FR Doc. 01–22360 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7050–6]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Alsco Anaconda Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region V is publishing a direct final notice of deletion of the Alsco Anaconda, Superfund Site (Site), located in Gnadenhutten, Ohio, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Ohio, through the Ohio Environmental Protection Agency, because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not necessary at this time.

DATES: This direct final notice of deletion will be effective November 5, 2001 unless EPA receives adverse comments by October 9, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final notice of deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Rosauro del Rosario, Remedial Project Manager (RPM) at (312) 886–6195, *DelRosario.Rosauro@EPA.Gov* or Gladys Beard, State NPL Deletion Process Manager at (312) 886–7253, Beard.Gladys@EPA.Gov, U.S. EPA Region V, 77 W. Jackson, Chicago, IL 60604, (mail code: SR–6J) or at 1–800–621–8431.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: EPA Region V Library, 77 W. Jackson, Chicago, IL 60604, (312) 353–5821, Monday through Friday 8 a.m. to 4 p.m.; Gnadenhutten Public Library, P.O. Box 216, 160 N. Walnut St., Gnadenhutten, OH 44629, (704) 254–9224, Monday through Thursday 9 a.m. to 8 p.m., Friday and Saturday 9 a.m. to 5 p.m.; Ohio Environmental Protection Agency-Southeast District Office, 2195 Front Street, Logan, Ohio 43138, (740) 385–8501, Monday through Friday, 8 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Rosauro del Rosario, Remedial Project Manager at (312) 886–6195, *DelRosario.Rosauro@EPA.Gov* or Gladys Beard, State NPL Deletion Process Manager at (312) 886–7253, *Beard.Gladys@EPA.Gov* or 1–800–621–8431, (SR–6J), U.S. EPA Region V, 77 W. Jackson, Chicago, IL 60604.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

EPA Region V is publishing this direct final notice of deletion of the Alsco Anaconda, Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be non-controversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective November 5, 2001 unless EPA receives adverse comments by October 9, 2001 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the

deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Alsco Anaconda Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c), requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of this Site:

(1) The EPA consulted with Ohio on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) Ohio concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion a notice of intent to delete is published today in the ''Proposed Rules'' section of the **Federal Register**, is being published in a major local newspaper of general circulation at or near the Site, and is being distributed to appropriate federal, state, and local government officials and other interested parties. The newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with a decision on the deletion based on the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting this Site from the NPL:

Site Location

The Alsco Anaconda Superfund Site is located approximately 50 miles south of Akron, Ohio within the Gnadenhutten village limits. Gnadenhutten, a community of about 1,300 residents, is located within Clay Township in Tuscarawas County, along the floodplain of the Tuscarawas River. The site boundaries are the Penn-Central Railroad right-of-way, the AmeriMark manufacturing site, Anaconda Drive (County Road 39), and the Tuscarawas River on the northwest, northeast, southeast, and southwest, respectively. The approximately 4.8 acre site includes four (4) source areas formerly known as the settling basin (consisting of the northern and southern impoundments), the sludge pit, and the wooded area. The general vicinity of the site can be described as rural, characterized by farmland and sparse population. The nearest residence is southeast of the main plant, approximately 1,000 feet from the former source areas. Groundwater from the Site flows to the southwest toward and into the Tuscarawas River, away from local municipal wells located approximately 0.5 miles upgradient of the Site.

Site History

From, at least 1965 to 1978, the Site was used for the disposal of wastewater and wastewater treatment sludge that were generated by the production of aluminum products. These sludge met the RCRA definition of F019 hazardous wastes. The amount of sludge disposed was the equivalent of approximately 3,240 cubic square yards. The impoundments and sludge pit contained contaminants such as cyanide, chromium, polychorinated biphenyls (PCB)s, arsenic, cadmium, lead, mercury, and zinc. A wooded low-lying area near the Tuscarawas River received overflow from the impoundments. The wastewater was discharged to the river. After 1978, sludge was disposed of in an off-site facility, but the wastewater discharges continued to the impoundments.

Remedial Investigation and Feasibility Study (RI/FS)

The EPA conducted a preliminary assessment of the Site in 1983 in an effort to identify and characterize the contamination. The results of the assessment indicated the Site posed potential threats to human health and the environment through dermal contact with or ingestion of contaminated soil, sediments, ground water, and surface water, as well as through inhalation of airborne contaminated-particulate matter. These preliminary studies led the Atlantic Richfield Company (ARCO), one of the Potentially Responsible Party's (PRP's), to initiate a Remedial Investigation/Feasibility Study (RI/FS) in 1985. The Site was eventually added to the final NPL list on June 10, 1986, 51 FR 21054.

The Site was divided into two (2) operable units after EPA rejected the groundwater portion of Remedial Investigation Report prepared by ARCO in 1989. The 2 operable units have been designated as the Source Material Operable Unit (SMOU) and the Groundwater Operable Unit (GWOU).

Record of Decision Findings

Records of Decisions (RODs) were issued for the SMOU and GWOU on September 8, 1989 and September 28, 1992, respectively. To implement the selected remedies under the RODs, U.S. EPA issued unilateral administrative orders (UAOs) to the PRPs ARCO and Harvard Industries on December 28, 1989 for the SMOU after negotiations failed. A UAO to conduct GWOU remedial activities outlined in the ROD was issued to ARCO in June 23, 1993.

The remedial action objectives of the ROD for the SMOU were to excavate and treat address all contaminated waste sludges and underlying soils. The remedy selected to meet these objectives included; (1) excavation of contaminated soil with greater than 500 parts per million (ppm) of polychlorinated biphenyls (PCBs) and transportation off-site to a facility permitted to incinerate PCB waste; (2) excavation of remaining sludge and underlying soil, which included sludge contaminated with less than 500 ppm of PCBs, to levels meeting RCRA clean closure requirements. The material would then be sent for treatment and disposal to a facility in compliance with the CERCLA off-site policy or to a reclamation/reuse facility; and (3) backfill selected areas, and recontour and vegetate any excavated or cleared areas; maintain the present security fence; and record the notice of the remedial action with the property deed.

The selected remedy was designed to eliminate the principal threat posed by the Site by removing the contaminated materials, thereby reducing the potential for exposure to cyanide, PCBs, chromium, and the other contaminants detected in site sludge and soils. To achieve this, the ROD required that all sludges and underlying soils be removed to a depth that prevents the ingestion of or direct contact with waste having a cumulative Hazard Index (HI) value of one for noncarcinogens or having a 1×10^{-6} cumulative excess cancer risk for carcinogens. The ROD also required that all sludge and underlying spoil be removed such that further contamination to groundwater in excess of Maximum Contaminant Levels (MCLs) is prevented.

The remedial action objectives of the ROD for the GWOU were to address the contaminated on- and off-property groundwater at the Site. The underlying premise was that the chosen remedy for the SMOU would result in clean closure of the Site by removing the source of groundwater contamination. The remedy selected to meet these objectives included; (1) natural flushing and attenuation of contaminants in the aquifer allowing groundwater to discharge to the Tuscarawas River; (2) sampling and laboratory analysis of the groundwater from monitoring wells; (3) installation of background wells; (4) institutional controls, including deed restrictions, that prevent installation of drinking water wells within the Site boundaries until remedial action levels for groundwater has been achieved; and (5) sampling of Tuscarawas River sediments and benthic organisms.

Characterization of Remaining Risk

No additional response action(s) is required. Those areas associated with GWOU and SMOU have been adequately addressed by the response actions already taken. Alsco Anaconda meets all site completion requirements specified under OSWER Directive 9320.2–09A–P (Close Out Procedures for National Priorities List Sites). Current site conditions are protective of human health and the environment, both for the SMOU and the GWOU. Cleanup objectives set forth in the RODs for this site and in the UAOs have been achieved.

Response Actions

The final SMOU RD Report (entitled SMOU Closure Project Manual) was submitted on July 31, 1991. The RA contract was awarded on November 22, 1991. A final Remedial Action Plan, was submitted on February 28, 1992.

The RA construction for the SMOU began on March 18, 1992. The RA activities included excavation of the waste sludge and affected underlying soil from the northern and southern impoundments and the sludge pit (this material did not contain PCBs at levels above 50ppm), conditioning the material, and transporting it off-site to the Peoria Disposal Company in Peoria, Illinois, a RCRA-permitted facility. Excavation of the ''hot'' PCB material (e.g., material containing greater than 500 ppm PCBs) from the wooded area was completed, and the material was transported to Aptus, Inc., in Coffeyville, Kansas, and incinerated. The remaining wooded area sludge with F019 wastes and PCBs at levels from 50 to 500 ppm, was sent to a RCRA/TSCA facility, the Chemical Waste Management Landfill in Model City, New York. Debris and non-hazardous materials were sent to the Suburban RDF Landfill in Brownsville, Ohio.

During excavation, air quality was monitored and dust suppression measures were taken. Confirmation samples were also taken as work progressed to ensure that cleanup levels had been met. As areas were confirmed clean, backfilling and regrading of clean areas of the Site took place.

In the course of conducting the remedial action, it was found that the extent of contamination was much greater than had been anticipated in the RI/F and ROD. Different contamination was found (e.g., material contaminated with volatile organic compounds, often referred to in site documents as ''black material,'' as well as buried drums). Excavation of contaminated materials continued until December 1992, at which point ARCO stopped work.

The discovery of additional contamination described above resulted in ARCO conducting a Supplemental Investigation (SI) from September through November of 1993. Activities related to the SI included undertaking further characterization of the waste and conducting additional sampling of the drums uncovered and/or generated during the 1992 remedial actions. Also, further studies as to the extent of the remaining risk from the residual contamination were conducted by ARCO from September 12 through November 13, 1993. The SI Report describing the study results was first presented to the Agencies on March 17, 1994. With approval from EPA on how much additional excavation was required to meet risk based cleanup requirements, ARCO proceeded to complete the cleanup work by September 1995. These activities included excavation of three areas east of the SMOU, five within the SMOU, and much of the ARAN area. Additional backfilling and regrading of the Site also took place in 1995.

In June 1996, an Explanation of Significant Differences (ESD) was issued by EPA, documenting the volume increases and discovery of ''black material'' and buried drums.

In September 1998, U.S. EPA approved ARCO's RA Implementation Report for the SMOU, first submitted in 1992 and subsequently modified over the intervening years, documenting that all remedial action activities associated with the SMOU had been completed.

The RA for the GWOU could not begin until the contaminated source material had been removed since it was not practical to install wells which might need to be abandoned during the additional SMOU excavation activities. Monitoring well installation activities were conducted from August 21, 1995, through September 13, 1995. Activities involved in the GWOU RA included installation of 6 shallow and 5 intermediate depth monitoring wells, 2 shallow and 1 intermediate depth background wells, abandonment of 3 existing monitoring wells, establishment

of a bench mark to measure river levels, surveying of the well locations, and development of the wells.

ARCO has conducted fifteen (15) rounds of groundwater surveys, overseen by EPA and OEPA. With the exception of cyanide and arsenic, contaminants of interest established for this site have been meeting their respective cleanup criteria since 1999. The last three rounds of monitoring (May, August, and October of 2000) indicated that cyanide and arsenic have now achieved cleanup goals.

Cleanup Standards

In the ROD and UAO groundwater was to be monitored until cleanup standards were met. The cleanup standards were risk-based as follows: concentrations of site-related contaminants that also appear in background wells shall be reduced to their respective background concentrations, unless one of the following conditions results in a higher cleanup concentration. In no case shall contaminant concentrations be required to be reduced below background concentrations. Site-related contaminants with an existing MCL shall be reduced to a concentration at or below the MCL. Carcinogenic site-related contaminants shall be reduced to levels that pose a cumulative carcinogenic risk of no greater than 1×10^{-6}. Concentrations of noncarcinogenic site-related contaminants shall be reduced to levels that pose a cumulative HI no greater than one for any specific toxicological category.

Operation and Maintenance

Operation and maintenance (O &M) plans developed and implemented for this site have been sufficient to maintain effectiveness of the remedy. The O & M work required for the Site consisted of maintaining the gate and fence which surrounds the Site in order to prevent unauthorized entry. Excavation and off-site disposal of site contaminants to levels that met RCRA clean closure requirements were completed in 1995, therefore, additional O & M measures were not needed. For the GWOU, O & M involved groundwater monitoring. Now that cleanup standards have been met, there is no further need to continue this work. In addition, institutional controls implemented for this site have prevented the potentially affected population from being exposed to hazards posed by the during Site remediation activities. Now that clean-up standards have been met these institutional controls are no longer necessary.

Five-Year Review

A five-year review of the GWOU was conducted by Region 5 in the summer of 1997. The report recommended that groundwater monitoring continue until cleanup standards for all site related contaminants were met. Now that cleanup standards have been met, the need to conduct another five-year review, scheduled for 2002, is no longer necessary. The site is available for unlimited use and unrestriced exposure, therefore, another Five-Year review is no longer necessary.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion on this Site from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence of the State of Ohio, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be non-controversial and routine, EPA is taking it without prior publication. This action will be effective November 5, 2001 unless EPA receives adverse comments by October 9, 2001. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect. EPA will prepare a response to comments and as appropriate continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 28, 2001.

Norman Niedergang,

Acting Regional Administrator, Region V.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended under Ohio ''OH'' by removing the entry for ''Alsco Anaconda'' and the city ''Gnadenhutten.''

[FR Doc. 01–22368 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH05

Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for *Sidalcea oregana* var. *calva* (Wenatchee Mountains checker-mallow)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for the plant *Sidalcea oregana* var. *calva* (Wenatchee Mountains checker-mallow), pursuant to the Endangered Species Act of 1973, as amended (Act). A total of approximately 2,484 hectares (6,135 acres) in Chelan County, Washington, is designated as critical habitat.

Critical habitat identifies specific areas that have the physical and biological features that are essential to the conservation of a listed species, and that may require special management considerations or protection. The primary constituent elements for *Sidalcea oregana* var. *calva* are those habitat components that are essential for its primary biological needs such as reproduction and dispersal. Critical habitat for *Sidalcea oregana* var. *calva* includes those areas possessing one or more of the primary constituent elements.

Located on Federal, State, and private lands, this critical habitat designation provides additional protection under section 7 of the Act with regard to activities that require Federal agency action. Section 7 of the Act requires Federal agencies to ensure that actions

they authorize, fund, or carry out are not likely to destroy or adversely modify designated critical habitat. Section 4 of the Act requires us to consider economic and other impacts of specifying any particular area as critical habitat. We solicited data and comments from the public on all aspects of the proposed rule and economic analysis.

DATES: This rule becomes effective on October 9, 2001.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, will be available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Western Washington Office, Ecological Services, 510 Desmond Drive SE, Lacey, WA 98503.

FOR FURTHER INFORMATION CONTACT: Ken Berg, Manager, Western Washington Office (see **ADDRESSES** section) (telephone 360/753–9440; facsimile 360/753–9518).

SUPPLEMENTARY INFORMATION:

Background

Sidalcea oregana var. *calva*, the Wenatchee Mountains checker-mallow, is known to occur at six sites (populations) only in the mid-elevation wetlands and moist meadows of the Wenatchee Mountains of central Washington. The plant was first collected in 1893 by Sandberg and Leiburg from the Icicle Creek area, near Leavenworth, and from wet meadows near Peshastin, both in Chelan County. The type specimen collected by Hitchcock in 1951 was from Camas Land in Chelan County (Gamon 1987). The plant communities where the species is found are usually associated with meadows that have surface water or saturated soils during the spring and early summer. The species may also be found in open conifer forests dominated by *Pinus ponderosa* (ponderosa pine) and *Pseudotsuga menziesii* (Douglas-fir), and on the margins of shrub and hardwood thickets adjacent to seeps, springs, or small drainages. Soils are primarily composed of silt loams and clay loams, with a high percentage content of organic material, that are poorly drained.

A member of the mallow family (Malvaceae), *Sidalcea oregana* var. *calva* is a herbaceous perennial with a stout taproot that branches at the root crown giving rise to several stems. Plants range in height from 20 to 150 centimeters (cm) (8 to 60 inches (in.)). Plants vary from glabrous (lacking hairs and glands) to pubescent (hairy) or stellate (with star-shaped hairs) below, and finely stellate above. Flower clusters with one to many stalked flowers are arranged singly along a common stem. The flowers have pink petals 1 to 2 cm (0.4 to 0.8 in.) long, and are borne on stalks ranging from 1 to 10 millimeters (mm) (0.04 to 0.4 in.) in length. The calyx (outer whorl of floral parts) ranges from uniformly finely stellate, to bristly with a mixture of longer, simple to four-rayed, spreading hairs. These hairs are sometimes as long as 2.5 to 3 mm (0.1 to 0.12 in.) (Hitchcock and Cronquist 1961).

Flowering begins in the middle of June and peaks in the last half of July. Fruits are ripe in August. The species reproduces only from seed and, based on examination of seed capsules, the production of seed appears to be high (Gamon 1987). The somewhat clumped distribution of mature *Sidalcea oregana* var. *calva* plants suggests that seed dispersal is restricted to the areas near mature plants, unless the seeds are moved by animals or transported by water.

The physical and biological habitat features essential to the conservation of *Sidalcea oregana* var. *calva* include open meadows with surface water or saturated upper soil profiles in the spring and early summer and maintaining the hydrologic processes on which these areas depend; open conifer forests dominated by ponderosa pine and Douglas-fir; and the margins of shrub and hardwood thickets. All of these habitats have surface water or saturated soils well into the early summer. Elevations range from 488 to 1,000 meters (m) (1,600 to 3,300 feet (ft)). The species is generally found on flats or benches, but may also occur in small ravines and occasionally on gently sloping uplands.

Concentrations of *Sidalcea oregana* var. *calva* are found in the wetter portions of open-forest moist-meadow habitat, in slight topographic depressions, on the perimeter of shrub and hardwood thickets dominated by quaking aspen (*Populus tremuloides*), and along permanent or intermittent streams in sparsely forested draws. Frequently associated plant species include quaking aspen, black hawthorn (*Crataegus douglasii*), common snowberry (*Symphoricarpos albus*), serviceberry (*Amelanchier alnifolia*), few-flowered peavine (*Lathyrus pauciflorus*), northern mule's-ear (*Wyethia amplexicaulis*), sticky purple geranium (*Geranium viscosissimum*), western bistort (*Polygonum bistortoides*), leafy aster (*Aster foliaceus*), Watson's willow-herb (*Epilobium watsonii*), false hellebore (*Veratrum californica*), and rudbeckia (*Rudbeckia occidentalis*) (Washington Department of Natural Resources (WDNR) 2000). One-half of the *Sidalcea oregana* var. *calva* populations are found in association with *Delphinium viridescens* (Wenatchee larkspur), a former Federal category 1 candidate plant species. The latter species was removed from candidate status on February 28, 1996 (61 FR 7610), because it was found to be more abundant or widespread than previously believed.

During the summer of 1999, a sixth population was discovered on private property in Pendleton Canyon, an area burned and opened up by the Tyee Fire of 1994. This location is less than 8 kilometers (km) (5 miles (mi)) from the Camas Meadow population. While the discovery of the population occurred prior to the December 22, 2001 (64 FR 71680), listing of the species, we did not become aware of the discovery until after the publication date. This newly discovered population is included in the designation of critical habitat for the species.

The wetland and moist meadow complex at Camas Meadows, an area managed as a Natural Area Preserve (NAP) by the WDNR, contains the largest population of *Sidalcea oregana* var. *calva*. The Camas Meadow NAP includes approximately 539 hectares (ha) (1,333 acres (ac)) (WDNR 2000), and is located in the rural/wildland interface about 16 km (10 mi) south of Leavenworth, Washington. An estimated 3,300 *Sidalcea oregana* var. *calva* individuals occur there. Low-density, rural residential home sites have been developed adjacent to the NAP. Also, the Camas Meadows Bible Camp has occupied the southern perimeter of the meadow since the late 1940s, and the U.S. Forest Service (Forest Service) administers properties surrounding the NAP.

Another population is located north of the Camas Meadow NAP, on land administered by WDNR, and has approximately 30 individual plants. At the time the final listing rule was published (64 FR 71680), this population occurred on private land. The private landowners have since traded this land to the State of Washington.

In addition to these two populations of *Sidalcea oregana* var. *calva*, two other populations of *Sidalcea oregana* var. *calva* are known to be present on private lands. One population, of about 200 individuals, is located at the Mountain Home Resort. The second population is located in Pendleton Canyon, and consists of about 60 plants. The other two known populations are located on Forest Service lands,

containing less than 10 individual plants combined. The combined number of individual plants for all six populations is approximately 3,600.

The primary threats to *Sidalcea oregana* var. *calva* include habitat fragmentation and destruction due to alterations of hydrology, rural residential development and associated impacts, conversion of native wetlands to orchards and other agricultural uses, competition from native and non-native plants, recreation, seed and plant collection, and fire suppression and associated activities. To a lesser extent, the species is threatened by livestock grazing, road construction, and timber harvesting and associated impacts including changes in surface runoff in the small watersheds in which the plant occurs.

Previous Federal Action

Federal action on *Sidalcea oregana* var. *calva* began when we published an updated Notice of Review (NOR) for plants, published in the **Federal Register** on December 15, 1980 (45 FR 82480). This notice included *Sidalcea oregana* var. *calva* as a category 1 candidate species. Category 1 candidates were defined as those taxa for which we had sufficient information on the biological vulnerability and threats to support preparation of listing rules. The NOR, published on September 27, 1985 (50 FR 39526), included *Sidalcea oregana* var. *calva* as a category 2 candidate species. Category 2 candidates were defined as taxa for which available information indicated that a proposal to list as endangered or threatened was possibly appropriate, but for which persuasive data on biological vulnerability and threats were not sufficient to support a proposed rule.

Notices of Review published on February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144), identified *Sidalcea oregana* var. *calva* as a category 1 candidate species. Upon publication of the February 28, 1996, Notice of Review of Plant and Animal Taxa that are Candidates for Listing as Endangered or Threatened Species (61 FR 7596), we stopped using the category designations and simply included *Sidalcea oregana* var. *calva* as a candidate species. Candidate species are those for which we have on file sufficient information on biological vulnerability and threats to support proposals to list the species as threatened or endangered.

On August 1, 1997, we published the proposed rule to list *Sidalcea oregana* var. *calva* as an endangered species (62 FR 41328). The final determination to list *Sidalcea oregana* var. *calva* as an endangered species was published in the **Federal Register** on December 22, 1999 (64 FR 71680). In the final rule, we found that designation of critical habitat for the species was prudent. However, due to insufficient funding in our listing budget, critical habitat designation was deferred in order to focus our resources on higher priority critical habitat, including court-ordered designations, and other listing actions (64 FR 71685), while still allowing us to put in place protections needed for the protection of *S. oregana* var. *calva* through the listing process.

Subsequent to the final rule listing the species as endangered, the Southwest Center for Biological Diversity filed suit to compel us to designate critical habitat for several species, including *Sidalcea oregana* var. *calva* (*Southwest Center for Biological Diversity et al.* v. *Babbitt-Civil*, No. 99–D–1118). We entered into a settlement agreement with the plaintiff and agreed to propose critical habitat with a final determination to be made no later than August 31, 2001. The proposed rule to designate critical habitat for the species was published in the **Federal Register** on January 18, 2001 (66 FR 4783). In the proposal, we determined that it was prudent to designate approximately 2,484 ha (6,135 ac) of lands in Chelan County as critical habitat. The publication of the proposed rule opened a 60-day public comment period, which closed on March 19, 2001. On May 15, 2001, we published a notice announcing the reopening of the comment period on the proposal to designate critical habitat for *Sidalcea oregana* var. *calva*, and a notice of availability of the draft economic analysis on the proposed determination (66 FR 26827). This second public comment period closed on June 14, 2001.

Summary of Comments and Recommendations

We contacted appropriate Federal and State agencies, scientific organizations, and other interested parties and invited them to comment. In addition, we invited public comment through the publication of a notice in the *Wenatchee World* on May 20, 2001.

On April 4, 2001, we held an informal public workshop in Leavenworth, Washington, to consider economic and other relevant impacts of designating critical habitat for *Sidalcea oregana* var. *calva.* Eleven individuals from the local community attended the workshop. The meeting was also attended by representatives from WDNR, the Forest Service, and The Nature Conservancy. No formal comments were accepted at this meeting; however, we encouraged the local community to provide written comments during the time when the comment period was reopened in May. All individuals who attended the meeting, in addition to all the landowners who live in the vicinity of the designated critical habitat, were notified by letter at the time the comment period was reopened.

We received two comments regarding the designation of critical habitat for the Wenatchee Mountains checker-mallow. One comment was received from the WDNR, Southeast Region, while the second comment was received from the Conservation Chair, Washington Native Plant Society. Both letters supported the designation of critical habitat. The letter from the Washington Native Plant Society raised several points that merit consideration. The letter concurred with our decision to exclude one of the six known populations for *Sidalcea oregana* var. *calva*, a disjunct population occurring on private property, as critical habitat. We had determined that this occurrence of the plant was not essential to the conservation of the species. Additionally, the letter recommended that although this occurrence was not ''critical to the taxon's survival'', it may represent an important genotype for the species and contribute to the species' genetic variability, and that seed should be collected from the population and maintained in an appropriate seed bank. We concur with this recommendation and, after getting permission from the landowners, will plan for seed collection, seed banking, and genetic testing of all known populations of the species, which will contribute to information requirements for the recovery of the species. Finally, because several populations of the species were adversely affected by wildfire during the summer of 1994, the commenter recommended developing protocols for fighting fires specific to areas with endangered plants where critical habitat has been designated. The Federal Wildland Fire Policy (1985) was developed by the Departments of Agriculture and the Interior to provide a common approach to wildland fire management that is consistent with public health and environmental considerations. The policy states that the protection priorities are; (1) human life, and (2) property and natural/cultural resources. We concur with the comment and, consistent with the policy, a recovery plan for this species will be developed with these considerations in mind.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we solicited independent expert opinions from three knowledgeable plant ecologists and/or botanists who are familiar with *Sidalcea oregana* var. *calva.* We received comments from only one of the peer reviewers on the proposed critical habitat designation. Those comments were incorporated into this final rule.

Summary of Changes From the Proposed Rule

There are no significant changes from the proposed rule to this final rule.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation is defined in section 3(3) of the Act as the use of all methods and procedures which are necessary to bring any endangered or threatened species to the point at which listing under the Act is no longer necessary. Regulations under 50 CFR 424.02(j) define special management considerations or protection to mean any methods or procedures useful in protecting the physical and biological features of the environment for the conservation of the listed species.

Within the geographic area occupied by the species, we will designate only areas currently known to be essential. Essential areas should already have the features and habitat characteristics that are necessary to sustain the species. We will not speculate about what areas might be found to be essential if better information became available, or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs of the species, then the area should not be included in the critical habitat designation. Within the geographic area occupied by the species, we will not designate areas that do not now have the primary constituent elements, as defined at 50 CFR 424.12(b), that provide essential life cycle needs of the species.

Our regulations state that, ''The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.'' (50 CFR 424.12(e)). Accordingly, when the best available scientific and commercial data do not demonstrate that the conservation needs of the species require designation of critical habitat outside of occupied areas, we will not designate critical habitat in areas outside the geographic area occupied by the species.

When we designate critical habitat at the time of listing, as required under Section 4 of the Act, or under short court-ordered deadlines, we may not have the information necessary to identify all areas which are essential for the conservation of the species. Nevertheless, we are required to designate those areas we know to be critical habitat, using the best information available to us.

Our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (Vol. 59, p. 34271), provides criteria, establishes procedures, and provides guidance to ensure that our decisions represent the best scientific and commercial data available. It requires Service biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing package for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by states and counties, scientific status surveys and studies, and biological assessments or other unpublished materials.

Methods

In determining areas that are essential to conserve *Sidalcea oregana* var. *calva,* we used the best scientific information available to us. This information included habitat suitability and site-specific species information, as well as discussions with Wenatchee National Forest and WDNR scientists about the management and conservation of this species. We have emphasized areas of current and historical *Sidalcea oregana* var. *calva* occurrences; maintenance of the genetic interchange necessary for the viability of a regional metapopulation; and maintenance of the integrity of the watershed hydrologic processes on which the wetlands and moist meadows that support the species depend. A metapopulation is a group of spatially separated populations that occasionally exchange genes. Individual populations may go extinct, but are later recolonized from another population. Linking the known populations provides pathways for gene flow, as well as opportunities for colonization by the species of areas where it may be extirpated. We believe that the maintenance of a viable regional metapopulation, as well as the integrity of the hydrologic processes that control the wetland and moist meadow habitat are essential to the conservation of *Sidalcea oregana* var. *calva.*

We used data on known and historic locations and soil maps to identify areas essential to the conservation of the species. We mapped critical habitat based on orthoquads and aerial photos available from WDNR, and ground-checked these areas. We included areas with wetland vegetation communities dominated by native grasses and forbs and generally free of woody shrubs, hardwood trees, or conifers that would produce shade and/or compete with *Sidalcea oregana* var. *calva.* Seeps, springs, and riparian corridors that have clay loam and silt loam soils were included because of their importance to maintaining the hydrologic processes that are essential to the conservation of the species. Inclusion of these areas also allows for the natural expansion of *Sidalcea oregana* var. *calva* populations that is essential for the conservation of the species.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act, and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we must consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species. These include, but are not limited to, the following: space for individual and population growth, and for normal behavior; food, water, air, light, minerals or nutrients, or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing of offspring, germination, or seed dispersal; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distribution of a species.

The area we are designating as critical habitat provide the primary constituent elements for the species, which include: surface water or saturated upper soil profiles; a wetland plant community

dominated by native grasses and forbs, and generally free of woody shrubs and conifers that would produce shade and competition for *Sidalcea oregana* var. *calva;* seeps and springs on fine textured soils (clay loams and silt loams), which contribute to the maintenance of hydrologic processes necessary to support meadows which remain moist into the early summer; and elevations of 488–1,000 m (1,600–3,300 ft).

In an effort to map areas that have the features essential to the conservation of the species, we used data on known *Sidalcea oregana* var. *calva* locations. We attempted to avoid developed areas, such as towns and other similar lands, that are unlikely to contribute to *Sidalcea oregana* var. *calva* conservation. However, mapping limitations did not allow us 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 *Sidalcea oregana* var. *calva.* Existing features and structures within the boundaries of the mapped unit, such as buildings, roads, aqueducts, railroads, airports, other paved areas, lawns, and other rural residential landscaped areas, will not contain one or more of the primary constituent elements and are, therefore, not critical habitat. Federal actions limited to those areas would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

Critical Habitat Designation

We are designating critical habitat for one unit, comprised of 2,484 ha (6,135 ac). The approximate area, by land ownership, of this unit is shown in Table 1.

TABLE 1.—APPROXIMATE AREA OF DESIGNATED CRITICAL HABITAT IN HECTARES (HA) AND ACRES (AC)[1] IN CHELAN COUNTY, WASHINGTON, BY LAND OWNERSHIP

[Area estimates reflect the critical habitat unit boundaries; however, existing features and structures, such as buildings, roads, aqueducts, railroads, airports, other paved areas, lawns, and other rural residential landscaped areas not containing one or more of the primary constituent elements are not designated as critical habitat for *Sidalcea oregana* var. *calva*.]

Federal	Local/state	Private	Total
Areas Known To Be Currently Occupied			
0.5 ha (1 ac)	38 ha (94 ac)	0.5 ha (1 ac)	39 ha. (96 ac).
Areas of Suitable Habitat of Unknown Occupancy			
830 ha (2,050 ac)	540 ha (1,334 ac)	1,075 ha (2,655 ac)	2,445 ha. (6,039 ac).
Total			2,484 ha. (6,135 ac).

[1] Approximate acres have been converted to hectares (1 ha = 2.47 ac). Hectares and acres greater than 1 have been rounded to the nearest 5, except for totals which are sums of rows or columns.

Lands are designated under private, State, and Federal ownership. All of the designated critical habitat for *Sidalcea oregana* var. *calva* is in Chelan County, Washington, and includes Camas Creek and the adjacent Pendleton Canyon sub-basin. The area designated for critical habitat includes all of the lands that have the primary constituent elements below 1,000 m (3,300 ft) within the Camas Creek watershed, and in the small tributary within Pendleton Canyon before its confluence with Peshastin Creek, and includes: (1) The entire area encompassed by the Camas Meadow Natural Area Preserve, which is administered by the WDNR; (2) two populations located on Forest Service land; (3) the small drainage north of the Camas Land, administered by the WDNR; and (4) the population on private property located in Pendleton Canyon; (5) the wetland complex of these watersheds necessary for providing the essential habitat components on which recovery and conservation of the species depends.

Portions of the designated critical habitat are presumably unoccupied by *Sidalcea oregana* var. *calva* at present, although the entire area has not been recently surveyed. Soil maps indicate that the entire area provides suitable habitat for the species, and there may be additional, but currently unknown, populations present here. Wetlands and moist meadow habitats (native grassland and forb-dominated vegetation) suitable for *Sidalcea oregana* var. *calva* are generally surrounded by upland areas, which are dominated by ponderosa pine and Douglas-fir forests. While these upland areas are less suitable as habitat for the species, because protection of the hydrological processes is necessary to ensure the viability of the wetland habitat of the species, we consider the entire area essential to the survival, eventual recovery, and delisting of *Sidalcea oregana* var. *calva*.

Pursuant to the definition of critical habitat in section 3 of the Act, any area so designated must also require ''special management considerations or protections.'' Some areas essential to the conservation of the species may not be designated critical habitat if they already have adequate special management. Adequate special management or protection is provided by a legally operative plan that addresses the maintenance and improvement of the essential elements and provides for the long-term conservation of the species. We consider a plan adequate when it meets all of the following three criteria: (1) The plan provides a conservation benefit to the species (i.e., the plan must maintain or provide for an increase in the species' population or the enhancement or restoration of its habitat within the area covered by the plan); (2) the plan provides assurances that the management plan will be implemented (i.e., those responsible for implementing the plan are capable of accomplishing the objectives, have an implementation schedule and/or have adequate funding to implement the management plan); and (3) the plan provides assurances the conservation plan will be effective (i.e., it identifies biological goals, has provisions for reporting progress, and is of a duration sufficient to implement the plan and achieve the plan's goals and objectives). If an area is covered by a plan that meets these criteria, it does not constitute critical habitat as defined by the Act.

The Camas Land NAP is managed by the WDNR, and a final Management Plan (Plan) for the area was approved in June 2000. The NAP was established in 1989 to protect the large populations of *Sidalcea oregana* var. *calva* and *Delphinium viridescens* (Wenatchee larkspur) that occur at Camas Meadow. The general management policy described in the Plan applies to all NAPs managed by the WDNR. These include: (1) Protection of outstanding examples of rare or vanishing terrestrial or aquatic ecosystems, rare plant and animal species, and unique geologic features; (2) the role of NAPs as a baseline to compare with similar ecosystems that are under the influence of human activities; and (3) areas that are important to preserving natural features of scientific or educational value. However, the Plan does not provide a specific management plan or prescription designed to conserve *Sidalcea oregana* var. *calva*, beyond permitting natural ecological and physical processes to continue (WDNR 2000). The Plan does call for management actions to enhance wet meadow habitat, which will benefit *Sidalcea oregana* var. *calva* by removing competing vegetation, including controlling noxious weeds; thinning ponderosa pine in the uplands; and improving and replacing culverts. However, these actions have not yet been implemented, and it is too early to assess their effectiveness.

Although the species is listed as endangered by the WDNR's Natural Heritage Program (1994), there is no State Endangered Species Act in the State of Washington for plants. The WDNR designation provides no legal protection for *Sidalcea oregana* var. *calva*, and there are no State laws that specifically protect plants on State lands. Therefore, we believe that this management plan alone does not provide sufficient protection for *Sidalcea oregana* var. *calva*, and have included the Camas Land NAP within the critical habitat designation.

Developed areas on the periphery of the Camas Land NAP and the Camas Meadow Bible Camp located on the south side of the Camas Land, within the area designated as critical habitat, are not considered as essential to the conservation of the species. These developed areas have been altered by the planting of lawns, installation of septic systems, and horse pastures and, therefore, do not contain the primary constituent elements necessary for the long-term protection and conservation of *Sidalcea oregana* var. *calva*.

We have determined that the habitat supporting the population found at the Mountain Home Resort (Resort) is not essential to the conservation of the species. This population is disjunct from the remaining populations, and located in an area entirely surrounded with private residences, private timberlands, and a road administered by Chelan County. The habitat on this property that contains *Sidalcea oregana* var. *calva*, and the former candidate species *Delphinium virdescens*, is confined to a small linear area associated with a drainage ditch adjacent to the Mountain Home road and is bordered on the north and south by gravel access roads leading to residences. It is likely that the habitat resulted from the construction of the road and the creation of the drainage ditch. The habitat is now dominated by non-native, sod-forming grasses and forbs mixed with native vegetation (Dottie Knecht, Forest Service, pers. comm. 2000). The class-B Washington State noxious weed, *Potentiall recta* (sulfur cinquefoil) (Washington Administrative Code 16–750–011) is frequently encountered in monitoring plots at this site, although at low densities (D. Knecht, pers. comm. 2000). Moving out of the occupied habitat and up the hill towards the Resort, the vegetation is also dominated by sod-forming pasture and lawn grasses, including *Agrostis alba* (creeping bentgrass), *Alopecuris pratensis* (meadow foxtail), *Phleum pratense* (timothy grass), and *Bromus inermis* (smooth brome). These species are not consistent with the primary constituent elements.

Through observation of the adjacent properties along the Mountain Home road, it is evident that, if the Resort were not present and the land had not been cleared to create a vista, the marginal habitat where the small population is found at this site would be forested with conifers mixed with hardwood trees and shrubs. Such habitat does not contain the vegetative requirements and open conditions of the primary constituent elements.

The population at the Resort is also disjunct from the other populations of the species, which are more than 16 km (10 mi) distant. Because of fragmentation and the patchy distribution of habitat between this population and other populations of the species, the persistence of this population cannot be assured. We believe that the most appropriate conservation strategy for *Sidalcea oregana* var. *calva* is one that focuses on the protection and expansion of the core habitat of the species rather than the protection of isolated populations of doubtful viability. Except through artificial means, there is no opportunity for gene exchange between this population and the other populations. Although no genetic testing has been conducted for this species, a small population, such as that found at the Resort, is likely to have reduced genetic diversity, which can result in decreased population viability due to inbreeding (Schemske *et al.* 1994).

Although the ability to predict random environmental events (stochastic events) is low, events such as forest fires (e.g., the 1994 Rat Creek and Hatchery Creek Fires) and rain-on-snow flooding do occur. The effects of these stochastic events are most acute in small populations (Schemske *et al.* 1994). As a result of an increased importance of stochastic processes and changes in ecological interactions in declining populations, the probability of a population extirpation is expected to be negatively correlated with its size (Schemske *et al.* 1994).

The population found at Pendleton Canyon is on privately-owned land that has been included as critical habitat because it is essential to the conservation of *Sidalcea oregana* var. *calva*. It is located in a wildland setting with none of the modifications typically associated with a residence, unlike the private residences near Camas Meadow or the population of *Sidalcea oregana* var. *calva* at the Resort which lack the primary constituent elements and have been excluded from critical habitat designation.

The Recovery Team for *Sidalcea oregana* var. *calva* will be providing guidance on recovery planning for this species, and at that time, they may provide additional guidance regarding the areas designated as critical habitat. We will review any of the Recovery Team's recommendations and re-examine our critical habitat designation, if necessary, to provide for the conservation of the species.

Effects of Critical Habitat Designation

Section 7 Consultation

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, all should understand that critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be

implemented under section 7(a)(1) and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the section 9 take prohibition, as determined on the basis of the best available information at the time of the action. We specifically anticipate that federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as '' * * *the direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.'' Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not afford any additional protections under the Act against such activities.

Section 7(a)(2) of the Act requires that Federal agencies, including the Service, must 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.

Under section 7(a) of the Act, Federal agencies, including the Service, 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) and regulations at 50 CFR 402.10 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 a biological opinion that is prepared according to 50 CFR 402.14, as if critical habitat were designated. If such designation occurs, we may adopt the formal conference report as a biological opinion, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

When 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 the 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 advise the agencies whether the permitted actions would likely jeopardize the continued existence of the species or destroy or adversely modify critical habitat.

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also 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 likelihood of jeopardizing the continued existence of listed species or resulting in 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 on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or 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.

Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers (Corps) under section 404 of the Clean Water Act (33 U.S.C. 1344 *et seq.*), or a section 10(a)(1)(B) permit from the Service, or some other Federal action, including funding (e.g., from the Federal Highway Administration or Federal Emergency Management Agency) are also subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on non-Federal lands that are not federally funded, authorized, or permitted do not require section 7 consultation. While efforts were made to exclude existing features and structures, such as buildings, roads, and other such developed features not containing primary constituent elements, due to mapping constraints not all such features were excluded. Federal actions limited to these areas would not trigger a section 7 consultation, unless they affect the species and/or the primary constituent elements in adjacent critical habitat.

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to ''jeopardize the continued

existence'' of a species are those that would appreciably reduce the likelihood of the species' survival and recovery. Actions likely to ''destroy or adversely modify'' critical habitat are those that would appreciably reduce the value of critical habitat for the survival and recovery of the listed species.

Common to both definitions is an appreciable detrimental effect on both survival and recovery of a listed species. Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned, particularly when the area of the proposed action is occupied by the species concerned. Designation of critical habitat in areas known to be occupied by *Sidalcea oregana* var. *calva,* and areas where the species is detected in surveys at the time of the action, is not likely to result in a significant regulatory burden above that already in place due to the presence of the listed species. For some previously reviewed actions, in instances where critical habitat is subsequently designated, and in those cases where activities occur on designated critical habitat where *Sidalcea oregana* var. *calva* is 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.

Section 4(b)(8) of the Act requires us to briefly describe and evaluate in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. When determining whether any of these activities may adversely modify 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 segments of critical habitat 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 *Sidalcea oregana* var. *calva* is appreciably diminished.

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) Damming, water diversion, channelization, excess groundwater pumping, repair and replacement of culverts, or other actions that appreciably reduce the hydrologic function and surface area of rivers, streams, seeps or springs;

(2) Timber harvesting and road construction that directly or indirectly affects the hydrology of sites harboring the species;

(3) Rural residential construction that includes concrete pads for foundations or the installation of septic systems where a permit under section 404 of the Clean Water Act would be required from the Corps;

(4) Activities that alter watershed characteristics in ways that would appreciably reduce groundwater recharge or alter natural flooding regimes necessary to maintain natural, dynamic wetland communities. Such activities may include manipulation of vegetation through timber harvesting, road construction, maintaining an unnatural fire regime either through fire suppression, or too frequent or poorly-timed prescribed fires, residential and commercial development, and grazing of livestock that changes fire frequency or otherwise degrades watershed values;

(5) Activities that appreciably degrade or destroy native wetland communities, such as livestock grazing, land clearing, harvesting of trees or other forest products, introducing or encouraging the spread of non-native plant species; and

(6) Activities that appreciably alter stream channel morphology such as sand and gravel mining, road construction, channelization, impoundment, watershed disturbances, off-road vehicle use, and inappropriate recreational uses.

Any of the above activities that appreciably diminish the value of critical habitat to the degree that they affect the survival and recovery of *Sidalcea oregana* var. *calva* may be considered an adverse modification or destruction 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 destruction or adverse modification of critical habitat resulting from a Federal action, contact Ken Berg, Manager, Western Washington 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, Oregon 97232 (telephone 503/231–2063; facsimile 503/231–6243).

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of the exclusions outweigh the benefits of specifying the areas as critical habitat. We cannot exclude the areas from critical habitat when the exclusion will result in the extinction of the species.

Economic effects caused by listing *Sidalcea oregana* var. *calva* as an endangered species and by other statutes are the baseline against which the effects of critical habitat designation are evaluated. The economic analysis must then examine the incremental economic effects and benefits of the critical habitat designation. Economic effects are measured as changes in national income, regional jobs, and household income. We made the draft economic analysis available for public review and comment as described in the ''Summary of Comments'' section of this document. The final analysis, which reviewed and incorporated public comments as appropriate, concluded that no significant additional economic impacts are expected from critical habitat designation above and beyond that already attributable to the listing of *Sidalcea oregana* var. *calva* under the Act and other statutes. The most likely economic effects of critical habitat designation are on activities funded, authorized, or carried out by a Federal agency.

We believe that any project that would adversely modify or destroy critical habitat for *Sidalcea oregana* var. *calva* would also jeopardize the continued existence of the species, and that reasonable and prudent alternatives to avoid jeopardizing the species would also avoid adverse modification of critical habitat. Thus, no significant additional regulatory burden or associated significant additional costs would accrue because of critical habitat above and beyond those attributable to the listing of *Sidalcea oregana* var. *calva*. Our economic analysis does recognize that there may be costs from delays associated with reinitiating completed consultations after the critical habitat designation is made final. There may also be economic

effects due to the reaction of the real estate market to critical habitat designation, as real estate values may be lowered due to perceived increase in the regulatory burden. We believe these impacts will be short-term, however.

The economic analysis concludes that, over the next 10 years the section 7 costs attributable to the listing are not expected to exceed $10,000, and result from a new consultation between us, the USFS, and WDNR. Costs attributable to critical habitat designation are not expected to exceed $2,000 and result from a re-initiated consultation between the USFS and us. Private landowners should incur no additional costs resulting from critical habitat designation. This estimate is based on the existing consultation history with agencies in this area and increased public awareness regarding the actual impacts of critical habitat designation on land values. Therefore, we conclude that no, or minimal, significant incremental costs are anticipated as a result of the designation of critical habitat for *Sidalcea oregana* var. *calva.*

A copy of the final economic analysis and a description of the exclusion process with supporting documents are included in our administrative record and may be obtained by contacting our Western Washington Office (see **ADDRESSES** section).

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order (EO) 12866, this rule is a significant regulatory action and has been reviewed by the Office of Management and Budget (OMB).

(a) In the economic analysis, we determined that 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. *Sidalcea oregana* var. *calva* was listed as endangered on December 22, 1999. Since that time we have conducted, and will continue to conduct, formal and informal section 7 consultations with other Federal agencies to ensure that their actions will not jeopardize the continued existence of *Sidalcea oregana* var. *calva.*

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). Section 7 of the Act requires Federal agencies to ensure that they do not jeopardize the continued existence of the species. Based on our experience with the species and its needs, we believe that any Federal action or authorized action that could potentially cause an adverse modification of the proposed critical habitat would currently be considered as jeopardy to the species under the Act.

Accordingly, we do not expect the designation of areas as critical habitat within the geographical range of the species to have any incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding. Non-Federal persons who do not have a Federal sponsorship of their actions are not restricted by the designation of critical habitat.

TABLE 2.—IMPACTS OF SIDALCEA OREGANA VAR. CALVA LISTING AND CRITICAL HABITAT DESIGNATION

Categories of activities	Activities potentially affected by species listing only	Additional activities potentially affected by critical habitat designation [1]
Federal Activities Potentially Affected [2].	Activities conducted by the Army Corps of Engineers, U.S. Forest Service, Environmental Protection Agency, Federal Highway Administration, and any other Federal Agencies, including, but not limited to, actions that appreciably reduce the hydrologic function and surface area of rivers, streams, seeps, or springs, timber harvesting and road construction, rural residential construction that includes concrete pads for foundations or the installation of septic systems, and activities that alter watershed characteristics in ways that would appreciably reduce groundwater recharge or alter natural flooding regimes to alter natural, dynamic wetland communities.	Activities by these Federal Agencies in designated areas where section 7 consultations would not have occurred but for the critical habitat designation.
Private or other non-Federal Activities Potentially Affected [3].	Activities that require a Federal action (permit, authorization, or funding) and may remove or destroy *Sidalcea oregana* var. *calva* habitat by mechanical, chemical, or other means (e.g., grading, discing, ripping, and tilling, water diversion, impoundment, groundwater pumping, irrigation, construction, road building, herbicide application, recreational use, etc.) or appreciably decrease habitat value or quality through indirect effects (e.g., edge effects, invasion of exotic plants or animals, fragmentation of habitat).	Funding, authorization, or permitting such actions by Federal Agencies in any unoccupied critical habitat areas.

[1] This column represents activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.
[2] Activities initiated by a Federal agency.
[3] Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

(b) This rule is not expected to 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 *Sidalcea oregana* var. *calva* since its listing in 1999. The prohibition against adverse modification of critical habitat is expected to impose few, if any, additional restrictions to those that currently exist. However, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

(c) This final rule will not significantly impact 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 designated critical habitat.

(d) OMB has determined that this rule may raise novel legal or policy issues and, as a result, this rule has undergone OMB review.

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. The following discussion explains our determination.

We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action will not have a significant economic impact on a substantial number of small entities.

As discussed in the economic analysis for this rulemaking and the preamble above, this rule is not expected to result in any significant restrictions in addition to those currently in existence for areas occupied by *Sidalcea oregana* var. *calva* and designated as critical habitat. As indicated in Table 1 (see Critical Habitat Designation section), we designated critical habitat on property owned by Federal, State and local governments, and private property, and identified the types of Federal actions or authorized activities that are of potential concern (Table 2). If these activities sponsored by Federal agencies within the designated 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 significant 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 a significant increased regulatory burden since the Corps of Engineers already requires review of projects involving wetlands because wetlands frequently 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.

Therefore, we are certifying that this final designation of critical habitat is not expected to have a significant adverse impact on a substantial number of small entities. Thus, no regulatory flexibility analysis is necessary.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this rule is a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (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 not be affected unless they propose an action requiring Federal funds, permits, or other authorization. Any such activity will require that the Federal agency ensure that the action will not adversely modify or destroy designated critical habitat.

(b) This rule, will not produce a Federal mandate of $100 million or greater in any year, that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

Takings

In accordance with Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required. As discussed above, the designation of critical habitat affects only Federal agency actions. The rule will not increase or decrease the current restrictions on private property concerning take of *Sidalcea oregana* var. *calva.* Due to current public knowledge of the species' protection, and the fact that critical habitat provides no additional incremental restrictions, we do not anticipate that property values will be affected by the critical habitat designation. While real estate market values may temporarily decline following designation, due to the perception that critical habitat designation may impose additional regulatory burdens on land use, we expect any such impacts to be short term.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from and coordinated development of this critical habitat proposal with appropriate State resource agencies in Washington. The designation of critical habitat within the geographic range occupied by *Sidalcea oregana* var. *calva* 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 this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have designated critical habitat in accordance with the provisions of the Endangered Species Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of *Sidalcea oregana* var. *calva.*

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

This rule does not contain any information collection requirements for

which OMB approval under the Paperwork Reduction Act is required. 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 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 Endangered Species Act, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis.

We have determined that there are no Tribal lands essential for the conservation of *Sidalcea oregana* var. *calva.* Therefore, critical habitat for *Sidalcea oregana* var. *calva* has not been designated on Tribal lands.

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Western Washington Office (see **ADDRESSES** section).

Author

The primary author of this final rule is Ted Thomas (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.12(h), revise the entry for *Sidalcea oregana* var. *calva* under ''FLOWERING PLANTS'' to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*		*
Sidalcea oregana var. *calva.*	Wenatchee Mountains checker-mallow.	U.S.A. (WA)	Malvaceae-(Mallow)	E	673	17.96(a)	N/A
*	*	*	*	*	*		*

3. In § 17.96, add critical habitat for the Wenatchee Mountains checker-mallow (*Sidalcea oregana* var. *calva*) under paragraph (a) by adding an entry for *Sidalcea oregana* var. *calva* after the entry for *Kokia drynaroides* under Malvaceae to read as follows:

§ 17.96 Critical habitat-plants.

(a) Flowering plants.

* * * * *

Family Malvaceae: *Sidalcea oregana* var. *calva* (Wenatchee Mountains checker-mallow).

(1) Critical habitat unit is depicted for Chelan County, Washington, on the map below.

(2) Washington, Chelan County. From USGS 7.5′ quadrangle maps Peshastin and Tip Top, Washington. T. 23 N., R 18 E., beginning at a point on Camas Creek in the NW¼ of NW¼ of section 35 at approximately 47°26′52″ N latitude and 120°38′57″ W longitude proceeding downstream (northwesterly), expanding in all directions to include the entire wetland complex that comprises the Camas Meadow Natural Area Preserve, to a point approximately 0.4 km (0.25 mi) from the confluence of Pendleton Creek and Peshastin Creek, located at 47°31′06″ and 120°37′18″ W longitude. From this last point, the western boundary of the designated critical habitat parallels Peshastin Creek to a point at the southwest of the designated area located at 47°28′46″ N latitude and 120°38′57″ W longitude. The maximum elevation of the designated critical habitat is 1,000 m (3,300 ft) and the lowest elevation is 488 m (1,600 ft). Critical habitat within this area includes watercourses and wetland habitat out to the beginning of upland vegetation.

(3) The known primary constituent elements of critical habitat for *Sidalcea oregana* var. *calva* include: surface water or saturated upper soil profiles; a wetland plant community dominated by native grasses and forbs, and generally free of woody shrubs and conifers that would produce shade and competition for *Sidalcea oregana* var. *calva*; seeps and springs on fine-textured soils (clay loams and silt loams), which contribute to the maintenance of hydrologic processes necessary to support meadows that remain moist into the early summer; and elevations of 488–1,000 m (1,600–3,300 ft).

Critical habitat does not include existing features and structures, such as buildings, roads, aqueducts, railroads, airports, other paved areas, lawns, and other rural residential landscaped areas, not containing one or more of the primary constituent elements.

Note: Map follows:

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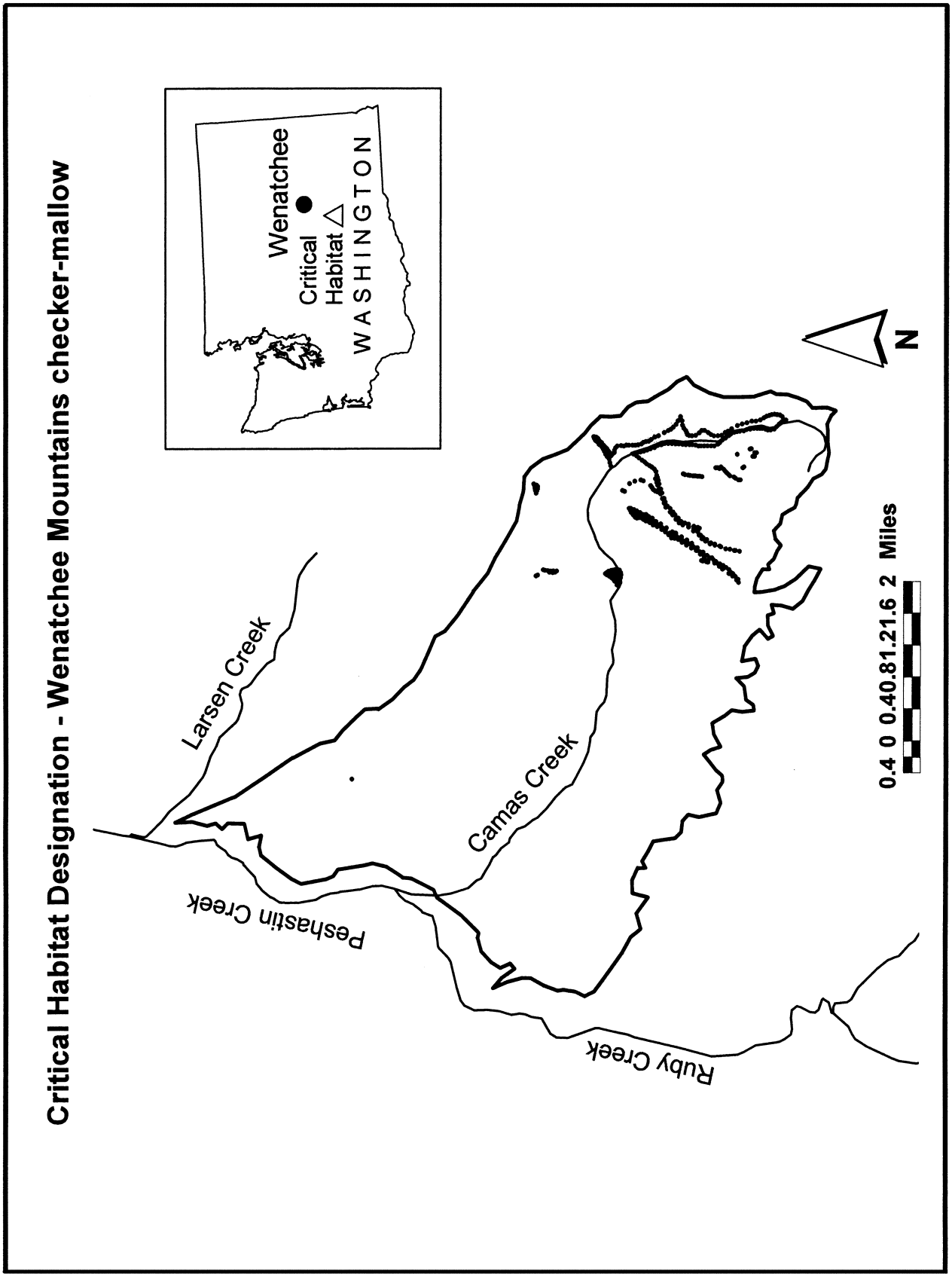
Critical Habitat Designation - Wenatchee Mountains checker-mallow
Wenatchee
Critical
Habitat
WASHINGTON
Larsen Creek
Camas Creek
Peshastin Creek
Ruby Creek
N
0.4 0 0.4 0.8 1 2 1.6 2 Miles

* * * * *

Dated: August 29, 2001.

Marshall P. Jones, Jr.,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–22341 Filed 9–5–01; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH06

Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Kootenai River Population of the White Sturgeon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for the Kootenai River population of the white sturgeon (*Acipenser transmontanus*). A total of 18 river kilometers (11.2 river miles) of the Kootenai River in Idaho is designated as critical habitat.

Section 7 of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to destroy or adversely modify designated critical habitat. State or private actions, with no Federal involvement, would not be affected by this rulemaking action. As required by section 4 of the Act, we considered economic and other impacts prior to making a final decision on what area to designate as critical habitat.

DATES: This rule becomes effective on October 9, 2001.

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, Upper Columbia Fish and Wildlife Office, 11103 East Montgomery Drive, Spokane, Washington 99206.

FOR FURTHER INFORMATION CONTACT: Bob Hallock, U.S. Fish and Wildlife Service, Upper Columbia Fish and Wildlife Office, see **ADDRESSES** section; telephone 509/891–6839, facsimile 509/891–6748.

SUPPLEMENTARY INFORMATION:

Background

The Kootenai River population of the white sturgeon (*Acipenser transmontanus*) is 1 of 18 land-locked populations of white sturgeon known to occur in western North America. The Kootenai River originates in Kootenay National Park in British Columbia, Canada, then flows south into Montana, northwest into Idaho, then north through the Kootenai Valley back into British Columbia, where it flows through Kootenay Lake and joins the Columbia River at Castlegar, British Columbia. Kootenai River white sturgeon occur in Idaho, Montana, and British Columbia, and are restricted to approximately 270 river kilometers (km) (168 river miles (mi)) of the Kootenai River extending from Kootenai Falls, Montana, located 50 river km (31 mi) below Libby Dam, Montana, downstream through Kootenay Lake to Corra Lynn Dam at the outflow from Kootenay Lake in British Columbia.

Bonnington Falls, a natural barrier downstream of Kootenay Lake, has isolated the Kootenai River population of white sturgeon since the last glacial advance roughly 10,000 years ago (Apperson 1992). Approximately 45 percent of the species' range, based on river kilometers, is located within British Columbia. Apperson and Anders (1991) found that at least 36 percent of the sturgeon tracked during 1989 over-wintered in Kootenay Lake. They further believe that sturgeon do not commonly occur upstream of Bonners Ferry, Idaho, which includes most of the Kootenai River watershed in the United States.

The Kootenai River population of white sturgeon is threatened by factors including hydropower operations, flood control operations, poor recruitment, loss of habitat, and possibly, contaminants (water quality impacts). For more detailed discussions of the ecology of the Kootenai River population of white sturgeon, see the September 6, 1994, **Federal Register** notice listing this population as endangered (59 FR 45989), and the September 30, 1999, ''Recovery Plan for the White Sturgeon (*Acipenser transmontanus*): Kootenai River Population'' (U.S. Fish and Wildlife Service 1999). The final listing rule and the recovery plan incorporate the best available biological information on Kootenai River white sturgeon.

Although the Service, in cooperation with other agencies, has gained important life history information during the 7 years since listing the species, considerable uncertainty remains in accurately delineating critical habitat for the Kootenai River population of white sturgeon. However, we rely on the best currently available information, including our 1999 recovery plan for the species, to designate critical habitat; we will now summarize the recent findings and remaining areas of uncertainty. Information being gathered now and in the future may require substantially amending this rule, the associated analyses of impacts, and any recommendations under section 7 of the Act.

In 1997, Paragamian *et al.* (1997) estimated that there may be 1,468 adult sturgeon remaining in the Kootenai River population, with a male-to-female ratio of 1.7:1, or about 539 females. With 7 percent of these females reproductively active in a given year (Apperson and Anders 1991), and an assumed average of 100,000 eggs per female, there may be as many as 3.8 million eggs released on average annually. To increase the probability of survival of fertilized eggs, the U.S. Army Corps of Engineers (COE) has provided various augmentation flows from Libby Dam. However, during the last 10 years of intensive monitoring, only one hatching fry has been found, and no free-swimming larvae or young-of-the-year have been captured. To date, only 17 juvenile sturgeon have been captured that can be associated with the experimental augmentation flows between 1991 and 1997. Because of sampling gear limitations, the success of sturgeon recruitment during the 1998 and 1999 augmentation flows cannot be assessed at this time. Considering the extent of occupied habitat in the United States and Canada, we believe that we have not yet accounted for other naturally recruited sturgeon from these same year classes that are present in the system. However, because of the high incidence of recapture of marked juvenile sturgeon in this system, the number of additional juvenile sturgeon is believed to be small.

There is evidence that very high levels of mortality of sturgeon eggs and sac fry are occurring annually. While we anticipate high levels of mortality at early life stages of a highly fecund species such as the Kootenai River white sturgeon, during 10 years of intensive monitoring we have never captured a free-swimming larvae or young-of-the-year sturgeon, and have captured a total of only 17 juveniles. This suggests exceptionally high levels of mortality are occurring at the sites now being used for spawning, egg incubation, and yolk sac fry development.

White sturgeon are broadcast spawners that release adhesive eggs which then sink to the river bottom (Stockley 1981, Brannon *et al.* 1984). In the lower Columbia River, most sturgeon eggs are sheltered by attaching

themselves and incubating on rocky substrate near the spawning site (Parsley *et al.* 1993). Rocky substrates also provide cover for yolk sac larvae before they become free-swimming. However, in the Kootenai River, most of the current sturgeon spawning sites are over sandy substrate, and most eggs are found drifting along the river bottom covered with fine sand particles (Paragamian *et al.* in press). Recently, U.S. Geological Survey (USGS) geologists have analyzed core samples from the river bed and identified a ''buried gravel/cobble geomorphic reach'' throughout the reach of river from Bonner's Ferry downstream to the mouth of Deep Creek (Gary Barton, USGS, pers. comm. 2001). Purposes of this ongoing study are to determine the conditions that may have caused this gravel/cobble substrate to be buried, and when this may have occurred.

Through 10 years of monitoring, we have determined that 10 degrees Celsius (50 degrees Fahrenheit) is the optimum temperature for spawning for this species. When significant sturgeon recruitment last occurred in the Kootenai River (in the year 1974), and when preferred spawning temperatures were near 10 degrees Celsius, the following conditions were recorded: base flows of 40,000 cfs (1,120 cubic meters per second (cms)), peak flows of 55,000 cfs (1,540 cms), and a water surface elevation at Bonners Ferry of 1,765.5 ft (538.5 m) above sea level while at peak flows. We do not know the locations or the substrate composition of the spawning sites selected by adults under these 1974 conditions. The more extreme flow events common in the unregulated Kootenai River prior to impoundment may have caused gravel to be exposed within the spawning area. For example, the flood of record (1894) at Bonners Ferry, Idaho, was estimated to have been 157,000 cfs (4,396 cms), and peak flows in the range of 70,000 cfs (1,960 cms) were not unusual prior to construction of Libby Dam, which became fully operational in 1975. These flow, water surface elevation, and temperature conditions have not all been replicated at one time since 1974.

In the Kootenai River, spawning has not resulted in significant levels of recruitment, and it is unclear whether this is due to: (1) The current spawning site selection is a predominant behavioral response to changed river velocities and depths from the operations of Libby Dam, which may be causing the sturgeon to spawn primarily at new sites below the confluence with Deep Creek, about 3 river miles below Bonners Ferry, with unsuitable sandy riverbed substrates; or (2) the substrate at historic spawning sites has been altered by the operations of Libby Dam that have greatly reduced peak flood flows and associated stream energy. In turn, this may be causing rocky substrate, otherwise suitable for egg incubation and sac fry development, to be covered with sand. Since intensive monitoring began 10 years ago, there is evidence that some sturgeon in spawning condition enter the reach of river between Bonner's Ferry and the mouth of Deep Creek each year, but few have remained to spawn there.

Suitable water and sediment quality are necessary for viability of early life stages of Kootenai River white sturgeon, including both incubating eggs and yolk sac larvae, and normal breeding behavior. In 1992, Apperson documented elevated levels of copper in both Kootenai River sediments and sturgeon oocytes (the eggs before maturation), and found low levels of the polychlorinated biphenyl Arochlor 1260 in river water. Because offspring of wild sturgeon captured and spawned in the hatchery appeared to survive and develop normally on filtered hatchery water, the question regarding quality of the river habitat remains. Subsequent studies of biota and survival (egg and larvae) have continued the concern as to the role water and sediment quality is playing in the lack of recruitment to the sturgeon population. Although most sturgeon eggs released in the Kootenai River are not believed to live long enough to hatch into larvae and begin feeding, various constituent nutrients trapped in Lake Koocanusa, above Libby Dam, including nutrients, nitrogen, and phosphorus, may affect the food base of those larvae that do hatch. The operations of Libby Dam can affect water temperatures in the spawning reach, especially during intermediate and low water years. Water temperature may affect spawning behavior. Optimum spawning temperature is near 10 degrees Celsius, and sudden drops of 2 to 3 degrees Celsius cause males to become reproductively inactive. Water and sediment quality and the effects of contaminants on sturgeon recruitment remain an area of concern and uncertainty.

Researchers with the USGS are conducting a study of possible changes in riverbed substrate and water depths in the Kootenai River from Kootenay Lake, British Columbia, to above Bonners Ferry, Idaho, which may have resulted from the last 26 years of operations at Libby Dam. Further, there is an ongoing study involving the releases of large numbers (over 100,000) of four-day-old, hatchery-reared, yolk sac larvae over both sandy and rocky substrates in the Kootenai River, which is also intended to address uncertainties involving the sturgeon population's riverbed substrate needs.

Previous Federal Action

Federal action on the Kootenai River population of white sturgeon began on November 21, 1991, when we included this population as a category 1 candidate species in the Notice of Animal Candidate Review (56 FR 58804), based on field studies conducted by the Idaho Department of Fish and Game. Category 1 candidate species are taxa for which the Service has on file enough substantial information on biological vulnerability and threats to propose them for endangered or threatened status. On June 11, 1992, the Service received a petition from the Idaho Conservation League, North Idaho Audubon, and the Boundary Backpackers to list the Kootenai River population of white sturgeon as threatened or endangered under the Act. The petition cited the lack of natural flows affecting juvenile recruitment as the primary threat to the continued existence of the wild sturgeon population. Pursuant to section 4(b)(A) of the Act, the Service determined that the petition presented substantial information indicating that the requested action may be warranted, and published this finding in the **Federal Register** on April 14, 1993 (58 FR 19401). A proposed rule to list the Kootenai River population of white sturgeon as endangered was published on July 7, 1993 (58 FR 36379), with a final rule following on September 6, 1994 (59 FR 45989).

In the September 6, 1994, final rule listing the Kootenai River population of white sturgeon as endangered (59 FR 45989), we stated that the designation of critical habitat was not determinable. As identified in the final listing determination, the primary threat to this species involves effects of the greatly altered natural hydrograph in the Kootenai River downstream of and beginning with the operations of Libby Dam in 1975. Adaptive management involving flow augmentation and monitoring during the last six years has indicated that this threat is most crucial during the first year of life, especially the first three weeks of life of the sturgeon (fertilized egg through free-swimming larvae). Biological factors relevant to the species' early life stage habitat needs are discussed in the ''Primary Constituent Elements'' section of this final rule.

Section 4(a)(3) of the Act and its implementing regulations (50 CFR

424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)) state that designation of critical habitat is not determinable if information is not sufficiently well known to permit identification of an area as critical habitat. Our regulations (50 CFR 424.12(a)(1)) also state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

At the time of listing, we found critical habitat not determinable because the information necessary to perform the required impacts analyses of such a designation was lacking. We believed there was insufficient biological information to accurately delineate the habitat essential to the species, and, in the absence of this delineation, the required analysis of impacts could not be completed accurately. In addition, specific areas of critical habitat could not be identified without additional information on the life history and habitat requirements of the sturgeon. Biological information needs then identified by the Service included information concerning specific river reaches or areas necessary for spawning, reproduction, and rearing of offspring; and water quality, temperature, and velocity required to meet the needs of various life history stages (e.g., spawning, early rearing, and juvenile migration).

We published a final Recovery Plan on September 30, 1999 (U.S. Fish and Wildlife Service 1999). The recovery strategy identified in this recovery plan emphasized the importance of reestablishing successful, natural spawning of Kootenai River white sturgeon, minimizing the loss of genetic variability, and successfully mitigating the biological and physical habitat changes caused by human development within the Kootenai River basin.

On June 30, 1999, the Center for Biological Diversity filed a complaint on the Service's failure to designate critical habitat for the Kootenai River population of white sturgeon. As part of a court decision of August 30, 2000, in *Center for Biological Diversity v. Bruce Babbitt, Secretary of the Department of the Interior, and the United States Fish and Wildlife Service,* C99–3202 SC, we entered into a court-approved settlement agreement to submit a proposed rule for designation of critical habitat for the Kootenai River population of white sturgeon to the **Federal Register** by December 15, 2000. The proposed rule for designation of critical habitat was published on December 21, 2000 (65 FR 80698). The public comment period on the proposed rule was open from December 21, 2000, until February 20, 2001. On April 26, 2001, we announced the availability of the draft economic analysis and reopened the public comment period (66 FR 20962). The second public comment period closed on May 29, 2001.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as: (i) the specific areas within the geographic area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon determination that such areas are essential for conservation of the species. The term ''conservation'' as defined in section 3(3) of the Act means ''to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary'' (i.e., the species is recovered and removed from the list of endangered and threatened species). Section 3 of the Act further states that, except where determined by the Secretary of the Interior, critical habitat shall not include the entire geographic area which can be occupied by threatened or endangered species. In addition, critical habitat shall not be designated in foreign countries (50 CFR 424.12 (h)).

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available, and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas as critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. However, we cannot exclude areas from critical habitat when the exclusion will result in the extinction of the species.

In order to be included in a critical habitat designation, the habitat must first be ''essential to the conservation of the species.'' Critical habitat designations identify, to the extent known using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (i.e., areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

When we designate critical habitat at the time of listing, as required under section 4 of the Act, or under short court-ordered deadlines, we may not have the information necessary to identify all areas which are essential for the conservation of the species. Nevertheless, we are required to designate those areas we know to be critical habitat, using the best information available to us.

Within the geographic area of the species, we will designate only currently known essential areas. Essential areas should already have the features and habitat characteristics that are necessary to sustain the species. We will not speculate about what areas might be found to be essential if better information became available, or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs of the species, then the area should not be included in the critical habitat designation. Within the geographic area of the species, we will not designate areas that do not now have the primary constituent elements, as defined at 50 CFR 424.12(b), that provide essential life cycle needs of the species.

Our regulations state that, ''The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.'' (50 CFR 424.12(e)). Accordingly, we do not designate critical habitat in areas outside the geographic area occupied by the species unless the best scientific and commercial data demonstrate that the unoccupied areas are essential for the conservation needs of the species.

Our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that our decisions represent the best scientific and commercial data available. It requires our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining

which areas are critical habitat, a primary source of information should be the listing package for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by states and counties, scientific status surveys and studies, and biological assessments, unpublished materials, and expert opinion or personal knowledge.

Critical habitat provides non-regulatory benefits to the species by informing the public and private sectors of areas that are important for species recovery and where conservation actions would be most effective. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for conservation of that species, and can alert the public as well as land- and water-managing agencies to the importance of those areas. Critical habitat also identifies areas that may require special management considerations or protection, and may help provide protection to areas where significant threats to the species have been identified or help to avoid accidental damage to such areas.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we solicited independent expert opinions from four persons who are familiar with this species to peer-review the proposed critical habitat designation. Two of these experts provided us with a written response generally supporting the designation based on the best available information. They also provided additional information that we have incorporated into the rule.

Both reviewers suggested that with additional information there may be a need to modify or expand critical habitat in the future. One reviewer suggested expansion of critical habitat upstream to include gravel/cobble substrates that may be used for sturgeon spawning under exceptional runoff conditions in the future. Our detailed response to this suggestion is included in the ''Summary of Comments and Recommendations'' section of this rule.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations in 50 CFR 424.12, in determining which areas to designate as critical habitat, we must consider those physical and biological features (primary constituent elements) essential to the conservation of the species, and which may require special management considerations and protection. These physical and biological features include but are not limited to the following: space for individual and population growth, and for normal behavior; food, water, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing of offspring; and, habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of a species.

The important habitat features that provide for breeding and rearing of offspring through the free-swimming larvae stage include: water temperatures, depths, and flows sufficient to trigger sturgeon breeding, and water volumes and substrates sufficient to provide cover and shelter to incubating eggs and yolk sac larvae.

We have determined the primary constituent elements of critical habitat for the Kootenai River population of white sturgeon from studies of their habitats, life history, and population biology described and referenced above. Kootenai River flows may affect the sturgeon in two ways—flows may affect normal breeding behavior, including site selection, or alter the riverbed substrate, which may affect survival of eggs and cover for yolk sac larvae. Flows may also affect the efficiency of predators to locate eggs and sac fry larvae. The four primary constituent elements of Kootenai River sturgeon critical habitat are:

1. A flow regime that creates a hydrologic profile characterized by flow magnitude, timing, and velocity, and water depth and quality (including temperatures) necessary for normal behavior involving breeding site selection, breeding and fertilization, and cover for egg incubation and yolk sac fry development.

2. A flow regime that creates a hydrologic profile characterized by water of sufficient duration and magnitude to restore or maintain riverbed substrate necessary for attachment and shelter of incubating eggs and cover for yolk sac fry in inter-gravel spaces.

3. A flow regime that creates a hydrologic profile characterized by flow magnitude, time, velocity, depth, and duration necessary for the normal behavior of adult and juvenile sturgeon.

4. Water and sediment quality necessary for normal behavior, including breeding behavior, and viability of all life stages of the Kootenai River white sturgeon, including incubating eggs and yolk sac larvae.

The area we are designating as critical habitat for the Kootenai River population of white sturgeon provides the above constituent elements and requires special management considerations or protection to ensure their contribution to the species' conservation.

Critical Habitat Designation

Based on the best available information, we designate the following area as critical habitat for the Kootenai River population of white sturgeon: that portion of the Kootenai River within Boundary County, Idaho, from river kilometer 228 (about river mile 141.4, below Shorty's Island) to river kilometer 246 (about river mile 152.6, above the Highway 95 Bridge at Bonners Ferry, Idaho). The lateral extent of critical habitat is up to the ordinary high-water lines (as defined by the COE in 33 CFR 329.11) on each bank of the Kootenai River within this 18-kilometer (11.2-mile) reach.

Land Ownership

The reach of the Kootenai River designated as critical habitat lies within the ordinary high-water lines as defined for regulatory purposes (33 CFR 329.11). Upon statehood in 1890, the State of Idaho claimed ownership of the bed of the Kootenai River and its banks up to ordinary high-water lines. Numerous private-, public-, and tribally-owned parcels abut these State-owned riverbed/banks, including lands managed by the Service at the Kootenai National Wildlife Refuge, and trust lands managed by the Kootenai Tribe of Idaho.

Based upon early U.S. Forest Service (USFS) maps from 1916, USGS maps from 1928, and the confining effects of the private levees completed by the COE in 1961, it appears that within this reach of the Kootenai River the ordinary high-water lines originally delineating State lands are essentially unchanged. Because of the scales of the available maps, it is possible that minor river channel changes have occurred since statehood, and that some small portions of private lands now occur within the ordinary high-water lines. However, we understand that most of the lands where these changes may have occurred lie within the flowage and seepage easements purchased by the Federal Government under Public Law 93–251, section 56, passed in 1974. In addition, when the river meanders, the ''government lot'' or parcel owners abutting State-owned riverbed/banks may request parcel boundary adjustments to the new ordinary high-water line, and corresponding

adjustments in taxable acreage. Although the elevations of ordinary high water may have been lowered by the operations of Libby Dam since 1974, the lateral extent of the State-owned riverbed/banks along the steep levees may be closely approximated today through the COE's definition of ordinary high-water line cited above. Thus, we believe the land we have designated as critical habitat is within lands owned by the State of Idaho.

Effect of Critical Habitat Designation

Section 7 Consultation

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, all should understand that critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1), and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the section 9 take prohibition. We anticipate that federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best information available at the time of the designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Critical habitat receives regulatory protection only under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as ''* * * the direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.'' Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to areas designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not afford any additional protections under the Act against such activities.

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 both the survival and recovery of the species. Individuals, organizations, State, Tribal, and 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. Thus, activities on Federal lands that may affect the Kootenai River white sturgeon or its critical habitat, if designated, will require section 7 consultation. Actions on private or State lands receiving funding or requiring a permit from a Federal agency also will be subject to the section 7 consultation process if the action may affect the species or its critical habitat. Federal actions not affecting the species or its critical habitat, as well as actions on non-Federal lands that are not federally funded or permitted, will not require section 7 consultation.

Federal agencies are required to evaluate their actions with respect to any species that is listed as endangered or threatened, and with respect to its designated critical habitat. Regulations implementing these interagency cooperation provisions of the Act are codified at 50 CFR part 402.

If we find a proposed agency action is likely to destroy or adversely modify the critical habitat, our biological opinion may include reasonable and prudent alternatives to the action that are designed to avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions 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 we believe would avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative vary accordingly.

Regulations at 50 CFR 402.16 also require Federal agencies to reinitiate consultation in instances where we have already reviewed an action for its effects on listed species if critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat include those that alter the primary constituent elements to an extent that the value of critical habitat for both the survival and recovery of the Kootenai River population of white sturgeon is appreciably reduced. We note that such activities may also jeopardize the continued existence of the species. A wide range of Federal activities may include land and water management actions of Federal agencies (e.g., Bonneville Power Administration, Natural Resources Conservation Service, Bureau of Indian Affairs, USFS, EPA, COE, and the U.S. Fish and Wildlife Service), and related or similar actions of other federally regulated projects (e.g., road and bridge construction or maintenance activities by the Federal Highway Administration; dredge and fill projects, sand and gravel mining, bank stabilization activities conducted by the COE; and NPDES permits authorized by the EPA). These activities may destroy or adversely modify critical habitat if they alter the primary constituent elements (defined above) to an extent that the value of critical habitat for both the survival and recovery of the Kootenai River population of white sturgeon is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency, may destroy or adversely modify critical habitat include, but are not limited to:

(1) Altering the flow regime within the critical habitat in ways that prevent the necessary conditions for breeding and fertilization. For example, flood control and hydroelectric operations

and water release configuration limitations of Libby Dam may destroy or adversely modify critical habitat by altering habitat for normal breeding behavior, shelter for incubating eggs, and cover for yolk sac larvae.

(2) Altering the flow regime within the critical habitat in ways that prevent the necessary conditions for incubating eggs and developing yolk sac larvae. Flood control and hydroelectric operations combined with the water release configuration limitations of Libby Dam may destroy or adversely modify critical habitat necessary for incubation of eggs and development of yolk sac larvae by altering riverbed substrate composition through reduced bed load transport energy and unnatural distribution of stream bed sand and silt. Land management activities accelerating sediment releases from watersheds entering the Kootenai River below Libby Dam, and above or within critical habitat, may also destroy or adversely modify this critical habitat through increased deposition of sand and silt in the stream bed. Other actions, including channelization, levee reconstruction, stream bank stabilization, gravel removal, and road and bridge construction, may also affect critical habitat.

(3) Altering water chemistry. Possible actions include the release of chemicals or biological pollutants into the waters passing through the critical habitat from point sources or by dispersed releases (non-point sources).

These examples indicate the types of activities that will require consultation in the future and, therefore, that may be affected by critical habitat designation. These kinds of activities would also generally require consultation when they affect a listed species, irrespective of impacts to critical habitat. To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to ''jeopardize the continued existence'' of a species are those that would appreciably reduce the likelihood of the species' survival and recovery. Actions likely to ''destroy or adversely modify'' critical habitat are those that would appreciably reduce the value of critical habitat for the survival and recovery of the listed species. Common to both definitions is an appreciable detrimental effect on both survival and recovery of a listed species. Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned, particularly when the area of the proposed action is occupied by the species concerned. As a result, we do not expect that designation of critical habitat in this area, occupied by the Kootenai River population of white sturgeon, will result in a regulatory burden substantially above that already in place, due to the presence of the already-listed species.

Federal actions that are found likely to destroy or adversely modify critical habitat (or to jeopardize the continued existence of the species) may often be modified, through development of reasonable and prudent alternatives, in ways that will remove the likelihood of destruction or adverse modification of critical habitat (or jeopardy). Project modifications may include, but are not limited to, adjustment in timing of projects to avoid sensitive periods for the species and its habitat; minimization of work and vehicle use in the wetted channel; avoidance of pollution; use of alternative material sources; sediment barriers; and use of best land management and construction practices.

If you have questions regarding whether specific activities will likely constitute destruction or adverse modification of critical habitat, contact the Supervisor, Upper Columbia River 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 Division of Endangered Species, U.S. Fish and Wildlife Service, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (telephone 503–231–6158; facsimile 503–231–6243).

Summary of Comments and Recommendations

We twice requested all interested parties to submit comments or information that might bear on the designation of critical habitat for Kootenai River white sturgeon (65 FR 80618 and 66 FR 20962). We contacted all appropriate State and Federal agencies, Tribes, county governments, conservation organizations, and other interested parties and invited them to comment. In addition, we published newspaper notices inviting public comment and announcing the public hearings in the following newspapers—*Spokesman Review* and *Bonner County Daily Bee* in Idaho, and *The Western News* (Libby) in Montana.

We held a public hearing on the proposed rule in Bonners Ferry, Idaho, on January 18, 2001. Transcripts of this hearing are available for inspection (see **ADDRESSES** section).

A total of 21 commenters responded, 13 in writing and 8 orally. One commenter supported critical habitat as proposed, five commenters were opposed, and the remaining commenters were neutral to designation of critical habitat. Ten of the commenters were interested in expansion of the economic analysis to address all additional impacts of having listed the Kootenai River white sturgeon under the Act. We have reviewed all comments received for substantive issues and new data regarding critical habitat and the Kootenai River population of white sturgeon. Repeated or very similar comments are combined into single comments and responses.

During the public comment periods, we also received numerous written and oral comments that involved matters related to our December 2000 jeopardy biological opinion on the operations of the Federal Columbia River Power System, but unrelated to the designation of critical habitat. Only those comments involving impacts of our previous biological opinions which are applicable to our discussion of the economic baseline are addressed here.

Issue 1: One commenter suggested that we should include the entire range of the sturgeon, 168 river miles, as critical habitat.

Our Response: This is beyond the scope and intent of designating critical habitat (50 CFR 424.12 (b and c)). We only designated the reach of the river that is essential to the conservation of the species. We do not believe that the entire river meets the definition of critical habitat. Critical habitat is defined in section 3(5)(A) of the Act (see the ''Critical Habitat'' section of this rule).

Issue 2: One commenter stated that all upstream and upgradient habitats up to the watershed divide should be included as critical habitat for the sturgeon. Three other commenters suggested expanding the area of critical habitat some unspecified distance upstream of Bonners Ferry, Idaho.

Our Response: By regulation, designation of critical habitat involves a definable site that is essential for its conservation (50 CFR 424.12 (b and c)) and may require special management. Exposed gravel substrates exist in the Kootenai River bed upstream of the area we have designated as critical habitat, and these appear suitable for sturgeon spawning and early-life-stage rearing. There are no barriers that preclude

sturgeon access to this river reach. The modest experimental augmentation flows in 1996 and 1997 intended to attract spawning sturgeon to this area were successful. However, based on the absence of historic observations and 10 years of monitoring sturgeon spawning movements through radio tracking of adults and sampling for eggs and larvae, there is no evidence that sturgeon have ever used this reach of the Kootenai River for spawning or early-life-stage rearing.

We know peak runoff event river depths and stream energy necessary to transport bedload have been altered by the operations of Libby Dam. Prior to the operations of Libby Dam, peak flows occasionally exceeded 100,000 cubic feet per second (cfs), and the average annual peak discharge was approximately 75,000 cfs. Since Libby Dam became operational, the average annual peak has been reduced to approximately 35,000 cfs (U.S. Army Corps of Engineers 2001). New information supports the proposed designation because it indicates the gravel/cobble substrate does exist in the area that we proposed. USGS geologists have analyzed core samples of the riverbed, and identified a ''buried gravel/cobble geomorphic reach'' extending from the railroad bridge in Bonners Ferry downstream about to the confluence with Deep Creek, a distance of about 3 miles, and entirely within critical habitat (Gary Barton, USGS, pers. comm. 2001). The purpose of this ongoing study is to determine whether it is likely that this gravel/cobble substrate (that may be suitable for sturgeon spawning/incubation) has been buried under sand and silt by the reduction in peak flow events and the loss of stream energy (necessary to naturally transport sediment), which may have occurred since Libby Dam became operational. The USGS has recently agreed to expand their ongoing studies to determine if there have been changes in the geomorphology of this reach of the Kootenai River that may affect the sturgeon.

At this time we do not have sufficient information to warrant expansion of critical habitat upstream of the area now designated. We do not believe that designation of all upstream and upgradient habitats up to the watershed divide as critical habitat is essential to the conservation of the species.

Issue 3: One commenter stated that poor recruitment since the 1960's warrants expansion of critical habitat into more diverse habitats such as off-channel rearing sites.

Our Response: The need to evaluate the use of off-channel habitats is acknowledged in the recovery plan, and a feasibility study is under way to determine if larval and juvenile sturgeon will occupy a reconnected meander channel (U.S. Fish and Wildlife Service 1999). Most of the off-channel habitat was eliminated long before 1975 when recruitment failure was recorded. White sturgeon in other portions of the Columbia River basin continue to recruit without off-channel habitats. In addition, off-channel Kootenai River habitat on the Creston Wildlife Management Area, British Columbia, now support introduced largemouth bass, a potential predator of young of the year sturgeon, thus supporting the idea that off-channel habitat are not suitable for the sturgeon.

Issue 4: Two commenters stated that the sturgeon's decline has resulted from cumulative effects of large-scale watershed alteration. Watershed processes that support the sturgeon's life history requirements must be restored, or at least not further degraded to ensure the ''conservation of the species.''

Our response: We acknowledge that there may be a variety of stressors, such as lack of turbidity, affecting constituent elements for sturgeon recruitment in addition to the substantially altered hydrograph since 1975, when Libby Dam became fully operational. These possible stressors are identified as study needs in the Recovery Plan (U.S. Fish and Wildlife Service 1999). However, at this time we have no compelling scientific information on any additional stressors that would warrant expansion of critical habitat.

Issue 5: Libby Dam should be decommissioned or converted to a ''run-of-the-river'' project. Reestablishment of a natural regime with associated stream functions is necessary to preclude adverse modification of critical habitat.

Our Response: Our recommendations in the 1995 and 2000 jeopardy biological opinions for Kootenai River white sturgeon have been focused on incremental reestablishment of the physical and biological features essential to the conservation of the species through changes in the operations of Libby Dam, including modified flood control procedures that allow water storage for the sturgeon and other listed fish, increased release capacity at Libby Dam, water temperature management, and restoration of channel capacity near Bonners Ferry through levee repairs (U.S. Fish and Wildlife Service 1995 and 2000). The intent of our recommendations is to modify operations of the Libby Project, as necessary, within its originally authorized purposes to conserve the sturgeon.

Issue 6: One commenter asked what critical habitat would do for the sturgeon and whether the biological opinion will be amended.

Our Response: Our December 2000 jeopardy biological opinion involving the operations of the Libby Project for the next 10 years is based on the same biological information used in this designation of critical habitat (U.S. Fish and Wildlife Service 2000). The reasonable and prudent alternatives in this biological opinion were provided to the action agencies (Corps of Engineers (COE), Bonneville Power Administration, and Bureau of Reclamation) to avoid jeopardy to Kootenai River white sturgeon. Finalization of this critical habitat designation will require that our December 2000 biological opinion be amended; however, we expect that this will not result in additional requirements affecting operations of Libby Dam, as the existing measures adequately address critical habitat.

Issue 7: One commenter stated that the use of the ordinary high-water line to delineate the lateral margins of critical habitat is confusing, and asked for an explanation of why the ordinary high-water line was selected.

Our Response: The ordinary high-water line was selected because it has an established definition cited elsewhere in this document, and it generally corresponds to the property lines separating State-owned lands from other lands in this area. A common indicator of this line is a distinct change in vegetation such as a grass or tree line. During 10 years of monitoring, no sturgeon have been observed spawning along the banks or in the vegetation along the Kootenai River near what appears to be the ordinary high-water line, and no sturgeon egg has been recovered from the river bottom in less than 3 meters (m) (about 10 feet (ft)) of water. These observations suggest that the primary constituent elements and habitat deemed critical for sturgeon reproduction in the Kootenai River lie within the ordinary high-water lines, and are generally associated with the bed of the river rather than with riparian vegetation above the ordinary high-water lines.

Issue 8: The area delineated as critical habitat does not account for Kootenai River water surface elevations, which may be above the ordinary high-water lines during sturgeon augmentation flows, and this may impact private property adjacent to State lands along the area of critical habitat and elsewhere along the Kootenai River.

Our Response: Water surface elevations above the ordinary high-water lines may occur based on our recommendations in the December 2000 biological opinion on the operations of the Federal Columbia River Power System, which includes operations of Libby Dam (U.S. Fish and Wildlife Service 2000). Similarly, water surface elevations may increase upstream and downstream of this 11.2-mile reach of the Kootenai River we are designating as critical habitat. The primary constituent elements are not known to be found in any of these adjacent areas. Thus, we do not consider lands higher in elevation and outside of the ordinary high-water lines to be critical habitat. Potential impacts of elevated river stages on private property above or beyond designated critical habitat and resulting from recommendations in our 2000 biological opinion are described as part of the baseline in the economics section of this rule.

Issue 9: One commenter stated that any private lands within the area proposed as critical habitat should be identified.

Our Response: We have determined that the bed and banks of the Kootenai River within the area designated as critical habitat that are below the ordinary high-water lines are owned entirely by the State of Idaho. We have made a written request to the State to verify this determination, but we have received no response (U.S. Fish and Wildlife Service 2001). No specific exceptions or in-holdings within these State-owned lands were identified during the public comment periods.

Issue 10: One commenter noted that there are many uncertainties about factors limiting sturgeon recruitment. The commenter went on to state that decisions, such as critical habitat designation, which may impact their community should be delayed until research is completed to obtain the best available scientific information.

Our Response: When we designate critical habitat at the time of listing, as required under section 4 of the Act, or under short court-ordered deadlines, we may not have the information necessary to identify all areas which are essential for the conservation of the species. Nevertheless, we are required to designate those areas we know to be critical habitat, using the best information available to us. While we may prefer to have additional information, sufficient information, including a recovery plan (Service, 1999), is available to support a critical habitat designation.

Issue 11: One commenter asked if local land owners would have to consult with the Service to maintain their levees or repair pump discharge facilities if these activities occur within critical habitat.

Our Response: If there is a nexus such as a Federal permit, a Federal activity, or if there is Federal funding, the involved Federal agency would be responsible for consultation with us. Critical habitat would be but another consideration during that consultation.

Issue 12: One commenter asked if activities such as boating or discharges permitted under the National Pollution Distribution Elimination System will be affected.

Our Response: No impact upon boating is anticipated, because the constituent elements of critical habitat for the species are not affected by boating. National Pollution Distribution Elimination System (NPDES) permits are issued by the U.S. Environmental Protection Agency (EPA), and are developed based on the Idaho state Water Quality Standards. NPDES permits control the pollutants released into waters of Idaho. These discharges may be from facilities such as municipal wastewater treatment plants, or from industrial discharges. Designation of critical habitat adds another consideration involving possible adverse modification of that habitat when we consult with Federal agencies on actions such as issuing NPDES permits. Through section 7 consultation, EPA will need to consider what pollutants may be in the discharge, how the pollutants compare with Idaho Water Quality Standards, and how those pollutants may affect Kootenai River white sturgeon, or the constituent elements of critical habitat. EPA provides a public comment and review period on any NPDES permits that are issued, so information on the effects of pollutants would be available at that time.

Issue 13: Ten commenters have requested that our economic analysis be expanded beyond the impacts of critical habitat to include all impacts of sturgeon listing and recovery throughout the Kootenai River basin.

Our Response: The Service has prepared an addendum to the critical habitat economic analysis, and included it in the final economic analysis. This addendum describes a baseline of positive and negative impacts in the Kootenai River basin associated with the listing as well as the impacts anticipated to be associated with critical habitat.

Issue 14: Three commenters expressed concerns that our recommendations in our biological opinion to increase release capacity from 25,000 to 35,000 cfs at Libby Dam may impact structures, wells, and sewage facilities, and may cause erosion of islands in the vicinity of Libby, Montana.

Our Response: The COE is initiating interagency studies and review under the National Environmental Policy Act which will determine the extent of any potential impacts associated with increasing releases from Libby Dam by 2004.

Issue 15: One commenter expressed concern over loss of recreation income associated with changes in operations of Lake Koocanusa.

Our Response: See the economics section of this rule. Our biological opinion recommends adoption of the COE's VarQ (Variable Flow) flood control procedures which will greatly increase the probability of Lake Koocanusa refill (McGrane 1999). In addition, we recommended that releases for sturgeon be based on the Montana Integrated Rule Curves (Marotz *et al.* 1999) meaning that there will be no augmentation for sturgeon during drought years such as this year (2001), and greater releases in exceptional runoff years like 1996 and 1997, when there is no difficulty refilling the reservoir. Relative to a best case model, the COE has estimated that with our biological opinion there may be a 2.3-ft reduction in average maximum water surface elevation of Lake Koocanusa, down to 2455.3 ft, and that may result in a 4 percent loss in visitor days on Lake Koocanusa (U.S. Army Corps of Engineers 1999). However, with the recently signed Libby Coordination Agreement, Lake Koocanusa may be held as much as 10 ft higher during August of some years (U.S. and Canadian Entities 1999). This increase in water surface elevation is expected to increase recreational use by about 12 percent. Losses in reservoir recreational use may be compensated for by increases in recreational use and associated commercialization of the Kootenai River below Libby Dam. This reach of the river supports a trophy rainbow trout fishery. Under our biological opinion for bull trout, minimum flows below Libby Dam will be increased by 50 to 125 percent during July and August, also increasing usable habitat for the rainbow trout population.

Issue 16: One commenter stated water released for the sturgeon will result in a loss of hydroelectric power generation.

Our Response: All water released to date for sturgeon flow augmentation has passed through the generators and produced power. In the future, the Federal action agencies may choose to use the spillway to provide some sturgeon augmentation flows. The COE will study this issue in the next few

years, and determine if it can be done without damage to the spillway, or without impacting water quality downstream of Libby Dam. If the spillway is used, that water would not go through the turbines. However, the spillway would only be used when water elevations in Lake Koocanusa were high, so water would also likely be passed through the turbines at the same time, and power would still be generated. Therefore, we do not anticipate any significant change in hydroelectric power generation. As a consequence, and as noted later in this document, we feel this action will not have a significant effect on energy supply, distribution, or use, and so will comply with Executive Order 13211.

Issue 17: One person commented that during 1999 Libby Dam was operated only three days for power, and during the remainder of the year it was operated for fish.

Our Response: We are aware of no instance during 1999 when water passing through Libby Dam was not used to generate power. This includes the periods when releases were shaped for listed fish. The only way water passing through Libby Dam would not be used to generate power is if there were a spill, and that has not occurred since 1981, before any operations for listed fish began.

Issue 18: One person commented that while rapidly fluctuating water levels from load following may be the primary factor causing levee erosion through most of Kootenai Valley, peak flow events including sturgeon flows are the primary factor causing lateral erosion of the river bank and levee upstream of Bonners Ferry in the area of their property.

Our Response: The USGS is evaluating existing information on possible changes in channel configuration in the Kootenai River upstream of Bonners Ferry that may have occurred since Libby Dam became operational. We have asked them to investigate the possibility that reduced peak flows since Libby Dam became operational, and the resulting loss of energy to transport bed load, may have increased streambed gravel deposition, reduced channel capacity and reduced water depths above Bonners Ferry. Such changes may influence sturgeon spawning site selection. If this has occurred, the rate of lateral migration of the river and erosion of banks may also be affected. The effects of the operations of Libby Dam may be very different in the higher gradient reach of the Kootenai River above Bonners Ferry.

Issue 19: One person commented that the Service is asking for flows up to 60,000 cfs which equates to a stage of 1,764 ft at Bonners Ferry, and property owners may suffer a million and a half dollars worth of crop damages in the valley, mainly from seepage.

Our Response: The 2000 biological opinion recommends release capacity at Libby Dam be increased from about 25,000 to 35,000 cfs, but specific flows for sturgeon are recommended annually, on an in-season adaptive management basis. This adaptive management approach considers the presence of sturgeon expected to spawn, attainable water temperatures, the stage of Kootenay Lake and its associated backwater effect, the duration of flows and seepage into agricultural lands, the extent of runoff entering the river below Libby Dam, and public safety based on levee condition (Service 2000). The highest flow coinciding with a sturgeon release was about 45,000 cfs on June 7, 1997. That release would have occurred in the absence of a specific recommendation for sturgeon because it was necessary to preclude a forced spill at Libby Dam and the possibility of an uncontrolled flood. Because of concern for flooding, the flow event was extended by the Corps of Engineers for 13 days, rather than the recommended 3 days (U.S. Fish and Wildlife Service 1999). The highest river stage at Bonners Ferry during this multipurpose release was 1,764.4 ft, which occurred at 3:00 a.m. on June 7, 1997. This was an unusual situation that was influenced by the cumulative back water effect of Kootenay Lake during an exceptionally high runoff year. Most sturgeon flows have been in the range of 27,000 to 40,000 cfs. As authorized, Libby Dam was to control a 100-year flood event (0.01 exceedance frequency) to 57,000 cfs at Bonners Ferry, based on information that the reconstructed 1894 flood had been an 85- to 100-year event (McGrane 1995, 1996). In 1999, with additional flow records through 1978 available to better define a 100-year flood event, the authorized control level during a 100-year event was estimated to be 62,000 cfs, which corresponds to an elevation or stage at Bonners Ferry of 1768.9 ft (McGrane 1999).

Presently, because some levee segments have not been well maintained, the COE has an operational policy to control the river to an elevation of 1,764 ft (a 10-year event or a 0.10 exceedance frequency), at Bonners Ferry when possible, and this corresponds to a flow of 53,000 cfs (McGrane 1999). This 1,764 ft was the average stage of the Kootenai River at Bonners Ferry for the entire month of June prior to the operations of Libby Dam (Army Corps of Engineers 2001). The average stage for the month of May was 1,761 ft. Although seepage from these average stages and durations may have regularly affected some lands above river mile 143 (Dion and Whitehead 1973), we are aware of no information that a reduction in seepage was an authorized purpose of the Libby Project. Seepage is typically among the consequential effects of large flood control projects, and any seasonal reduction in seepage was an ancillary benefit of the Libby Project. The baseline for economic analysis in this document will be those conditions related to seepage prior to our 1995 biological opinion, rather than conditions related to seepage prior to operations of Libby Dam, addressed under other authorities.

Issue 20: One commenter asked if the designation of critical habitat would result in flows greater than those which we have recommended in our December 2000 biological opinion.

Our Response: No. We have no new information which would warrant additional increases in flows.

Methods

In finalizing critical habitat for the Kootenai River white sturgeon, we reviewed the overall approaches to conservation of the species taken by local, State, Tribal, and Federal agencies in the U.S. and Canada and private individuals and organizations since the species' listing in 1994. We also solicited information from knowledgeable biologists and reviewed the available information pertaining to habitat requirements of the species. This final critical habitat designation described below constitutes our best assessment of the area essential for the conservation of the sturgeon, and is based on the best scientific and commercial information available. The area designated is currently within the range occupied by the species, and contains all of the primary constituent elements identified in the ''Primary Constituent Elements'' section. The area designated is entirely within the historic range of the species, and requires special management consideration and protection to ensure its contribution to the species' recovery.

In an effort to map areas essential to the conservation of the species, we used data on known Kootenai River sturgeon spawning and early-life-stage rearing areas. In the lower Columbia River, where white sturgeon continue to spawn successfully, egg incubation sites and yolk sac fry development sites are at or slightly downstream of spawning sites (Parsley *et al.* 1993). In the Kootenai River, eggs at all stages of

development and one hatching yolk sac fry have been found at or downstream of the spawning sites. Since 1991, sturgeon eggs have been recovered in the Kootenai River between river kilometer 228 (river mile 141.4), below Shorty's Island (Paramagian *et al.* 1995), and river kilometer 246 (river mile 152.6), above the Highway 95 bridge at Bonner's Ferry, Idaho (Paragamian *et al.* in press). Although many of the eggs found were unattached and drifting along the river bottom, Paragamian *et al.* (in press) supports the assumption that the Kootenai River sturgeon egg collection sites are in the vicinity of the spawning sites. Further, since no other spawning sites have been identified in 10 years of monitoring, we believe these are the same sites where at least some successful egg incubation and yolk sac fry development has occurred, as evidenced by the 17 wild juveniles captured and aged to year classes within this same 10-year study period.

Existing structures within the critical habitat boundaries, such as highway and railroad bridges, do not contain primary constituent elements essential for sturgeon conservation, and therefore are not included in this critical habitat designation even though they are included within mapped critical habitat boundaries. Federal actions limited to those structures would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

Summary of Changes From the Proposed Rule

The final designation of critical habitat has no changes from the proposed designation.

Economic Analysis

Economic effects caused by listing the sturgeon as a Federally protected endangered species, and by other statutes, are the baseline against which the effects of a critical habitat designation are evaluated. The economic analysis must then examine the incremental economic and conservation benefits and effects of the critical habitat designation. Economic effects are measured as changes in national income, regional jobs, and household income, when possible. An analysis of the designation of critical habitat for the sturgeon was prepared (Bioeconomics, Inc. 2001, under contract with Industrial Economics, Inc.) and made available for public review and comment (April 18, 2001, through May 29, 2001; 66 FR 20962).

An addendum to the draft economic analysis was prepared and its availability is noted below in the ''Economic Analysis'' section. This addendum includes additional baseline information associated with the listing of the sturgeon and subsequent section 7 consultations, responses to public comments on the draft economic analysis, and is consistent with the May 11, 2001, ruling by the U.S. Court of Appeals, Tenth Circuit.

The final analysis, which reviewed and incorporated public comments, concluded that no additional costs or benefits are estimated to accrue from the designation of critical habitat for the sturgeon. All estimated costs and benefits from either ongoing impacts of past section 7 consultations, or associated with anticipated future consultations are attributable to the listing requirements of the Act and not any additional requirements associated with critical habitat designation. These listing-related impacts are estimated to include less than $2,000 per year in additional costs of completing consultations involving the sturgeon. Additionally, it is estimated that up to approximately $300,000 per year of seepage-related crop damage resulting from all water sources may occur in the Kootenai Valley. However, there was not sufficient information available to segregate crop damage resulting specifically from Kootenai River seepage during sturgeon augmentation flows recommended under section 7 of the Act, from those crop damages resulting from seepage during other high river flows, or from those crop damages resulting from entirely different water sources. This estimate of seepage-related crop damage may be a high estimate depending on actual crop locations, and the flow levels and durations of future sturgeon-related river flows. Levee owners along the Kootenai River may also benefit from modified river flows (reduced hydroelectric load following) resulting from section 7 consultation that will lead to reduced erosion and maintenance costs on most privately owned levees along the river. The small (4 percent) estimated loss in visitor use days on Lake Koocanusa, due to releases for sturgeon, may be offset by increased summer lake levels resulting from the Libby Coordination Agreement between the U. S. and Canada, and also by improved recreational fishing opportunities below Libby Dam associated with increased and more stable instream flows during July and August.

A copy of the final economic analysis is included in our administrative record and may be obtained by contacting the U.S. Fish and Wildlife Service, Upper Columbia Fish and Wildlife Office, 11103 East Montgomery Drive, Spokane, Washington 99206, or at http://pacific.fws.gov/news/2001–60.htm.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order (EO) 12866, this rule is a significant regulatory action and has been reviewed by the Office of Management and Budget (OMB).

(a) In the economic analysis, we determined that 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 Kootenai River population of white sturgeon was listed as endangered on September 6, 1994. We have recently completed one formal section 7 consultation with the COE, Bonneville Power Administration, and the Bureau of Reclamation on operations of the Federal Columbia River Power System, in part, to ensure that their actions would not jeopardize the continued existence of the Kootenai River population of white sturgeon. Based on the proposed action, we issued a jeopardy biological opinion on the sturgeon in December 2000.

Under the Act, critical habitat does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise authorized by a Federal agency (see Table 1).

TABLE 1.—ACTIVITIES POTENTIALLY IMPACTED BY KOOTENAI RIVER POPULATION OF WHITE STURGEON 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]
Potentially Affected Activities that are Initiated by a Federal Agency.	Operation of dams, reservoirs, and other water control facilities in the Kootenai River watershed. Federal issuance of scientific permits, operation of captive propagation facilities, sturgeon habitat restoration.	None.
Potentially Affected Activities Initiated by a Private or Other Non-Federal Entity That May Need Federal Authorization or Funding.	Construction and/or operation of freshwater hatcheries, water withdrawal projects, approval of new or revised water quality standards, pesticide registration, streambank stabilization, gravel mining, road and bridge construction, pipeline streamcrossings, and sturgeon habitat restoration that require a Federal action (permit, authorization, or funding).	None.

[1] This column represents the activities potentially affected by listing the Kootenai River population of white sturgeon as an endangered species (September 6, 1994; 59 FR 45989) under the Endangered Species Act.

[2] This column represents the activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.

Section 7 of the Act requires Federal agencies to ensure that they do not jeopardize the continued existence of the species. Based upon our experience with the species and its needs, we conclude that any Federal action or authorized action that could potentially cause adverse modification of designated critical habitat would currently be considered as ''jeopardy'' under the Act. Accordingly, the designation of areas within the geographic range occupied by the Kootenai River population of white sturgeon 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, although they continue to be bound by the provisions of the Act concerning ''take'' of the species.

(b) This rule is not expected to 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 Kootenai River white sturgeon since its listing in 1994. The prohibition against adverse modification of critical habitat is expected to impose few, if any, additional restrictions to those that currently exist. However, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

(c) This final rule will not significantly impact 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 designated critical habitat.

(d) OMB has determined that this rule will raise novel legal or policy issues and, as a result, this rule has undergone OMB review.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. The following discussion explains our determination.

We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action will not have a significant economic impact on a substantial number of small entities.

As discussed in the economic analysis for this rulemaking and the preamble above, this rule is not expected to result in any significant restrictions in addition to those currently in existence for areas occupied by the Kootenai River population of white sturgeon and designated as critical habitat. As indicated in Table 1, we identified the types of Federal actions or authorized activities that are of potential concern. If these activities sponsored by Federal agencies within the designated 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 significant additional effects on these activities in areas of critical habitat occupied by the species. For actions that have no 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.

Therefore, we are certifying that this final designation of critical habitat is not expected to have a significant adverse impact on a substantial number of small entities. Thus, no regulatory flexibility analysis is necessary.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (EO 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this final rule is not expected to

significantly affect energy supplies, distribution, or use, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *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 designated critical habitat.

(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.

In the economic analysis, we determined the designation of critical habitat will not have a significant effect on a substantial number of small entities. As discussed under Regulatory Planning and Review above, this rule is not expected to result in any restrictions in addition to those currently in existence for areas of occupied critical habitat.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

Under our economic analysis, we determined the designation of critical habitat will not cause: (a) any increases in costs or prices for consumers, individual industries, Federal, State, Tribal, or local government agencies, or geographic regions; or (b) 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.

Takings

In accordance with Executive Order 12630, this rule does not have significant takings implications, and a takings implication assessment is not required. This rule will not ''take'' private property. 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 Kootenai River population of white sturgeon. Additionally, critical habitat designation does not preclude development of habitat conservation plans and issuance of incidental take permits. Non-Federal landowners in areas that are included in the designated critical habitat will continue to be able to make economic use of their property.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. The designation of critical habitat in areas currently occupied by the Kootenai River white sturgeon imposes no additional restrictions on state or private activities than those currently in place, and therefore has little incremental impact on State and local governments and their activities.

In keeping with Department of the Interior policy, we requested information from and coordinated development of this critical habitat designation with appropriate State resource agencies in Idaho. We also utilized information on critical habitat submitted by the State during the listing of the Kootenai River white sturgeon. The State now has representation on our recovery team for this species. Consequently, we will continue to coordinate this and any future designation of critical habitat with the appropriate State agency.

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The Office of the Solicitor will review the final determination. We have made every effort to ensure that this final determination contains no drafting errors, provides clear standards, simplifies procedures, reduces burden, and is clearly written such that litigation risk is minimized.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This designation does not contain any information collection requirements for which OMB approval under the Paperwork Reduction Act is required.

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 Endangered Species Act, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951, E.O. 13175) and 512 DM 2, we understand that Federally recognized Tribes must be related to on a government-to-government basis. We support tribal measures that preclude the need for conservation regulations, and we provide technical assistance to tribes who wish assistance in developing and expanding tribal programs for the management of healthy ecosystems so that Federal conservation regulations, such as designation of critical habitat, on tribal lands are unnecessary.

The Presidential Memorandum of April 29, 1994, also requires us to consult with the tribes on matters that affect them, and section 4(b)(2) of the Act requires us to gather information regarding the designation of critical habitat and the effects thereof from all relevant sources, including the tribes. Recognizing a government-to-government relationship with tribes and our Federal trust responsibilities, we consulted representatives of the Kootenai Tribe of Idaho with regard to trust resources, tribal lands, or tribal rights that might be affected by the designation of critical habitat.

In our deliberations over this critical habitat designation, we identified possible effects to the Kootenai Tribe of Idaho or tribal resources. These include: (1) Effects of designation of critical habitat on State lands adjacent to tribal lands; and (2) the effects on tribal resources, such as water deliveries and aquatic resources such as the Kootenai River white sturgeon. The Kootenai Tribe of Idaho is directly involved in the conservation of the Kootenai River white sturgeon, and conducts a conservation aquaculture program. To do this, the Tribe diverts a small amount of water directly from the Kootenai River within the area of critical habitat. We do not anticipate any direct or

indirect adverse effects to Tribal lands through management actions intended to enhance or maintain critical habitat on adjacent State of Idaho lands. However, we do anticipate beneficial effects to Tribal resources, including maintained water quality and continued conservation of the sturgeon, from the designation of critical habitat on adjacent non-tribal lands.

References Cited

A complete list of all references cited in this designation is available upon request from the U.S. Fish and Wildlife Service, Upper Columbia Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this notice is Bob Hallock, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and Record Keeping Requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter 1, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11 (h), by revising the entry for ''Sturgeon, white'' under ''FISHES'' in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
FISHES							
*	*	*	*	*	*		*
Sturgeon, white	*Acipenser transmontanus*.	U.S.A. (ID, MT) Canada (B.C.).	U.S.A. (ID, MT) Canada (B.C.) (Kootenai R. system).	E	549	17.95(e)	NA
*	*	*	*	*	*		*

3. Amend § 17.95(e) by adding critical habitat for the Kootenai River population of white sturgeon (*Acipenser transmontanus*) in the same alphabetical order as this species occurs in § 17.11(h) to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(e) *Fishes.*

* * * * *

Kootenai River population of white sturgeon (*Acipenser transmontanus*)

1. Idaho, Boundary County: Kootenai River from river kilometer 228 (river mile 141.4) to river kilometer 246 (river mile 152.6), as indicated on the map below, from ordinary high-water line to opposite bank ordinary high-water line as defined in 33 CFR 329.11.

2. Primary constituent elements include those that are essential for the primary biological needs of normal behavior, water requirements, cover, shelter, breeding, and rearing of offspring. These elements include the following: (1) A flow and hydrologic regime characterized by water magnitude, timing, depth, velocity, and quality (including temperatures) necessary for normal behavior involving breeding site selection, breeding and fertilization, and cover for egg incubation and yolk sac fry development; (2) a flow and hydrologic regime characterized by water of sufficient duration and magnitude to restore or maintain riverbed substrate necessary for cover and shelter for both incubating eggs and yolk sac larvae; (3) a flow and hydrologic regime characterized by flow magnitude, time, velocity, depth, and duration necessary for the normal behavior of adult and juvenile sturgeon; and (4) water and sediment quality necessary for normal behavior, including breeding behavior, and the viability of all life stages, including incubating eggs and yolk sac larvae.

3. Within this area, existing structures, such as highway and railroad bridges, are not included in the critical habitat designation.

Note: Map follows.

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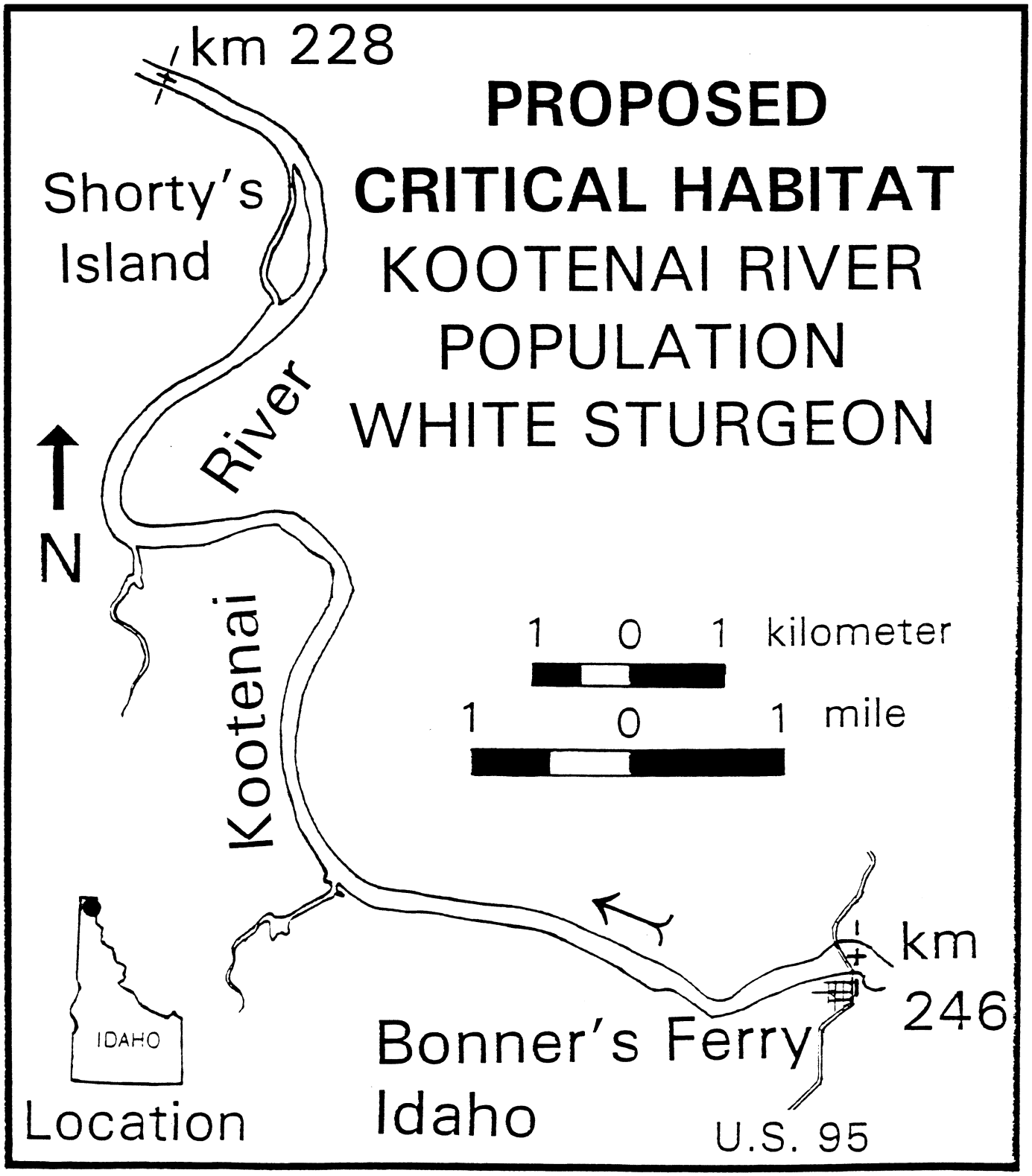

* * * * *

Dated: August 28, 2001.

Marshall P. Jones, Jr.,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–22342 Filed 9–5–01; 8:45 am]

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Proposed Rules

Federal Register

Vol. 66, No. 173

Thursday, September 6, 2001

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–06–AD]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Arriel–1D, –1D1, –1S, –1S1, –2S1 and –2B Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to Turbomeca S.A. Arriel–1D, –1D1, –1S, –1S1, –2S1 and –2B series turboshaft engines. This proposal would require the insertion of a sleeve in the attachment boss of the compressor bleed valve. This proposal is prompted by several cases of contained centrifugal compressor impeller blade ruptures that have occurred in service. The actions specified by the proposed AD are intended to prevent acoustic excitation of the centrifugal compressor impeller blades resulting in contained compressor impeller blade ruptures and power loss that could lead to an uncommanded in-flight shutdown.

DATES: Comments must be received by November 5, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–06–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov.* Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The service information referenced in the proposed rule may be obtained from Turbomeca S.A, Turbomeca S.A., 64511 Bordes Cedex, France; telephone 33 05 59 64 40 00, fax 33 05 59 64 60 80.

FOR FURTHER INFORMATION CONTACT: Glorianne Niebuhr, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7132; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NE–06–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–06–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Turbomeca S.A. Arriel–1D, –1D1, –1S, –1S1, –2S1 and –2B series turboshaft engines. The DGAC advises that several cases of contained centrifugal compressor impeller blade ruptures caused by acoustic excitation of the blades have occurred in service. This excitation may lead to initiation of cracks on the blades resulting in contained compressor impeller blade ruptures and power loss that could lead to an uncommanded inflight shutdown. To reduce the level of acoustic vibration of the compressor blades, a coupling effect must be removed. This is accomplished by distributing the symmetry by insertion of a metal sleeve. The actions specified by the proposed AD are intended to prevent acoustic excitation of the centrifugal compressor impeller blades resulting in contained compressor impeller blade ruptures and power loss that could lead to an uncommanded in-flight shutdown.

Manufacturer's Service Information

Turbomeca S.A. has issued Service Bulletin (SB) No. 292 72 2054, dated September 20, 1999, and SB No. 292 72 0261, dated September 20, 1999, that provide instructions for the removal of the compresser bleed valve, installation of the sleeve, and reinstallation of the compresser bleed valve. The DGAC classified these SB's as mandatory and issued AD's No. 1999–391(A) and 1999–392(A), dated October 6, 1999, in order to ensure the airworthiness of these Turbomeca S.A. engines in France.

Bilateral Agreement Information

This engine model is manufactured in France and is the 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 DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this

type design that are certificated for operation in the United States.

Proposed Requirements of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other Turbomeca S.A. Arriel–1D, –1D1, –1S, –1S1, –2S1 and –2B series turboshaft engines of the same type design that are used on rotocraft registered in the United States, the proposed AD would require insertion of a sleeve in the attachment boss of the compresser bleed valve. The actions would be required to be accomplished in accordance with the SB's described previously.

Economic Impact

There are approximately 1,406 engines of the affected design in the worldwide fleet. The FAA estimates that 476 engines installed on aircraft of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately 0.5 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $430 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $218,960.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the 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 is contained 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 the following new airworthiness directive:

Turbomeca S.A.: Docket No. 2001–NE–06–AD.

Applicability

This airworthiness directive (AD) is applicable to Turbomeca S.A. Arriel–1D, –1D1, –1S, –1S1, –2S1 and –2B series turboshaft engines. These engines are installed on, but not limited to, Eurocopter France AS350B1, AS350B2, AS350B3; Astar 350D, Fennic AD550U2 and Sikorsky S–76A and S–76C series helicopters.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines 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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required within 30 days after the effective date of this AD, unless already done. To prevent acoustic excitation of the centrifugal compressor impeller blades resulting in contained blade ruptures and power loss that could lead to an uncommanded in-flight shutdown, do the following:

(a) Remove the compressor bleed valve, install the sleeve at the bottom of the boss attachment and install the valve as follows:

(1) For Arriel 2S1 and –2B engines in accordance with Paragraph 2.B. and 2.C. of Turbomeca S.A. Service Bulletin (SB) No. 292 72 2054, dated September 20, 1999.

(2) For Arriel 1D, –1D1, –1S, and –1S1 engines in accordance with Paragraph 2.B. and 2.C. of Turbomeca S.A. SB No. 292 72 0261, dated September 20, 1999.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Direction Generale de L'Aviation Civile (DGAC) Airworthiness Directives No. 1999–391(A) and 1999–392 (A), dated October 6, 1999.

Issued in Burlington, Massachusetts, on August 28, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–22313 Filed 9–5–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 888

[Docket No. 99P–1864]

Orthopedic and Rehabilitation Devices: Reclassification of the Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to reclassify the hip joint metal/polymer constrained cemented or uncemented prosthesis intended to replace a hip joint from class III (premarket approval) to class II (special controls). The agency is also proposing to revise the device identification. This reclassification is based upon new information regarding the device contained in a reclassification petition submitted by the Orthopedic Surgical Manufacturers Association. The agency is also publishing the recommendation of the Orthopedic and Rehabilitation Devices Panel (the Panel) regarding the

classification of this device. After considering public comments on the proposed classification, FDA will publish a final regulation classifying this device. This action is being taken under the Federal Food, Drug, and Cosmetic Act (the act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments), the Safe Medical Devices Act of 1990 (SMDA), and the Food and Drug Administration Modernization Act of 1997 (FDAMA). Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice of availability of a draft guidance document that would serve as the special control if this proposal becomes final.

DATES: Submit written or electronic comments by December 5, 2001. See section XIII of this document for the proposed effective date of a final rule based on this document.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061 Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: John S. Goode, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036.

SUPPLEMENTARY INFORMATION:

I. Background (Regulatory Authorities)

The act (21 U.S.C. 301 *et seq.*), as amended by the 1976 amendments (Public Law 94–295), the SMDA (Public Law 101–629), and FDAMA (Public Law 105–115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with new section 513(f)(2) of the act, as amended by FDAMA; or (3) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and part 807 of the regulations (21 CFR part 807).

A preamendments device that has been classified into class III may be marketed, by means of premarket notification procedures, without submission of a premarket approval application (PMA) until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

Reclassification of classified preamendments devices is governed by section 513(e) of the act. This section provides that FDA may, by rulemaking, reclassify a device (in a proceeding that parallels the initial classification proceeding) based upon ''new information.'' The reclassification can be initiated by FDA or by the petition of an interested person. The term ''new information,'' as used in section 513(e) of the act, includes information developed as a result of a reevaluation of the data before the agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, e.g., *Holland Rantos* v. *United States Department of Health, Education, and Welfare,* 587 F.2d at 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard*, 366 F.2 177 (7th Cir. 1966).

Reevaluation of the data previously before the agency is an appropriate basis for subsequent regulatory action where the reevaluation is made in light of newly available regulatory authority (See *Bell* v. *Goddard*, supra, 366 F.2d at 181; *Ethicon, Inc.* v. *FDA*, 762 F. Supp. 382, 389–91 (D.D.C. 1991)), or in light of changes in ''medical science.'' (See *Upjohn* v. *Finch*, supra, 422 F.2d at 951.) Regardless of whether data before the agency are past or new data, the ''new information'' upon which reclassification under section 513(e) of the act is based must consist of ''valid scientific evidence,'' as defined in section 513(a)(3) and 21 CFR 860.7(c)(2). (See, e.g., *General Medical Co.* v. *FDA*, 770 F.2d 214 (D.C. Cir 1985); *Contact Lens Assoc.* v. *FDA*, 766 F.2d 592 (D.C.Cir.), cert. denied, 474 U.S. 1062 (1985)). FDA relies upon ''valid scientific evidence'' in the classification process to determine the level of regulation for devices. For the purpose of reclassification, the valid scientific evidence upon which the agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, e.g., the contents of a pending PMA. (See section 520(c) of the act (21 U.S.C. 360j(c).)

II. Regulatory History of the Device

In the **Federal Register** of September 4, 1987 (52 FR 33686), FDA issued a final rule classifying the hip joint metal/polymer constrained cemented or uncemented prosthesis into class III (21 CFR 888.3310). The preamble to the proposal to classify the device (47 FR 29052, July 2, 1982) included the recommendation of the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel (the Orthopedic Section of the Panel or the Panel), a FDA advisory committee that met regarding the classification of the device. The Orthopedic Section of the Panel recommended that the device be classified into class III because the device is implanted and intended to relieve disabling pain and to restore or minimize further loss of functional use of the hip joint or limb.

The Orthopedic Section of the Panel identified the following three risks to health associated with use of the device: (1) Loss or reduction of joint function, (2) adverse tissue reaction, and (3) infection. Improper design or inadequate mechanical properties of the device, such as a lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, device deformation, or loosening of the device. Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away of material from the surface of the device and the subsequent release of material into the surrounding tissues and systemic circulation. The

implantation of the device may also lead to an increased risk of infection.

FDA agreed with the classification recommendation of the Orthopedic Section of the Panel. The preamble to the final rule classifying the device into class III advised that the earliest date by which PMA's for the device could be required was March 30, 1990, or 90 days after issuance of a rule requiring premarket approval for the device, whichever occurred later.

In the **Federal Register** of May 6, 1994 (59 FR 23731), FDA categorized the hip joint metal/polymer constrained cemented or uncemented prosthesis as a group 1 device that FDA believed had fallen into disuse or limited use. FDA believed that rulemaking under section 515(b) of the act was unlikely to result in viable PMAs or reclassification petitions for the device. In the **Federal Register** of September 7, 1995 (60 FR 46718), FDA published a proposed rule to require the filing of a PMA or notice of completion of a product development protocol (PDP) for 43 preamendments class III medical devices, including the hip joint metal/polymer constrained cemented or uncemented prosthesis. The agency received no comments regarding the proposed rule for the device. In the **Federal Register** of September 27, 1996 (61 FR 50704), FDA published a final rule requiring PMAs or PDPs for 41 of the class III devices, including the hip joint metal/polymer constrained cemented or uncemented prosthesis by December 26, 1996.

In December 1996, FDA received two PMAs for the device. On December 13, 1996, Howmedica Osteonics Corp. submitted a PMA for the Osteonics Constrained Hip Acetabular Insert. On December 26, 1996, Depuy, Orthopaedics, Inc. (Depuy), submitted a PMA for the S-Rom Poly-Dial Constrained Liner. Consistent with the act and the regulations, FDA consulted with the Panel regarding the approvability of the two PMAs. At a public meeting on June 10, 1997, the Panel unanimously recommended both PMAs for approval with conditions. In its deliberations on both PMAs, the Panel noted the long use of the device and the acceptable rate of complications associated with its use. FDA agreed with the Panel's recommendations and approved the Howmedica Osteonics Corp. Osteonics Constrained Hip Acetabular Insert on June 13, 1997, and the Depuy S-Rom Poly-Dial Constrained Liner on June 19, 1997.

On June 9, 1999, the agency filed a reclassification petition for the hip joint metal/polymer constrained cemented or uncemented prosthesis from OSMA that was dated June 1, 1999, and amended on June 8 and August 27, 1999. The petition requested that the device be reclassified from class III into class II. The petition included new information that was not available in 1996 when the final rule requiring PMAs or PDPs for the device was issued. Consistent with the act and the regulations, FDA consulted with the Panel regarding the possible reclassification of this device.

III. Device Description

The following revised device description is based on the Panel's recommendations and the agency's review:

A hip joint metal/polymer constrained cemented or uncemented prosthesis is a device intended to be implanted to replace a hip joint. The device prevents dislocation in more than one anatomic plane and has components that are linked together. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and an acetabular component made of ultra-high-molecular-weight polyethylene with or without a metal shell made of alloys, such as cobalt-chromium-molybdenum and titanium alloys. This generic type of device is intended for use with or without bone cement (21 CFR 888.3027).

This revised identification more accurately describes the currently marketed hip joint metal/polymer constrained cemented or uncemented prosthesis.

IV. Recommendation of the Panel

At a public meeting on November 4, 1999, the Panel recommended that the hip joint metal/polymer constrained cemented or uncemented prosthesis intended to replace a hip joint be reclassified from class III into class II (Ref. 2). The Panel believed that class II with special controls would provide reasonable assurance of the safety and effectiveness of the device.

V. Risks to Health

After considering the information in the petition, the Panel's deliberations, the published literature, and the Medical Device Reports, FDA has evaluated the risks to health associated with the use of the hip joint metal/polymer constrained cemented or uncemented prosthesis. FDA now believes that the following are risks to health associated with use of the device: Infection, adverse tissue reaction, pain and/or loss of function, and revision. FDA notes that these risks to health are also associated with the use of other hip joint prostheses. In section VIII of this document, FDA describes a class II special controls guidance that addresses these risks to health.

A. Infection

Infection is a potential risk to health associated with all surgical procedures and implanted devices, and it occurs in patients implanted with metal/polymer constrained hip joint prostheses (Ref. 1). The best defenses against infection are preventive measures, including selection of patients without known local and/or systemic infection, administration of perioperative antibiotics, implantation of a sterilized device, and strict adherence to sterile surgical technique.

B. Adverse Tissue Reaction

Adverse tissue reaction is a potential risk to health associated with all implanted devices (Ref. 1). If the materials used in the manufacture of metal/polymer constrained hip joint prostheses are not biocompatible or adequately wear resistant, the patient could have an adverse tissue reaction.

C. Pain and/or Loss of Function

Pain and loss of hip joint function can occur with any hip arthroplasty. Loosening due to inappropriate patient and/or device selection; inappropriate surgical technique and/or poor bone quality; metal and/or polyethylene wear that may cause osteolysis (dissolution of bone); dislocation and instability due to inappropriate surgical technique and/or component design or failure; and component disassembly (e.g., disengagement of the metal reinforcing ring from the outer rim of the acetabular cup), fracture, and/or failure are potential complications that may result in pain and/or loss of hip joint function. In addition, because the constrained total hip prosthesis has components that are linked together across the joint, there is typically a reduction in the range of hip joint motion compared to a semi-constrained total hip prosthesis.

D. Revision

Revision is a potential risk to health associated with any hip arthroplasty. The major causes for revision of the metal/polymer constrained hip joint prosthesis are infection, adverse tissue reaction, and pain and/or loss of function. Revision hip arthroplasty typically has a lower clinical success rate than primary hip arthroplasty.

VI. Summary of Reasons for Recommendation

After considering the information in the petition and provided by FDA, the discussion during the Panel meeting,

and their personal knowledge of and clinical experience with the device, the Panel gave two reasons in support of its recommendation to classify the generic type hip joint metal/polymer constrained cemented or uncemented prosthesis intended to replace a hip joint from class III into class II. The Panel believed the device should be classified into class II because special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device, and there is sufficient information to establish special controls to provide such assurance.

VII. Summary of the Data Upon Which the Recommendation is Based

In addition to the potential risks to health of the hip joint metal/polymer constrained cemented or uncemented prosthesis described in section V of this document, there is reasonable knowledge of the benefits of the device (Ref.1). The device provides decreased pain or cessation of pain and increased mobility and function, resulting in an overall improved quality of patient life. In addition, the device may help to reduce the recurrence of dislocation. Based on the available information, FDA believes the special control discussed in section VIII of this document is capable of providing reasonable assurance of the safety and effectiveness of the device with regard to the identified risks to health of the device.

VIII. Special Controls

FDA believes that, in addition to general controls, the class II special controls guidance document entitled ''Class II Special Controls Guidance: Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis'' (the class II special controls guidance) is an adequate special control to address the risks to health described in section V of this document. The class II special controls guidance provides information on how to meet premarket notification (510(k)) submission requirements for the device, including a list of relevant FDA orthopedic device guidance documents, voluntary consensus standards from the American Society for Testing and Materials and International Organization for Standardization, and labeling statements. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice of availability of this guidance document that FDA intends to use as the special control for this device.

The FDA guidance documents identified in the class II special controls guidance provide information on how to meet general orthopedic device premarket notification (510(k)) requirements, including biocompatibility testing, sterility testing, mechanical performance testing, and labeling. The FDA guidance documents can help control the risks to health of infection, adverse tissue reaction, pain and/or loss of function, and revision by having manufacturers address the need to use surgical quality implant materials, adequately test and sterilize their devices, and provide adequate instructions for use.

The voluntary consensus standards identified in the class II special controls guidance for the device define implant material specifications, testing methods, and performance criteria applicable to the hip joint metal/polymer constrained cemented or uncemented prosthesis. Adherence to these standards and comparison of the results from these test methods can control the risks of adverse tissue reaction, pain and/or loss of function, and revision by having manufacturers use surgical quality implant materials, adequately test their devices, and assure that the device has acceptable mechanical performance.

The labeling information listed in the class II special controls guidance identifies the intended use, specific indications for use, and precautions for use of the device. Adequate instructions for use by manufacturers can control the risks to health of adverse tissue reaction, pain and/or loss of function, and revision.

IX. FDA's Tentative Findings

FDA believes that the hip joint metal/polymer constrained cemented or uncemented prosthesis intended to replace a hip joint should be classified into class II because special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device and there is sufficient information to establish special controls to provide such assurance.

X. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this proposed classification action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

XI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4)). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule classifying this device into class II will relieve all manufacturers of the device from the cost of complying with the premarket approval requirements in section 515 of the act, it will impose no significant economic impact on any small entities. The agency therefore certifies that this proposed rule, if finalized, will not have a significant economic impact on a substantial number of small entities. In addition, this proposed rule will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement or analysis under section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

XII. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no information that is subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995. The proposed special control does not require the respondent to submit additional information.

XIII. Submission of Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this proposal by December 5, 2001. Two copies of any comments are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA proposes that any final regulation

that may issue based on this proposal become effective 30 days after its publication in the **Federal Register**.

XIV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday,

1. Petition for the reclassification of hip joint metal/polymer constrained cemented or uncemented prosthesis submitted by the Orthopedic Surgical Manufacturers Association, Warsaw, IN, dated June 1, 1999, amended June 8 and August 27, 1999.

2. Transcript of the Orthopedic and Rehabilitation Devices Panel Meeting, November 4, 1999, pp. 25 to 142.

List of Subjects in 21 CFR Part 888

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 888 be amended as follows:

PART 888—ORTHOPEDIC DEVICES

1. The authority citation for 21 CFR part 888 continues to read as follows:

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

2. Section 888.3310 is revised to read as follows:

§ 888.3310 Hip joint metal/polymer constrained cemented or uncemented prosthesis.

(a) *Identification*. A hip joint metal/polymer constrained cemented or uncemented prosthesis is a device intended to be implanted to replace a hip joint. The device prevents dislocation in more than one anatomic plane and has components that are linked together. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and an acetabular component made of ultra-high-molecular-weight polyethylene with or without a metal shell, made of alloys, such as cobalt-chromium-molybdenum and titanium alloys. This generic type of device is intended for use with or without bone cement (§ 888.3027).

(b) *Classification*. Class II (special controls). This special control for this device is the FDA guidance document entitled ''Class II Special Controls Guidance Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis.''

Dated: August 22, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 01–22286 Filed 9–5–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1300, 1301, 1304, 1305 and 1306

[DEA–208P]

RIN 1117–AA58

Allowing Central Fill Pharmacies To Fill Prescriptions for Controlled Substances on Behalf of Retail Pharmacies

AGENCY: Drug Enforcement Administration (DEA), Justice

ACTION: Notice of proposed rulemaking

SUMMARY: DEA is proposing to amend its regulations to provide for the use of central fill pharmacies, also known as refill pharmacies, fulfillment centers, or call centers. Unlike retail pharmacies which dispense controlled substances directly to the patient, central fill pharmacies provide a service to retail pharmacies by preparing and packaging prescriptions for retail pharmacies to dispense to the patient. Prescription information is transmitted from a retail pharmacy to a central fill pharmacy where the prescription is filled or refilled. The filled prescription is delivered to the retail pharmacy for pick up by the patient. Industry has expressed interest in utilizing central fill pharmacy operations to allow for more efficient delivery of prescriptions to patients. With this rulemaking, DEA is proposing to expand the definition of ''dispense'' to include the activities of central fill pharmacies. Mail order and Internet pharmacies, which currently obtain prescriptions from and dispense directly to a patient, are not affected by this regulation. They will continue to be registered as retail pharmacies.

DATES: Written comments must be submitted on or before November 5, 2001.

ADDRESSES: Comments should be submitted in triplicate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA **Federal Register** Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537. Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

What Is the Purpose of the Proposed Rule?

DEA is proposing these amendments in response to significant changes taking place in the pharmacy industry. Increased demands are being placed on traditional pharmacy systems by the rapid growth in the number of prescriptions written and dispensed. The National Association of Chain Drugstores recently estimated that in 2005, pharmacists in the United States will fill over 4 billion prescriptions. While the number of prescriptions dispensed is growing dramatically, the United States is facing a severe pharmacist shortage. Between 1999–2004, the volume of prescriptions dispensed in retail pharmacies is expected to increase 35%, while during the same period the number of available pharmacists is projected to increase only 6%. These factors have forced the pharmacy industry to seek new ways to increase efficiency while maintaining quality patient care. By transferring some of the time-consuming, non-clinical duties such as prescription filling to central fill pharmacies, traditional retail pharmacies can dedicate more time to assisting patients.

In response to industry's interest in improving efficiency by implementing the concept of central fill pharmacies, DEA contacted a variety of relevant trade associations and professional organizations to obtain more information on the issue. Several segments of the industry submitted written comments to DEA's solicitation; two others, including one trade association and one company, requested to meet with DEA to provide additional information. After considering the issues raised by industry, DEA determined that changes to the regulations would be appropriate and would give industry needed flexibility to accommodate the tremendous growth in the number of prescriptions presented for dispensing.

DEA's current regulations do not permit the utilization of central fill pharmacies for the dispensing of controlled substances. With this rulemaking, DEA is proposing several amendments to its regulations to allow for the use of central fill pharmacies, subject to certain restrictions, in states where such activities are permitted. While DEA is committed to responding to emerging industry practices, such as central fill pharmacies, which will

allow for more efficient delivery of prescription drugs, its primary responsibility is to prevent the diversion of controlled substances. Therefore, some restrictions on the use of central fill pharmacies are necessary.

What Do the Regulations Currently Permit?

At present, there is no provision in DEA's regulations for central fill pharmacy operations. Retail pharmacies, including those which utilize the mail service and the Internet, are registered by DEA to dispense prescriptions for controlled substances directly to the patient. ''Dispensing'' is defined in the Controlled Substances Act as delivering a controlled substance ''to an ultimate user'' (21 U.S.C. 802(10)). DEA regulations do not currently provide for central fill pharmacy operations which fill prescriptions for delivery to a traditional retail pharmacy. Allowing central fill pharmacies to fill prescriptions on behalf of retail pharmacies for subsequent dispensing to the ultimate user is a legitimate extension of current practice.

What Would the Proposed Regulations Allow?

This notice proposes to allow central fill pharmacies to become registered as practitioners under 21 CFR 1301.13(e)(1)(iii) so long as and to the extent that their activities are authorized by the state in which they are located. At present, the business activities under 21 CFR 1301.13(e)(1)(iii) include practitioners, hospitals/clinics, retail pharmacies, and teaching institutions. DEA is proposing to create a new business activity to be known as ''central fill pharmacies.'' This would allow the central fill pharmacy to prepare prescriptions for controlled substances in Schedules II-V for dispensing to a patient by a registered traditional retail pharmacy pursuant to a prescription issued by an authorized practitioner and communicated to the central fill pharmacy by the retail pharmacy.

DEA has determined that central fill pharmacy activities are better characterized as ''dispensing'' activities as opposed to ''distributing'' activities. Therefore, central fill pharmacies will not be limited by the restrictions on ''distributions'' from one practitioner to another set forth in 21 CFR 1307.11, in particular the 5% limitation which limits the amount of controlled substances that can be distributed by one practitioner to another. Similarly, no official order forms (DEA Form 222) will be required for transfer of Schedule II controlled substances from a central fill pharmacy to a retail pharmacy since DEA considers this activity to be a form of dispensing, not distribution. 21 CFR 1305.03 is proposed to be amended to clarify that the order form requirement does not apply to such transfers.

Central fill pharmacies would be permitted to prepare both initial and refill prescriptions, subject to all applicable state and federal regulations. Only a licensed pharmacist may fill such prescriptions (21 CFR 1306.06). By definition, the filled prescriptions must be transported to a retail pharmacy for delivery to the patient. Both the pharmacist employed by the central fill pharmacy and the pharmacist who dispenses the prescription to the patient will be responsible for insuring that the prescription was issued for a legitimate medical purpose by an individual practitioner acting in the usual course of professional practice and otherwise in the manner specified by DEA regulations (21 CFR 1306.04(a), 1306.05(a)).

This notice proposes to allow a central fill pharmacy to prepare prescriptions on behalf of retail pharmacies with which it has a contractual agreement to provide such services or with which it shares a common owner. The central fill pharmacy would be required to keep a list of retail pharmacies for which it has agreed to provide such services. The central fill pharmacy would also be required to keep current copies of the Certificates of Registration for each retail pharmacy for which it is authorized to fill prescriptions. Similarly, retail pharmacies would be required to keep a list of those central fill pharmacies, along with current copies of their DEA Certificates of Registration, permitted to prepare prescriptions on their behalf. This information must be made available for inspection upon request by DEA.

A central fill pharmacy will not be permitted to prepare prescriptions provided directly by a patient or individual practitioner or to mail or otherwise deliver a filled prescription directly to a patient or individual practitioner. If a retail pharmacy and a central fill pharmacy are operated from the same location, each must be separately registered with DEA and maintain separate stock, inventories, and records.

Retail pharmacies would be permitted to transmit prescription information to a central fill pharmacy in two ways. First, a facsimile of a prescription for a controlled substance in Schedule II, III, IV or V may be provided by the retail pharmacy to the central fill pharmacy. The retail pharmacy must maintain the original hard copy of the prescription and the central fill pharmacy must maintain the facsimile of the prescription. Alternatively, DEA is proposing to allow the prescription information to be communicated electronically by the retail pharmacy to the central fill pharmacy. Since there appears to be little risk that an outside party will divert such prescription information, DEA is not proposing specific security standards with respect to electronic transmission in this particular situation. DEA will soon propose standards for electronic transmission of prescription information in a separate rulemaking. When setting up the transmission system, the participating pharmacies must be mindful of all federal and state requirements regarding patient confidentiality, network security, and use of shared databases. Both pharmacies must maintain the prescription information in a readily retrievable manner and comply with all applicable federal and state recordkeeping requirements.

With respect to security, central fill pharmacies would be required to comply with the same security requirements applicable to other practitioners (21 CFR 1301.71, 1301.75, 1301.76). While not specifically required by DEA regulations, central fill pharmacies may choose to implement additional security measures based on the volume of controlled substances handled, number of employees in the facility, or other unique factors. Such additional security measures may be needed in order to comply with the general requirement to maintain effective controls and procedures to guard against theft and diversion of controlled substances (21 CFR 1301.71). As indicated above, since pharmacists at central fill pharmacies will be preparing prescriptions for controlled substances, they shall bear a corresponding responsibility, along with the pharmacist at the retail pharmacy, for the proper dispensing of the prescription (21 CFR 1306.04(a), 1306.05(a)). Additionally, central fill pharmacies must be vigilant in their choice of carriers to transport filled prescriptions to retail pharmacies and be aware of their responsibilities for reporting in-transit losses (21 CFR 1301.74(e)).

Regulatory Certifications

Regulatory Flexibility Act

The Deputy Assistant Administrator, Office of Diversion Control, hereby certifies that this rulemaking has been

drafted 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 on a substantial number of small entities. In fact, it is anticipated that this rule, by affording additional flexibility to pharmacies in the dispensing of prescriptions, will help lower total health care costs.

Executive Order 12866

The Deputy Assistant Administrator, Office of Diversion Control, further certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866 Section 1(b). DEA has determined that this is not a significant rulemaking action. Therefore, this action has not been reviewed by the Office of Management and Budget.

Executive Order 12988

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

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

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 will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement 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

The Drug Enforcement Administration makes every effort to write clearly. If you have suggestions as to how to improve the clarity of these regulations, call or write Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537. Telephone (202) 307–7297.

List of Subjects

21 CFR Part 1300

Definitions, Drug traffic control

21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Security measures

21 CFR Part 1304

Drug traffic control, Reporting requirements

21 CFR Part 1305

Drug traffic control, Reporting requirements

21 CFR Part 1306

Drug traffic control, prescription drugs

For the reasons set out above, Title 21, Code of Federal Regulations, Parts 1300, 1301, 1304, 1305, and 1306 are proposed to be amended to read as follows:

PART 1300—[AMENDED]

1. The authority citation for part 1300 continues to read as follows:

Authority: 21 U.S.C. 802, 871(b), 951, 958(f).

2. Section 1300.01 is proposed to be amended by redesignating the existing paragraphs (b)(6) through (42) as (b)(7) through (43) and by adding a new paragraph (b)(6) to read as follows:

§ 1300.01 Definitions relating to controlled substances.

* * * * *

(b) * * *

(6) The term central fill pharmacy means a pharmacy which is authorized by the state in which it is located to prepare controlled substances orders for dispensing pursuant to a valid prescription transmitted to it by a registered retail pharmacy and to return the labeled and filled prescriptions to the retail pharmacy for delivery to the ultimate user. A pharmacist employed by a central fill pharmacy may only fill controlled substance prescriptions pursuant to a written or electronic prescription provided by a retail pharmacy.

* * * * *

PART 1301—[AMENDED]

1. The authority citation for part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877.

2. Section 1301.13(e)(1)(iii) is proposed to be revised to read as follows:

§ 1301.13 Application for registration; time for application, expiration date, registration for independent activities; application forms, fees, contents and signature; coincident activities.

* * * * *

(e) * * *

(1) * * *

(iii) Dispensing or Instructing (Includes Practitioner, Hospital/Clinic, Retail Pharmacy, Central Fill Pharmacy, Teaching Institution).	Schedules II–V	New—224 ..... Renewal—224a	210 210	3	May conduct research and instructional activities with those substances for which registration was granted, except that a mid-level practitioner may conduct such research only to the extent expressly authorized under state statute. A pharmacist may manufacture an aqueous or oleaginous solution or solid dosage form containing a narcotic controlled substance in Schedule II–V in a proportion not exceeding 20% of the complete solution, compound or mixture.

* * * * *

3. Section 1301.76 is proposed to be amended by adding new paragraph

(d) to read as follows:

§ 1301.76 Other security measures for practitioners.

* * * * *

(d) Central fill pharmacies must comply with § 1301.74(e) when selecting private, common or contract carriers to transport filled prescriptions to a retail pharmacy for delivery to the ultimate user. When central fill pharmacies contract with private, common or contract carriers to transport filled prescriptions to a retail pharmacy, the central fill pharmacy is responsible for reporting in-transit losses upon discovery of such loss by use of a DEA Form 106. Retail pharmacies must comply with § 1301.74(e) when selecting private, common or contract carriers to retrieve filled prescriptions from a central fill pharmacy. When retail pharmacies contract with private, common or contract carriers to retrieve filled prescriptions from a central fill pharmacy, the retail pharmacy is responsible for reporting in-transit losses upon discovery of such loss by use of a DEA Form 106.

PART 1304—[AMENDED]

1. The authority citation for Part 1304 continues to read as follows:

Authority: 21 U.S.C. 821, 827, 871(b), 958(e), 965, unless otherwise noted.

2. Section 1304.04 is proposed to be amended by adding the new paragraph (i) to read as follows:

§ 1304.04 Maintenance of records and inventories.

* * * * *

(i) If a central fill and retail pharmacy are located at the same premises, each must maintain separate inventories of controlled substances, as well as separate records.

3. New § 1304.05 is proposed to be added to read as follows:

§ 1304.05 Records of authorized central fill pharmacies and retail pharmacies.

(a) Every retail pharmacy that utilizes the services of a central fill pharmacy must keep a record of all central fill pharmacies, including name, address and DEA number, that are authorized to fill prescriptions on its behalf. The retail pharmacy must also maintain a current copy of the Certificate of Registration for each central fill pharmacy authorized to fill prescriptions on its behalf. These records must be made available upon request for inspection by DEA investigators.

(b) Every central fill pharmacy must keep a record of all retail pharmacies, including name, address and DEA number, for which it is authorized to fill prescriptions. The central fill pharmacy must also maintain a current copy of the Certificate of Registration for all retail pharmacies for which it is authorized to fill prescriptions. These records must be made available upon request for inspection by DEA investigators.

PART 1305—[AMENDED]

1. The authority citation for part 1305 continues to read as follows:

Authority: 21 U.S.C. 821, 828, 871(b), unless otherwise noted.

2. Section 1305.03 is proposed to be revised to read as follows:

§ 1305.03 Distributions requiring order forms.

An order form (DEA Form 222) is required for each distribution of a Schedule I or II controlled substance except to persons exempted from registration under part 1301 of this chapter; which are exported from the United States in conformity with the Act; for delivery to a registered analytical laboratory, or its agent approved by DEA; or for transfer from a central fill pharmacy as defined in 21 CFR 1300.01(b)(6) to a retail pharmacy.

PART 1306—[AMENDED]

1. The authority citation for Part 1306 continues to read as follows:

Authority: 21 U.S.C. 821, 829, 871(b), unless otherwise noted.

2. Section 1306.05(a) is proposed to be revised to read as follows:

§ 1306.05 Manner of issuance of prescriptions.

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use and the name, address and registration number of the practitioner. A practitioner may sign a prescription in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by the secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist, including a pharmacist employed by a central fill pharmacy, who fills a prescription not prepared in the form prescribed by these regulations.

* * * * *

3. Section 1306.06 is proposed to be revised to read as follows:

§ 1306.06 Persons entitled to fill prescriptions.

A prescription for a controlled substance may only be filled by a pharmacist, acting in the usual course of his professional practice and either registered individually or employed in a registered pharmacy, a registered central fill pharmacy, or registered institutional practitioner.

4. Section 1306.11 is proposed to be amended by adding a new paragraph (d)(5)to read as follows:

§ 1306.11 Requirement of prescription.

* * * * *

(d) * * *

(5) Central fill pharmacies shall not be authorized under this paragraph to prepare prescriptions for a controlled substance listed in Schedule II upon receiving an oral authorization from a retail pharmacist or an individual practitioner.

* * * * *

5. Section 1306.14 is proposed to be amended by redesignating existing paragraphs (b) and (c) as paragraphs (c) and (d), and by adding a new paragraph (b) to read as follows:

§ 1306.14 Labeling of substances and filling of prescriptions.

* * * * *

(b) If the prescription is filled at a central fill pharmacy, the central fill pharmacy shall affix to the package a label showing the retail pharmacy name and address and a unique identifier, (i.e. the central fill pharmacy's DEA registration number) indicating that the prescription was filled at the central fill pharmacy, in addition to the information required under paragraph (a) of this section.

* * * * *

6. A new § 1306.15 is proposed to be added to read as follows:

§ 1306.15 Transfer of prescription information between retail pharmacies and central fill pharmacies for prescriptions of Schedule II controlled substances.

Prescription information may be transferred between a retail pharmacy and a central fill pharmacy for dispensing purposes only if permitted under state law and only if the retail pharmacy and central fill pharmacy

have a contractual relationship providing for such activities or share a common owner. The following requirements shall also apply:

(a) Prescriptions for controlled substances listed in Schedule II may be transmitted from a retail pharmacy to a central fill pharmacy via facsimile or a common, real-time electronic database. The retail pharmacy transmitting the prescription information must:

(1) Write the word ''CENTRAL FILL'' on the face of the original transmitted prescription, if sent via facsimile;

(2) Record and transmit to the central fill pharmacy (on the reverse side of the transmitted prescription, if sent via facsimile) the name, address, and DEA registration number of the central fill pharmacy to which the prescription has been transmitted and the retail pharmacy from which transmitted, the name of the retail pharmacy pharmacist transmitting the prescription, and the date of transmittal;

(3) Ensure that all information required to be on a prescription pursuant to § 1306.05 of this part is transmitted to the central fill pharmacy (either on the face of the prescription or in the electronic transmission of information);

(4) Maintain the original prescription for a period of two years from the date the prescription was filled;

(5) Keep a record of receipt of the filled prescription, including the method of delivery (private, common or contract carrier) and the name of the retail pharmacy employee accepting delivery.

(b) The central fill pharmacy receiving the transmitted prescription must:

(1) Keep a copy of the prescription (if sent via facsimile) or an electronic record of all the information transmitted by the retail pharmacy, including the name, address, and DEA registration number of the retail pharmacy transmitting the prescription;

(2) Keep a record of the date of receipt of the transmitted prescription, the name of the licensed pharmacist filling the prescription, and the date of filling of the prescription;

(3) Keep a record of the date the filled prescription was delivered to the retail pharmacy and the method of delivery (i.e. private, common or contract carrier).

7. Section 1306.24 is proposed to be amended by redesignating the existing paragraphs (b) and (c) as paragraphs (c) and (d), and by adding a new paragraph (b) to read as follows:

§ 1306.24 Labeling of substances and filling of prescriptions.

* * * * *

(b) If the prescription is filled at a central fill pharmacy, the central fill pharmacy shall affix to the package a label showing the retail pharmacy name and address and a unique identifier, (i.e. the central fill pharmacy's DEA registration number) indicating that the prescription was filled at the central fill pharmacy, in addition to the information required under paragraph (a) of this section.

* * * * *

8. Section 1306.26 is proposed to be amended by adding a new paragraph (g) to read as follows:

§ 1306.26 Dispensing without prescription.

* * * * *

(g) Central fill pharmacies shall not be permitted to dispense controlled substances to a purchaser at retail pursuant to this section.

9. A new § 1306.27 is proposed to be added to read as follows:

§ 1306.27 Transfer of prescription information between retail pharmacies and central fill pharmacies for initial and refill prescriptions of Schedule III, IV, or V controlled substances.

Prescription information may be transferred between a retail pharmacy and a central fill pharmacy for dispensing purposes only if permitted under state law and only if the retail pharmacy and central fill pharmacy have a contractual relationship providing for such activities or share a common owner. The following requirements shall also apply:

(a) Prescriptions for controlled substances listed in Schedule III, IV or V may be transmitted from a retail pharmacy to a central fill pharmacy via facsimile or a common, real-time electronic database. The retail pharmacy transmitting the prescription information must:

(1) Write the word ''CENTRAL FILL'' on the face of the original transmitted prescription, if sent via facsimile;

(2) Record and transmit to the central fill pharmacy (on the reverse side of the transmitted prescription, if sent via facsimile) the name, address, and DEA registration number of the central fill pharmacy to which the prescription has been transmitted and the retail pharmacy from which transmitted, the name of the retail pharmacy pharmacist transmitting the prescription, and the date of transmittal;

(3) Ensure that all information required to be on a prescription pursuant to Section 1306.05 of this part is transmitted to the central fill pharmacy (either on the face of the prescription or in the electronic transmission of information);

(4) Indicate in the information transmitted the number of refills already dispensed and the number of refills remaining;

(5) Maintain the original prescription for a period of two years from the date the prescription was last refilled;

(6) Keep a record of receipt of the filled prescription, including the method of delivery (private, common or contract carrier) and the name of the retail pharmacy employee accepting delivery.

(b) The central fill pharmacy receiving the transmitted prescription must:

(1) Keep a copy of the prescription (if sent via facsimile) or an electronic record of all the information transmitted by the retail pharmacy, including the name, address, and DEA registration number of the retail pharmacy transmitting the prescription;

(2) Keep a record of the date of receipt of the transmitted prescription, the name of the licensed pharmacist filling the prescription, and dates of filling or refilling of the prescription;

(3) Keep a record of the date the filled prescription was delivered to the retail pharmacy and the method of delivery (i.e. private, common or contract carrier).

Dated: August 27, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 01–22322 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA041–4153; FRL–7049–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Reasonably Available Control Technology Requirements for Volatile Organic Compounds and Nitrogen Oxides in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to remove the limited status of its approval of the Commonwealth of Pennsylvania State Implementation Plan (SIP) revision that requires all major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) to implement reasonably available control technology (RACT) as it applies in the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia

area). EPA is proposing to convert its limited approval of Pennsylvania's VOC and NO_X RACT regulations to full approval because EPA has approved or is currently conducting rulemaking to approve all of the case-by-case RACT determinations submitted by Pennsylvania for the affected sources located in the Philadelphia area. The intended effect of this action is to remove the limited nature of EPA's approval of Pennsylvania's VOC and NO_X RACT regulations as they apply in the Philadelphia area.

DATES: Written comments must be received on or before October 9, 2001.

ADDRESSES: Written comments should be mailed to Marcia L. Spink, Associate Director, Office of Air Programs, Mailcode 3AP20, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, (215) 814-2104, at the EPA Region III address above, or by e-mail at *spink.marcia@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are all sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; all sources covered by a CTG issued prior to November 15, 1990; and all other major non-CTG sources. Section 182(f) provides that the planning requirements applicable to major stationary sources of VOC in other provisions in part D, subpart 2 (including section 182) apply to major stationary sources of NO_X.

The Pennsylvania SIP already includes approved RACT regulations for sources and source categories of VOCs covered by the CTGs as required by section 182(b)(2)(A) and (B). Regulations requiring RACT for all major sources of VOC and NO_X were to be submitted to EPA as SIP revisions by November 15, 1992 and compliance required by May of 1995. On February 4, 1994, PADEP submitted a revision to its SIP consisting of 25 Pa Code Chapters 129.91 through 129.95 to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT (non-CTG RACT rules). The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements under Chapter 129.93. As described in more detail below, EPA granted conditional limited approval of the Commonwealth's VOC and NO_X RACT regulations on March 23, 1998 (63 FR 13789), and removed the conditional aspect of the approval on May 3, 2001 (66 FR 22123).

Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f)) applies throughout the ozone transport region (OTR). The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania. The major source size generally is determined by the classification of the area in which the source is located. However, for areas located in the OTR, the major source size for stationary sources of VOC is 50 tons per year (tpy) unless the area's classification prescribes a lower major source threshold. In the Philadelphia area, which is classified as severe, a major source of VOC is defined as one having the potential to emit 25 tpy or more, and a major source of NO_X is also defined as one having the potential to emit 25 tpy or more. In the Philadelphia area, Pennsylvania's RACT regulations require non-CTG sources that have the potential to emit 25 tpy or more of VOC and sources which have the potential to emit 25 tpy or more of NO_X comply with RACT. The regulations contain technology-based or operational ''presumptive RACT emission limitations'' for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT pursuant to a source category regulation under the Pennsylvania SIP), the regulations contain a ''generic'' RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by-case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998, EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; *or* (2) demonstrates that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking.

On April 22, 1999, PADEP made the required submittal to EPA, certifying that it had met the terms and conditions imposed by EPA in the conditional limited approval by submitting 485 case-by-case VOC/ NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. On May 3, 2001 (66 FR 22123), EPA published a rulemaking determining that Pennsylvania had satisfied the conditions imposed in its conditional limited approval. Thus, in that rulemaking, EPA removed the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The final rule removing the conditional status of Pennsylvania's VOC and NO_X RACT regulations became effective on June 18, 2001. As of that time, Pennsylvania's generic VOC and NO_X RACT regulations retained a limited approval status.

It should be noted that the Commonwealth has adopted and is implementing additional ''post RACT requirements'' to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). This SIP-approved regulation is more stringent than the case-by-case RACT determinations submitted by Pennsylvania for the affected sources in that it requires more total reductions in NO_X emissions from that group of sources than does their combined case-by-case RACT submittals. Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of

the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. On August 21, 2001 (66 FR 43795), EPA published its final rule approving the Commonwealth's NO_X SIP call rule SIP submittal. Subsequent Federal approval of a case-by-case RACT determination for a major source of NO_X in no way relieves that source from any applicable, and previously SIP-approved, requirements found in 25 PA Code Chapters 121, 123 and 145.

II. EPA's Action

As EPA stated in its May 3, 2001 final rule (66 FR 22123), conversion from limited to full approval would occur when EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the condition imposed by EPA in its March 23, 1998 (63 FR 13789) final rule. EPA has approved or is currently conducting rulemaking to approve all of the case-by-case RACT determinations submitted by PADEP to satisfy the condition imposed in EPA's March 23, 1998 (63 FR 13789) final rule for affected major sources of NO_X and/or VOC sources located in Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, the five counties that comprise the Pennsylvania portion of the Philadelphia area.

Proposed Action

EPA is proposing to convert its limited approval of Pennsylvania's generic VOC and NO_X RACT regulations, 25 Pa Code Chapter 129.91 through 129.95, to full approval as they apply in the five-county Pennsylvania portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area. EPA has approved or is currently conducting rulemaking to approve all of the case-by-case RACT determinations submitted by PADEP to satisfy the condition imposed in EPA's March 23, 1998 (63 FR 13789) final rule for affected major sources of NO_X and/or VOC sources located in Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, the five counties that comprise the Pennsylvania portion of the Philadelphia area. Final action converting the limited approval to full approval shall occur once EPA has completed rulemaking to approve either (1) the case-by-case RACT proposals for all sources subject to the RACT requirements currently known in the Philadelphia area, *or* (2) for a sufficient number of sources such that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking (63 FR 13789) .

III. 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. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. 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 rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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 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 proposed rule regarding Pennsylvania's generic VOC and NO_X RACT regulations as they apply in the Philadelphia area 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, Hydrocarbons, Nitrogen dioxide, Ozone.

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

Dated: August 29, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–22362 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4135b; FRL–7049–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for 14 Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology

(RACT) for 14 major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_X). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragragh of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by October 9, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ray Chalmers at (215) 814–2061, the EPA Region III address above or by e-mail at chalmers.ray@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: August 28, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–22361 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7050–7]

National Oil and Hazardous Substance; Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Alsco Anaconda Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency, (EPA) Region V is issuing a notice of intent to delete the Alsco Anaconda Superfund Site (Site) located in Gnadenhutten, Ohio, from the National Priorities List (NPL) and requests public comments on this notice of intent to delete. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Ohio, through the Ohio Environmental Protection Agency, have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund. In the ''Rules and Regulations'' Section of today's **Federal Register**, we are publishing a direct final notice of deletion of the Alsco Anaconda Superfund Site without prior notice of intent to delete because we view this as a non-controversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final notice of deletion. If we receive no adverse comment(s) on the direct final notice of deletion, we will not take further action. If we receive timely adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on adverse comments received on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by October 9, 2001.

ADDRESSES: Written comments should be addressed to: Bri Bill, Community Involvement Coordinator, U.S. EPA (P–19J), 77 W. Jackson, Chicago, IL 60604, 312–353–6646 or 1–800–621–8431.

FOR FURTHER INFORMATION CONTACT: Rosauro del Rosario, Remedial Project Manager at (312) 886–6195, or Gladys Beard, Associate Remedial Project Manager at (312) 886–7253 or 1–800–621–8431, Superfund Division, U.S. EPA (SR–6J), 77 W. Jackson, IL 60604.

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

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following address: EPA Region V Library, 77 W. Jackson, Chicago, IL 60604, (312) 353–5821, Monday through Friday 8 a.m. to 4 p.m.; Gnadenhutten Public Library, P.O. Box 216, 160 N. Walnut St., Gnadenhutten, OH 44629, (704) 254–9224, Monday through Thursday 9 a.m. to 8 p.m., Friday 9 a.m to 5 p.m. and Saturday 9 a.m. to 5 p.m.; Ohio Environmental Protection Agency-Southeast District Office, 2195 Front Street, Logan, Ohio 43138, (740) 385–8501, Monday through Friday, 8 a.m. to 5 p.m.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: August 28, 2001.

Norman Niedergang,

Acting Regional Administrator, U.S. EPA Region V.

[FR Doc. 01–22369 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH40

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Sacramento Mountains Checkerspot Butterfly and Proposed Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: 12-month finding and proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the Sacramento Mountains checkerspot butterfly (*Euphydryas anicia cloudcrofti*) as endangered with critical habitat under the authority of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). This species is restricted to meadows within the mixed-conifer forest at approximate elevations between 2,450 and 2,750 meters (m) (8,000 and 9,000 feet (ft)) in the vicinity of the Village of Cloudcroft, Otero County, New Mexico. The species is threatened by destruction and fragmentation of habitat from private and commercial development, habitat degradation and loss of host plants from grazing, encroachment of conifers and nonnative vegetation into non-forested openings, over collection, and, due to its limited range, vulnerability to local extirpations from extreme weather events or catastrophic wildfire including fire suppression activities. This proposal, if made final, would extend the Federal protection and recovery provisions of the Act to this species.

DATES: Comments from all interested parties received by November 5, 2001 will be considered. Public hearing requests must be received by October 22, 2001.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal to the Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, New Mexico, 87113.

FOR FURTHER INFORMATION CONTACT: Eric Hein, Endangered Species Biologist, New Mexico Ecological Services Field Office, at the above address (telephone 505/346–2525, ext. 135; facsimile 505/346–2542).

SUPPLEMENTARY INFORMATION:

Background

The Sacramento Mountains checkerspot butterfly (*Euphydryas anicia* (=*chalcedona*) *cloudcrofti*) is a member of the brush-footed butterfly family (Nymphalidae). The adults have a wingspan of approximately 5 centimeters (cm) (2 inches (in)) and they are checkered with dark brown, red, orange, white, and black spots and lines. The taxon was described in 1980 based on 162 adult specimens (Ferris and Holland 1980).

The Sacramento Mountains checkerspot butterfly inhabits meadows within the mixed-conifer forest (Lower Canadian Zone) at an elevation between 2,450 and 2,750 m (8,000 and 9,000 ft) in the vicinity of the Village of Cloudcroft, Otero County, New Mexico. The adult butterfly is often found in association with the larval food plants New Mexico penstemon (*Penstemon neomexicanus*) and valerian (*Valeriana edulis*), and adult nectar sources such as sneezeweed (*Helenium hoopesii*). New Mexico penstemon is a narrow endemic species (Sivinski and Knight 1996), restricted to the Sacramento Mountains of south-central New Mexico. Other plants that have been documented in butterfly habitat include: arrowleaf groundsel (*Senecia triangularis*), curly-cup gumplant (*Grindelia squarrosa*), figworts (*Scrophularia* sp.), penstemon (*Penstemon* sp.), skyrocket (*Ipomopsis aggregata*), milkweed (*Asclepias* sp.), Arizona rose (*Rosa woodsii*), and Wheeler's wallflower (*Erysimum capitatum*) (U.S. Forest Service (FS) 1999d).

Adult butterflies apparently lay their eggs on *Penstemon neomexicanus* and perhaps *Valeriana edulis*, the known larval host plants. After hatching, larvae feed on host plants and, during the 4th or 5th instar (the period between molts in the larval stage of the butterfly), enter an obligatory and extended diapause (maintaining a state of extended inactivity), generally as the food plants die back in the fall from freezing. Some larvae may remain in diapause for more than one year, depending on environmental conditions. During diapause, larvae probably remain in leaf or grass litter near the base of shrubs, under the bark of conifers, or in the loose soils associated with pocket gopher (*Thomomys bottae*) mounds (Moore 1989; T. Narahashi, Lincoln National Forest, pers. comm. 1999; G. Pratt, University of California, pers. comm.1998; C. Nagano, Fish and Wildlife Service, pers. comm. 1999, E. Hein, Fish and Wildlife Service, pers. obs.). Once larvae break diapause, they feed and grow through three or four more instars before pupating (entering the inactive stage within a chrysalis) and emerging as adults. Diapause is generally broken in late spring (March-April) and adults emerge in mid-summer (June-July).

The extent of the historical range of the Sacramento Mountains checkerspot butterfly is not known due to limited information collected on this subspecies prior to its description (Ferris and Holland 1980). However, based upon the location of its meadow habitat, the general trend of commercial and private development in suitable habitat, and the encroachment of conifers into suitable habitat due to fire suppression on public and private lands, we believe that it once occupied a more extensive, but still limited area. This conclusion that the butterfly likely had a continuous distribution within currently developed areas and that its range was more extensive is further supported by the following considerations. First, extensive recent searches of apparently suitable habitat failed to locate the species (FS 1999d; 2000a; 2000d; Hager and Stafford 1999; Holland 1999; Ferris and Holland 1980; Toliver *et al.* 1994; Cary and Holland 1992; C. Nagano, pers. obs.; E. Hein, pers. obs). Second, butterflies in the genus *Euphydryas* are known to be restricted to specific habitats and are widely collected and well studied (Ehrlich *et al.* 1975; Cullenward *et al.* 1979; Murphy and Weiss 1988). If the Sacramento Mountains checkerspot butterfly were more widespread and common in areas north of the Mescalero Nation or further south of Cloudcroft below the known elevational range of the butterfly, we would expect specimens to have been collected or reported. However, this has not been the case despite the fact that butterflies in this genus are very popular to collect (C. Nagano pers. comm. 1999), and lepidopterists have surveyed and collected throughout the Sacramento Mountains (Ferris and Holland 1980; Cary and Holland 1992; Toliver *et al.* 1994; Hager and Stafford 1999).

The type locality for the butterfly is Pines Campground, and its description is based upon individuals collected at that location in 1964, 1976, and 1978. Although the Sacramento Mountains were extensively surveyed by lepidopterists, the known range of the butterfly in 1980 was described as, ''* * * an area of perhaps 1–2 square miles (mi) (2.6 to 5.2 square kilometers (km)) around the type locality'' (Ferris and Holland 1980). Toliver *et al.* (1994) published all of the known location records, and the estimated extent of the range of the butterfly prior to 1997 was about 8 hectares (ha) (20 acres (ac)),

primarily from two campgrounds (Holland 1999). From 1981 to 1996, there were no documented surveys for the butterfly (R. Holland, Albuquerque, New Mexico, pers. comm. to R. Galeano-Popp Lincoln National Forest 1997; FS 2000). By 1997, the known range of the species had decreased to less than one-half ha (Holland 1999). However, in 1997, the FS and Holland conducted limited surveys for the Sacramento Mountains checkerspot butterfly. The FS also conducted surveys during 1997, 1998, 1999, and 2000 to estimate the range of the butterfly (FS 1999d, 2000a, 2000d). Based on data gathered by the FS during 1997–1999, Holland (1999) described the range of the butterfly as, ''* * * now known to extend as much as 8 km (5 mi) away from the Village of Cloudcroft'' but he still considered the range '' * * * remarkably limited.''

The subspecies has been documented at 15 general localities (i.e., the geographic extent of occupied areas were not delimited and discrete populations were not identified) (FS 1999a, 1999b, 1999d, 2000a, 2000d). The known range of the butterfly is within an 85 square km (33 square mi) area, within which the distribution of the butterfly is patchy and disjunct. The known range of the butterfly is delimited on the north by the Mescalero Apache Nation lands, on the west by Bailey Canyon at the mouth of Mexican Canyon, on the east by Spud Patch Canyon and on the south by Cox Canyon (FS 2000a, 2000d). The potential range of the butterfly to the east and west is likely restricted because the non-forested areas are below 2,450 m (8,000 ft) in elevation and the majority of Sacramento Mountains checkerspot butterflies have been consistently documented at higher elevations (FS 1999a 1999b, 1999d, 2000a, 2000d). We do not know if the range of the butterfly extends into the lands owned by the Mescalero Apache Nation because, to our knowledge, no surveys have been conducted on their lands. It is also unknown whether suitable habitat is present on the lands owned by the Mescalero Apache Nation (Holland 2001). Nevertheless, there does not appear to be a significant amount of suitable habitat present on the lands owned by the Mescalero Apache Nation within the known elevational range of the Sacramento Mountains checkerspot butterfly (i.e., between 2,450 and 2,750 m (8,000 and 9,000 ft)) and proximal (i.e., provides connectivity) to butterfly localities. We solicited, but have not received, any information or comments from the Mescalero Apache Nation. More information would help clarify the status of the butterfly on these lands.

The FS used a Geographic Information System (GIS) to model the extent of existing Sacramento Mountains checkerspot butterfly habitat (FS 1999b). The model was built using non-forested openings visible on 1:24,000 scale orthophoto quadrangles, elevation, and known occupied locales. Based on the model, the FS estimated there were 2,104 ha (5,198 ac) of potential habitat, composed of 1,034 and 1,070 ha (2,553 and 2,645 ac) on private and FS lands, respectively (FS 1999b).

Extensive surveys for larvae and the adult butterflies were conducted within and outside of the modeled potential butterfly habitat during the Sacramento Mountains checkerspot butterfly's seasons of activity in 1997, 1998, 1999, and 2000 (FS 1999b, 1999d, 2000a, 2000d). These surveys partially ground-truthed the GIS model and documented that the distribution of the butterfly within the known range is patchy, disjunct, and generally located in non-forested openings along drainages, roadways, campgrounds, and valleys. The butterfly was documented on both FS and private lands (FS 1999a, 1999b, 1999d, 2000a, 2000d). We believe the modeled potential habitat is an accurate representation of suitable habitat (habitat that can be used by the butterfly). Based on GIS maps and the model provided by the FS, about 46 of 202 ha (114 of 498 ac) and 240 of 813 ha (592 of 2,010 ac) of suitable habitat surveyed during 1998 and 1999, respectively, were occupied by the butterfly. Seven hundred acres were surveyed during 2000, but it is unknown what proportion of the suitable habitat is currently used by the butterfly (i.e., the data only indicate the total acres surveyed and do not differentiate between areas currently used or unused by the butterfly) (FS 2000d). Nevertheless, survey areas during 1999 and 2000 overlapped and went beyond the boundary of the areas surveyed in 1998. Therefore, these data represent the best available information on the area used by the butterfly (determined by surveys) within suitable habitat. Based on these data, it appears that 15 to 35 percent of suitable habitat is currently used by the Sacramento Mountains checkerspot butterfly. Thus, we estimate that 316 to 736 ha (780 to 1,819 ac) of the suitable 2,104 ha (5,198 ac) are currently used by the Sacramento Mountains checkerspot butterfly.

Although the surveys conducted by the FS were directed at estimating the range of the Sacramento Mountains checkerspot butterfly, the individuals seen were also estimated. In 1997 and 1998, 595 adults and 114 larval tents (communal webs that contain larvae) were documented at 15 general localities, whereas the surveys in 1999 documented 1,629 adults, 26 post-diapause larvae, 800 pre-diapause larvae, and an unknown number of larval tents at generally the same localities, and surveys during 2000 documented approximately 1,000 adults, 26 post-diapause larvae, and 157 larval tents (FS 1999a 1999b, 1999d, 2000a, 2000d; Pittenger 1999). No new butterfly localities were documented during the 2000 field season, although the known range of the butterfly was expanded slightly (FS 2000d). Surveys were also conducted by the FS on 231 ha (570 ac) within the Smokey Bear Ranger District, north of the Mescalero Apache Nation during 1999, but did not document any Sacramento Mountains checkerspot butterflies (FS 2000a). None of these data provide a basis for estimates of actual population size, because no formal population estimation procedures were used. The surveys conducted by the FS are the result of one or more surveyors walking through suitable habitat and counting or estimating the number of individuals observed.

Because the Sacramento Mountains checkerspot butterfly has a life history pattern similar to other butterflies in the genus *Euphydryas* that exist as metapopulations, it is likely that this butterfly has a metapopulation structure (Murphy and Weiss 1988; Harrison 1989; Hanski and Gilpin 1991). A metapopulation is a set of local populations within an area, where typically migration from one local population to other areas containing suitable habitat is possible, but not routine. Movement between areas containing suitable habitat (i.e., dispersal) is restricted due to inhospitable conditions around and between areas of suitable habitat. Because many of the areas of suitable habitat may be small, and support small numbers of butterflies, local extinction of these small populations may be common. A metapopulation's persistence depends on the combined dynamics of these local extinctions and the subsequent recolonization of these areas by dispersal (Hanski 1999, Hanski and Gilpin 1991, 1997, McCullough 1996). We believe habitat loss has reduced the size of and connectivity between patches of suitable butterfly habitat. The reduction in the extent of meadows and other suitable non-forested areas has likely eliminated

connectivity among some localities and may have increased the distance beyond the normal dispersal ability of the Sacramento Mountains checkerspot butterfly, making recolonization of some patches following local extinction more difficult (Cullenward *et al.* 1979; Hanski 1999). In addition, habitat reduction lowers the quality of remaining habitat by reducing the diversity of microclimates and food plants for larvae and adult butterflies (Murphy and Weiss 1988; Thomas *et al.* 1996; Hanski 1999).

Based on available information on topography, soils, and vegetation, it is likely that the distribution of the Sacramento Mountains checkerspot butterfly was more extensive and continuous prior to the increase in commercial and private development, construction of roads, overgrazed range conditions, and the encroachment of conifers and subsequent decrease in the amount of non-forested lands. Many of the remaining Sacramento Mountains checkerspot butterfly populations are likely small and/or not viable (i.e., are likely to become extirpated in the near future). The isolated localities and limited geographic range of the butterfly indicate that the species is particularly vulnerable to perturbations (disturbances that impact the habitat and host plants associated with the species), which could lead to extinction (Ehrlich *et al.* 1972; Thomas *et al.* 1996).

Previous Federal Action

On January 28, 1999, we received a petition from Mr. Kieran Suckling of the Southwest Center for Biological Diversity in Tucson, Arizona, dated November 1998, which requested that we emergency list the Sacramento Mountains checkerspot butterfly as endangered. The petitioner stated that the species merits listing because of its restricted range, adverse impacts resulting from a proposed FS land transfer, improvements to a FS campground, construction of homes and other structures, aggressive nonnative weeds that may be affecting the larval food plants and adult nectar sources, global climate change, and livestock overgrazing. The petitioner requested emergency listing due to the perceived immediate threats to the species' continued existence from a proposed land transfer between the FS and the Village of Cloudcroft in the Sacramento Mountains in Otero County, New Mexico.

In accordance with section 4(b)(3)(A) of the Act, we published notice of our finding in the **Federal Register** on December 27, 1999 (64 CFR 72300), that the petitioner presented substantial information indicating that listing may be warranted, but that emergency listing was not warranted, and commenced a status review. In that notice we requested any additional data or scientific information concerning the status of the species including additional historical and current population data, pertinent information on biology or life history, information on habitat requirements, and information on immediate and future threats to the butterfly and areas inhabited by the species. During the two-month comment period, we received eight comments from individuals or agencies. One commentor supported, and four opposed listing the species; one requested the references cited; and two provided general comments or data on the Sacramento Mountains checkerspot butterfly. We received most substantive data relating to life history, current range, and threats from the Lincoln National Forest. The Sacramento Ranger District in the Lincoln National Forest has been instrumental in avoiding or minimizing some recent potential impacts to the butterfly on their lands. We incorporated these and other pertinent data into this proposal.

Section 4(b)(3)(B) of the Act requires the Secretary of the Interior to reach a final decision on any petition accepted for review within 12 months of its receipt. That decision, to be published in the **Federal Register**, must be one of the following findings: (1) The petitioned action is not warranted; (2) the petitioned action is warranted (a proposed regulation is published); or (3) the petitioned action is warranted, but the immediate proposal is precluded by listing actions of higher priority. On July 31, 2001, the United States District Court for the District of New Mexico, in *Center for Biological Diversity* v. *Gale A. Norton*, CIV 01–0258 PK/RLP ordered us to complete and submit for publication to the **Federal Register** a 12-month finding for the Sacramento Mountains checkerspot butterfly within 30 days. This proposed rule constitutes our 12-month petition finding that listing as endangered is warranted for the Sacramento Mountains checkerspot butterfly.

Peer Review

In accordance with interagency policy published on July 1, 1994 (59 FR 34270), upon publication of this proposed rule in the **Federal Register**, we will solicit expert reviews by at least three specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomic, biological, and ecological information for the Sacramento Mountains checkerspot butterfly. The purpose of such a review is to ensure that decisions are based on scientifically sound data, assumptions, and analyses, including the input of appropriate experts. 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.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Sacramento Mountains checkerspot butterfly are as follows:

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

The threats that have been identified are commercial and private development, FS activities, fire suppression and wildfire, highway and forest road reconstruction, recreational impacts, domestic livestock grazing, nonnative vegetation, and insect control.

Commercial and Private Development

Commercial and private development is a significant threat to the Sacramento Mountains checkerspot butterfly. Habitat conversion activities from commercial and private development have likely already reduced many historic Sacramento Mountains checkerspot butterfly localities to non-viable states. Approximately fifty percent of all lands that might support the butterfly are in private ownership, subject to ongoing and future development activities. Much of these private lands are currently being developed for residential or commercial uses (FS 1986; FS 1997; E. Hein, pers. obs.; Holland 2001). Commercial and private development has been and is currently encouraged by the Village of Cloudcroft (Southeastern New Mexico Economic Development District 1974; Cloudcroft Area Sustainability Team 1995; J. Wilson, Lincoln National Forest, pers. comm. 2000). Within the known range of the Sacramento Mountains

checkerspot butterfly, there are two golf courses, at least 12 private developments, the Village of Cloudcroft, schools, several recreational parks, a ski area, and a network of paved, gravel, or dirt roadways.

The elevation, habitat, soils, and topography of these developed areas appear similar to areas that are known to be used by the butterfly and are either fragmenting or near to localities that support butterflies. For example, a subdivision on the east side of the Village of Cloudcroft is currently developing and eliminating approximately 10 ac of suitable, and likely currently used, butterfly habitat. This and other recent or proposed developments have or will likely fragment the distribution of the butterfly and eliminate butterfly localities or prevent the Sacramento Mountains checkerspot butterfly from moving between areas of suitable habitat (Murphy and Weiss 1988). Therefore, we believe that these private and commercial development activities have likely eliminated or interrupted dispersal of butterflies between suitable habitat patches and thus affected the metapopulation dynamics of the Sacramento Mountains checkerspot butterfly.

The construction of homes, businesses, and associated infrastructure in the habitat of the Sacramento Mountains checkerspot butterfly could directly affect the species through mortality or result in indirect effects, such as the introduction of nonnative plants and animals or loss of movement corridors (Holland 2001). Ground disturbance and vegetation clearing for commercial or private development can disturb soils, remove or eliminate diapause sites (i.e., leaf litter and grasses) and larval or adult food plants, and kill or injure individuals (Wilcox and Murphy 1985; Murphy and Weiss 1988; C. Nagano, pers. comm., E. Hein, pers. obs.). We have observed non-forested areas of private lands that historically were probably suitable butterfly habitat; however, some of these areas currently contain thick mats of oat grass (*Arrhenatherum elatius*), pastures devoid of vegetation from livestock grazing, and filled stock ponds and/or dammed wetlands that have eliminated suitable habitat of the Sacramento Mountains checkerspot butterfly.

The butterfly likely occupies a significant amount of private lands since habitat used by the butterfly occurs on FS land that is immediately adjacent to these areas and the elevational and habitat characteristics are contiguous (FS 2000a). Based on a GIS model, the FS estimated that there were 1,034 ha (2,553 ac) of potential habitat on private lands (FS 1999b). Because of the ground-truthing and butterfly surveys conducted using the model, we believe that this amount is a reasonable approximation of the maximum amount of suitable habitat present on private lands. Based upon butterfly and habitat surveys conducted by the FS, we have estimated that between 15 to 35 percent of suitable habitat is occupied by the Sacramento Mountains checkerspot butterfly (E. Hein, pers. obs.). Therefore, 155 to 362 ha (383 to 894 ac) of private land may be occupied by the butterfly and nearly all of the suitable habitat on private land is at risk from commercial and private development and the direct or indirect impacts thereof.

The population of the Village of Cloudcroft and vicinity has increased by 34 percent since 1970, and the number of housing units that were constructed during this period has increased by 50 percent (U.S. Census Bureau 1998; New Mexico Economic Development Department 1999). Based upon electrical power service and demand, the Village of Cloudcroft and surrounding areas within the range of the butterfly have sustained population growth of about 2.5 percent per year; these levels are projected to increase (FS 1999e). New subdivisions currently are being constructed on private land and there are many properties for sale ranging from less than 1 ha (2.5 ac) to at least 100 ha (250 ac) that appear to contain suitable non-forested habitat. Further, a 9-hole golf course is being discussed as a community recreational goal and objective for the Village of Cloudcroft in 2005 (Cloudcroft Area Sustainability Team 1995). Non-forested lands within the range of the Sacramento Mountains checkerspot butterfly are generally preferred by commercial and private developers, because these areas are less costly to develop (i.e., there are no trees to clear and the land generally lacks steep topography and is accessible from roads). This may result in a disproportionate impact on butterflies and their habitat. For example, Holland (1999, 2001) reported that the butterfly historically occurred in two meadows totaling 8 ha (20 ac) in the early 1980s; these areas were reduced by private development to less than 0.4 ha (1 ac) by July 1997.

In addition, heavy clearing and mowing activities on improved (i.e., with existing structures) or unimproved private lands, to reduce the threat of wildfire or improve the residential appearance, could eliminate larval or adult food plants and/or localities that are used by the Sacramento Mountains checkerspot butterfly. Additionally, the conversion of native landscapes to nonnative vegetation (e.g., lawns or gardens) could fragment localities, eliminate movement corridors, cause additional loss of suitable habitat (Wood and Samways 1991, Holland 2001). Developing areas reduce blocks of native vegetation to fragments that are insularized, creating a matrix of native habitat islands that have been altered by varying degrees from their natural state. Given the development pressures and history of construction in the vicinity of the Village of Cloudcroft, the remaining butterfly localities are at risk of extirpation.

FS Activities

We are aware of FS projects proposed within the known range of the butterfly that have the potential to adversely affect the Sacramento Mountains checkerspot butterfly. For example, the following projects are in various stages of planning or construction: (1) A capital improvement project for three campgrounds; (2) a new power line, service road, and corridor; (3) livestock grazing activities in several allotments, one of which encompasses over 44,921 ha (111,000 ac); and (4) a land transfer to the Village of Cloudcroft (FS 1999a, 1999b, 1999f, 2000; Service 1999, 2001).

One campground located near the Village of Cloudcroft contains one of the greatest known concentrations of the Sacramento Mountains checkerspot butterfly. Reconstruction activities in this campground are proposed for the year 2003, including replacement of existing or construction of new bathroom facilities, traffic control barriers, picnic tables, and campfire pits (FS 1999a, 1999b). Similar to trampling (see discussion below), these ground disturbance activities have the potential to directly (e.g., by crushing larvae) and indirectly (e.g., by destroying food plants) impact this species. We are providing technical assistance to the FS in an attempt to avoid or minimize adverse impacts to the Sacramento Mountains checkerspot butterfly. The FS intends to begin work on a management plan to address the conservation of the Sacramento Mountains checkerspot butterfly and to address future potential impacts in the near future (M. Crites, Lincoln National Forest, pers comm. 2000); however, no plan has been developed to date.

The FS is proposing to transfer land pursuant to the Townsite Act to the Village of Cloudcroft (FS 1997; 2001a). The proposed land transfer would involve 33 ha (81 ac) on 5 different parcels. Sacramento Mountains

checkerspot butterflies have been observed on three of the five parcels (numbers 3, 4, and 5) and in adjacent lands (FS 1997, 1999a, 1999b, 1999d, 2000, 2001a, E. Hein, pers. obs.). The Village of Cloudcroft and the FS agreed to eliminate from the current land transfer proposal three other parcels (numbers 6, 7, and 8), in which a number of Sacramento Mountains checkerspot butterflies have been observed (FS 1999a, 1999b, 2001a). The stated purpose for the proposed land transfer is to provide additional land for commercial, industrial, educational, and recreational expansion and permit controlled growth (Village of Cloudcroft 1996). Development of these parcels would be consistent with past and current community development policies and objectives of encouraging commercial and private development in and around the Village of Cloudcroft (Southeastern New Mexico Economic Development District 1974; Village of Cloudcroft 1996; J. Wilson, pers. comm. 2000). A decision on the five parcels will be finalized this fiscal year (FS 2001a). If the parcels of land currently used by the butterfly are transferred and subsequently developed, habitat used by the butterfly could be further degraded or eliminated, suitable habitat further fragmented, and the movement of butterflies between local populations may be restricted.

The FS has eliminated some proposed projects (e.g., the construction of new administrative building) in habitat used by the butterfly. They have also taken some actions to protect and manage the Sacramento Mountains checkerspot butterfly, including instituting a butterfly closure order (see discussion below), fencing a portion of one butterfly locality, and conducting butterfly surveys to determine range and occupancy (FS 1999a, 1999b, 1999h, 2000a, 2000d). These actions have been beneficial, especially for increasing our knowledge of this species. However, we believe that other multiple use priorities on FS lands, such as range management, road maintenance, or capital improvement projects, may adversely impact this species (e.g., see discussion on road maintenance below).

Fire Suppression and Wildfire

The results of 100 years of fire suppression in the Sacramento Ranger District currently threatens the Sacramento Mountains checkerspot butterfly. Fire exclusion and suppression have reduced the size of grasslands and meadows by allowing the encroachment of conifers, and these trends are projected to continue (FS 1995, 1999h). Officials on the Lincoln National Forest reported that high forest stand densities exist on 35 percent of mixed conifer forests and 22 percent of ponderosa pine forests, and that insect and dwarf mistletoe infestations occur on 57 and 64 percent of their ponderosa pine forests, respectively (GAO 1999a). The natural fire regime historically maintained non-forested openings and meadows. Prior to 1900, the mean natural fire interval for forests in the Sacramento Mountains was about 4 to 5 years (Kaufmann et al. 1998). These frequent, low-intensity, surface fires historically maintained a forest that was more open (i.e., more non-forested patches of different size, more large, older trees, and fewer dense thickets of evergreen saplings) than it is currently (Kaufmann et al. 1998). Such low-intensity fires are now a rare event.

It is likely that fire exclusion and cattle grazing have severely altered and increased the threat of wildfire in ponderosa pine (*Pinus ponderosa*) and mixed conifer forests in the semi-arid western interior forests, including New Mexico (Belsky and Blumenthal 1997). For example, ponderosa pines have increased from 19 to 64 trees per ha (46 to 158 per ac) from 1911 to 1995, and mixed conifers increased from 92 to 192 trees per ha (227 to 475 per ac) from 1906 to 1995, in the Sacramento District of the Lincoln National Forest (FS 1999h). Further, there has been a general increase in the dominance of woody plants, with a decrease in the herbaceous (non-woody) ground cover (FS 1995) used by the butterfly (FS 2000a). These data indicate that the quality and quantity of the available butterfly habitat is decreasing range wide. Alternatively, restoration of natural processes and conditions may be difficult because of permanent impairment of areas from soil loss; the presence or dominance of noxious weeds, and the need to protect existing homes and businesses (FS 1995). Therefore, we believe that fire exclusion has substantially affected the species and will likely continue to significantly degrade the quality and quantity of suitable habitat. Additionally, future actions to manage or reduce the threat of wildfire will likely be more difficult to implement because of continued private development and the risk of fires escaping.

The Sacramento Mountains checkerspot butterfly is extremely vulnerable to catastrophic (i.e., high-intensity and large) wildfires in suitable butterfly habitat. Fire has caused the extirpation of populations of other butterflies in the genus *Euphydryas* (Murphy and Weiss 1988; 62 FR 2313). Future wildfires within the known range of the Sacramento Mountains checkerspot butterfly will likely be large scale, and, under current conditions, are imminent (FS 1999h). Large fuel accumulations (e.g., the encroachment of conifers into meadows and the development of mats of Kentucky blue grass (*Poa pratensis*) and oat grass (*Arrhenatherum elatius*)) can lead to intense soil heating and deep heat penetration, which could be lethal to the food plants and the various life stages of the Sacramento Mountains checkerspot butterfly (Society of American Foresters 1984). During the last 50 years in the Sacramento Mountains, at least nine catastrophic wildfires have burned over 34,000 ha (90,000 ac) (Kaufmann *et al.* 1998). In the next few years, the Sacramento Ranger District may have a catastrophic burn that eliminates some or all of the remaining butterfly habitat.

From 1.2 to 14.3 percent of various forest cover types totaling about 202,347 ha (0.5 million ac) are predicted to burn between 1994 and 2005 in the southwestern region of the FS (FS 1995). The Government Accounting Office (GAO) (GAO 1999a, 1999b) reported that the FS and scientists generally agree that the efforts to reduce the threat of large, intense, uncontrollable, destructive wildfire will likely fail because funding is inadequate for a cohesive fire management strategy to be implemented. In completing its Forest Plan, the Lincoln National Forest selected an alternative that had one of the highest overall fire risks, because the proposed fire protection and suppression budget provided less protection than most of the other alternatives considered (FS 1986). The FS concluded that the preferred alternative had one of the greatest probabilities of serious uncontrolled wildfires relative to other alternatives considered (FS 1986). Whether recent funding increases for FS fire risk reduction actions can result in sufficient implementation to reduce fire threats to the butterfly over the short-term is unclear.

For instance, the threat of wildfire has been recognized as significant since the latest Lincoln National Forest Plan (FS 1986). The Sacramento Ranger District of the Lincoln National Forest has recently approved a long-term fire management plan to reduce the threat of catastrophic wildfire in the wildland-urban interface (FS 1999h). This plan will treat about 5,666 ha (14,000 ac) of about 202,347 ha (0.5 million ac) that were the subject of a fire danger assessment on the Sacramento Ranger District. The District's assessment found about 53,419 ha (132,000 ac) had a high

risk potential for fire ignitions, and about 89,032 ha (220,000 ac) had high fuel characteristics. The project proposes to reduce the high fire risk on the District through thinning and prescription burns on about 15 percent of the 142,452 ha at risk (352,000 ac) (FS 1999h). The FS has also recently proposed thinning 97 ha (239 ac) on the western edge of the Village of Cloudcroft (FS 2000c). The FS concluded that these projects are not expected to change the existing habitat conditions for the butterfly, or positively or negatively impact the butterfly (FS 1999h, G. Garcia, pers. comm. 2000).

Recently, the Southwestern Region of the FS initiated a program to reduce the risk of catastrophic crown fire in the wildland urban interface (FS 2000e). This program is designed to reduce fuel loads to protect life, property, and natural resources. Approximately 1.9 million acres are proposed for fuel load reduction within the National Forests in Arizona and New Mexico. These treatments are anticipated to be implemented slowly, with 20 to 30 projects beginning this fiscal year 2001, and the remainder of the projects spread over a 5 to 8 year period (J. Agyagos, FS, pers. comm.). The GAO also recently reported that Federal agencies are not organized to effectively and efficiently implement the national fire plan (GAO 2001). Therefore, it is unknown whether the proposed treatments will effectively reduce the risk of catastrophic wildfire to the butterfly or its habitat.

We believe that the reduction of fire risk may be very limited in geographic extent; consequently, the only potential for short term benefits for the butterfly may be a decrease in the amount of at-risk area and/or interrupting or reversing the encroachment of conifers in some areas to create or enlarge non-forested areas suitable for the butterfly. There are no fire risk reduction projects at nine of the known butterfly localities, and the prescriptions near the other six localities will be limited. Therefore, we concur with the FS that it is highly probable that the overall risk of fire or the encroachment of conifers will not be significantly reduced or eliminated by these efforts. We are not aware of any other projects to address the risk of fire on the Sacramento Ranger District. FS officials agree that when catastrophic fires occur, they will likely permanently damage soils, habitat, and watershed functioning (FS 1986; GAO 1999a).

The GAO reported that only 10–25 years remain to resolve the increasing threats of catastrophic wildfire before widespread damage from uncontrollable wildfires becomes inevitable. A random event, such as catastrophic fire, is highly probable and could easily destroy part of a Sacramento Mountains checkerspot butterfly locality or entire localities, or decrease a locality to so few individuals that risk of extirpation from genetic and demographic problems would increase.

The GAO concluded that the FS will likely not be able to meet its goal of reducing the threat of wildfire by 2015 because efforts and resources will need to be divided between reducing accumulated fuels on high-risk areas and maintaining low-risk conditions on other areas. For instance, the budget for fire suppression in the Lincoln National Forest plan was nearly double that of hazard protection (FS 1986). The GAO concluded that the threats and costs associated with wildfires, together with the urgent need to reduce the threats, make them the most serious immediate problem related to forest health in the interior West. We believe that this risk of wildfire is one of the most significant threats facing this species and projects resulting from increased fire risk funding will need to be implemented before significant risk reduction for the butterfly is achieved.

Highway and Forest Road Reconstruction

Construction of roadways has historically eliminated or reduced the quality or quantity of Sacramento Mountains checkerspot butterfly habitat (see also Factor E) (Pittenger 1999; E. Hein, pers. obs.), increasing the risk of extinction throughout all or a significant portion of the species' range. The reconstruction of forest roads is a threat to the Sacramento Mountains checkerspot butterfly, causing elimination of larval food and adult host plants, crushing of butterflies, and increasing the amount of soil erosion or dust. Because roads are usually sited in open non-forested areas, larval food and adult nectar plants are frequently found in large concentrations along roadways (E. Hein, pers. obs.). These areas can similarly contain aggregations of pre- and post-diapause larvae, because bare soils provide sites for thermoregulation (maintenance of a constant internal body temperature regardless of environmental temperature) (Porter 1982). Therefore, activities that disturb suitable habitat adjacent to roadways can impact very high quality sites, important for the development of various life history stages (e.g., pre-diapause instar development). We have recently observed road grading activities on FS and private lands that cleared at least 1 ha (2.4 ac) of larval and adult food plants, and may have directly killed individual larvae through crushing (E. Hein, pers. obs.). Butterflies in the adjacent non-graded areas may also be indirectly affected by soil erosion or dust covering and killing food plants (Farmer 1993). We believe that road maintenance activities can cause localized adverse impacts to the Sacramento Mountains checkerspot butterfly.

The New Mexico State Highway and Transportation Department (NMSHTD) recently improved portions of an approximately 3.2 km (2 mi) long stretch of State Highway 130 between the Village of Cloudcroft and the intersection of SH 130 and Sunspot Road (Metric Corporation 1996; Steve Reed, NMSHTD, pers. comm. 1999). The project cleared all vegetation by scraping and widening the road and shoulders, constructing retaining walls, adding drainage ditches and culverts, and reconstructing a curve. In 1998 and 1999, Sacramento Mountains checkerspot butterflies were located within the construction footprint (FS 1999a, 1999b; 1999d, E. Hein, pers. obs.); however, none were observed during surveys in 2000 and 2001 (E. Hein, pers. obs.). In July 1999, topsoil and vegetation were scraped and Sacramento Mountains checkerspot butterflies were likely killed (E. Hein, pers. obs.). Some topsoil and larval food plants were stockpiled and used in the revegetation when the project was completed. However, fewer than 10 New Mexico penstemon were replanted in the revegetation effort and the area is currently overgrown by noxious weeds (see discussion below). In addition, extensive retaining walls and roadsides were constructed with rocks and little to no soils may preclude revegetation in some areas that were likely used by the Sacramento Mountains checkerspot butterfly as corridors (Haddad and Baum 1999; Haddad 1999). The NMSHTD will monitor the revegetation areas for the recruitment and survival of larval food plants and adult nectar sources, and to determine whether the butterfly recolonizes the area. The NMSHTD is also conducting a five-year study on the natural history of the butterfly to increase the knowledge of the species (NMSHTD 2000; Pittenger 2001).

Recreational Impacts

Off-highway vehicles (OHVs) pose a threat to the butterfly through direct crushing of eggs, larvae, pupae, or thermoregulating adults located on bare soils, leaves, or grasses within or adjacent to trails and roads. Because each larval web of the butterfly contains from 10 to 100 pre-diapause larvae (T.

Narahashi, pers. comm. 1999), hundreds to thousands of individuals could potentially be impacted in some localities. Thermoregulation sites are chosen by some *Euphydryas* sp. larvae for their solar radiation absorbance characteristics (Porter 1982). This site selection behavior is likely to occur with the Sacramento Mountains checkerspot butterfly because of relatively low temperatures during spring and summer months (E. Hein, pers. obs.). Post-diapause larvae in the genus *Euphydryas* can also be gregarious and cluster in areas of open soils, such as trails and roads, to thermoregulate (C. Nagano, pers. obs.; E. Hein, pers. obs.; Porter 1982; Weiss *et al.* 1987; Osborne and Redak 2000). We know of other butterflies that have also been impacted from OHVs (e.g,. *Neonympha mitchellii mitchelli*, 56 FR 28825; *Glaucopsyche lygdamus palosverdesensis*, Arnold 1987; *Apodemia mormo langei*, Fish and Wildlife Service 1984; *Euphydryas editha quino*, 62 FR 2313; G. Pratt, pers. comm. 1998; M. Elvin, Fish and Wildlife Service, pers. comm. 2000).

Off-highway vehicle use is increasing in many western states (GAO 1995), and on the Lincoln National Forest (FS 1986, 1993). The FS estimated there were 1,368 km (850 mi) of OHV routes on their lands in the Southwestern region, with at least 80 km (50 mi) being added annually (FS 1986). OHVs can cause significant environmental damage to both vegetation and animals (including butterflies) (Webb and Wilshire 1983), and are causing vegetation and erosion on FS land, primarily in meadows, riparian areas, and steep slopes (FS 1986). The authorized and unauthorized use of OHVs can adversely affect Sacramento Mountain checkerspot localities (FS 2000a). Executive Orders 11644 and 11989 were issued in the 1970s to establish policies and procedures for regulating OHVs. Compliance with these executive orders has been mixed; for example, incomplete inventories of open and closed OHVs routes, inadequate mapping and signing of routes, and limited monitoring of the effects of OHVs on natural resources have been the primary deficiencies (GAO 1995). Similar OHV problems exist on the Sacramento Ranger District, where, despite efforts by the FS to alleviate OHV-related impacts to the Sacramento Mountains checkerspot butterfly, problems are still occurring. For example, the FS recently posted signs indicating that OHVs were not allowed in an area that currently supports the Sacramento Mountains checkerspot butterfly after noticing OHV tracks through a monitoring plot (FS 2000a). Although the Lincoln National Forest has closed areas to OHVs in the past, these efforts have not been effective in stopping unauthorized OHV use in non-forested areas (Fish and Wildlife Service 1994; Forest Guardians 1999), even when the area was partially fenced (T. Fiedler-Harper, pers. obs. 1999).

The Sacramento Mountains checkerspot butterfly may also be threatened by impacts from mountain bikes. The butterfly is found along and adjacent to several popular mountain biking routes, including trails that are traversed in an annual 2-day bike race during mid-May when post-diapause larvae are actively thermoregulating in these areas (FS 2000a; M. Crites, pers. comm. 1999; E. Hein, pers. obs). This race regularly attracts several hundred racers.

Mountain bikes may be directly or indirectly affecting larval food plants, nectar sources, or various life stages of the butterfly through the development trail ruts, the loss of residual topsoil and vegetation, increased erosion, the creation of stretches of standing water or muddy trail/road conditions, the development of parallel tracks, and the establishment of unauthorized trails (Cessford 1995). For example, following the bike race, we found crushed larval food plants along part of the race course that bisects one of the campgrounds that currently supports the butterfly (E. Hein, pers. obs.). Moreover, a recent study found that 58 percent of National Forests surveyed reported evidence of resource damage from mountain bikes (Chavez 1996).

Although the potential impact of mountain biking activities on butterflies has been infrequently studied, we know of other invertebrates that are impacted by bicycle traffic (e.g. *Cicindela ohlone*) (65 FR 6952). Moreover, mountain bike impacts are similar to other recreational impacts, and are likely to result in soil compaction, erosion, or the elimination or reduction of vegetation (Liddle 1975; Cessford 1995; Trails and Wildlife Task Force 1998). The significance of direct mortality on population viability is unknown at this time, but is considered a potential threat to the butterfly, particularly if bicycle traffic through areas used by the butterfly increases.

Hiking and camping pose a threat to the butterfly because of the development of trails, barren areas, and trampling, but the potential significance of these impacts has not been quantified. The development of parallel tracks, muddy trails, and erosion through meadows and non-forested areas may affect the butterfly through the reduction or elimination of larval and adult food plants (Boyle and Samson 1985; Kuss 1986; Hampton and Cole 1988). Cole (1995) reported that erect vegetation is readily damaged by trampling, with erect forbs, similar to the food plants of the butterfly, less resistant than those with matted or rosette (circular cluster of plant parts or leaves) growth. Meadows or non-forested areas, which may also be suitable habitat or support the Sacramento Mountains checkerspot butterfly, are favored locations for many campers (Hampton and Cole 1988; Cole 1989 and references therein). We observed a variety of these impacts (e.g., barren ground, trampled food plants, multiple trails, vehicle tracking, etc.) in areas used by larval and adult life stages of the Sacramento Mountains butterflies; these impacts are likely reducing the quality or quantity of suitable habitat in and around developed campgrounds or undeveloped campsites known to support the Sacramento Mountains checkerspot butterfly (E. Hein, pers. obs.). The FS indicated they would monitor trampling impacts at two campgrounds (FS 1999j). Although we have not received any information from the FS regarding trampling, we have documented larval webs and food plants within campsites that were trampled or crushed (E. Hein, pers. obs.).

Recreational resource damage and impacts to the Sacramento Mountains checkerspot butterfly are likely to increase in the near future. For example, the Forest contained 240 km (150 mi) of managed trails in 1986; however, the need for future trails is expected to increase and at least 25 percent more trail miles are needed to match demand (FS 1986). Developed (e.g., campground stays) and dispersed recreation (i.e., hiking, backpacking, camping, trail biking) in 1986 were projected to rise over 2.4 and 1.4 times, respectively, through the first quarter of the 21st century (FS 1986). In fact, by the end of the projected 50-year period of the Lincoln National Forest Plan (2036), the demand for dispersed recreation was expected to continue increasing and would exceed the projected capacity by 26 percent (FS 1986). In fact, the demand for developed recreation, which is generally greatest from May through September (the same activity period for the Sacramento Mountains checkerspot butterfly), often exceeded capacity in 1986. Moreover, the FS reported that the amount of recreational use left limited opportunity for a site to rest and rehabilitate during peak activity and use periods (FS 1986).

We are aware of other sensitive butterflies that have been similarly impacted in and around developed FS campgrounds (e.g., *Pyrgus ruralis lagunae,* G. Pratt pers. comm. to E. Hein, 1998). Although proposed capital improvement projects for several FS campgrounds are needed to offset the high demand for developed recreation, these projects and the associated recreational impacts also have the potential to adversely affect the Sacramento Mountains checkerspot butterfly (see discussion under FS activities). We believe impacts to the butterfly from these recreational uses is ongoing and will continue.

Domestic Livestock Grazing

The Sacramento Mountains checkerspot butterfly has been and continues to be adversely affected by domestic livestock grazing. Grazing can eliminate or reduce the food plants used by larvae and the nectar plants used by adults, compact the soil, and eliminate or reduce ground cover by herbaceous plant and litter (Scholl 1989; Fleischner 1994; Belsky and Blumenthal 1997; Donahue 1999). The effects of grazing on the Sacramento Mountains checkerspot butterfly are largely a result of range management of domestic livestock. If domestic livestock are closely managed to minimize the loss or elimination of native vegetation used by the butterfly, then range management will likely have a negligible affect on the Sacramento Mountains checkerspot butterfly. Overgrazing has occurred in the valleys of the Sacramento Ranger District of the Lincoln National Forest over the last several decades (Fish and Wildlife Service 1993). Furthermore, overgrazing by stock animals has led to extinctions of some butterfly populations in the United States, including butterflies in the genus *Euphydryas* (Ehrlich 1989; Murphy and Weiss 1988; Weiss *et al.* 1991).

Overgrazing in the Lincoln National Forest has likely eliminated or reduced larval host plant and adult nectar sources of the Sacramento Mountains checkerspot butterfly. Similarly, overgrazing has compacted soils, decreased water infiltration, and increased water runoff, erosion, and dense conifer recruitment, severely altering the entire forest and meadow landscape in semi-arid western interior forests, including those in New Mexico (Belsky and Blumenthal 1997). In fact, herbaceous plants and grasses have been effectively removed from the Sacramento Ranger District by intensive overgrazing (FS 1995). Overgrazing can substantially reduce the availability of native nectar plants for some butterfly species and could be contributing to regional declines and extinctions (e.g,. *Euphydryas editha bayensis*; Murphy and Weiss 1988; *Speyeria zerene myrtleae*; Launer *et al.* 1992). The availability of nectar and the amount consumed by female butterflies greatly influences the number of eggs produced and subsequent adult recruitment and long term population survival (Murphy *et al.* 1983; Boggs and Ross 1993 cited in Launer *et al.* 1992;).

We believe that widespread and intensive livestock grazing, leading to a reduction or elimination of residual plant or ground cover (i.e., little to no leaf or grass litter), has been detrimental for this butterfly, because the quality and quantity of larval and adult food plants and diapause sites have been reduced or eliminated. For example, the only variables that are consistently documented with Sacramento Mountains checkerspot butterfly presence are the occurrence of *Helenium hoopesii* (adult nectar source), mesic (neither extremely wet or extremely dry) soils, canopy cover less than 5 percent, and greater than 70 percent herbaceous cover (FS 2000a). Past and current range management within the range of the Sacramento Mountains checkerspot butterfly has led to the reduction or elimination of *Helenium hoopesii* and herbaceous ground cover (FS 1995; Belsky and Blumenthal 1997; Lincoln National Forest 1999). Trampling, primarily from cattle, can also kill butterfly larvae, eggs, and pupae (White 1986; Weiss 1999). White (1986) estimated that up to 35 percent of the total population of various life stages of butterflies in the genus *Euphydryas* can be lost to crushing in areas where heavy grazing occurs.

The amount of *Helenium hoopesii*, an adult nectar source, on range allotments in the Sacramento Ranger District is lower than it was in the 1970s and 1980s and the current range condition of four cattle allotments within the known range of the Sacramento Mountains checkerspot butterfly are poor to fair (R. Newman, Lincoln National Forest, pers. comm. 1999). Present range conditions within non-forested areas are declining (R. Newman, pers. comm. 1999), probably because cattle tend to concentrate in these areas (Belsky and Blumenthal 1997). Both larval and adult food plants are needed to sustain viable butterfly populations. For example, in some areas, if larval food plants are present, but nectar sources are absent, the habitats for other butterflies in the genus *Euphydryas* have remained unoccupied for at least a decade (Brown and Ehrlich 1980). In the Lincoln National Forest, permitted cattle grazing in 1980 exceeded capacity by about 33,000 AUMs and was projected to continue until about 2026 (FS 1986). Similarly, excessive forage utilization has been occurring since at least 1991 on the Sacramento allotment, the largest allotment in the Sacramento Ranger District (64 FR 24132).

A low to moderate level of grazing can sometimes be beneficial for sensitive butterflies in systems where nonnative grasses are palatable to domestic livestock or native ungulates or if native ungulate grazing (e.g., elk (*Cervus elaphus*)) was a component of the historical ecosystem (Weiss 1999, Weiss *et al.* 1991). Grazing levels in the known range of the Sacramento Mountains checkerspot butterfly continue to degrade the quantity and quality of suitable habitat. However, if a decrease in domestic livestock use is offset by an increase in native ungulate use, the result may be similarly degraded range conditions. This has been observed for at least one allotment within the range of the butterfly (R. Newman, pers. comm. 1999). Additionally, cattle must be properly managed during drought to avoid adversely affecting butterfly populations by overgrazing food plant and nectar sources. The lack of range management adjustments on the Lincoln National Forest during drought has resulted in extensive resource damage from domestic livestock grazing (Kaufmann *et al.* 1998).

Cattle grazing currently occurs in allotments where butterflies have been observed (FS 1999a, 1999b, 1999d 1999i, 2000a, 2000d). Data are lacking on long-term trends for Sacramento Mountains checkerspot butterfly localities that are grazed, but a study has recently been initiated to determine the effect of grazing on the Sacramento Mountains checkerspot butterfly (FS 2001b). Nevertheless, the co-occurrence of butterflies and domestic livestock does not demonstrate that the Sacramento Mountains checkerspot butterfly is not being adversely impacted by current range management. It is possible that these areas could be population sinks (i.e., areas where the presence of butterflies is only being maintained by immigration from other source populations) (Boughton 1999). We recently assisted the Forest Service in designing an experiment to investigate the influence of range management activities on the butterfly and its food plants (Service 2001).

Nonnative Vegetation

Nonnative vegetation threatens the Sacramento Mountains checkerspot butterfly by out-competing and reducing

or eliminating food plants for larvae and nectar plants used by adults (FS 1995; **Federal Register** 62:2313; Weiss 1999). A significant long-term threat to the Sacramento Mountains checkerspot butterfly is the change in community structure due to invasive nonnative plants. On the Lincoln National Forest, 12 aggressive nonnative plant species, including Russian knapweed (*Acroptilon repens*), musk thistle (*Carduus nutans*), oat grass, and teasel (*Dipsacus sylvestris*) have increased by 30 percent since the early 1990s; this trend is expected to increase (GAO 1999a). An estimated 3,238 ha (8,000 ac) of private lands are similarly infested with noxious weeds within the Smokey Bear and Sacramento Districts, and a minimum of 1,244 ha (3,075 ac) of FS lands are infested within the Sacramento District (FS 1996). A 1993 FS survey found that approximately 737 ha (1,822 ac) in the vicinity of the Village of Cloudcroft had infestations of noxious weeds (FS 1999a). Infestations are expanding in non-forested openings and within road rights-of-way, with the densities of weeds increasing where they have not been treated (FS 1999a). Russian knapweed, musk thistle, oat grass, and teasel are found along major roads within rights-of-way or mountain meadows, and small openings in the forest, from 2,130 to 2,750 m (7,000 to 9,000 ft) (Fish and Wildlife Service 1993; FS 1996). These four plants are the most common noxious weeds within the range of the butterfly in the Lincoln National Forest. Nonnative vegetation has caused the extinction of some populations of butterflies in other areas (Weiss 1999).

These nonnative plants can significantly affect the plant community structure. For example, Russian knapweed produces compounds that suppress the growth of other plant species, allowing it to form dense stands (FS 1996). Other species, such as musk thistle and teasel, can also reduce grass and native forb production and change meadow/grassland habitats structurally and compositionally (FS 1995). Moreover, nonnative grasses, such as oat grass, can outcompete native forbs through the buildup of thatch (Huenneke *et al.* 1990). Nearly 30 percent of mountain meadows and over half of some individual meadows were dominated by noxious weeds on the Sacramento Ranger District in 1995 (FS 1995). The Lincoln National Forest treated 992 ha (2,452 ac) of noxious weeds annually from 1997 to 1999 (FS 2000b). However, these treatments eliminated only 116 ha (287 ac), and another 91 ha (225 ac) of noxious weeds were documented (FS 2000b). These data indicate the severity of noxious weed infestations within the known range of the Sacramento Mountains checkerspot butterfly. These infestations threaten the butterfly, primarily through the reduction or elimination of larval or adult food plants.

The application of herbicides to control nonnative vegetation may also be a threat to the Sacramento Mountains checkerspot butterfly. The NMSHTD and the FS both use herbicides and mowing to control noxious weeds. The herbicides Escort and Round-Up have been used by the FS to control nonnative plants, primarily Russian knapweed, musk thistle, and teasel in canyons and along highway rights-of-way within the range of the butterfly. About 1,416 ha (3,500 ac) above 2,450 m (8,000 ft) have been treated (FS 1999a). The toxicity of Escort for insects is low to moderate, depending on application rate and timing (Dupont 1999). Alternatively, control of musk thistle on about 162 ha (400 ac) of private lands within the District is accomplished using picloram and/or 2, 4-D (FS 1996), and musk thistle has also been controlled on FS lands using glyphosphate (FS 1993). The herbicide 2,4-D is detrimental to native plants and has a moderate toxicity for insects (Cornell University 1998c), such as butterflies. Glyphosphate has low toxicity, but is a non-selective systemic herbicide (Cornell University 1998d). One area, which is proximate to habitat that supports the butterfly, was treated with glyphosphate in 1993. In 1999, the area contained almost no Sacramento Mountain checkerspot butterflies (FS 2000a). It is unknown if this absence is related to the herbicide application. Nevertheless, there is a potential for direct and indirect impacts on the Sacramento Mountains checkerspot butterfly from the application of herbicides.

Insect Control

The application of carbaryl and Bacillus thuringensis (BT) to control insects poses a threat to the Sacramento Mountains checkerspot butterfly. The petitioner reported that the entire Douglas-Fir forest in the Sacramento Mountains was treated in 1984 with either carbaryl or BT to control an outbreak of forest insects. Carbaryl is considered moderately to highly toxic and is lethal to many non-target insects, whereas BT can kill the larval stage of many insects, including butterflies (Cornell University 1998a, 1998b). These insecticides were applied during months when butterfly larvae were not in diapause; however, the areas which were treated with carbaryl or BT were heavily wooded and are not areas that were inhabited by the butterfly. Nevertheless, drift of these insecticides into areas used the butterfly could have occurred. It is unknown what affect these treatments may have had on the Sacramento Mountains checkerspot butterfly because we have no pretreatment data for comparison. There has been a recent outbreak of tussock moth (*Orgyia pseudotsugata*) in the Sacramento Mountains (G. Garcia, pers. comm. 2000). The FS may attempt to control the outbreak using a virus specific to the tussock moth, BT, or an application of insecticide (G. Garcia, pers. comm. 2000). Future applications of carbaryl or BT may pose a potential risk for the viability of Sacramento Mountain checkerspot butterfly localities.

Conclusion for Factor A

The Sacramento Mountains checkerspot butterfly appears to exhibit much of the same behavior, life history, and patchy distribution as other well-studied species in this genus. The patchy distributional pattern is expected in many butterflies in the genus *Euphydryas* and other species, because they exist as metapopulations and at any instant butterflies may be using some areas and not others (Hanski and Gilpin 1991). Suitable habitat within the range of the species can play a pivotal role in maintaining natural metapopulations, especially butterflies that may have limited dispersal abilities (Murphy and Weiss 1988; see discussion below). However, if populations are extirpated and the metapopulation becomes so fragmented that individuals are unable to disperse between suitable patches, natural recolonization probability will not offset the extinction probability, and will result in population extinction. Some butterfly localities may be linked by linear or open patches of suitable, non-forested areas, such as highway rights-of-way (Haddad 1999; Haddad and Baum 1999). If movements through these linkages are disrupted or precluded (e.g., by commercial or private development), then the stability of the metapopulation (i.e., the exchange of individuals between populations) will be affected (Murphy and Weiss 1988). Isolation, whether by geographic distance or ecological factors, will prevent the influx of new genetic material, and can result in inbreeding and extinction (Saccheri *et al.* 1998; Nieminen *et al.* 2001).

We believe that some of the butterfly localities consist of very small numbers of butterflies that are isolated and

vulnerable to natural perturbations that could quickly eliminate them. Likewise, butterfly populations in the genus *Euphydryas* are known to undergo extreme variations in population size and are subject to extinction even when populations are greater than 50,000 individuals in preceding years (Weiss 1999). The mechanisms controlling population stability among species of butterflies in the genus *Euphydryas* are not well understood and may vary; however, it is known that small populations are particularly vulnerable to extinction (Murphy and Weiss 1988; 62 FR 2313) and some of the highest-density populations at high elevations (i.e., 2,000–3,000 m) can be the most susceptible to extinction (Thomas *et al.* 1996).

Much of the remaining suitable butterfly habitat, and the long-term persistence of the species, is threatened by the direct and indirect effects of commercial and private development, FS projects (e.g., campground reconstruction, powerline construction, road maintenance), catastrophic wildfire, fire suppression activities, highway reconstruction, off-highway vehicle use, trampling, overgrazed range conditions, and nonnative vegetation. Development of private land continues to increase within the known range of the butterfly, potentially rendering much of the butterfly habitat unsuitable. Village of Cloudcroft construction since the mid-1970s and the number of housing units has doubled. The limited geographic range of the Sacramento Mountains checkerspot butterfly increases the threat of extinction for this species given the expected continuing loss and degradation of suitable habitat and increased risks of extinction from random events, such as catastrophic fire, irreversibly eliminating vast amounts of habitat or localities. Considering the magnitude, imminence, and irreversibility of threats to habitat and the vulnerability of extant localities, we conclude that the Sacramento Mountains checkerspot butterfly is now in danger of extinction in all or a significant portion of its range.

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

Some collectors likely have high interest in the Sacramento Mountains checkerspot butterfly due to its extremely restricted distribution and low numbers. Both adult and larval stages of the species have been collected for scientific research and, similar to other narrowly endemic butterfly species, might be collected for recreational cultivation (i.e., raising butterflies for pleasure). We know of at least one person who collected an unknown number of Sacramento Mountains checkerspot butterfly larvae and others who have collected adults or have threatened to collect within the range of this species (Ferris and Holland 1980; R. Holland, pers. comm. to R. Galeano-Popp 1997; G. Pratt, pers. comm. 1999; FS 1999c). Additionally, some collectors prefer to eclose (emergence of an adult butterfly from a chrysalis) butterflies in captivity, thus reducing the risk of damage to the wings of adults, making for higher-quality individuals, prized by collectors. Specimens of other subspecies of the anicia checkerspot butterfly have been offered for sale (Kral 1987, 1989; Capps 1991). High prices for prized species can provide an incentive for illegal take and trade, and is sometimes referred to as market collecting (Erhlich 1989). Listing can increase the publicity and interest in a species' rarity, and thus may directly increase the value and demand for specimens.

Collecting from small colonies or repeated handling and marking, particularly of females in years of low abundance, could seriously damage populations through loss of individuals and genetic variability (Duffey 1968; Hayes 1981; Singer and Wedlake 1981; Gall 1984b; Murphy 1988; Hein and Myers 2000). We know of some butterfly populations (Mitchell's satyr, Saint Francis' satyr) that have been extirpated by collectors, possibly leading to extinction (57 FR 21564; 60 FR 5264).

The threat of collecting populations to extinction for a butterfly species is partly related to capture probability, which is influenced by the behavior of larvae or adults (Gall 1984a). Ehrlich *et al.* (1975) reported that adult mortality was not a major factor in population dynamics of *Euphydryas editha bayensis*, but this was probably related to the inability to capture more than 5 to 25 percent of the population. Yet, in a species such as the Sacramento Mountains checkerspot butterfly, individuals thermoregulate in early mornings or on cloudy days, making them more susceptible to capture. Throughout the day, adults are frequently found nectaring and are sedentary (E. Hein, pers. obs.; FS 1999d). We also know of other sensitive species where larvae are particularly easy to locate and have been heavily collected (*Euphydryas editha quino, Euphyes vestris harbisoni*, E. Hein, pers. obs.; *Hesperilla flavescens flavescens, Glaucopsyche lygdamus palosverdesensis*, T. Longcore, University of California, pers. comm. 2000).

Thomas (1989) outlined characteristics of butterfly species that would place them at risk from collectors. These characteristics include closed populations (i.e,. little immigration or emigration), sedentary behavior, less than 250 adults in the population, and populations that are located in small areas of accessible terrain. The Sacramento Mountains checkerspot butterfly fulfills most if not all of these traits, suggesting that the species is at risk to over collection. Since the known localities of the Sacramento Mountains checkerspot butterfly occur in areas frequented by butterfly collectors (Toliver *et al.* 1994) such as in public campgrounds, along public roadways, or in other readily accessible areas, the species is easily collected, and the limited numbers and distribution of this species make it attractive to collectors and vulnerable to over collection.

In an attempt to limit the threat of overcollection, the FS issued a closure order from April 1999 to April 2000 for the collection of any butterflies without a permit on the Smokey Bear and Sacramento Districts of the Lincoln National Forest (FS 1999a, 1999b). A closure order was implemented in April 2000 throughout the same region that restricts the collection of the Sacramento Mountains checkerspot butterfly without a permit (G. Garcia, Lincoln National Forest, pers. comm. 2000). This closure order may offer protection from butterfly collecting; however, some butterfly collectors are known to have intentionally violated a similar closure order in the Uncompahgre National Forest in Colorado in order to collect the endangered Uncompahgre fritillary butterfly (*Boloria acrocnema*) (U. S. Department of Justice 1993). Furthermore, there is a perception from some lepidopterists who fervently collect (e.g., one individual has greater than 25,000 butterfly specimens) that the closure order on the Lincoln National Forest or other public lands are overly restrictive and should not apply to them (Wells 1996; see also Lep News 1996). Similarly, a recent editorial published the location of a butterfly locale, and encouraged the public to "* * * plan a vacation to Cloudcroft and add this variation to (your) collection" (Wood 1999).

C. Disease or Predation

Wasps of the genus *Apanteles* and *Trichogramma* have been documented parasitizing the Sacramento Mountains checkerspot butterfly. Spiders, pocket gophers, ants, and birds are documented predators for butterflies in the genus

Euphydryas (Ehrlich 1965; Brown and Ehrlich 1980; Moore 1987; Moore 1989). There are no indications at this time that parasites or predators might be a limiting factor for the Sacramento Mountains checkerspot butterfly.

D. The Inadequacy of Existing Regulatory Mechanisms

The Sacramento Mountains checkerspot butterfly occurs on private and FS lands. Existing regulatory mechanisms do not fully protect this species or its habitat on any of these lands. The FS has the authority to manage the land and activities under their administration to conserve the butterfly. For example, this species was placed on the Regional Forester's Sensitive Species List, and the FS has minimized or avoided potentially adverse impacts to the butterfly by altering or canceling several recently proposed projects (see discussion above). The FS is required to maintain or enhance the viability of species on this list by considering species in their project biological evaluations and mitigate actions that adversely impact the species. The FS currently does not have a management plan that addresses specific conservation and recovery needs for the butterfly, nor have they developed population viability objectives or management guidelines. The development of a management/conservation plan for the Sacramento Mountains checkerspot butterfly was scheduled for December 2000, but has not yet been completed (FS 2000a).

Private lands constitute about 50 percent of the estimated range of the butterfly (FS 1999b). These lands play a substantial role in the Sacramento Mountains checkerspot butterfly's continued existence. There are no local or state regulatory mechanisms pertaining to the butterfly on State or non-Federal lands. The Sacramento Mountains checkerspot butterfly is not listed as threatened or endangered under the New Mexico Wildlife Conservation Act, and it receives no formal protection for take of individuals or habitat.

It is unknown whether suitable habitat is present on the Mescalero Apache Nation lands. However, there does not appear to be a significant amount of contiguous land present with elevations between 2,450 and 2,750 m (8,000 and 9,000 ft)) and proximal to butterfly localities. Nevertheless, these lands are managed by the Mescalero Apache Nation in accordance with tribal goals and objectives and within the framework of applicable laws. These lands are not Federal public lands or part of the public domain. The Mescalero Apache Nation is a sovereign government with inherent powers to make and enforce laws and manage and control their natural resources. We have initiated contact with the Mescalero Apache Nation, but have not had formal Government-to-Government contact over the status of the Sacramento Mountains checkerspot butterfly on their lands.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Extreme Weather

Periodic droughts (e.g., resulting in little to no snowpack and early snow melt), such as those that occurred in recent years in New Mexico, or late snow storms or summer frosts, pose a threat to the Sacramento Mountains checkerspot butterfly. Drought is known to cause a decrease in the size of populations of some butterfly species (C. Nagano, pers. obs., 1999) and cause population extinctions (Murphy and Weiss 1988; Thomas *et al.* 1996; Boughton 1999). In addition to killing larvae by dessication, drought conditions may—(1) cause the early senescence or death of the larvae food plant prior to the completion of larval development; (2) result in an early flight season prior to the availability of any nectar sources, causing mass starvation; or (3) lower the nutritional quality of the host plant (e.g., water content).

Holland (1999) believes that emergence of butterfly larvae from diapause above 2,450 m (8,000 f) might not be directly linked to precipitation, but driven more by photoperiodism (the relative periods of light and darkness associated with day and night) and warmth; hence, early flight seasons probably occur during years of light snow pack, increasing the risk of local extirpation and extinction. Moreover, almost all adult Sacramento Mountains checkerspot butterflies that were observed nectaring used *Helenium hoopesii*, and this species may not reach peak flowering abundance until after rains begin in July (FS 2000a). If summer rains are delayed or below average, it is highly possible that one or all of the above examples could occur. Late snow storms, summer frosts, and unusually cold or rainy weather can also lead to direct mortality of larval food plants, nectar sources, eggs, larvae, pupae, and/or adults (Ehrlich *et al.* 1972; White 1986; Thomas *et al.* 1996; Boughton 1999). Although the Sacramento Mountains checkerspot butterfly has evolved in an environment subject to periodic atypical weather events, it is believed that habitat fragmentation has increased the species' susceptibility to certain weather extremes. Moreover, it appears that New Mexico may be headed into a long-term drought (Fleck 2000).

Dispersal is normally a rare event in the genus *Euphydryas*, possibly resulting from extreme weather events or emigration from high density populations. Further, normal daily movements in *Euphydryas anicia* adults probably are less than 300 m (984 ft), suggesting that adults are somewhat sedentary and likely do not disperse more than a km (Cullenward *et al.* 1979). Because patches of forests may define the boundaries of the habitat, reduce immigration out of an area (M. Singer, University of Texas, pers. comm. to G. Pratt 1999), and are not readily crossed by butterflies that inhabit open meadows (Kuussaari *et al.* 1996), some Sacramento Mountains checkerspot butterfly localities are probably demographically isolated.

Roads

The Sacramento Mountains checkerspot butterfly may be killed by vehicles driving through habitat that supports the butterfly (E. Hein, pers. obs. 1999; W. Murphy, Southwestern Regional Office, FS, pers. comm. 2000). Roads are a significant source of mortality for many species of wildlife (Case 1978; Ashley and Robinson 1996; Hourdequin 2000), including butterflies (Ries *et al.* In press; Service 1996). Roads can also modify animal (including butterflies) behavior, alter the physical and chemical environment, and spread nonnative plant species (Trombulak and Frissell 2000). Roads limit movements and dispersal of insects, effectively fragmenting and isolating populations (Mader 1984; Mader *et al.* 1990).

Increases in the population in and around the Village of Cloudcroft (U.S. Census Bureau 1998; FS 1999e) have led to increases in traffic. For example, the average annual daily traffic along habitat adjacent to highway 130 was 1,956 vehicles in 1995 and is projected to double by 2015 (Metric Corporation 1996), especially with proposed private developments (e.g., Woodlands, The Lodge, etc.). The normal flight behavior of *Euphydryas anicia* suggests that butterflies found along roads may attempt to cross and increase their risk of death from passing vehicles. Roads could also indirectly affect the butterfly by increasing the deposition of dust on food plants for larvae and adults. Dust can affect plants by blocking photosynthesis, respiration, and transpiration and reducing growth or causing injuries (Farmer 1993). The direct and indirect impact of roads on

the Sacramento Mountains checkerspot butterfly are presently unknown.

Given the low probability of improving the status of the Sacramento Mountains checkerspot butterfly in the next few years (e.g., the high risk of a catastrophic wildfire in the next few years, the continued elimination of suitable habitat by development, the likelihood of an extreme weather event occurring, the reduction or elimination of larval or adult food plants by grazing and/or nonnative plants), this species is vulnerable to extinction throughout all or a significant portion of its range. We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats facing the Sacramento Mountains checkerspot butterfly in determining to propose listing. Based on this evaluation, we propose to list the Sacramento Mountains checkerspot butterfly as endangered. Although we have considered all available alternatives to this action, such alternatives would not be in accordance with the Act or the definitions therein. Based on the information available, not listing the species as endangered or listing the species as threatened would not accurately reflect the status of the Sacramento Mountains checkerspot butterfly.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. The term ''conservation,'' as defined in section 3(3) of the Act, means ''to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary'' (i.e., the species is recovered and removed from the list of endangered and threatened species).

Section 4(b)(2) of the Act requires that we base critical habitat proposals upon the best scientific and commercial data available, taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We can exclude areas from critical habitat designation if we determine that the benefits of exclusion outweigh the benefits of including the areas as critical habitat, provided the exclusion will not result in the extinction of the species.

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

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist—(1) the species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

In the last few years, a series of court decisions have overturned Fish and Wildlife Service determinations that designation of critical habitat would not be prudent for a variety of species (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 Sacramento Mountains checkerspot butterfly would be prudent.

Due to the small number of butterfly localities, the Sacramento Mountains checkerspot butterfly is vulnerable to unrestricted collection, vandalism, or other disturbance. Rare butterflies are highly prized by collectors and we have specific evidence for Sacramento Mountains checkerspot butterfly of collection and trade of this species or similarly situated species (see Factor B). We are concerned that these threats might be exacerbated by the publication of critical habitat maps and further dissemination of locational information. However, this information has already been published and available (Ferris and Holland 1980; Toliver *et al.* 1994; Wood 1999). Consistent with recent case law, we must weigh the benefits in proposing to designate critical habitat for the Sacramento Mountains checkerspot butterfly against the harm which could be caused by disclosure of its location.

The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies consult with us to ensure that their proposed actions will not destroy or adversely modify critical habitat. While a critical habitat designation for this species in currently occupied habitat 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. Both of these situations are expected because of the metapopulation structure of butterflies in the genus *Euphydryas* (e.g., Harrison 1989, Hanski and Gilpin 1991). There may also be some educational or informational benefits to designating critical habitat. Consequently, we find that these benefits outweigh the risk of increasing collection because the locations are already known and available to the public. Therefore, we find that critical habitat is prudent for the Sacramento Mountains checkerspot butterfly.

The Act requires that, to the maximum extent prudent and determinable, we designate critical habitat at the time a species is listed. Although we will make a detailed determination of the habitat needs of a listed species during the recovery planning process, there is no provision in the Act to delay designation of critical habitat until such time as a recovery plan is prepared. We reviewed the available information pertaining to habitat characteristics where this species has been recently located, including material received during the comment period for the 90-day petition finding. This and other information represent the best scientific and commercial data available, and led us to conclude that the designation of critical habitat is both prudent and determinable for the Sacramento Mountains checkerspot butterfly. Therefore, we propose to designate critical habitat pursuant to the Act for the Sacramento Mountains checkerspot butterfly.

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

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 conferencing 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 the section 7 adverse modification standard, designation of critical habitat does not provide prohibitions beyond those available from the listing of a species as endangered or threatened.

Designating critical habitat does not, in itself, lead to recovery of a listed species. Designation does not create or mandate a management plan, establish numerical population goals, prescribe specific management actions (inside or outside of critical habitat), or directly affect areas not designated as critical habitat. Specific management recommendations for critical habitat are most appropriately addressed in recovery plans and management plans, and through section 7 consultation.

Because of this species' precarious status, mere stabilization of the Sacramento Mountains checkerspot butterfly at its present level will not achieve survival and recovery. Protection and enhancement of the existing localities, plus reestablishment of localities in suitable areas of its known range, are necessary for its survival and recovery. One of the most important goals to be achieved toward recovery is establishment of secure self-reproducing localities in areas from which the species is no longer found, and may have been extirpated. We, therefore, determine that areas that may or may not be used by butterflies every year are essential for the conservation of the species and are proposed as critical habitat.

Methods

The proposed critical habitat described below constitutes our best assessment of areas needed for the conservation of the Sacramento Mountains checkerspot butterfly and is based on the best scientific and commercial information available to us concerning the species' known present and historic range, habitat, biology, and threats. We have emphasized known butterfly localities, especially areas that were identified in the FS GIS model (FS 1999b). To maintain genetic and demographic interchange that will help maintain the viability of a regional metapopulation, we included dispersal areas adjacent to or linking localities that have some or all of the above elements and are sufficient to provide for connectivity between areas of butterfly habitat. The proposed areas are essential to the conservation of the species because they either currently support localities of the butterfly, or because they currently support the necessary requirements for survival, growth, and reproduction of the butterfly (see description of primary constituent elements, below). Despite extensive surveys and ongoing research, we currently are not aware of any areas outside the geographical area occupied by the Sacramento Mountains checkerspot butterfly that provide the primary constituent elements essential to the life cycle needs of the species (see ''Primary Constituent Elements'' section) and that are essential for the conservation of the butterfly. To the extent feasible, we will continue, with the assistance of other Federal, State, and private researchers, to conduct surveys and research on the species and its habitat. If new information becomes available that indicates that other areas or habitat types within the Sacramento Mountains checkerspot butterfly's historic range are essential to the conservation of the species, we will revise the designated critical habitat for the Sacramento Mountains checkerspot butterfly accordingly. Important considerations in selection of areas proposed in this rule include factors such as connectivity, habitat diversity, and potential for restoration and repatriation. The proposed critical habitat reflects the need for localities of sufficient size to provide habitat for Sacramento Mountains checkerspot butterfly localities—large enough to be self-sustaining over time, despite fluctuations in local conditions. Many areas are or have the potential to be interconnected so that butterflies are able to move among localities, at least during certain seasons. The ability of the species to repopulate areas where they are depleted or apparently extirpated is vital to recovery. Some areas proposed as critical habitat may not have substantial amounts of presently suitable foraging or breeding habitat, but instead provide dispersal corridors important for the maintenance of the butterfly's metapopulation structure.

The areas we propose to designate as critical habitat include areas containing all known remaining localities used by the species. We believe it is important that the areas selected for proposed critical habitat designation include a representation of each locality within the range of the species. Nevertheless, uncertainty on the complete distribution limits of some known localities or currently unknown localities may result in small areas of habitat used by the butterfly being outside the designation. Further, this proposed critical habitat designation includes areas that may not currently support the butterfly every year, but are necessary for the conservation and recovery of the species. The inclusion of these types of areas in this proposed critical habitat designation for the Sacramento Mountains checkerspot butterfly are essential for the conservation of the species. The Sacramento Mountains checkerspot butterfly is in danger of extinction, and although additional localities of the butterfly have been found since 1997, their contribution to the status of the species may be offset by the magnitude and imminence of the threats facing the species. Additional localities/populations must be established to conserve and recover the Sacramento Mountains checkerspot butterfly.

If this proposed rule is finalized and the Sacramento Mountains checkerspot butterfly is added to the lists of threatened and endangered species and we develop a recovery plan for the species, areas may be identified that are suitable for reintroduction. However, until a recovery plan is completed, we believe that this proposed critical habitat designation for the Sacramento Mountains checkerspot butterfly will provide for the protection of habitat essential for the species' conservation. If information becomes available that indicates additional or fewer areas would provide for the species' conservation, we may revise the proposed critical habitat designation.

We propose the area described below as critical habitat for Sacramento Mountains checkerspot butterfly (see the Regulation Promulgation section of this rule for exact descriptions of boundaries). The proposed critical habitat designation includes the area found within an approximate 140 square km (54 square mi) polygon centered around the Village of Cloudcroft, Otero County, New Mexico, south of the Mescalero Apache Nation boundary. Mescalero Apache Nation lands are not included in the proposed

designation because it is unknown if these lands contain suitable habitat. The proposal includes those areas that currently support localities of the butterfly, as well as some that may not currently support the butterfly, but which are considered essential for reestablishment to conserve the species. Not all of the areas we are proposing to designate as critical habitat for the butterfly provide the primary constituent elements necessary for this species. For example, forested areas (i.e., canopy cover greater than 5 percent), meadows with elevation above or below 2,450 and 2,750 m (8,000 and 9,000 ft), and other areas that do not provide the habitat for the Sacramento Mountains checkerspot butterfly do not contain the primary constituent elements. Therefore, Federal actions with effects limited to the areas that do not contain the primary constituent elements would not be subject to section 7 consultation. The areas are described more precisely in the Regulation Promulgation section of this rule.

We did not map critical habitat in sufficient detail to exclude all developed areas (e.g., see features or structures defined below) and other lands unlikely to contain primary constituent elements essential for Sacramento Mountain checkerspot butterfly conservation. Within the proposed critical habitat boundaries, only lands containing some or all of the primary constituent elements (defined below) are proposed as critical habitat. Existing features and structures within proposed critical habitat, such as buildings, roads, cultivated agricultural land, residential landscaping (e.g., mowed nonnative ornamental grasses), ponds, wetlands (i.e., a lowland area that is permanently saturated with water), forests, and other features, do not contain, and are not likely to develop, some or all of the primary constituent elements. Therefore, these areas are not proposed for critical habitat.

The habitat features (primary constituent elements) that provide for the physiological, behavioral, and ecological requirements essential for the conservation of the species are described at 50 CFR 424.12, and include the following: space for individual and population growth, and for normal behavior; food, water, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of a species.

We determined the primary constituent elements for the butterfly from field studies and population biology including, but not limited to, Cullenward *et al.* 1979; Ferris and Holland 1980; Cary and Holland 1992; Toliver *et al.* 1994; and FS 1999a, 1999d, 2000a, 2000d. These primary constituent elements of critical habitat for the Sacramento Mountains checkerspot butterfly include those habitat components providing for breeding, ovipositing (egg laying), diapausing, roosting or resting, or foraging areas and are described below. The proposed critical habitat designation includes the area found within an approximate 140 square km (54 square mi) polygon centered around the Village of Cloudcroft, Otero County, New Mexico. The primary constituent elements are: (1) elevation between 2,450 and 2,750 m (8,000 and 9,000 ft) within the mixed-conifer forest (Lower Canadian Zone) and within an approximate 140 square km (54 square mi) polygon centered around the Village of Cloudcroft, Otero County, New Mexico, south of the Mescalero Apache Nation boundary; (2) drainages, meadows, or grasslands; (3) supporting the known food plants New Mexico penstemon (*Penstemon neomexicanus*), sneezeweed (*Helenium hoopesii*), or valerian (*Valeriana edulis*); (4) less than 5 percent canopy cover; and (5) composed of plants such as arrowleaf groundsel (*Senecia triangularis*), curly-cup gumplant (*Grindelia squarrosa*), figworts (*Scrophularia* sp.), penstemon (*Penstemon* sp.), skyrocket (*Ipomopsis aggregata*), milkweed (*Asclepias* sp.), Arizona rose (*Rosa woodsii*), or Wheeler's wallflower (*Erysimum capitatum*). Areas adjacent to or linking areas that have some or all of the above elements and are sufficient to provide for dispersal between areas of butterfly habitat are necessary for the conservation of the species and thus are proposed as critical habitat. Habitat that provides for dispersal may not support all of the other primary constituent elements.

Due to the patchiness and small size of the areas providing suitable habitat for the Sacramento Mountains checkerspot butterfly, we have elected to designate an inclusive area that still provides habitat for the species as critical habitat rather than attempt to identify each individual meadow separately. Regulations at 50 CFR 424.12(c) require that we define the specific limits of critical habitat by using reference points and lines as found on standard topographic maps of the area(s). Because of the variety of meadow sizes, the difficulties in trying to obtain precise legal descriptions on the smaller meadows, the limited number of suitable habitat patches, and for ease of reference, we did not map critical habitat in sufficient detail to exclude land that is not likely to contain all of the primary constituent elements essential for the conservation of the Sacramento Mountains checkerspot butterfly. Consequently, the areas we are designating as critical habitat also include areas of unsuitable habitat; for example, forests (i.e., areas with cover greater than 5 percent), meadows with elevation above or below 2,450 and 2,750 m (8,000 and 9,000 ft), and other areas that do not provide the habitat for the Sacramento Mountains checkerspot butterfly. Federal actions with effects limited to these other habitat types, therefore, would not trigger a section 7 consultation. Please note, however, that any activity authorized, funded, or carried out by a Federal agency that has a potential to affect the constituent elements of designated critical habitat, regardless of the activity's location in relation to designated critical habitat, will require a consultation with us, as required under the provisions of section 7 of the Act (see ''Effects of Critical Habitat Designation'' section). Prior to finalizing this rule, we will seek ways to refine our mapping in order to exclude, from within the critical habitat boundary, developed areas or other areas that do not contain the primary constituent elements and therefore, would not be considered to be critical habitat.

Land Ownership

Proposed critical habitat for the Sacramento Mountains checkerspot butterfly encompasses the localities where the species has been collected in the recent past, where it is currently known to exist, where it is reasonably likely to occur currently, or where it may occur in the future. All of the land is within the administrative boundaries of the Sacramento Ranger District of the Lincoln National Forest. However, within this area are also lands of the Village of Cloudcroft, a number of smaller unincorporated communities, and a large number of other private landowners within the jurisdiction of Otero County, New Mexico. Private lands are primarily used for grazing and agriculture, but also include small-residence lots, larger ranchettes, and businesses.

About half of the suitable habitat for the Sacramento Mountains checkerspot butterfly occurs on private land and these areas are rather evenly distributed throughout the known range of the

butterfly. Although much of these lands have not been surveyed for the butterfly, because of a lack of access to private lands, these areas are within meadows that are adjacent to and contiguous with FS meadows, some with documented butterfly locations, and are also within the same elevational range where butterflies are consistently documented. For the reasons discussed above, we believe these areas are essential to the conservation of the species. The estimated land ownership for areas within the proposed critical habitat boundaries is approximately 1,033 ha (2,553 ac) of private lands and 1,070 ha (2,645 ac) of FS lands. These estimates reflect the gross total area of proposed critical habitat and not the net acreage containing the primary constituent elements. We do not currently have sufficient data, due to limited access to private land, to estimate the actual acreage within the boundaries of proposed critical habitat. We believe that about 1 percent (5,198 out of 34,560 ac) of the area we are proposing as critical habitat may contain the primary constituent elements. Estimates made for this proposal could differ from estimates in any final designation due to changes in the information available or improved calculation methods.

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 activities. Recognition through listing and designation of critical habitat encourages and 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 states and requires that the we carry out recovery actions for all listed species. The protection required of Federal agencies and the prohibitions against certain activities are discussed, in part, below.

Listing of this butterfly would authorize development of a recovery plan for the butterfly. Such a plan would identify both State and Federal efforts for conservation of the butterfly and establish a framework for agencies and stakeholders to coordinate activities and cooperate with each other in conservation efforts. The plan would set recovery priorities and describe site-specific management actions necessary to achieve conservation and survival of the Sacramento Mountains checkerspot butterfly.

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies, including the Fish and Wildlife 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 adopt the formal conference report as the biological opinion when the critical habitat is designated, if no significant 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 actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Such consultation would result in a biological opinion from us as to whether the proposed action would likely jeopardize the continued existence of the species or destroy or adversely modify its critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to the species or destruction or adverse modification of its 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 we believe would avoid jeopardizing the species or 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.

Activities on Federal lands that may affect the Sacramento Mountains checkerspot butterfly or its critical habitat will require section 7 consultation. Activities on private lands requiring a permit from a Federal agency, such as a permit from the FS or from us (e.g., section 10(a)(1)(B) permits) or some other Federal action, including funding (e.g., Federal Highway Administration or Department of Agriculture Title IV Wildfire Suppression, Hazardous Fuels Reduction, or Rehabilitation projects, etc) will also 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.

Section 4(b)(8) of the Act requires us to describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat include those that alter the primary constituent elements to the extent that the value of critical habitat for both the survival and recovery of the Sacramento Mountains checkerspot butterfly is appreciably diminished. We note that such activities may also jeopardize the continued existence of the species. Actions authorized, funded, or carried out by a Federal agency that appreciably degrade suitable habitat, deter the use of suitable habitat areas by the Sacramento Mountains checkerspot butterfly, or otherwise affect the species require consultation under section 7 of the Act. Such activities may include, but are not limited to, the following—habitat restoration activities; activities associated with timber harvesting; livestock grazing and associated management activities; recreational activities or improvements; road or power line maintenance or construction; trail maintenance; fire suppression and fuel reduction; off-road vehicle management; and sale, exchange, or lease of Federal land containing suitable habitat. Some activities, for example, timber harvesting, thinning, or prescribed burning may benefit the species by creating or maintaining non-forested openings, as well as reducing conifer seed production and establishment or encroachment of conifer seedlings. However, these types

of activities need to be carefully planned because they also have the potential for adverse effects on the Sacramento Mountains checkerspot butterfly.

Conservation of this butterfly is consistent with some ongoing activities at localities that support the species; however, listing of the species and designating critical habitat may entail consultation in regard to activities taking place on Federal lands, such as those of the FS. We believe that listing the Sacramento Mountains checkerspot butterfly and designation of critical habitat could affect Federal agency activities including, but not limited to:

(1) Sale, exchange, or lease of lands owned by the FS;

(2) Regulation of grazing, recreation, off-road vehicle management, or timber management by the FS;

(3) Funding and implementation of disaster relief projects by the Federal Emergency Management Agency, including vegetation clearing to reduce the risk of catastrophic wildfire;

(4) Funding and regulation of new road construction by the Federal Highway Administration or State highway activity implemented by the State and partly funded by the Federal government, including highway maintenance activities, such as roadside vegetation control;

(5) Funding of low-interest loans to facilitate the construction of low income housing by the Department of Housing and Urban Development;

(6) Clearing of vegetation or fuel reduction by the FS; and

(7) Issuance of section 10(a)(1)(B) permits by the Fish and Wildlife Service for Habitat Conservation Plans.

The Act and its implementing regulations found at 50 CFR 17.21, 17.22, and 17.23 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. With respect to animal species listed as endangered, all prohibitions of section 9(a)(1) of the Act, implemented by 50 CFR 17.21, apply. These prohibitions, in part, make it illegal with respect to any endangered animal for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale in interstate or foreign commerce; or take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect—or attempt any of these). Certain exceptions apply to our agents and State conservation agencies.

The Act and 50 CFR 17.22 and 17.23 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered animal species under certain circumstances. 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.

Section 10(a) of the Act authorizes us to issue permits for the taking of listed species incidental to otherwise lawful activities. Incidental take permit applications must be supported by a habitat conservation plan (HCP) that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the requested incidental take. Currently, no approved HCPs cover the Sacramento Mountains checkerspot butterfly or its habitat. However, we expect critical habitat may be used as a tool to help identify areas within the range of the Sacramento Mountains checkerspot butterfly that are most critical for the conservation of the species. We will encourage development of HCPs for such areas on non-Federal lands because we consider HCPs to be one of the most important methods through which non-Federal landowners can resolve endangered species conflicts. We will provide technical assistance and work closely with applicants throughout development of HCPs to help identify special management considerations for the Sacramento Mountains checkerspot butterfly. We intend for HCPs to provide a package of protection and management measures sufficient to address the conservation needs of the species.

It is our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), 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 this listing on proposed and ongoing activities within the 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 existing regulations and permit requirements:

(1) Possession, delivery, or movement, including interstate transport and import into or export from the United States, involving no commercial activity, of dead specimens of this taxon that were collected prior to the date of publication in the **Federal Register** of a final regulation adding this taxon to the list of endangered species;

(2) Activities authorized, funded, or carried out by Federal agencies (e.g., grazing management, non-forested area management, private or commercial development, recreational trail or forest road development or use, road construction, prescribed burns, timber harvest, pesticide/herbicide application, or pipeline or utility line construction crossing suitable habitat) when such activity is conducted in accordance with a biological opinion from us on a proposed Federal action;

(3) Low-impact, infrequent, dispersed human activities on foot or horseback (e.g., bird watching, sightseeing, backpacking, hunting, photography, camping, hiking);

(4) Activities on private lands that do not result in the take of Sacramento Mountains checkerspot butterfly, including those activities involving loss of habitat, such as normal landscape activities around your own personal residence, proper grazing management, road construction that avoids butterfly habitat, pesticide/herbicide application consistent with label restrictions; and

(5) Activities conducted under terms of a valid permit issued by us pursuant to section 10(a)(1)(A) and 10(a)(1)(B) of the Act.

We believe that the following actions involving Sacramento Mountains checkerspot butterfly could result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Capture (i.e., netting), survey, or collection of specimens of this taxon without a permit from us pursuant to section 10(a)(1)(A) of the Act;

(2) Incidental take of Sacramento Mountains checkerspot butterfly without a permit pursuant to section 10(a)(1)(B) of the Act;

(3) Sale or purchase of specimens of this taxon, except for properly documented antique specimens of this taxon at least 100 years old, as defined by section 10(h)(1) of the Act;

(4) Use of pesticides/herbicides that are in violation of label restrictions resulting in take of Sacramento Mountains checkerspot butterfly;

(5) Unauthorized release of biological control agents that attack any life stage of this taxon;

(6) Removal or destruction of the native food plants being utilized by Sacramento Mountains checkerspot butterfly, defined as *Penstemon neomexicanus, Helenium hoopesii*, or *Valeriana edulis*, within areas that are used by this taxon that results in harm to this butterfly; and

(7) Destruction or alteration of Sacramento Mountains checkerspot butterfly habitat by grading, leveling, plowing, mowing, burning, herbicide or pesticide spraying, intensively grazing,

or otherwise disturbing non-forested openings that result in the death of or injury to eggs, larvae, or adult Sacramento Mountains checkerspot butterflies through significant impairment of the species essential breeding, foraging, sheltering, or other essential life functions.

Questions regarding whether specific activities will constitute a violation of section 9 of the Act or destruction or adverse modification of critical habitat should be directed to the Field Supervisor of the New Mexico Ecological Services Field Office (see **ADDRESSES** section).

Requests for copies of the regulations concerning listed wildlife or inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, P.O. Box 1306, Albuquerque, New Mexico 87103 (telephone 505/248–6649; facsimile 505/248–6922).

Relationship of Critical Habitat to Incidental Take Permits Issued Under Section 10

As stated earlier, there are no approved HCPs within the proposed critical habitat designation. However, future HCPs are probable. In the event that future HCPs covering the Sacramento Mountains checkerspot butterfly are developed within the proposed critical habitat, we will work with applicants to ensure the HCPs provide for protection and management of habitat areas essential for the conservation of the butterfly, 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 Sacramento Mountains checkerspot butterfly. 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., Otero County or the Village of Cloudcroft) 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.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial data available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species. We will conduct a robust economic analysis on the effects of the proposed critical habitat designation prior to a final determination. We will conduct an analysis that complies with the ruling by the Tenth Circuit Court of Appeals in *New Mexico Cattle Growers Association, et al.* v. *U.S. Fish and Wildlife Service*. When the draft economic analysis is completed, we will announce its availability with a notice in the **Federal Register**, and we will reopen the comment period at that time to accept comments on the economic analysis or further comment on the proposed rule.

Public Comments Solicited

We intend for any final action resulting from this proposal to be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Final promulgation of the regulations on Sacramento Mountains checkerspot butterfly will take into consideration any comments and any additional information we receive during the comment period, and such communications may lead to a final regulation that differs from this proposal. We particularly seek comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat for the Sacramento Mountains checkerspot butterfly 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) Depending on additional status information received (e.g., new localities) and the development and implementation of conservation agreements or management plans to reduce the threats to the Sacramento Mountains checkerspot butterfly, whether the development of a special rule under section 4(d) of the Act would promote conservation of this taxon;

(3) Biological, commercial, trade, or other relevant data concerning threats (or lack thereof) to the Sacramento Mountains checkerspot butterfly;

(4) Specific information on the amount, range, and distribution of Sacramento Mountains checkerspot butterflies and their habitat, and what habitat is essential to the conservation of the species and why;

(5) The location of any additional localities of Sacramento Mountains checkerspot butterfly;

(6) Current or planned activities in the subject area and their possible impacts on this taxon;

(7) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(8) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on unincorporated communities, small entities (e.g., businesses), or individuals; and

(9) Economic and other values associated with designating critical habitat for the Sacramento Mountains checkerspot butterfly such as those derived from non-consumptive uses (e.g., hiking, camping, bird-watching, enhanced watershed protection, improved air quality, increased soil retention, ''existence values,'' or reductions in administrative costs).

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 for 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. All comments must be received in our New Mexico Ecological Services Field Office by November 5, 2001.

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 by October 22, 2001. Should

a public hearing be requested, then we will announce the date, time, and place for the hearing in the **Federal Register** and local newspapers at least 15 days prior to the 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 this notice easier to understand including answers to questions such as the following: (1) Are the requirements in the notice clearly stated? (2) Does the notice contain technical language or jargon that interferes with the clarity? (3) Does the format of the notice (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the notice? What else could we do to make the notice easier to understand?

Send a copy of any comments that concern how we could make this notice easier to understand to the Field Supervisor, New Mexico Ecological Services Field Office (see **ADDRESSES** section).

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) While we will prepare an economic analysis to assist us in considering whether areas should be excluded pursuant to section 4 of the Act, we believe that 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. Under the Act, critical habitat may not be destroyed or adversely modified by a Federal agency action; the Act does not impose any restrictions related to critical habitat on non-Federal persons unless they are conducting activities funded or otherwise sponsored or permitted by a Federal agency. The Act prohibits us from considering the economic impacts that may result from listing the species.

(b) This rule, if finalized, will not create inconsistencies with other agencies' actions. As discussed above, Federal agencies would be required to ensure that their actions do not destroy or adversely modify designated critical habitat of the Sacramento Mountains checkerspot butterfly. Because of the potential for impacts on other Federal agencies activities, we will review this proposed action for any inconsistencies with other Federal agency actions.

(c) We believe that this rule, if finalized, will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients, except those involving Federal agencies which would be required to ensure that their activities do not destroy or adversely modify designated critical habitat. As discussed above, we do not anticipate that the adverse modification prohibition (from critical habitat designation) will have any significant economic effects, but will wait until completion of the economic analysis to fully evaluate expected effects.

(d) OMB has determined that the critical habitat portion of this rule will raise novel legal or policy issues and, as a result, this rule has undergone OMB review. The listing portion of this rule will not raise novel legal or policy issues. The proposed rule follows the requirements for proposing to list a species and determining critical habitat contained in the Endangered Species Act.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. The following discussion explains our determination.

The areas we are proposing as critical habitat are already occupied, or used by the Sacramento Mountains checkerspot butterfly as corridors for movement between populations or suitable habitat. As a result, Federal agencies funding, permitting, or implementing activities in these areas will be required to consult with us under section 7 of the Act, to avoid jeopardizing the continued existence of this species, if the species becomes listed under the Act. While the designation of critical habitat will require that agencies ensure, through section 7 consultation, that their activities do not destroy or adversely modify critical habitat, for the reasons discussed above we do not believe this will result in any additional regulatory burden on the Federal agencies or their applicants. As a result, this proposed rule, if finalized, would not result in a significant economic burden on Federal agencies or their applicants. Additionally, the majority of businesses that support the approximately 700 residents living in the Village of Cloudcroft and an additional 2,300 people living in the small communities in the mountain area, are located within the limits of the Village of Cloudcroft. These businesses support tourism and the retirement community, which are the main sources of income for the Village of Cloudcroft (Clements and Sem 1997). The Village of Cloudcroft contains existing man-made structures and other features not containing one or more of the primary constituent elements are not considered critical habitat

Therefore, we are certifying that the proposed designation of critical habitat in this rule is not expected to have a significant adverse impact on a substantial number of small entities. Thus, no regulatory flexibility analysis is necessary.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this rule is a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (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 of their actions involving Federal funding or authorization must not destroy or adversely modify the critical habitat or take the species under section 9.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year (i.e., it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act).

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. This critical habitat rule will not increase or decrease the restrictions on private property concerning take of the Sacramento Mountains checkerspot butterfly. We do not anticipate that property values will be affected by critical habitat designation, but will analyze the effects in our economic analysis.

Federalism

In accordance with Executive Order 13132, this rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior policy, we requested information from and coordinated development of this proposal with appropriate resource agencies in New Mexico (i.e., during the 90-day finding comment period). We will continue to coordinate any future listing decisions or designation of critical habitat for the Sacramento Mountains checkerspot butterfly with the appropriate agencies. The designation may have some benefit to these governments in that the areas essential to the conservation of the species would be clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species would be specifically identified.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and would meet the requirements of sections 3(a) and 3(b)(2) of the Order. We propose to list a species and designate critical habitat in accordance with the provisions of the Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the Sacramento Mountains checkerspot butterfly.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* This rule will not impose new record-keeping or reporting requirements on State or local governments, individuals, businesses, or organizations.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (Douglas County v. Babbitt, 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996). However, when the range of the species includes States within the Tenth Circuit, such as that of the Sacramento Mountains checkerspot butterfly, pursuant to the Tenth Circuit ruling in *Catron County Board of Commissioners* v. *U.S. Fish and Wildlife Service*, 75 F.3d 1429 (10th Cir. 1996), we will undertake a NEPA analysis for critical habitat designation. We will notify the public of the availability of the draft environmental assessment for this proposal.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and the Department of the Interior's requirement at 512 DM 2, we understand that recognized Federal Tribes must be related to on a Government-to-Government basis. We are not aware of any Tribal lands essential for the conservation of the Sacramento Mountains checkerspot butterfly. Therefore, we are not proposing to designate critical habitat for the Sacramento Mountains checkerspot butterfly on Tribal lands. Additionally, the proposed designation does not contain any lands that we have identified as impacting Tribal trust resources

References Cited

A complete list of all references cited in this rulemaking is available upon request from the New Mexico Ecological Services Field Office (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Eric Hein, New Mexico Ecological Services Field Office (see **ADDRESSES** section) (telephone 505/346–2525).

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 part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201—4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under ''INSECTS'', to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or theatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
INSECTS							

Species		Historic range	Vertebrate population where endangered or theatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
Butterfly, Sacramento Mountains checkerspot.	*Euphydryas anicia cloudcrofti.*	U.S.A. (NM)	NA	E		17.95(i)	NA
*	*	*	*	*	*	*	

3. Amend § 17.95(i) by adding critical habitat for the Sacramento Mountains checkerspot butterfly (*Euphydryas anicia cloudcrofti*) in the same alphabetical order as this species occurs in § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(i) *Insects.*

* * * * *

Sacramento Mountains Checkerspot Butterfly (*Euphydryas anicia cloudcrofti*)

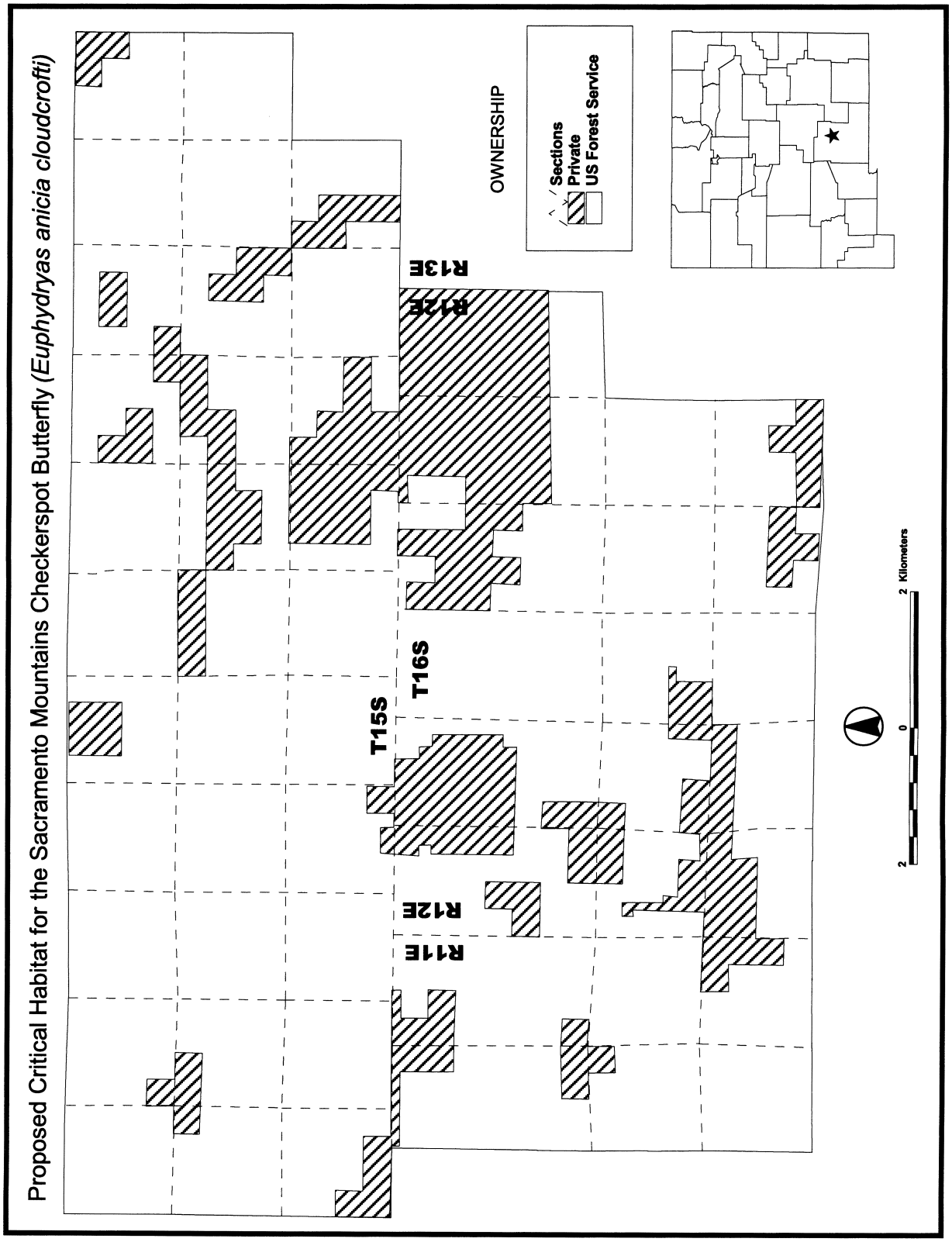
1. Proposed critical habitat is depicted for Otero County, New Mexico, on the maps below.

2. Within these areas, the primary constituent elements of critical habitat for the Sacramento Mountains checkerspot butterfly are: (1) Levation between 2,450 and 2,750 m (8,000 and 9,000 ft) within the mixed-conifer forest (Lower Canadian Zone) and within an approximate 140 square km (54 square mi) polygon centered around the Village of Cloudcroft, Otero County, New Mexico, south of the Mescalero Apache Nation boundary; (2) drainages, meadows, or grasslands; (3) supporting the known food plants New Mexico penstemon (*Penstemon neomexicanus*), sneezeweed (*Helenium hoopesii*), or valerian (*Valeriana edulis*); (4) less than 5 percent canopy cover; and (5) composed of plants such as arrowleaf groundsel (*Senecia triangularis*), curly-cup gumplant (*Grindelia squarrosa*), figworts (*Scrophularia* sp.), penstemon (*Penstemon* sp.), skyrocket (*Ipomopsis aggregata*), milkweed (*Asclepias* sp.), Arizona rose (*Rosa woodsii*), or Wheeler's wallflower (*Erysimum capitatum*). Areas adjacent to or linking areas that have some or all of the above elements and are sufficient to provide for dispersal between areas of butterfly habitat are necessary for the conservation of the species and thus are proposed as critical habitat. Habitat that provides for dispersal may not support all of the other primary constituent elements.

3. Existing man-made structures and other features not containing one or more of the primary constituent elements are not considered critical habitat.

Map 1: Otero County, New Mexico. From USGS 7.5′ quadrangle map Cloudcroft, New Mexico, New Mexico Principal Meridian: T.15 S., R.13 E., sects 19–35; T.15 S., R.12 E., sects 20–29, 32–36; T.16 S., R.11 E., sects 1–2, 11–14; T.16 S., R.12 E., sects 1–11, 14–18.

BILLING CODE 4310–55–P



* * * * *

Dated: August 30, 2001.

Marshall P. Jones, Jr.,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–22340 Filed 9–5–01; 8:45 am]

BILLING CODE 4310–55–C

Notices

Federal Register

Vol. 66, No. 173

Thursday, September 6, 2001

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

Animal and Plant Health Inspection Service

[Docket No. 01–044–1]

Notice of Request for Reinstatement of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of an information collection that it uses in preventing the introduction and spread of livestock and poultry diseases through the importation into the United States of restricted and controlled materials.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by November 5, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–044–1, 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. 01–044–1.

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: For information regarding regulations to prevent the introduction and spread of livestock and poultry diseases through the importation into the United States of restricted and controlled materials, contact Dr. Tracye Butler, Senior Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1232; (301) 734–3277. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS'' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Importation of Restricted and Controlled Animal and Poultry Products and Byproducts, Organisms, and Vectors into the United States.

OMB Number: 0579–0015.

Type of Request: Reinstatement of an information collection.

Abstract: The United States Department of Agriculture (USDA) restricts and controls the importation of certain animal and poultry products and byproducts, organisms, and vectors to prevent the introduction and spread of livestock and poultry diseases into the United States.

To do this, we must collect information from a variety of individuals, both within and outside the United States, who are involved in handling, transporting, and importing these items. Collecting this information is critical to our mission of ensuring that these imported items do not present a disease risk to the livestock and poultry populations of the United States.

If these information collections are not conducted, the United States will be at increased risk of an exotic disease incursion. The introduction of such diseases as rinderpest, foot-and-mouth disease, hog cholera, African swine fever, swine vesicular disease, and exotic Newcastle disease would have an immeasurable impact upon the U.S. livestock and poultry industries, not only in the area of animal health, but also in the realm of international trade.

Collecting this information requires us to use a number of forms and documents, which are described below. We are asking the Office of Management and Budget (OMB) to approve our use of these information gathering tools for 3 years.

VS Form 16–25 (Application for Approval or Report of Inspection of Establishments Handling Restricted Animal Byproducts or Controlled Materials) is a dual purpose form. It is an application for those establishments requesting approval to handle restricted imported animal byproducts and controlled materials. It also serves as a report of inspections of establishments to ensure that restricted and controlled imports are being handled in compliance with our requirements.

VS Form 16–26 (Agreement for Handling Restricted Imports of Animal Byproducts and Controlled Materials) is a form signed by an operator of an establishment wishing to handle restricted or controlled materials in which the operator agrees to comply with all requirements for handling the restricted and controlled materials.

VS Form 16–3 (Application for Permit to Import Controlled Materials/Import or Transport Organisms or Vectors) is the application and agreement form used by individuals seeking a permit.

Certain sections of 9 CFR parts 94 and 95 specify that various categories of animal products, byproducts, and controlled materials may be imported into the United States if authorization for such importation has been granted by the Administrator, Animal and Plant Health Inspection Service (APHIS). Such permission is given only when the Administrator is satisfied that the importation will not constitute an undue risk to U.S. livestock and poultry.

Under 9 CFR part 122, organisms that present a disease risk to animals or poultry, or vectors of such disease agents, may not be imported or moved interstate without a permit issued by the U.S. Department of Agriculture. Part 122 specifies that importers must obtain such permits prior to the importation or interstate transport of the organism or vector.

Prospective importers may apply for import authorization by completing the appropriate sections of VS Form 16–3. APHIS personnel must have the essential data concerning the proposed importation in order to evaluate the request and determine what safeguard measures are appropriate in each case

and to advise APHIS port and border personnel regarding clearance of arriving shipments.

Certificates. Under 9 CFR parts 94, 95, and 96, certain animal and poultry products must have a certificate from the national government of the exporting country to be eligible for importation into the United States. These certificates are required to verify that the animal or poultry products meet the sanitary requirements of our regulations (e.g., originated from disease-free animals and from animals native to the country of origin, or were prepared in a certain manner in an approved establishment).

The certificate accompanies each shipment to the United States. Upon arrival of the shipment, the certificate is presented to APHIS port inspectors who evaluate the information according to the permission authorization and 9 CFR parts 94, 95, and 96.

The certificate, signed by a full-time salaried veterinary official from the country of origin, or other authorized person, provides us with information that enables us to determine whether an article meets our requirements for importation.

Seals. Certain animal or poultry products and byproducts must be shipped in sealed containers or holds to ensure that the integrity of the shipment is not violated. The seals must be numbered, the numbers of the seals must be recorded on the government certificate that accompanies the shipment, and the seals must not have been tampered with. USDA inspectors at the port of entry inspect the seals and verify that the seals are intact and that the numbers match those on the certificates.

Compliance agreement, recordkeeping requirements. Certain animal or poultry products and byproducts are required to be processed in a certain manner in an establishment in a foreign country before being exported to the United States. We require an official of the processing plant to sign a written agreement prepared by APHIS. By signing this agreement, this official certifies that the animal products being exported to the United States have been processed in a manner approved by the USDA, and that adequate records of these exports are being maintained.

Marking requirements. Before certain animal products may enter the United States, they must be marked, with an ink stamp or brand, to indicate that the products have originated from an approved meat processing establishment and have been inspected by appropriate veterinary authorities. The mark is applied to the meat product by processing plant personnel.

Foreign meat inspection certificate for importation of fresh meat from regions free of FMD and rinderpest, but subject to certain restrictions due to their proximity to, or trading relationships with, regions where FMD or rinderpest exists. This certificate, completed by a veterinary official of the exporting region, provides specific information regarding the establishment where the animals were slaughtered, the origin of the animals, and the processing and handling of the meat or other animal products.

Certification of a national government for importation of pork or pork products from a swine vesicular disease-free region. This is a statement, completed by a government official of an exporting region, certifying the U.S.-destined pork or pork product originated in a region that is free from swine vesicular disease.

Cleaning and disinfecting methods. This is a letter from veterinary officials of an exporting region stating that appropriate cleaning and disinfecting methods have been applied to trucks, railroad cars, or other means of conveyance used to transport certain animal products destined for the United States.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning these information collection activities. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the 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 collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.306554 hours per response.

Respondents: Importers, exporters, shippers, foreign animal health authorities, owner/operators of establishments that handle restricted and controlled materials.

Estimated annual number of respondents: 7,098.

Estimated annual number of responses per respondent: 8.0545224.

Estimated annual number of responses: 57,171.

Estimated total annual burden on respondents: 17,526 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 30th day of August 2001.

Alfonso Torres,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–22403 Filed 9–5–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Special Cotton Import Quota Announcements Numbers 1 and 2

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Two special import quotas for upland cotton are established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991, and Presidential Proclamation 6948 of October 29, 1996. The quotas are referenced as the Commodity Credit Corporation Special Cotton Import Quota Announcement Numbers 1 and 2 and are set forth in subheadings 9903.52.01 and 9903.52.02, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

DATES: Each of the special quotas is subject to an established date and applies to upland cotton purchased not later than 90 days from the established date and entered into the United States not later than 180 days from the established date. Dates applicable to each individual special import quota are contained in a table following this notice.

FOR FURTHER INFORMATION CONTACT: Scott O. Sanford, Farm Service Agency, United States Department of Agriculture, STOP 0515, 1400 Independence Avenue, SW., Washington, DC 20013–0515 or call (202) 720–3392.

SUPPLEMENTARY INFORMATION: The 1996 Act, as amended, requires that a special

global import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met for 2 consecutive 4-week periods ending August 9, 2001. Therefore, quotas referenced as Special Cotton Import Quota Announcement Numbers 1 and 2 are established subject to the following dates and quantities.

Each special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to extra long staple cotton.

Authority: Sec. 136, Public Law 104–127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, DC on August 30, 2001.

James R. Little,

Acting Executive Vice President, Commodity Credit Corporation.

Secretary of Agriculture's cotton import quota announcement	HTS subheading	News release date	Quota start date	90-day purchase date	180-day import date	Quota amount (Kilograms)	3-month consumption base period
Number 1	9903.52.01	8/02/01	8/09/01	11/06/01	2/04/02	33,238,369	April–June 2001.
Number 2	9903.52.01	8/09/01	8/16/01	11/13/01	2/11/02	33,238,369	April–June 2001.

[FR Doc. 01–22402 Filed 9–5–01; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Cane Creek Watershed, TN

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Cane Creek Watershed, Lauderdale County Tennessee.

FOR FURTHER INFORMATION, CONTACT: James W. Ford, State Conservationist, Natural Resources Conservation Service, 675 U.S. Courthouse, 801 Broadway, Nashville, Tennessee 37203, telephone number (615) 277–2531.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicated that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, James W. Ford, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

Cane Creek Watershed Remedial Plan, Tennessee—Notice of a Finding of No Significant Impact

The project purpose is remedial and is planned to correct degradation of the channel of Cane Creek and other associated damages. Repair work is necessary as a result of original design deficiencies during channel modification in 1970. The planned works of improvement include installation of five main channel structures and structures within the channel of two major tributaries. Federal financial assistance will be provided to effect recommended repairs.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting James W. Ford. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**. (This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Dated: August 16, 2001.

James W. Ford,

State Conservationist.

[FR Doc. 01–22343 Filed 9–5–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Hay Lake Wetland Restoration, Coconino County, AZ

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hay Lake Wetland Restoration Project in Coconino County, Arizona.

FOR FURTHER INFORMATION CONTACT: Michael Somerville, State Conservationist, Natural Resources Conservation Service, 3003 North Central Avenue, Suite 800, Phoenix, AZ 85012, telephone (602) 280–8801.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. Based on evidence presented, Michael Somerville, State Conservationist, has determined that the

preparation and review of an environmental impact statement are not needed for this project.

The project proposes to restore wetland functions and values to an ephemeral, depressional wetland.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. Copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Stephen Smarik, Environmental Coordinator at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Michael Somerville,

State Conservationist.

[FR Doc. 01–22344 Filed 9–5–01; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, September 13, 2001, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of July 13, 2001 Meeting
III. Announcements
IV. Staff Director's Report
V. FY–2003 Budget Estimate to OMB
VI. Recommendations to Congress for National Electoral Reform
VII. Future Agenda Items
11 a.m. Briefing on Environmental Justice

CONTACT PERSON FOR FURTHER INFORMATION: David Aronson, Press and Communications, (202) 376–8312.

Les Jin,

Staff Director.

[FR Doc. 01–22536 Filed 9–4–01; 2:21 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2002 Economic Census, Commodity Flow Survey.

Form Number(s): CFS–1000.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 400,000 hours.

Number of Respondents: 50,000.

Avg Hours Per Response: 2 hours.

Needs and Uses: The 2002 Commodity Flow Survey, a component of the Census Bureau's 2002 Economic Census, is a cooperative effort between the Census Bureau and the Department of Transportation's Bureau of Transportation Statistics. The survey produces key information about the transportation of freight in the United States. The Commodity Flow Survey is the only source of nationwide data on the movement of goods from origin to destination by all modes of transportation and for intermodal combinations. This survey provides a crucial set of statistics on the value, weight, mode, and distance of commodities shipped by mining, manufacturing, wholesale, and selected retail establishments. The Census Bureau will publish these statistics at the national, Census Region, Census Division, state, and selected Metropolitan Area levels. As in the 1997 Commodity Flow Survey, this survey also identifies shipments that are exports and/or shipments of hazardous materials.

Federal, state, and local government agencies spend over $100 billion annually on transportation programs. The Commodity Flow Survey provides data that are critical to these agencies in making a wide range of transportation investment decisions for developing and maintaining an efficient transportation infrastructure that supports economic growth and competitiveness. Numerous other Federal, state, and local agencies require the Commodity Flow Survey data on transportation flows, as they impact the domestic economy in many ways. Transportation planners require the periodic benchmarks provided by a continuing Commodity Flow Survey to evaluate and respond to ongoing geographic shifts in production and distribution centers, as well as policies such as just in time delivery.

The 2002 Commodity Flow Survey will be a mail-out/mail-back sample survey of 50,000 business establishments. Respondents will be asked to provide four reports each over the course of 2002. This reflects a reduction of 50 percent in sample size from the 1997 Commodity Flow Survey as a result of funding limitations. If full funding were to become available, the sample size would be increased to 100,000 establishments.

Affected Public: Businesses or other for-profit.

Frequency: Data will be collected quarterly over the course of 2002. The collection is conducted every five years as part of the quinquennial economic census.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 131, 193 and 224.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 30, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–22348 Filed 9–5–01; 8:45 am]

BILLING CODE 3410–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 35–2001]

Foreign-Trade Zone 35—Philadelphia, PA, Area Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Philadelphia Regional Port Authority, grantee of FTZ 35, Philadelphia, Pennsylvania, requesting authority to expand its zone to include a site in Fort Washington, Pennsylvania, adjacent to the Philadelphia Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the

regulations of the Board (15 CFR part 400). It was formally filed on August 28, 2001.

FTZ 35 was approved on March 24, 1978 (Board Order 128, 43 FR 14531, 4/6/78) and expanded on August 21, 1980 (Board Order 162, 45 FR 58388, 9/3/80) and on December 29, 1993 (Board Order 678, 59 FR 1372, 1/10/94). The zone project currently consists of seven sites in the Philadelphia area: *Site 1* (176,541 sq. ft.)—located at Pier 78 South, Philadelphia; *Site 2* (24 acres)—located at Pier 98 South Annex, Philadelphia; *Site 3* (341,000 sq. ft.)—consisting of Piers 38 and 40, Philadelphia; *Site 4* (35 acres)—Penn Terminals Complex, One Saville Avenue, Eddystone; *Site 5* (19 acres)—warehouse complex located at 3033 63rd Street, Philadelphia; *Site 6* (32 acres)—Publicker Site, located at 2937 Christopher Columbus Boulevard, Philadelphia; and, *Site 7* (2 acres)—American Foodservice Corporation's cold storage facility, located at 400 Drew Court, King of Prussia. An application is pending with the Board to include the jet fuel storage and distribution system at the Philadelphia International Airport in Philadelphia and Tinicum Township, Pennsylvania (FTZ Docket 20–2001).

The applicant is now requesting authority to expand the general-purpose zone to include an additional site (Proposed Site 9, 66 acres) at the Fort Washington Exposition Center, located at 1100 Virginia Drive within the Fort Washington Industrial and Office Park, Fort Washington. The site is owned by 1100 Virginia Drive Associates. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 5, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 20, 2001.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, The Curtis Center, Suite 580 West, 6th and Walnut Streets, Philadelphia, PA 19106

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: August 28, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–22417 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

Change of Address; Submission of Comments

The office of the Foreign-Trade Zones Board staff has moved from the Herbert Clark Hoover Building—Room 4008 to the Franklin Court Building—Suite 4100W. Submissions to the Board should hereafter be directed to one of the addresses described below:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, D.C. 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, D.C. 20230.

Dated: August 31, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–22418 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Germany; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, United States Department of Commerce.

ACTION: Notice of amended final results of administrative review

SUMMARY: On July 12, 2001, the Department of Commerce published the final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Sweden, and the United Kingdom. Based on our analysis of a comment received, we are amending the final results of reviews of the antidumping duty order covering cylindrical roller bearings from Germany with respect to merchandise produced by INA Wälzlager Schaeffler oHG.

EFFECTIVE DATE: September 6, 2001.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Richard Rimlinger, AD/CVD Enforcement, Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3477 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions in effect as of January 1, 1995. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2000).

Background

On July 12, 2001, the Department published the final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof (AFBs) from France, Germany, Italy, Japan, Sweden, and the United Kingdom (66 FR 36551). We invited interested parties to comment on our final results. Based on a timely comment we received from a respondent, INA Wälzlager Schaeffler oHG (INA), we are now amending the final results of review with respect to the order covering cylindrical roller bearings (CRBs) from Germany. The period of review (POR) for this order is May 1, 1999, through December 31, 1999.

On July 11, 2001, we received a letter from INA stating that it had reviewed the Department's disclosure materials and found a ministerial error. Specifically, INA alleged that the Department in its final results inadvertently used the wrong variable in its computer program to identify whether INA's home-market customers are affiliated or unaffiliated. We reviewed INA's allegation and agree with INA; therefore, we are amending the final results of review for CRBs from Germany. For more information, see analysis memorandum from analyst to file dated August 9, 2001.

Amendment to Final Results

We are now amending the final results of administrative review of the antidumping duty order on CRBs from Germany for the period of review May 1, 1999, through December 31, 1999. As a result of this change, the weighted-average margin for INA changed from 2.96 percent to 2.82 percent. Accordingly, the Department will determine and the Customs Service will assess appropriate antidumping duties on entries of the subject merchandise exported by INA covered by this administrative review.

We are issuing and publishing this determination in accordance with section 751(a) of the Act.

Dated: August 10, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–22416 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Notice of Preliminary Results of Antidumping Duty New Shipper Review: Freshwater Crawfish Tail Meat From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting a new shipper review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC) in response to a request from Shanghai Taoen International Trading Co., Ltd. (Shanghai Taoen). The review covers the period September 1, 1999 through September 30, 2000.

We preliminarily determine that sales have been made below normal value (NV). The preliminary results are listed below in the section titled ''Preliminary Results of Review.'' If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the export price (EP) and NV. Interested parties are invited to comment on these preliminary results. (See the ''Preliminary Results of Review'' section of this notice.)

EFFECTIVE DATE: September 6, 2001.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey or Mark Hoadley, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2312 or (202) 482–0666, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2000).

Background

The Department published in the **Federal Register** an antidumping duty order on freshwater crawfish tail meat from the PRC on September 15, 1997 (62 FR 48218). On September 29, 2000 the Department received timely requests for review, in accordance with section 751(a)(2)(B) of the Act and section 351.214(c) of the Department's regulations, from Coastal (Jiangsu) Foods Co., Ltd. (Coastal), Shouzhou Huaxiang Foodstuffs Co., Ltd. (Shouzhou), and Shanghai Taoen, to conduct new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the PRC.

On November 6, 2000, the Department published its initiation of these new shipper reviews for the period September 1, 1999 through August 31, 2000. *See Freshwater Crawfish Tail Meat From the People's Republic of China: Initiation of New Shipper Antidumping Administrative Reviews,* 65 FR 66525 (November 6, 2000).

On March 16, 2001 the Department published an extension of the deadline for completion of the preliminary results of these new shipper reviews until August 27, 2001. *See Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Reviews: Freshwater Crawfish Tail Meat from the People's Republic of China,* 66 FR 15219 (March 16, 2001).

The new shipper requests were made pursuant to section 751(a)(2)(B) of the Act and § 351.214(b) of the Department's regulations, which state that, if the Department receives a request for review from an exporter or producer of the subject merchandise stating that it did not export the merchandise to the United States during the period covered by the original investigation (the POI) and that such exporter or producer is not affiliated with any exporter or producer who exported the subject merchandise during that period, the Department shall conduct a new shipper review to establish an individual weighted-average dumping margin for such exporter or producer, if the Department has not previously established such a margin for the exporter or producer.

The regulations require that the exporter or producer shall include in its request, with appropriate certifications: (i) The date on which the merchandise was first entered, or withdrawn from warehouse, for consumption, or, if it cannot certify as to the date of first entry, the date on which it first shipped the merchandise for export to the United States, or if the merchandise has not yet been shipped or entered, the date of sale; (ii) a list of the firms with which it is affiliated; (iii) a statement from such exporter or producer, and from each affiliated firm, that it did not, under its current or a former name, export the merchandise during the period of investigation (POI); and (iv) in an antidumping proceeding involving inputs from a non-market-economy (NME) country, a certification that the export activities of such exporter or producer are not controlled by the central government. *See* 351.214(b)(2) of the Department's Regulations.

The request received from Shanghai Taoen was accompanied by information and certifications establishing the effective date on which this company first shipped and entered freshwater crawfish tail meat for consumption in the United States, the volume of each shipment, and the date of first sale to an unaffiliated customer in the United States. Shanghai Taoen certified that it was not affiliated with any company which exported freshwater crawfish tail meat from the PRC during the POI. In addition, Shanghai Taoen certified that its export activities are not controlled by the central government. With respect to Coastal and Shouzhou, their entries of subject merchandise occurred well after the end of the period of review (POR), and we determined that an expansion of the normal POR would likely prevent the Department from completing this review within the designated time limits. Therefore, we rescinded the new shipper reviews for Coastal and Shouzhou. For a full discussion of this issue, *see Freshwater Crawfish Tail Meat From the People's Republic of China: Final Rescission of Antidumping Duty New Shipper Reviews,* 66 FR 41831 (August 9, 2001) (*Rescission Notice*). Thus, only the new shipper review of Shanghai Taoen remains.

Scope of Review

The product covered by this review is freshwater crawfish tail meat, in all its

forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the new HTS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by the U.S. Customs Service in mid-year 2000, and HTS items 0306.19.00.10 and 0306.29.00, which are reserved for fish and crustaceans in general. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

Verification

As provided in section 782(i) of the Act, we conducted a verification of the responses of Shanghai Taoen. We used standard verification procedures, including on-site inspection of the manufacturer's facilities and the examination of relevant sales and financial records. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (room B099 of the Main Commerce Building).

New Shipper Status

Based on the questionnaire responses received from Shanghai Taoen, and our verification thereof, we preliminarily determine that this company has met the requirements to qualify as a new shipper during the POR. We have determined that the company made its first sale or shipment of subject merchandise to the United States during the POR, that these sales were bona fide sales, and that these companies were not affiliated with any exporter or producer that previously shipped to the United States.

Separate Rates

Shanghai Taoen has requested a separate, company-specific rate. In its questionnaire responses, the company states that it is an independent legal entity.

To establish whether a company operating in an NME country is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). Under this policy, exporters in NMEs are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of de jure absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. De facto absence of government control over exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management.

De Jure Control

With respect to the absence of *de jure* government control over the export activities of all the companies reviewed, evidence on the record indicates that Shanghai Taoen's export activities are not controlled by the government. Shanghai Taoen submitted evidence of its legal right to set prices independently of all government oversight. The business license of the company indicates that it is permitted to engage in the exportation of crawfish. We find no evidence of *de jure* government control restricting this company's exportation of crawfish.

In general, no export quotas apply to crawfish. Prior verifications have confirmed that there are no commodity-specific export licenses required and no quotas for the seafood category ''Other,'' which includes crawfish, in *China's Tariff and Non-Tariff Handbook* for 1996. In addition, we have previously confirmed that crawfish is not on the list of commodities with planned quotas in the 1992 PRC Ministry of Foreign Trade and Economic Cooperation document entitled *Temporary Provisions for Administration of Export Commodities.* (*See Freshwater Crawfish Tail Meat From The People's Republic of China; Preliminary Results of New Shipper Review*, 64 FR 8543 (February 22, 1999) and *Freshwater Crawfish Tail Meat From the People's Republic of China; Final Results of New Shipper Review,* 64 FR 27961 (May 24, 1999) (*Ningbo New Shipper Review*).)

The following law, which has been placed on the record of this review, indicates a lack of *de jure* government control over privately-owned companies, such as Shanghai Taoen, and that control over these enterprises rests with the enterprises themselves. *The Administrative Regulations of the People's Republic of China for Controlling the Registration of Enterprises as Legal Persons* (*Legal Persons Law*), issued on June 13, 1988 by the State Administration for Industry and Commerce of the PRC and placed on the record of this review, provides that, to qualify as legal persons, companies must have the ''ability to bear civil liability independently'' and the right to control and manage their businesses. These regulations also state that, as an independent legal entity, a company is responsible for its own profits and losses. *See Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China*, 60 FR 56045 (November 6, 1995) (*Manganese Metal*). At verification, we saw that the business license for Shanghai Taoen was granted in accordance with this law. Therefore, we preliminarily determine that there is an absence of *de jure* control over export activity with respect to this firm.

De Facto Control

With respect to the absence of *de facto* control over export activities, the information provided, and reviewed at verification, indicates that the management of Shanghai Taoen is responsible for the determination of export prices, profit distribution, marketing strategy, and contract negotiations. Our analysis indicates that there is no government involvement in the daily operations or the selection of management for this company. In addition, we have found that the respondent's pricing and export strategy decisions are not subject to any outside entity's review or approval, and that there are no governmental policy directives that affect these decisions.

There are no restrictions on the use of export earnings. The company's general manager has the right to negotiate and enter into contracts, and may delegate

this authority to employees within the company. There is no evidence that this authority is subject to any level of governmental approval. Shanghai Taoen has stated that its management is selected by its board of directors and/or its employees and that there is no government involvement in the selection process. Lastly, decisions made by respondent concerning purchases of subject merchandise from other suppliers are not subject to government approval. Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over its export activities, we preliminarily determine that a separate rate should be applied to Shanghai Taoen.

Normal Value Comparisons

To determine whether respondent's sales of the subject merchandise to the United States were made at prices below NV, we compared their United States prices to NV, as described in the ''United States Price'' and ''Normal Value'' sections of this notice.

United States Price

For Shanghai Taoen, we based United States price on EP in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and constructed export price (CEP) was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the exporter to the first unaffiliated purchaser in the United States. We deducted foreign inland freight and brokerage and handling expenses from the starting price (gross unit price) in accordance with section 772(c) of the Act.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a factors-of-production methodology if (1) the merchandise is exported from an NME country, and (2) available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the companies contested such treatment in these reviews. Accordingly, we have applied surrogate values to the factors of production to determine NV. *See Factor Values Memo for the Preliminary Results of the Antidumping Duty New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China,* August 27, 2001 (*Factor Values Memo*).

We calculated NV based on factors of production in accordance with section 773(c)(4) of the Act and section 351.408(c) of our regulations. Consistent with the original investigation and the first administrative review of this order, we determined that India (1) is comparable to the PRC in level of economic development, and (2) is a significant producer of comparable merchandise. With the exceptions of the crawfish input and by-product, we valued the factors of production using publicly available information from India. We adjusted the Indian import prices by adding freight expenses to make them delivered prices. Because Shanghai Taoen was unable to support its reported tape factor at verification, we are using partial facts available for this factor, in accordance with section 776(a) of the Act and section 351.308 of the Department's regulations. For tape, we are using the amount calculated at verification.

In the original investigation of sales at less than fair value (LTFV) and in previous reviews of this order, for the crawfish input, we used Spanish import statistics for live freshwater crawfish imported from Portugal. However, Spanish imports of live freshwater crawfish from Portugal have declined drastically. From April 1999 through March 2000, the production period corresponding to the current review, Spanish imports from Portugal were only 17 metric tons, in contrast to the 357 metric tons used during the investigation, and 160 metric tons used during the 1997–98 administrative review. This represents a decline of 95.2 percent since the period of the LTFV investigation. In addition, unlike in other years, Spanish imports from Portugal were heavily weighted towards one month. This one month accounted for 71 percent of the total volume of imports from Portugal for that year. Small import volumes as a whole, and one month accounting for the vast proportion of imports, seem to indicate that live freshwater crawfish is no longer a product that is regularly traded between Portugal and Spain. Therefore, we searched for data reflecting a more substantial volume of trade. For these preliminary results, we have used Australian farm gate prices for whole, live freshwater crawfish. *See, Factor Values Memo.* For a complete discussion of our choice of Australian farm gate prices, refer to *Issues and Decision Memo for the Final Results of the Antidumping Duty New Shipper Reviews of Freshwater Crawfish Tail Meat from the People's Republic of China,* August 20, 2001 (Comment 1) (*September 1999-March 2000 Decision Memo*). The public version of this document is on file in the Central Records Unit (room B099 of the Main Commerce Building).

We valued the factors of production as follows:

- To value whole crawfish, we used the Australian farm gate price for freshwater crawfish ($3 Australian per kilogram for freshwater crawfish less than 40 grams) as reported in *Freshwater Crawfish Tail Meat (crawfish) from the People's Republic of China (PRC): Meetings Regarding the Crawfish Industry in Western Australia,* July 31, 2001. For further details, refer to the *September 1999-March 2000 Decision Memo,* at Comment 4.
- To value the by-product of shells, we used a September 1999 free-on-board (FOB) factory price quote for crab and shrimp shells from a Canadian seller of crustacean shells and incorporated a 30 percent wet/dry conversion factor. For further details, *see Factors Value Memorandum.*
- To value coal and electricity, we used data reported as the average Indian domestic prices within the categories of ''Steam Coal for Industry'' and ''Electricity for Industry,'' published in the International Energy Agency's publication, *Energy Prices and Taxes, First Quarter, 2000.* We adjusted the cost of coal to include an amount for transportation. For water, we relied upon public information from the October 1997 *Second Water Utilities Data Book: Asian and Pacific Region,* published by the Asian Development Bank.

To achieve comparability of energy and water prices to the factors reported for the crawfish processing periods applicable to the companies under review, we adjusted these factor values to reflect inflation to the applicable crawfish processing season during the POR using the Wholesale Price Index (WPI) for India, as published in the 2001 *International Financial Statistics* (*IFS*) by the International Monetary Fund (IMF).

- To value packing materials (plastic bags, cardboard boxes and adhesive tape), we relied upon Indian import data from the April 1998 through March 1999 issues of *Monthly Statistics of the Foreign Trade of India (Monthly Statistics*). We adjusted these prices to reflect inflation to the crawfish processing season during the POR. We adjusted the values of packing materials

to include freight costs incurred between the supplier and the factory. For transportation distances used in the calculation of freight expenses on packing materials, we added, to surrogate values from India, a surrogate freight cost using the shorter of (a) the distances between the closest PRC port and the factory, or (b) the distance between the domestic supplier and the factory. *See Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China,* 62 FR 51410 (October 1, 1997) (*Roofing Nails*).

• To value factory overhead, selling, general, and administrative expenses (SG&A), and profit, we calculated simple average rates using publicly available financial statements of four Indian seafood processing companies, and applied these rates to the calculated cost of manufacture. *See Factor Values Memorandum.*

• For labor, we used the PRC regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2000. *See http://ia.ita.doc.gov/wages/.* Because of the variability of wage rates in countries with similar per capita gross domestic products, section 351.408(c)(3) of the Department's regulations requires the use of a regression-based wage rate. The source of these wage rate data on the Import Administration's web site is the *1998 Year Book of Labour Statistics,* International Labour Office (Geneva: 1998), Chapter 5: Wages in Manufacturing.

• We valued movement expenses as follows:

• To value truck freight expenses we used seventeen price quotes from six different Indian trucking companies which were used in the antidumping investigation of *Bulk Aspirin from the People's Republic of China,* 65 FR 33805 (May 25, 2000). We adjusted the rates to reflect inflation to the month of sale of the finished product using the WPI for India from the *IFS.*

To value brokerage and handling in the home market, we used information reported in the antidumping administrative review of *Certain Stainless Steel Wire Rod From India; Preliminary Results of Antidumping Duty Administrative and New Shipper Reviews,* 63 FR 48184 (September 9, 1998) (*Stainless Steel Wire Rod from India*), and also used in the *Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Administrative Antidumping Duty and New Shipper Reviews, and Final Rescission of New Shipper Review,* 65 FR 20948 (April 19, 2000). We adjusted the rates to reflect inflation to the month of sale using the WPI for India from the *IFS.*

We used the average of the foreign brokerage and handling expenses reported in the U.S. sales listing of the public questionnaire response submitted in the antidumping review of Viraj Group, Ltd. in *Stainless Steel Wire Rod from India.* Charges were reported on a per metric ton basis. We adjusted these values to reflect for inflation to the month of sale using the WPI for India from the IFS. For further discussion, *see Factor Values Memorandum.*

Currency Conversion

We made currency conversions pursuant to section 351.415 of the Department's regulations at the rates certified by the Federal Reserve Bank. *See http://ia.ita.doc.gov/exchange/index.html.*

Preliminary Results of Review

We preliminarily determine that the following dumping margin exists:

Manufacturer/exporter	Time period	Margin (percent)
Shanghai Taoen	9/1/99–9/30/00	7.23

Any interested party may request a hearing within 30 days of publication of this notice in accordance with section 351.310(c) of the Department's regulations. Any hearing would normally be held 37 days after the publication of this notice, or the first workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 351.309(c)(ii) of the Department's regulations. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

The Department will issue the final results of this new shipper review, which will include the results of its analysis of issues raised in the briefs, within 90 days from the date of this preliminary result, unless the time limit is extended.

Upon completion of this new shipper review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the U.S. Customs Service upon completion of this review. For assessment purposes, we calculated importer-specific assessment rates for freshwater crawfish tail meat from the PRC. We divided the total dumping margins (calculated as the difference between NV and EP) for each importer by the total quantity of subject merchandise sold to that importer during the POR. Upon the completion of this review, we will direct Customs to assess the resulting quantity-based rates against the weight in kilograms of each entry of the subject merchandise by the importer during the POR. *See Memorandum to Barbara E. Tillman through Maureen Flannery, from Mark Hoadley: Collection of Cash Deposits and Assessment of Duties on Freshwater Crawfish from the PRC,* August 27, 2001.

The following deposit rates will be effective upon publication of the final results of this new shipper review for all shipments of freshwater crawfish tail meat from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The per kilogram cash deposit rate for Shanghai Taoen will be the total amount of duties it owes for the POR divided by the total quantity it entered during the POR; (2) for previously-reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period; (3) for all other PRC exporters, the rate will be the current PRC-wide rate, 201.63 percent; and (4) for all other non-PRC exporters of

subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

This notice also serves as a preliminary reminder to importers of their responsibility under § 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review and this notice are published in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: August 27, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–22415 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Manufacturing Extension Partnership National Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Manufacturing Extension Partnership National Advisory Board (MEPNAB), National Institute of Standards and Technology (NIST), will meet Thursday, September 20, 2001 from 8 a.m. to 3:30 p.m. The MEPNAB is composed of nine members appointed by the Director of NIST who were selected for their expertise in the area of industrial extension and their work on behalf of smaller manufacturers. The Board was established to fill a need for outside input on MEP. MEP is a unique program consisting of centers in all 50 states and Puerto Rico. The centers have been created by state, federal, and local partnerships. The Board works closely with MEP to provide input and advice on MEP's programs, plans, and policies. The purpose of this meeting is to hear about latest developments, status of plans for 2002 and the logic, background, progress and goals of the 360vu brand. There will also be a presentation on findings from a technology extension pilot partnering. Discussions scheduled to begin at 8 a.m. and to end at 9:30 a.m. and to begin at 2:30 p.m. and to end at 3:30 p.m. on September 20, 2001, on personnel issues and proprietary budget information will be closed.

DATES: The meeting will convene September 20, 2001 at 8 a.m. and will adjourn at 3:30 p.m. on September 20, 2001.

ADDRESSES: The meeting will be held in the Tenth Floor Conference Room, Administration Building, at NIST, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Linda Acierto, Senior Policy Advisor, Manufacturing Extension Partnership, National Institute of Standards and Technology, Gaithersburg, MD 20899–4800, telephone number (301) 975–5033.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration with the concurrence of the General Counsel formally determined on December 18, 2000, that portions of the meeting which involve discussion of proposed funding of the MEP may be closed in accordance with 5 U.S.C. 552b(c)(9)(B), because that portion will divulge matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency actions; and that portions of the meeting which involve discussion of the staffing of positions in MEP may be closed in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in that portion of the meeting is likely to reveal information of a personal nature, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: August 28, 2001.

Karen H. Brown,

Acting Director.

[FR Doc. 01–22285 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[980608149–1186–02]

RIN 0648–ZA44

Financial Assistance for the Use of Satellite Data for Studying Local and Regional Phenomena

AGENCY: National Environmental Satellite, Data, and Information Service, National Oceanic and Atmospheric Administration, Department of Commerce

ACTION: Notice of availability of Federal assistance.

SUMMARY: The Office of Research and Applications announces the availability of Federal assistance for fiscal year 2002 to expand the use of satellite data for the study of scientific phenomena in local and regional areas. This announcement provides detailed guidelines for the technical program, evaluation criteria, and selection procedures.

DATES: Proposals must be received no later than 5 pm EDT on October 25, 2001. Applications received after that time will be returned without review.

ADDRESSES: Office of Research and Applications; NOAA/NESDIS; 5200 Auth Road; Rm 701; Camp Springs, MD 20746–4304.

FOR FURTHER INFORMATION CONTACT: Mr. Hank Drahos, Federal Program Officer, at 301–763–8204 or Hank.Drahos@noaa.gov.

SUPPLEMENTARY INFORMATION:

Authority: Statutory authority for this program is provided under 49 U.S.C. 44720.

Catalog of Federal Domestic Assistance (CFDA). This program is listed in the CFDA under Number 11.440.

Program Description

NOAA's National Environmental Satellite, Data, and Information Service (NESDIS) Office of Research and Applications (ORA) has established a program to provide free real-time satellite data to academic institutions for their use in studying local and regional phenomena. The emphasis of the program is to foster new uses and expand the use of satellite data within the academic community. In order to do so, ORA will: (1) provide *free access to real-time satellite data* for use in ongoing projects; (2) provide data and funds for the purchase of basic equipment required for analysis as part of an existing program or teaching laboratory; and (3) provide data to support students for research purposes.

Examples of real-time data and holding periods available are: Advanced Very High Resolution Radiometer (AVHRR) (72 hours), Geostationary Operational Environmental Satellite (GOES) sounder (240 hours) and imagery (82 hours), METEOSAT (24 hours), GMS (24 hours), and conventional (100 hours). Data older than the given times is not available free under this grant program. The use of this program solely for free data for ongoing activities with no other costs encumbered is encouraged.

The purpose of this notice is to identify eligibility criteria, roles and responsibilities, milestones, and selected criteria associated with the award. Each funded project will establish a 1-year grant between ORA and the grantee. Funding amounts will range from a minimum of $0 plus free data up to $25,000 for equipment and personnel.

Background

ORA provides overall guidance and direction to the research and application activities of NESDIS. ORA provides expert service to other NESDIS offices relating to sensor development, instrument problems, or systems hardware components. It coordinates with NESDIS, other appropriate NOAA units, and U.S. Government agencies in the implementation and evaluation of operational and research satellite data and products that result from research activities. It coordinates research activities of mutual interest with the academic community, NASA laboratories, and with foreign laboratories, particularly those in satellite operating countries. ORA provides advice to the Assistant Administrator concerning interfaces among centers and offices of NESDIS and among the major NOAA elements in relation to broad scale scientific projects. It produces and provides specific programmatic studies and statistics as needed. ORA provides support and coordination on NOAA's activities in the Strategic Plan and the U.S. Global Change Research Program.

Roles and Responsibilities

ORA: ORA will have primary responsibility for the following activities: 1. Provide funds and real-time satellite data needed for the project. 2. Provide technical guidance for image processing and analysis. Monitor progress and evaluate progress reports.

Grantee: The grantee shall have primary responsibility for the following activities associated with the project: 1. Organize and manage grant activities. 2. Identify a Principal Investigator who will take the lead for all technical aspects of the grant and be responsible for using satellite data as a key tool in the activity. 3. The grantee will agree to use the data only for the purposes stated in the proposal.

Grant Application Package

All applicants are required to submit a NOAA Grants Application Package and project proposal. The standard NOAA Grants Application Package (which includes Forms SF–424, SF–424A, SF–424B, CD–511, CD–512 if you have subcontracts or subgrantees, and SF–LLL if you are involved in lobbying activities) can be obtained from the NOAA Grants Website at *http://www.rdc.noaa.gov/~grants/pdf/*. If Internet access is not available, the standard NOAA Grant Application can be obtained from the Office of Research and Applications (301–763–8127).

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HSI), and Tribal Colleges and Universities (TCU) in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

Required Elements

All recipients are to closely follow the instructions and guidelines in the preparation of the standard NOAA Application Forms listed earlier in this document.

1. Signed Summary title page: The title page should be signed by the Principal Investigator (PI) and the institutional representative. The page identifies the project's title and the PI's name and affiliation, complete address, phone, FAX, and e-mail address.

2. Project Proposal should include the following sections, totaling no more than 8 pages.

A. Goals and Objectives—identify broad project goals and quantifiable objectives.

B. Background/Introduction—state the problem and summary of existing federal/state/local efforts.

C. Audience—identify explicitly the audience and describe specifics of how the project will contribute to the target audience.

D. Project Description/Methodology—describe the specifics of the activity (3 pages maximum), with a complete and explicit description of the project area. Expected Results—list desired outcomes in terms of products or services.

3. Project Budget—provide a detailed budget breakdown by category and provide a brief narrative budget justification. Multi-year proposals will be accepted; however, future funding will be dependent upon satisfactory performance and the availability of funds. The annual awards must have scopes of work that are clearly severable that can be easily separated into annual increments of meaningful work which represent solid accomplishments if prospective funding is not made available to the applicant.

Selection Process

Applicants will submit project proposals to the Office of Research and Applications by the published due date. A project selection panel will be convened to review and recommend selection using the criteria published in these guidelines. Each proposal will be reviewed by at least three reviewers who are qualified to review the proposed work. These reviewers may include both Federal and non-Federal individuals, each of whom will provide an independent recommendation. Proposals will be ranked according to a scoring system (explained below) and presented to the Selecting Official (Director, ORA) for final selection. In addition to the rankings assigned by the panel members, the Director may consider geographic location and balance of technical areas in making his final decision. Selection Criteria (with weights).

1. Relevance of the Proposed Research to NESDIS and NOAA Missions (30 points) Will the activity foster broader knowledge concerning the use of satellite data in meteorological and/or oceanographic research at your institution?

2. Technical Merit (60 points) Is the proposed activity scientifically sound and relevant?

3. Overall Qualifications (10 points) Are the proposers capable of conducting a project of the scope and scale proposed (i.e., scientific, professional, facility, and administrative resources/capabilities?

Selection Schedule

Proposals due—October 25, 2001.

Final selection—Approximately January 1, 2002.

Grant start date—Approximately March 1, 2002.

Note: All deadlines are for receipt by 5 p.m. EDT on October 25, 2001. All applicants are required to submit one original and two copies of a completed and signed NOAA Grants Application Package. The application package may be obtained by calling (301) 763–8127 or accessed on-line from the NOAA Grants Home Page at *http://www.rdc.noaa.gov/~grants/index/html.*

Reporting Requirements

The Grantee will be required to provide a semi-annual progress report and a final report to the Federal Program Officer.

Funding Availability

NOAA expects that approximately $100,000 will be available in FY 2002 for this program. However, publication of this notice does not obligate NOAA to award any specific grant or cooperative agreement or to obligate all or any part of the available funds.

Cost Sharing

There is no requirement for matching funds under this award.

Eligibility Criteria

Eligible applicants are institutions of higher education, other nonprofits, state, local and Indian tribal governments. NESDIS Cooperative Institutes and Federal agencies or institutions are not eligible to receive Federal assistance under this Notice.

Indirect Costs

The total dollar amount of the indirect costs proposed in an application under this program must not exceed the current indirect cost rate negotiated and approved by the Applicant's cognizant Federal agency, prior to the proposed effective date of the award or 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

Federal Policies and Procedures

Recipients and sub-recipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal assistance awards.

Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Pre-Award Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs.

No Obligation for Future Funding

If the application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(i) The delinquent account is paid in full,

(ii) A negotiated repayment schedule is established and at least one payment is received, or

(iii) Other arrangements satisfactory to DOC are made.

Primary Applicant Certifications

All organizations or individuals preparing grant applications must submit a completed Form CD–511 ''Certifications Regarding Debarment, Suspension, and Other Responsibility Matters: Drug-Free Workplace Requirements and Lobbying,'' and explanations are hereby provided.

Non-Procurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug-Free Workplace

Grantees (as defined at 15 CFR, part 26, Section 605) are subject to 15 CFR part 26, subpart f, ''Government-wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying

Persons (as defined at 15 CFR part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to application/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000.

Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, Appendix B.

Lower-Tier Certifications

Recipients shall require applicants/bidders for sub-grants, contracts, subcontracts, or other lower-tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.''

Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or sub-recipient should be submitted to DOC in accordance with the instructions contained in the award document.

False Statements

A false statement on an application is possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Buy American-Made Equipment or Products

Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866. Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for this notice concerning grants, cooperative agreements, benefits, and contracts. Therefore, this notice is exempt from the requirements of the Regulatory Flexibility Act. Notwithstanding any

other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

Dated: August 29, 2001.

Mary M. Glackin,

Deputy Assistant Administrator for Satellite and Information Services.

[FR Doc. 01–22430 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–HR–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Short Supply Request Under the United States - Caribbean Basin Trade Partnership Act (CBTPA) and the African Growth and Opportunity Act (AGOA)

August 31, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Denial of the petition alleging that micro-denier, 30 and 36 singles solution dyed staple open-end spun viscose yarn, for use in knit fabrics, cannot be supplied by the domestic industry in commercial quantities in a timely manner.

SUMMARY: On June 29, 2001 the Chairman of CITA received a petition from Fabrictex alleging that micro-denier, 30 and 36 singles solution dyed open-end staple spun viscose yarn, for use in knit fabrics, classified in subheading 5510.11.0000 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requested that apparel articles of U.S. formed fabrics of such yarns be eligible for preferential treatment under the CBTPA and AGOA. Based on currently available information, CITA has determined that substitutable products can be supplied by the domestic industry in commercial quantities in a timely manner and therefore denies the petition.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 112 (b)(5)(B) of the AGOA, Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act, as added by Section 211(a) of the CBTPA; Sections 1 and 6 of Executive Order No. 13191 of January 17, 2001.

Background

The CBTPA and the AGOA provide for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The CBTPA and the AGOA also provide for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA or AGOA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On June 29, 2001 the Chairman of CITA received a petition from Fabrictex alleging that micro-denier, 30 and 36 singles solution dyed staple open-end spun viscose yarn, for use in knit fabrics, classified in subheading 5510.11.0000 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requested that apparel articles of U.S. formed fabrics of such yarns be eligible for preferential treatment under the CBTPA and the AGOA.

On July 9, 2001, CITA solicited public comments regarding this request (66 FR 35777) particularly with respect to whether this yarn can be supplied by the domestic industry in commercial quantities in a timely manner. On July 25, 2001, CITA and the Office of the U.S. Trade Representative offered to hold consultations with the relevant Congressional committees. We also requested advice from the U.S. International Trade Commission and the relevant Industry Sector Advisory Committees.

On the basis of currently available information, including its review of the petition and public comments and advice received and its understanding of the industry, CITA has determined that stock dyed viscose yarn is substitutable for a solution dyed viscose yarn for purposes of the intended use, and that this substitute yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Currently available information indicates that there is available domestic capacity to open-end spin micro-denier viscose yarn and there is available domestic capacity to stock dye fiber to any color required by Fabrictex. Stock dyed open-end spun micro-denier viscose yarn can be supplied in the quantities and in the time frame specified by Fabrictex. CITA concludes in the context of this petition that U.S. producers have the ability to supply substitutable yarns in commercial quantities in a timely manner. Fabrictex's request is denied.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–22405 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Department of Defense Acquisition University.

ACTION: Board of Visitors meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held in the Executive Conference Room, Building 202, Ft. Belvoir, Virginia on Wednesday, September 19, 2001 from 0900 until 1500. The purpose of this meeting is to report back to the BoV on continuing items of interest.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Mr. John Michel at (703) 805–4575.

Dated: August 29, 2001.

L.M. Bynum,

Alternate, OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 01–22309 Filed 9–5–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 219. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 219 is being published in the Federal Register to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: September 1, 2001.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 218. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the Federal Register ow constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

CIVILIAN BULLETIN NO. 219—MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

[The only changes in civilian bulletion 219 updates rates for Alaska]

Locality	Maximum lodging amount (A)	+	M&IE rate (B)	=	Maximum per diem rate (C)	Effective date
Alaska:						
Anchorage [Incl Nav Res]						
05/01–09/15	161 52 30		13		226	09/01/2001
09/16–04/30	89 46 27		11		146	09/01/2001
Barrow	140 60 34		15		215	05/01/2000
Bethel	90 50 29		13		153	09/01/2001
Clear	80 44 26		11		135	09/01/2001
Cold Bay	153 35 22		9		197	09/01/2001
Coldfoot	135 57 33		14		206	10/01/1999(ROW
Copper Center	85 39 24		10		134	09/01/2001
Cordova	80 58 33		14		152	03/01/2000
Craig						
05/01–08–31	90 52 30		13		155	09/01/2001
09/01–04/30	77 51 30		13		141	09/01/2001
Deadhorse	80 54 31		13		147	03/01/1999
Delta Junction	79 40 24		10		129	09/01/2001
Denali National Park						
06/01–08/31	125 53 31		13		191	09/01/2001
09/01–05/31	90 50 29		13		153	09/01/2001
Dillingham	95 48 28		12		155	09/01/2001
Dutch Harbor-Unalaska	110 54 31		13		177	09/01/2001
Eareckson Air Station	80 44 26		11		135	09/01/2001
Eielson AFB						
05/01–09/15	149 53 31		13		215	09/01/2001
09/16–04/30	75 46 27		12		133	09/01/2001
Elemendorf AFB						
05/01–09/15	161 52 30		13		226	09/01/2001
09/16–04/30	89 46 27		11		146	09/01/2001
Fairbanks						
05/01–09/15	149 53 31		13		215	09/01/2001
09/16–04/30	75 46 27		12		133	09/01/2001
Ft. Greely	79 40 24		10		129	09/01/2001
Ft. Richardson						
05/01–09/15	161 52 30		13		226	09/01/2001
09/16–04/30	89 46 27		11		146	09/01/2001
Ft. Wainwright						
05/01–09/15	149 53 31		13		215	09/01/2001
09/16–04/30	75 46 27		12		133	09/01/2001
Glennallen						
05/01–09/30	137 49 29		12		198	09/01/2001
10/01–04/30	89 45 27		11		145	09/01/2001
Healy						
06/01–08/31	125 53 31		13		191	09/01/2001
09/01–05/31	90 50 29		13		153	09/01/2001
Homer						

CIVILIAN BULLETIN NO. 219—MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

[The only changes in civilian bulletion 219 updates rates for Alaska]

Locality	Maximum lodging amount (A)	+	M&IE rate (B)	=	Maximum per diem rate (C)	Effective date
05/15–09/15	119 54 31		13		186	09/01/2001
09/16–05/14	79 50 29		13		142	09/01/2001
Juneau	109 52 30		13		174	09/01/2001
Kaktovik	165 60 34		15		240	01/01/2000
Kavik Camp	125 55 32		14		194	03/01/1999
Kenai–Soldotna						
04/01–10/31	131 55 32		14		200	09/01/2001
11/01–03/31	86 52 30		13		151	09/01/2001
Kennicott	159 57 33		14		230	09/01/2001
Ketchikan	98 51 30		13		162	09/01/2001
King Salmon						
05/01–10/01	160 64 36		16		240	09/01/2001
10/02–04/30	95 58 33		15		168	09/01/2001
Klawock						
05/01–08/31	90 52 30		13		155	09/01/2001
09/01–04/30	77 51 30		13		141	09/01/2001
Kodiak	99 56 32		14		169	09/01/2001
Kotzebue						
05/01–08/31	137 55 32		14		206	09/01/2001
09/01–04/30	95 44 26		11		150	09/01/2001
Kulis AGS						
05/01–09/15	161 52 30		13		226	09/01/2001
09/16–04/30	89 46 27		11		146	09/01/2001
McCarthy	159 57 33		14		230	09/01/2001
Metlakatla						
05/30–10/01	98 45 27		11		154	09/01/2001
10/02–06/01	78 43 26		11		132	09/01/2001
Murphy Dome						
05/01–09/15	149 53 31		13		215	09/01/2001
09/16–04/30	75 46 27		12		133	09/01/2001
Nome	89 51 30		13		153	09/01/2001
Nuiqsut	175 42 25		11		228	09/01/2001
Point Hope	130 56 21		14		200	03/01/1999
Point Lay	105 54 31		13		172	03/01/1999
Prudhoe Bay	80 54 31		13		147	03/01/1999
Seward						
05/31–09/30	119 53 31		13		185	09/01/2001
10/01–05/30	74 49 29		12		135	09/01/2001
Sitka-Mt. Edgecombe						
05/16–09/16	139 58 33		15		212	01/01/2000
09/17–05/15	129 58 33		14		201	01/01/2000
Skagway	98 51 30		13		162	09/01/2001
Spruce Cape	99 56 32		14		169	09/01/2001
Tanana	89 51 30		13		153	09/01/2001
Umiat	172 62 35		16		250	09/01/2001
Valdez						
05/01–10/01	109 55 32		14		178	09/01/2001
10/02–04/30	99 54 31		14		167	09/01/2001
Wainwright	124 41 25		10		175	09/01/2001
Wasilla	95 48 28		12		155	01/01/2000
Wrangell	98 51 30		13		162	09/01/2001
Yakutat	110 54 31		14		178	03/01/1999
(Other)	80 44 26		11		135	09/01/2001
American Samoa: American Samoa	85		67		152	03/01/2000
Guam: Guam (Incl All Mil Instal)	150		71		221	04/01/2000
Hawaii:						
Camp H M Smith	112		65		177	06/01/2000
Eastpac Naval Comp Tele Area	112		65		177	06/01/2000
Ft. Derussey	112		65		177	06/01/2000
Ft. Shafter	112		65		177	06/01/2000
Hickam AFB	112		65		177	06/01/2000
Honolulu (Incl Nav & Mc Res Ctr)	112		65		177	06/01/2000
Isle of Hawaii: Hilo	84		58		142	05/01/2000
Isle of Hawaii: Other	89		54		143	05/01/2000

CIVILIAN BULLETIN NO. 219—MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

[The only changes in civilian bulletion 219 updates rates for Alaska]

Locality	Maximum lodging amount (A)	+	M&IE rate (B)	=	Maximum per diem rate (C)	Effective date
Isle of Kauai						
05/01–11/30	143		69		212	06/01/2000
12/01–04/30	176		73		249	06/01/2000
Isle of Kure	65		41		106	05/01/1999
Isle of Maui	143		72		215	05/01/2000
Isle of Oahu	112		65		177	06/01/2000
Kaneohe Bay Mc Base	112		65		177	06/01/2000
Kekaha Pacific Missile Range Fac						
05/01–11/30	143		69		212	06/01/2000
12/01–04/30	176		73		249	06/01/2000
Kilauea Military Camp	84		58		142	05/01/2000
Lualualei Naval Magazine	112		65		177	06/01/2000
Nas Barbers Point	112		65		177	06/01/2000
Pearl Harbor (Incl All Military)	112		65		177	06/01/2000
Schofield Barracks	112		65		177	06/01/2000
Wheeler Army Airfield	112		65		177	06/01/2000
(Other)	72		61		133	01/01/2000
Johnston Atoll: Johnston Atoll	13		16		29	12/01/2000
Midway Islands: Midway Islands (Incl All Military)	150		47		197	02/01/2000
Northern Mariana Islands:						
Rota	149		72		221	04/01/2000
Saipan	154		87		241	04/01/2000
(Other)	55		72		127	04/01/2000
Puerto Rico:						
Bayamon						
04/11–12/23	155		71		226	01/01/2000
12/24–04/10	195		75		270	01/01/2000
Carolina						
04/11–12/23	155		71		226	01/01/2000
12/24–04/10	195		75		270	01/01/2000
Fajardo (Incl Ciba & Luquillo).						
Ft. Buchanan (Incl GSA Svc Ctr)						
04/11–12/23	155		71		226	01/01/2000
12/24–04/10	195		75		270	01/01/2000
Humacao	82		54		136	01/01/2000
Luis Munoz, Marin IAP AGS						
04/11–12/23	155		71		226	01/01/2000
12/24–04/10	195		75		270	01/01/2000
Mayaguez	85		59		144	01/01/2000
Ponce	96		69		165	01/01/2000
Roosevelt RDS & Nav Sta	82		54		136	01/01/2000
Sabana Seca [incl All Military]						
04/11–12/23	155		71		226	01/01/2000
12/24–04/10	195		75		270	01/01/2000
San Juan & Nav Res Sta						
04/11–12/23	155		71		226	01/01/2000
12/24–04/10	195		75		270	01/01/2000
[Other]	62		57		119	01/01/2000
Virgin Islands (U.S.):						
St. Croix						
04/15–12/14	93		72		165	01/01/2000
12/15–04/14	129		76		205	01/01/2000
St. John						
04/15–12/14	219		84		303	01/01/2000
12/15–04/14	382		100		482	01/01/2000
St. Thomas						
04/15–12/14	163		73		236	01/01/2000
12/15–04/14	288		86		374	01/01/2000
Wake Island: Wake Island	60		32		92	09/01/1998

Dated: August 29, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–22308 Filed 9–5–01; 8:45 am]

BILLING CODE 5001–08–M

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 13, 2001. 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 at Temple University Ambler, 580 Meetinghouse Road, Ambler, Pennsylvania.

The conference among the Commissioners and staff will begin at 10 a.m. The session will include a welcome and remarks on the Center for Sustainable Communities by Temple Ambler Dean Dr. Sophia T. Wisniewska; introduction of the Commission's new Deputy Executive Director; and reports on: The status of the Commission's comprehensive planning effort; development of the PCB TMDL for the Delaware Estuary; the Toxics Advisory Committee meeting of August 9, 2001; the TMDL PCB Expert Panel meeting of September 11, 2001; the Flow Management Technical Advisory Committee meeting of July 26, 2001; and the July 31, 2001 Day on the Delaware, hosted by the Delaware River Foundation and Trout Unlimited.

The subjects of the public hearing to be held during the 1 p.m. business meeting include, in addition to the dockets listed below, a resolution recognizing the July 2001 codification of the Delaware River Basin Commission's policies and approved projects and facilities as the comprehensive plan of the Commission in accordance with Section 13.1 of the Delaware River Basin Compact; deleting the Evansburg Project from the plan; making additional minor revisions; and providing for the codification's electronic publication and updating.

The dockets scheduled for public hearing are as follows:

1. *Public Service Enterprise Group D–68–20 CP (Revision 2).* A project to revise the heat dissipation area specified in DRBC Docket No. D–68–20 CP (Revision 1) for the thermal discharge from Salem Generating Station. The project is located on Artificial Island in Lower Alloways Township, Salem County, New Jersey, in DRBC Water Quality Zone 5.

2. *Anthony E. Argiros D–99–46.* A project to replace the applicant's failing sewage leach fields with a 16,500 gallons per day (gpd) secondary treatment plant which will continue to serve the Family School in the Town of Hancock, Delaware County, New York. The proposed sewage treatment plant (STP) will discharge to Abe Lord Creek, a tributary of the Delaware River.

3. *New Jersey-American Water Company D–99–73 CP.* A ground water withdrawal project to supply up to 25.4 million gallons (mg)/30 days of water to the applicant's Logan System from new Well No. 6 and to increase the withdrawal limit from all wells to 50 mg/30 days. The project is located in Logan Township, Gloucester County, New Jersey.

4. *Montgomery Township Municipal Sewer Authority D–2001–16 CP.* A project to expand the Eureka STP from 0.75 mgd to 2.4 mgd, while continuing to provide advanced secondary level treatment via an anoxic/oxic process. The plant is located at 1485 Lower State Road, approximately 1,000 feet west of State Highway 152. The plant will continue to serve residential and industrial development in portions of Montgomery Township, Montgomery County, Pennsylvania. STP effluent will discharge to Little Neshaminy Creek through the existing outfall.

5. *Wernersville Municipal Authority D–2001–17 CP.* A project to transfer up to 1.5 mgd of potable water to the applicant's public water distribution system via an interconnection with the Western Berks Water Authority (WBWA). The applicant proposes to construct a 20,300 linear feet pipeline from Hains Church to the WBWA water main on Robers Bridge Road approximately 3,000 feet east of its intersection with State Hill Road, all within Lower Heidelberg Township, Berks County, Pennsylvania. The project will serve mainly residential customers in Wernersville Borough, Lower Heidelberg and South Heidelberg Townships, all in Berks County.

6. *Hilltown Township Water and Sewer Authority D–2001–19 CP.* A project to construct a 0.15 mgd STP to serve approximately 2,500 existing and future residents of Hilltown Township, Bucks County, Pennsylvania. The proposed STP will provide tertiary level treatment via sequencing batch reactors, chemical precipitation and disk filtration. The proposed STP will be located approximately 3,000 feet north of the intersection of Keystone Drive and Diamond Road in Hilltown Township. STP effluent will be discharged to an unnamed tributary of Mill Creek in the East Branch Perkiomen Creek watershed.

7. *Artesian Water Company D–2001–24 CP.* A ground water withdrawal project to supply up to 13 mg/30 days of water to the applicant's public water supply system from new Well No. 1 in the Cockeysville Formation; to interconnect Well No. 1 to Artesian Water Company's distribution system; and to increase the existing withdrawal from all wells to 553 mg/30 days. The project is located in the Brandywine-Christina watershed Northeast of the city of Newark, New Castle County, Delaware.

8. *Upper Merion Municipal Utility Authority D–2001–29 CP.* A project to relocate an STP outfall from a small stream, Trout Creek (locally known as Trout Run), to the nearby Schuylkill River. No expansion of the 6 mgd STP is proposed. The STP will continue to provide secondary treatment via a trickling filter and oxidation tower process. The project is located on Mancill Mill Road in Upper Merion Township, Montgomery County, Pennsylvania. The project will continue to serve portions of Tredyffrin and Easttown Townships in Chester County and Upper Merion Township in Montgomery County, Pennsylvania.

9. *Artesian Water Company, Inc. D–2001–34 CP.* A ground water withdrawal project to supply up to 14 mg/30 days of water to the applicant's public water supply system from new Well No. 1 in the Cheswold Formation. The project is located in the St. Jones River watershed, Kent County, Delaware.

In addition to the public hearing, the Commission will address the following at its 1 p.m. business meeting: Minutes of the July 25, 2001 business meeting; announcements; report on hydrologic conditions; reports by the Executive Director and Acting General Counsel; public dialogue; and resolutions (1) amending the Administrative Manual, By-Laws, Management and Personnel to provide for confirmation of the appointment of the Deputy Executive Director; (2) confirming the appointment of a new Deputy Executive Director to the Commission; (3) authorizing the Executive Director to enter into an agreement for development of a TMDL database through an existing General Services Administration Contract with Battelle; and (4) authorizing the Executive Director to enter into contracts with Rutgers University and the University of Maryland for air-water flux and sediment studies to support development of a TMDL for PCBs in the

Delaware Estuary consistent with certain grant awards.

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: August 27, 2001.

Pamela M. Bush,

Commission Secretary and Acting General Counsel.

[FR Doc. 01–22407 Filed 9–5–01; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 6, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Crystal Thomas, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *CAThomas@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 31, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information, Officer.

Office of Postsecondary Education

Type of Review: Revision.

Title: Application for Designation as an Eligible Institution for Titles III and IV.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 1,200.

Burden Hours: 8,400.

Abstract: Institutions of Higher Education will submit this form in order to be designated as eligible to compete for grants under the Higher Education Act of 1965, as amended, Title III, Parts A and C and Title V.

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_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at (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. 01–22391 Filed 9–5–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice Extending the Public Scoping Period for the Programmatic Environmental Impact Statement on the Disposition of Scrap Metals and Announcement of Public Scoping Meetings

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Department of Energy (DOE) announces the extension of the public scoping period and additional public scoping meetings for the programmatic environmental impact statement (PEIS) that DOE is preparing on the policy alternatives for the disposition of DOE scrap metals that may have residual surface radioactivity.

DATES: The scoping period on the PEIS is extended 60 days until November 9, 2001. DOE invites Federal agencies, Native American tribes, state and local governments, and members of the public to comment on the scope of this PEIS. DOE will consider all comments received by the close of the scoping period and will consider comments received after that date to the extent practicable. DOE will conduct additional public scoping meetings to assist in defining the appropriate scope of the PEIS, including the alternatives and significant environmental issues to be considered. DOE will hold additional meetings in the following locations:

Meeting: Ken Edwards Community Center, 1527 Fourth Street, Santa Monica, California 90401. October 8, 2001, 8–10 P.M.

Meeting: Simi Valley City Hall, 2929 Tapo Canyon Road, Simi Valley, California 93063. October 9, 2001, 8–10 P.M.

Meeting: Zuhrah Shrine Center, 2540 Park Avenue, Minneapolis, Minnesota 55404. October 16, 2001, 2–5 P.M., 8–10 P.M.

Meeting: American Conference Centers, 780 Third Avenue, C2, New York, NY 10017. October 18, 2001, 2–5 P.M. 8–10 P.M.

At each scoping meeting, the public will have the opportunity to ask questions and to comment orally or in

writing on the scope of the PEIS, including the alternatives and issues that DOE should consider. Also, at these meetings, DOE plans to provide background information on the program and the PEIS preparation schedule.

ADDRESSES: Comments on the scope of the PEIS may be mailed to the address below or sent by facsimile or electronic mail. Written comments may be mailed to the following address. Kenneth G. Picha, Jr., Office of Technical Program Integration, EM–22, Attn: Metals Disposition PEIS, Office of Environmental Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0113, Telephone: (301)–903–7199.

Otherwise, send comments via facsimile to Metals Disposition PEIS at 301–903–9770 or send electronic mail to *Metals.Disposition.PEIS@em.doe.gov* or the web site at *www.em.doe.gov/smpeis.*

FOR FURTHER INFORMATION: To request further information about this PEIS, the public scoping meetings, or to be placed on the PEIS distribution list, use any of the methods listed under **ADDRESSES** above. For background documents in hard copy related to this PEIS contact the DOE Center for Environmental Management Information at 800–736–3282. For general information concerning the DOE National Environmental Policy Act (NEPA) process, contact: Carol Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119, Telephone: 202–586–4600, Voice Mail: 800–472–2756, Facsimile: 202–586–7031.

Additional NEPA information is also available on the DOE web site: *http//tis.eh.doe.gov/nepa/*

SUPPLEMENTARY INFORMATION: DOE generates surplus and scrap material during the normal course of activities, and attempts to recycle as much as possible consistent with common industrial practice. DOE is also guided by several Executive Orders that provide direction to Federal Agencies on recycling practices to avoid unnecessary energy consumption and use of raw materials for the development of new products. Much of this material consists of scrap metal that may contain residual surface radioactivity. On July 12, 2001, DOE issued a Notice of Intent (66 FR 36562) to prepare a PEIS on the DOE policy alternatives for the disposition of scrap metals that may contain residual surface radioactivity.

As originally announced in the Notice of Intent, DOE has conducted public scoping meetings on the PEIS in the following locations: North Augusta, South Carolina; Oak Ridge, Tennessee; Oakland, California; Richland, Washington; Cincinnati, Ohio; and, Washington, DC. The original public scoping period was to continue until September 10, 2001. However, in response to public comments and to ensure that the public has ample opportunity to provide comments, DOE is extending the public scoping period by 60 days and scheduling additional meetings as specified under **DATES,** above. The schedule for completion of the Draft PEIS will be delayed until March, 2002, and the Final PEIS until August, 2002. Further information on this proceeding is contained in the Notice of Intent.

Issued in Washington, DC, on August 30, 2001.

Steven V. Cary,

Acting Assistant Secretary, Office of Environment, Safety and Health.

[FR Doc. 01–22382 Filed 9–5–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–111–000]

California Independent System Operator; Notice of Change in Docketing

August 30, 2001.

Take notice that on June 25, 2001, July 11, 2001, August 10, 2001, the California Independent System Operator (CAISO) filed market monitoring reports in Docket Nos. EL00–95–000, EL00–98–000 and RT01–85–000, as required by the Commission's April 26, 2001 Order.[1] A new docket number has been established for these filings, and the CAISO shall hereafter file all market monitoring reports under Docket Number EL01–111–000. Previous filings, identified above, will be re-designated in the new docket.

David P. Boergers,

Secretary

[FR Doc. 01–22335 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

[1] 95 FERC ¶ 61,115 (2001).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–518–000]

Carnegie Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 30, 2001.

Take notice that on August 27, 2001, Carnegie Interstate Pipeline Company (CIPCO) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet to become effective October 1, 2001:

Sixteenth Revised Sheet No. 7

Pursuant to Order 472, the Commission authorized pipeline companies to track and pass through to their customers their annual charges under an Annual Charge Adjustment (ACA) clause. The 2001 ACA unit surcharge approved by the Commission is $0.0021 per Dth.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–22331 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–517–000]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

August 30, 2001.

Take notice that on August 27, 2001, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets to become effective October 1, 2001:

Fifth Revised Sheet No. 5
Seventh Revised Sheet No. 6
Fourth Revised Sheet No. 10

Pursuant to Order 472, the Commission authorized pipeline companies to track and pass through to their customers their annual charges under an Annual Charge Adjustment (ACA) clause. The 2001 ACA unit surcharge approved by the Commission is $0.0021 per Dth.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–22332 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–430–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

August 30, 2001.

Take notice that on August 22, 2001, Florida Gas Transmission Company (FGT), 1400 Smith Street, Suite 3997, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP01–430–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations (18 CFR 157.205 and 157.211) under the Natural Gas Act (NGA) for authorization to construct and operate delivery point facilities for service to an end-user in Polk County, Florida, under FGT's blanket certificate issued in Docket No. CP82–553–000, pursuant to Section 7 of the NGA, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance).

FGT requests authorization to construct and operate delivery point facilities, consisting of a 4-inch tap valve, connecting pipe and electronic flow measurement instrumentation, to serve Florida Natural Growers (FNG). It is stated that FGT will use the facilities to transport up to 800 MMBtu equivalent of natural gas per day on an interruptible basis pursuant to Section 284.223 of the Commission's regulations. FGT estimates the cost of the facilities at $86,800 and states that it would be reimbursed by FNG for all costs associated with the facilities. FGT states that FNG will construct approximately 65 feet of connecting pipe from FGT's facilities to FNG's meter station. It is explained that the FNG currently receives gas service from Central Florida Gas, a subsidiary of Chesapeake Utilities Corporation. It is asserted that FGT has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers. It is further asserted that because the proposal involves interruptible deliveries, it will have no impact on FGT's peak day and annual deliveries.

Any questions regarding the application may be directed to Stephen T. Veatch, Director, Certificates and Regulatory Reporting, at (713) 853–6549.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA. Copies of this filing are on file with the Commission and are available for public inspection. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–22337 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–516–000]

Honeoye Storage Corporation; Notice of Tariff Filing

August 30, 2001.

Take notice that on August 24, 2001, Honeoye Storage Corporation (Honeoye) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to be effective October 1, 2001:

First Revised Title Page

Second Revised Sheet No. 25

Take further notice that Honeoye tendered for filing as part of its FERC Gas Tariff, Original Volume No.1A, the following tariff sheets proposed to be effective October 1, 2001:

First Revised Sheets No. 1
First Revised Sheets No. 2
First Revised Sheets No. 3
First Revised Sheets No. 9
First Revised Sheets No. 21
First Revised Sheets No. 25
First Revised Sheets No. 70

First Revised Sheets No. 75
First Revised Sheets No. 105
First Revised Sheets No. 108
First Revised Sheets No. 129
First Revised Sheets No. 130
First Revised Sheets No. 135
First Revised Sheets No. 136
First Revised Sheets No. 137

Honeoye states that one of the purposes of this filing is to amend its Second Revised Volume No. 1 tariff to change Honeoye's administrative mailing address.

Honeoye states that the second purpose of this filing is to amend its Original Volume No. 1A tariff to: (1) Change Honeoye's administrative mailing address; (2) redesignate the title of its open access Gas Tariff where necessary from Original Volume No. 2 to Original Volume No. 1A; and (3) include a generic waiver of the ''shipper-must-have-title'' rule and a general statement that it will only transport for its customers on off-system pipeline capacity pursuant to its Commission-approved tariff and rates.

Honeoye states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–22333 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–520–000]

Questar Pipeline Company; Notice of Tariff Filing

August 30, 2001.

Take notice that on August 24, 2001, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Fifth Revised Sheet No. 80A and First Revised Sheet No. 80B, to be effective March 23, 2001.

On February 21, 2001, Questar filed tariff sheets in Docket No. RP01–233–000 to change the issuing officer and correct typographical errors in its tariff. The Commission approved those changes by letter order issued March 28, 2001. Among those tariff sheets, previously approved language was inadvertently omitted. This filing tenders tariff sheets to reinstate this language.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–22329 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–519–000]

Questar Pipeline Company; Notice of Tariff Filing

August 30, 2001.

Take notice that on August 24, 2001, Questar Pipeline Company (Questar) tendered for filing of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Fourth Revised Sheet No. 80A and Original Sheet No. 80B, to be effective November 1, 2000.

On October 10, 2000, Questar filed tariff sheets in Docket No. RP01–33–000 in compliance with Order No. 587–L (the October 10 filing), which was approved by the Commission's Order On Filings to Establish Imbalance Netting and Trading Pursuant to Order Nos. 587–G and 587–L, issued on November 9, 2000. Among those tariff sheets approved, Fourth Revised Sheet No. 80A was modified to contain carry-over language and inadvertently omitted effective tariff language that was not intended for deletion. The language that was inadvertently omitted in the October 10 filing is being tendered for reinstatement in this filing. These tariff sheets contain only the previously approved language.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–22330 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–521–000]

Trailblazer Pipeline Company ; Notice of Proposed Changes in FERC Gas Tariff

August 30, 2001.

Take notice that on August 27, 2001, Trailblazer Pipeline Company (Trailblazer) tendered for filing certain tariff sheets to become part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective September 27, 2001.

Trailblazer states that the purpose of this filing is to make several minor revisions to Trailblazer's Tariff, including changes to the General Terms and Conditions, to pro forma service agreements and rate schedules. These changes correct or clarify various provisions of Trailblazer's Tariff and remove or modify outdated provisions.

Trailblazer states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–22328 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–433–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application

August 30, 2001.

On August 27, 2001, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed an application in Docket No. CP01–433–000 pursuant to Sections 7(b) and 7(c) of the Natural Gas Act (NGA) for (1) a certificate of public convenience and necessity authorizing Transco's installation and operation of two electric motor driven centrifugal compressors at Transco's existing Compressor Station No. 35 in Harris County, Texas to comply with the Clean Air Act Amendments of 1990, and (2) an order permitting and approving abandonment by removal of the four existing natural gas-fired compressors at Station No. 35. To comply with requirements set by the Texas Natural Resource Conservation Commission (TNRCC) for the Metropolitan Houston-Galveston Intrastate Air Quality Control Region, Transco needs to start work at the station in January 2002, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' from the RIMS Menu and follow the instructions (please call (202) 208–2222 for assistance).

Transco states that the Clean Air Act Amendments of 1990 and state implementation plans pursuant thereto require certain reductions of NO_X (oxides of nitrogen) air emissions at certain of Transco's compressor stations. Accordingly, during the past few years and over the next few years Transco has and plans to install or modify certain facilities at these stations to achieve the required reductions of NO_X. In most cases, installations and modifications would be made on existing natural gas-fired compressors, and Transco would make these installations and modifications pursuant to its blanket facilities certificate (18 CFR 157.208) issued in Docket No. CP82–426 when it is authorized to do so (either under automatic or prior notice authorization, depending on the estimated dollar amount). However, at Station No. 35 the existing natural gas-fired compressors will be retired and replaced with units driven by electric motors, and thus Transco states it will need individual certificate and abandonment authority from the Commission.

Transco states that the facilities at Station No. 35 are located within a fenced area of approximately 23 acres. All proposed construction activities associated with the installation of the new facilities and removal of existing facilities will occur within the boundaries of the existing station property. Extensions to existing access roads will be located within the fenced area.

Transco states that it proposes to eliminate NO_X emissions from the existing natural gas-fired compressor engines located at Station No. 35. These NO_X emission reductions are required to comply with the TNRCC requirements set for the Metropolitan Houston-Galveston Intrastate Air Quality Control Region. This NO_X emissions elimination will be achieved by replacing the four existing compressors driven by Nordberg 3800 HP natural gas-fired engines with two new centrifugal compressors, each driven by a 7455 HP General Electric synchronous electric motor. The horsepower of the new units will be sufficient to meet Transco's contract obligations to its firm shippers.

Transco states that a new compressor building housing the new units will be approximately 75 feet x 110 feet. This compressor building will be constructed north of the existing pipeline. Yard piping will be modified to accommodate the new building. A new 35 foot by 72 foot auxiliary building will be constructed to house control and safety equipment and an emergency generator. A new 16 foot by 50 foot skid-mounted switchgear building will be constructed to house the electrical equipment for the electric driven centrifugal compressors.

Transco states a new substation will be constructed for the transformers and electrical equipment that will supply electric power to the electric driven centrifugal compressors. The substation area will be approximately 120 feet x 200 feet and will be located in the northwest corner of the property. The substation will be constructed and owned by Transco. The substation will receive electric power via a high voltage service drop from an existing transmission line of Houston Lighting and Power Company, located along the western edge of the station property.

Transco states that approximately four acres of the existing station site will be impacted by the installation activity.

Transco states that no ground or surface water impacts will occur as a result of this project. The existing fenced station facility property does not contain any wetlands or surface water bodies. Areas disturbed by the installation activity will be restored and maintained according to applicable provisions in the Commission's Upland Erosion Control, Revegetation, and Maintenance Plan (''Plan'').

Transco states that the station noise emissions after the installation of the new electric units will be equal to or lower than the current station noise emissions at the nearest noise-sensitive areas.

Transco states that the above-discussed installations will cost approximately $18.2 million.

Transco states that no air permits are required for the compressor conversion, although a new natural gas-fired auxiliary generator will be registered with the TNRCC, at which time it will be authorized under a Permit-By-Rule. The TNRCC Title V permit will be modified upon the completion of this NO_X emission reduction project. Other than the above, Transco is not aware of any application to supplement or effectuate the proposal set forth herein which must be or is to be filed by Transco, any of Transco's customers, or any other persons with any other Federal, State or regulatory body.

Transco states that the construction and operation of the proposed facilities will have no significant impact on the quality of human health or the environment other than the positive impact of reducing NO_X emissions. Transco certifies that the proposed facilities will be designed, constructed, operated and maintained in accordance with all applicable safety standards and plans for maintenance and inspection.

Transco states that because of installation of the new electric units, the existing natural gas-fired compressors and associated equipment will not be needed. Accordingly, the four units and all associated equipment required for operation of these units will be removed. The existing compressor building will be demolished and removed. This will require the disturbance of an additional one acre within the Station No. 35 site. This area will be restored pursuant to the Commission's Plan and maintained as a grassy area. The estimated cost of this removal work is approximately $2.5 million.

Transco submits that this project will serve the public convenience and necessity because it will eliminate NO_X emissions at Station No. 35 and enable Transco to comply with the Clean Air Act Amendments of 1990 and the requirements set by the TNRCC for the Metropolitan Houston-Galveston Intrastate Air Quality Control Region.

Transco's contact person for this project is Tom Messick, P.O. Box 1396, Houston, Texas 77251, at (713) 215–2772.

There are two ways to become involved in the Commission's review of this abandonment. First, any person wishing to obtain legal status by becoming a party to the proceedings for this abandonment should, on or before September 20, 2001, file with David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding. Copies of this filing are on file with the Commission and are available for public inspection. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this abandonment. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the abandonment provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this abandonment should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–22336 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of New Docket Prefix ''AD''

August 30, 2001.

Notice is hereby given that a new docket prefix ''AD'' has been established to identify Administrative items which may be listed on the Commission meeting schedule.

The prefix will be ADFY–NNN–000, where ''FY'' stands for the fiscal year in which the item is being scheduled, and ''NNN'' is a sequential number.

David P. Boergers,

Secretary.

[FR Doc. 01–22338 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–285–000, et al.]

FPL Energy Operating Services, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 30, 2001.

Take notice that the following filings have been made with the Commission:

1. FPL Energy Operating Services Inc.

[Docket No. EG01–285–000]

Take notice that on August 24, 2001, FPL Energy Operating Services, Inc. (the Applicant), with its principal office at 700 Universe Boulevard, Juno Beach, Florida 33408, filed with the Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it is a Florida corporation who entered into an O&M Agreement to operate and maintain (i) a nominal 708 megawatt (MW) gas-fired combined cycle power generation facility and (ii) a nominal 171 MW gas-fired simple cycle power generation facility (Facility) located in Ashland County, Virginia. Electric energy produced by the Facility is sold at wholesale.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

2. King City Energy Center, LLC.

[Docket No. EG01–286–000]

Take notice that on August 28, 2001, King City Energy Center, LLC (King City) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

King City, a Delaware limited liability company, proposes to own and operate one 45 MW simple cycle natural gas-fired combustion turbine peaking unit located in King City, California. King City will sell the output at wholesale to Calpine Energy Services, L.P., and other purchasers.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

3. Gilroy Energy Center, LLC.

[Docket No. EG01–287–000]

Take notice that on August 28, 2001, Gilroy Energy Center, LLC (Gilroy) filed with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Gilroy, a Delaware limited liability company, proposes to own and operate six simple cycle natural gas-fired combustion turbine peaking units located in Gilroy, California. Gilroy will sell the output at wholesale to Calpine Energy Services, L.P., and other purchasers.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

4. Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Metropolitan Edison Company, Potomac Electric Power Company, PECO Energy Company, PPL Electric Utilities Corporation, Public Service Electric and Gas Company, UGI Utilities, Inc.

[Docket No. ER01–897–002]

Take notice that on August 27, 2001 Atlantic City Electric Company, Baltimore Gas & Electric Company, Delmarva Power & Light Company, Metropolitan Edison Company, PECO Energy Company, Potomac Electric Power Company, PPL, Inc., Public Service Electric & Gas Company, UGI Utilities, Inc. tendered for filing in compliance with the Federal Energy Regulatory Commission's (Commission) delegated letter order issued on April 27, 2001, in the above captioned docket, pages which have been formatted to comply with the Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000) pagination requirements that are applicable to rate schedules: Atlantic City Electric Company Rate Schedule FERC No. 75; Delmarva Power & Light Company Rate Schedule FERC No. 124; Metropolitan Edison Company Rate Schedule FERC No. 77; PECO Energy Company Rate Schedule FERC No. 123; Potomac Electric Power Company Rate Schedule FERC No. 46; Public Service Electric and Gas Company Rate Schedule FERC No. 166; UGI Utilities, Inc. Rate Schedule FERC No. 9; Baltimore Gas and Electric Company Rate Schedule FERC No. 58; PPL Electric Utilities Corporation Rate Schedule FERC No. 168.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Pennsylvania Electric Company

[Docket No. ER01–900–002]

Take notice that on August 27, 2001 Pennsylvania Electric Company tendered its compliance filing with the Federal Energy Regulatory Commission's (Commission) delegated letter order issued on April 27, 2001, in the above captioned docket, pages which have been formatted to comply with the Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000) pagination requirements that are applicable to rate schedules: Pennsylvania Electric Company Rate Schedule FERC No. 63.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Pennsylvania Electric Company

[Docket No. ER01–901–002]

Take notice that on August 27, 2001, Pennsylvania Electric Power Company tendered its compliance filing with the Federal Energy Regulatory Commission's (Commission) delegated letter order issued on April 27, 2001, in the above captioned docket, pages which have been formatted to comply with the Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000) pagination requirements that are applicable to rate schedule: Pennsylvania Electric Company FERC Rate Schedule No. 100.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. CP&L Holdings, Inc., et al.

[Docket No. ER00–1520–003]

Take notice that on August 23, 2001, Progress Energy, Inc. (Progress Energy), on behalf of Carolina Power & Light Company (CP&L) and Florida Power Corporation (FPC), tendered for filing First Revised Rate Schedule FERC No. 1-System Integration Agreement between CP&L and FPC (Revised SIA) in compliance with CP&L Holdings, et al., 92 FERC ¶ 61,023 (2000).

Progress Energy respectfully requests that the Revised SIA become effective August 24, 2001, the day after filing.

Copies of the filing were served to North Carolina Utilities Commission,

the South Carolina Public Service Commission and the Florida Public Service Commission.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Services, Inc., On Behalf of the Entergy Operating Companies: Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc.

[Docket No. ER01–2201–001]

Take notice that on August 27, 2001, Entergy Services, Inc., on behalf of the Entergy Operating Companies, Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., tendered its compliance filing in response to the Federal Energy Regulatory Commission's (Commission) order in Entergy Services, Inc., 96 FERC 61,148 (2001).

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Entergy Services, Inc.

[Docket No. ER01–2214–001]

Take notice that on August 24, 2001, Entergy Services, Inc., tendered its compliance filing in response to the Federal Energy Regulatory Commission's (Commission) order in Entergy Services, Inc., 96 FERC ¶ 61,113 (2001).

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Metro Energy, L.L.C.

[Docket No. ER01–2317–001]

Take notice that on August 24, 2001, Metro Energy, L.L.C. (Metro Energy) made a compliance filing in the above-referenced proceeding, as directed by the Federal Energy Regulatory Commission's (Commission) August 13, 2001 letter order conditionally accepting Metro Energy's market-based rate schedule for filing.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. PJM Interconnection, L.L.C.

[Docket No. ER01–2351–001]

Take notice that on August 24, 2001, in compliance with PJM Interconnection, L.L.C., 96 FERC ¶ 61,210 (2001), PJM Interconnection, L.L.C. (PJM) tendered for filing proposed amendments to Section 18.17.1(b) to correct a typographical error.

PJM states that it served copies of this filing on all parties of record in Docket No. ER01–2351–000, all PJM members, and the state electric regulatory commissions in the PJM control area.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. AES Red Oak, L.L.C.

[Docket No. ER01–2401–001]

Take notice that on August 23, 2001, AES Red Oak, L.L.C. revised its Market Based Rate Tariff (FERC Electric Tariff Original Vol. No. 1), Docket No. ER01–2401–000 in accordance with the Federal Energy Regulatory Commission's (Commission) Rules and Regulations.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Competitive Energy Services, LLC

[Docket No. ER01–2562–001]

Take notice that on August 24, 2001, Competitive Energy Services, LLC (CES) filed a supplement to its application for market-based rates as power marketer. The supplemental information pertains to the ownership of CES.

Copies of this filing are on file with the Commission and are available for public inspection.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power Corporation

[Docket No. ER01–2621–001]

Take notice that on August 24, 2001, Florida Power Corporation (FPC) tendered for filing a revision to its Cost-Based Wholesale Power Sales Tariff, FERC Electric Tariff, First Revised Volume No. 9 (CR–1 Tariff). The CR–1 Tariff is revised to include provisions for affiliate sales, consistent with Detroit Edison Company, 80 FERC ¶ 61,348 (1997), and provisions for the resale of transmission rights, consistent with Commonwealth Edison Company, 78 FERC ¶ 61,312 (1997). FPC requests that the revision become effective August 25, 2001.

Copies of the filing were served upon FPC's customers receiving service under the CR–1 Tariff and the Florida Public Service Commission.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Western Resources, Inc.

[Docket No. ER01–2752–000]

Take notice that on August 24, 2001, Western Resources, Inc.(WR) filed for withdrawal of Service Agreement No. 87 of Federal Energy Regulatory Commission (FERC) Electric Tariff First Revised No. 6 with Southern Company Energy Marketing L.P. (Southern). WR states the reason for the withdrawal is due to the fact that its submission on August 1, 2001, is duplicative to a previously accepted filing. WR requests an effective date of withdrawal of August 1, 2001.

Notice of the withdrawal has been served upon Southern and the Kansas Corporation Commission.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. New England Power Pool

[Docket No. ER01–2922–000]

Take notice that on August 27, 2001, the New England Power Pool (NEPOOL) submitted, with the support and concurrence of ISO New England Inc. and National Grid USA (on behalf of its subsidiary, New England Power Company (NEP)), a filing pursuant to Section 205 of the Federal Power Act and Section 35 of the Federal Energy Regulatory Commission's (Commission) regulations, describing a transmission maintenance/construction pilot project relating to the refurbishment by NEP of a 345 kV PTF line located in central Massachusetts (Line 343). The Transmission Incentive Pilot concerns the refurbishment by NEP of Line 343 using innovative work practices to minimize line outages, resulting in avoided energy costs for New England customers.

The NEPOOL Participants Committee states that a copy of this filing was sent to the NEPOOL Participants and the New England state governors and regulatory commissions.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Entergy Services, Inc.

[Docket No. ER01–2923–000]

Take notice that on August 27, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a long-term Firm Point-To-Point Transmission Service Agreement between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Duke Energy Trading and Marketing, LLC.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. West Valley Generation LLC

[Docket No. ER01–2942–000]

Take notice that on August 13, 2001, West Valley Generation LLC changed their name from PPM Six LLC in accordance with Section 35.16 of the Federal Energy Regulatory Commission's Rules and Regulations.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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 this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–22365 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

August 30, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. Application for Approval to Amend Project Boundary.

b. Project No. 2651–018.

c. *Date Filed:* August 6, 2001.

d. *Applicant:* Indiana Michigan Power Company.

e. *Name of Project:* Elkart Hydroelectric Project.

f. St. Joseph River, Elkart Indiana.

g. Filed Pursuant to: Federal Power Act, 16 USC §§ 791(a) 825(r) and §§ 799 and 801.

h. *Applicant Contact:* Mr. Frank M. Simms, Fossil and Hydro Operations, American Electric Power, 1 Riverside Plaza, Columbus, Ohio 43215–2373, (614) 223–2918, *fmsimms@aep.com.*

i *FERC Contact:* Any questions on this notice should be addressed to: Samuel Edoror at (202) 208–0848, or e-mail address: *samuel.edoror@ferc.fed.us.*

j. *Deadline for filing comments and or motions:* October 1, 2001.

All documents (original and eight copies) should be filed with: Mr. David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Please include the project number (P–2651–018) on any comments or motions filed.

k. *Description of Request:* Indiana Michigan Power Company (I&M) proposes to revise the boundary to allow water access to several parcels of land within an adjacent subdivision. (I&M) plans to convey fee interest for less than one acre of land within the project reservoir to allow an adjacent developer to access the St. Joseph River by dredging a 300 feet long channel. In return, the developer will convey a flowage easement for the parcel, plus the easement of lands within the channel up to elevation 743.00.

l. *Location of application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rule of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTESTS'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–22334 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7048–6]

Agency Information Collection Activities: Proposed Collection; Comment Request; ''Stakeholder Preferences Regarding Environmental Quality, Quality of Life, and Economic Development in Survey of Cape May County, New Jersey''

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: Stakeholder Preferences Regarding Environmental Quality,

Quality of Life, and Economic Development in Survey of Cape May County, New Jersey, EPA ICR No. 2019.01. 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 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 2019.01 to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, N.W., 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. 2019.01. For technical questions about the ICR contact Dr. Janet L. Gamble at (202) 564–3387.

SUPPLEMENTARY INFORMATION:

Title: Stakeholder Preferences Regarding Environmental Quality, Quality of Life, and Economic Development in Survey of Cape May County, New Jersey, EPA ICR No. 2019.01. This is a new collection.

Abstract: The Pennsylvania State University (PSU) in cooperation with the Global Change Research Program (GCRP) in the Office of Research and Development (ORD) of the U.S. Environmental Protection Agency (EPA) is proposing to conduct a survey of individual residents and business managers in Cape May County, New Jersey. The survey will solicit Cape May County (NJ) residents' perceptions about their quality of life, how they prioritize risks to their quality of life, and their judgments about trade-offs among alternative actions that would reduce vulnerability to these risks. The focus will be on risks related to changes in land-use practices such as development of open land, and risks related to the potential for storm damages that could accompany sea-level rise or climate change. The survey approach also will solicit business managers' perceptions of direct and indirect risks from flooding.

This data collection is motivated by the Mid-Atlantic Regional Assessment of the Potential Consequences of Climate Variability and Change (MARA), that showed that many potential impacts from climate change will exacerbate existing environmental stresses, particularly those from economic development and sea level rise. Yet little is known about how individuals and their communities are willing to make trade-offs between protection of nearby ecosystems and local economic development. This is particularly important in coastal communities where a major component of many livelihoods stems from tourism based on ecological features such as migratory bird habitat. Paradoxically, development decisions to accommodate more tourists could decrease the habitat for the ecosystems that attract tourists. This could be compounded by failing to account for climate change and for the sea-level rise that is occurring as Mid-Atlantic coastal areas subside; sea-level rise and climate change could affect both ecosystem habitat as well as developed areas. Decisions by individual citizens, businesses, developers, local planners, and environmental protection agencies could be improved by having information about the relative importance of a range of quality-of-life characteristics, including habitat and infrastructure protection, when compared with economic development. Because Cape May County has many of these features, it is an appropriate test case for identifying preferences about such trade-offs.

The data is being collected by Penn State University in collaboration with EPA/ORD Global Change Research Program, under Cooperative Agreement No. R–82840701–0. This survey is not associated with any rule-making process within the Federal government. Instead, Penn State will use this research to demonstrate the potential usefulness of such an approach for localities that want more information about tradeoffs related to development decisions. For Cape May County, the data will be used to assess the relative importance of quality-of-life characteristics and citizens' willingness to make trade-offs among actions to improve the levels and resiliency of those characteristics. The results will be useful most directly for (and are expected to be used by) the residents of Cape May County. The development, pretesting and revision, implementation, and analysis of the data will demonstrate the usefulness of the questionnaire for implementation by other communities facing similar issues.

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 6, 2001 (66 FR 18239); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 12 minutes 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: Individuals/Households and Businesses/For Profit Entities.

Estimated Number of Respondents: 2125.

Frequency of Response: One time only.

Estimated Total Annual Hour Burden: 454 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $ 5,000.

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. 2019.01 in any correspondence.

Dated: August 23, 2001

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22374 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7048–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Hazardous Waste Generator Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Hazardous Waste Generator Standards, OMB Control Number 2050–0035, expiring on September 30, 2001. 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 9, 2001.

ADDRESSES: Send comments referencing EPA ICR No. 0820.08 and OMB Control 2050–0035, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; 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 call Sandy Farmer at EPA, (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. 0820.08. For technical questions about the ICR contact Bryan Groce at 703–308–8750.

SUPPLEMENTARY INFORMATION:

Title: Hazardous Waste Generator Standards (OMB Control Number 2050–0035; EPA ICR No. 0820.08.) expiring September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: In the Resource Conservation and Recovery Act (RCRA), as amended, Congress directed the U.S. Environmental Protection Agency (EPA) to implement a comprehensive program for the safe management of hazardous waste. The core of the national waste management program is the regulation of hazardous waste from generation to transport to treatment and eventual disposal, or from ''cradle to grave.'' Section 3001(d) of RCRA requires EPA to develop standards for small quantity generators. Section 3002 of RCRA among other things states that EPA shall establish requirements for hazardous waste generators regarding recordkeeping practices. Section 3002 also requires EPA to establish standards on appropriate use of containers by generators.

Finally, section 3017 of RCRA specifies requirements for individuals exporting hazardous waste from the United States, including a notification of the intent to export, and an annual report summarizing the types, quantities, frequency, and ultimate destination of all exported hazardous waste. This ICR targets five categories of informational requirements in part 262: pre-transport requirements for both large (LQG) and small (SQG) quantity generators; air emission standards requirements for LQGs (referenced in 40 CFR part 265, subparts I and J); recordkeeping and reporting requirements for LQGs and SQGs; and export requirements for LQGs and SQGs (i.e., notification of intent to export and annual reporting).

This collection of information is necessary to help generators and EPA (1) identify and understand the waste streams being generated and the hazards associated with them, (2) determine whether employees have acquired the necessary expertise to perform their jobs, and (3) determine whether LQGs have developed adequate procedures to respond to unplanned sudden or non-sudden releases of hazardous waste or hazardous constituents to air, soil, or surface water. This information is also needed to help EPA determine whether tank systems are operated in a manner that is fully protective of human health and the environment. Additionally, this information contributes to EPA's goal of preventing contamination of the environment from hazardous waste accumulation practices, including contamination from equipment leaks and process vents.

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 3, 2001 (66 FR 17701); no comments were received.

Burden Statement: The average annual public reporting burden per response for LQGs under this collection of information is estimated to range from 21 minutes to 32 hours, and the average annual public reporting burden per response for SQGs is estimated to range from 21 minutes to 7 hours. The average annual recordkeeping burden per response for LQGs under this collection of information is estimated to range from 2 minutes to 3 hours, and the average annual recordkeeping burden per response for SGQs is estimated at 1 hour. 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: Hazardous Waste Generators, Hazardous Waste Transporters who commingle waste with different Department of Transportation descriptions; and Importers or Exporters of Hazardous Waste.

Estimated Number of Respondents: 130,511.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 475,802 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $54,288.

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 following addresses listed above. Please refer to EPA ICR No. 0820.08 and OMB Control No. 2050–0035 in any correspondence.

Dated: August 23, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22370 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7048–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, National Emissions Standards for Hazardous Air Pollutants (NESHAP) From Petroleum Refineries

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: 40 CFR part 63, subpart CC—National Emissions Standards for Hazardous Air Pollutants from Petroleum Refineries; OMB Control Number (2060–0340); expiration date August 31, 2001. 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 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1692.04 and OMB No. 2060–0340, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and the 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 Susan Auby at EPA by phone at (202) 260–4901, by email at auby.susan@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No.1692.04. For technical questions about the ICR contact Dan Chadwick at (202) 564–7054.

SUPPLEMENTARY INFORMATION:

Title: National Emissions Standards for Hazardous Air Pollutants from Petroleum Refineries, 40 CFR part 63, subpart CC; OMB Control Number 2060–0340; EPA ICR Number 1692.04, expiring August 31, 2001. This is an extension of a currently approved collection.

Abstract: The information being requested includes a one-time report of construction, anticipated and actual start-up dates, and physical or operational changes to existing facilities; notification of compliance status reports; periodic reports; and event triggered (e.g., notification of installation of a new control device or reconstruction of an existing control device, notification of an intent to perform a performance test) reports. The periodic reports provide information on monitored control device parameters when they are outside of established ranges and on instances where inspections revealed problems. Records (e.g., parameter monitoring data, records of annual storage vessel inspections) are required to be maintained on-site for a minimum of 5 years.

Effective enforcement of the standards is necessary due to the hazardous nature of benzene (a known human carcinogen) and the other Hazardous Air Pollutants (HAP's) emitted from petroleum refineries. The required records and reports are necessary: (1) To enable EPA to identify new and existing sources subject to the standards, and (2) to assist EPA and State agencies to which enforcement has been delegated in determining compliance with the standards. The EPA uses the reports to identify facilities that may not be in compliance with the standards. Based on reported information, EPA can decide which facilities should be inspected and what records or specific emission sources should be inspected at each facility. The required records also provide an indication as to whether facility personnel are operating and maintaining control equipment properly.

In order to retain effective enforcement of the petroleum refinery NESHAP (sections 112 and 114 of the Clean Air Act) response to this information collection is mandatory. 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 September 15, 2000, (65 FR 55955); no comment were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1495 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 and operators of petroleum refineries.

Estimated Number of Respondents: 157.

Frequency of Response: Semi-annually.

Estimated Total Annual Hour Burden: 469,430 hours.

Estimated Total Annualized Capital and Operating & Maintenance Cost Burden: $542,173.

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 following addresses. Please refer to EPA ICR No.1692.05 and OMB Control No. 2060–0340 in any correspondence.

Dated: August 23, 2001

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22371 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7048–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Annual Updates of Emission Data to Aerometric Information Retrieval System

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: Annual Updates of Emission Data to Aeronmetric Information

Retrieval System, EPA ICR No. 916.11, OMB Control No. 2060–0088, Expiration Date August 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 916.11 and OMB Control No. 2060–0088, 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. 916.11. For technical questions about the ICR contact David Misenheimer, Telephone (919) 541–5473; Email: misenheimer.david@epa.gov.

SUPPLEMENTARY INFORMATION:

Title: Annual Updates of Emission Data to Aerometric Information Retrieval System (OMB Control No. 2060–0088; EPA ICR No. 916.11) expiring August 31, 2001. This is a request for extension of a currently approved collection.

Abstract: This ICR deals with reports required by 40 CFR 51.321, 51.322, and 51.323. The respondents (States) are required to annually update information on stationary sources emitting at least prescribed amounts of pollutants regulated by National Ambient Air Quality Standards (NAAQS) via electronic input to EPA. EPA's Office of Air Quality Planning and Standards (OAQPS) uses the annual emission reports to update a national data base on air emissions which it has maintained since 1974. The data is used in developing emission standards, applying dispersion models, preparing national trend assessments, preparing reports to Congress, providing information to the public, and other special analyses and reports. 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 June 13, 2001 (66 FR 31913); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 212 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 air pollution control agencies.

Estimated Number of Respondents: 54.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 11,448 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $29,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondents burden, including through the use of automated collection techniques to addresses listed above. Please refer to EPA ICR No. 916.11 and OMB Control No. 2060–0088 in any correspondence.

Dated: August 23, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22372 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7048–3]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, NSPS, Graphic Arts Industry Subject to New Source Performance Standards

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: New Source Performance Standards for the Graphic Arts Industry, OMB Control Number 2060–0105, expiration date August 31, 2001. 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 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 0657.07 and OMB Control No. 2060–0105, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-Mail at *auby.susan@epamail.epa.gov* or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 0657.07. For technical questions about the ICR , contact Kelli Smith at 202–564–2257.

SUPPLEMENTARY INFORMATION:

Title: NSPS for Graphic Arts Industry (OMB Control No. 2060–0105, expiration date August 31, 2001; EPA ICR No.0657.07). This is a request for extension of a currently approved collection.

Abstract: The EPA is charged under section 111 of the Clean Air Act, as amended, to establish standards of performance for new stationary sources that reflect:

* * * application of the best technological system of continuous emissions reduction which (taking into consideration the cost * * * and energy requirements) the Administrator determines has been adequately demonstrated (section 111(a)(l)).

In addition, section 114(a) requires that any owner or operator subject to any Subpart to establish and maintain records, make reports, install, use and maintain monitoring equipment or methods as required, and provide other

information as EPA may deem necessary.

The New Source Performance Standards (NSPS) for subpart QQ were proposed on October 28, 1980, and promulgated on November 8, 1982. These standards apply to each publication rotogravure printing press (not including proof presses) commencing construction, modification or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 60, subpart QQ.

Owners or operators of the affected facilities described have certain notification, reporting, and recordkeeping requirements under this rule. Examples of each of these respectively are: a one-time-only notification of the date of the anticipated and actual dates of startup, keeping records of monthly emissions calculations, and a reporting of the initial performance test. Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least two years following the date of such reports and records.

Approximately 30 facilities are currently subject to the standard, and it is estimated that an additional 3 facilities will become subject to the standard in the next three years, for a total of 33. It is further assumed that less than half of the existing facilities will be adding or modfiying a press during the three year period. Therefore there are 270 existing presses subject to this standard and an additional 10 affected units will be added each year. This is based upon the AIRS Facility Subsystem Report.

All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. Information is entered into the AIRS database.

Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated and the standard is being met. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard.

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 September 15, 2000; no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 65 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/Operators of Graphic Arts Industry.

Estimated Number of Respondents: 33.

Frequency of Response: On occasion, Semi-annually.

Estimated Total Annual Hour Burden: 3,871.

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.0657.07 and OMB Control No. 2060–0105 in any correspondence.

Dated: August 20, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22373 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7048–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; NESHAP for Equipment Leaks (Fugitive Emission Sources)

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: NESHAP for Equipment Leaks (Fugitive Emission Sources), OMB Control Number 2060–0068, expiration date August 31, 2001. 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 Octber 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1153.07 and OMB Control No. 2060–0068, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Susan Auby at EPA, (202) 260–4901,or download off the Internet at *http://www.epa.gov/icr/icr.htm* and refer to EPA ICR No. 1153.07. For technical questions about the ICR, contact Rafel Sanchez at 202–564–7028.

SUPPLEMENTARY INFORMATION:

Title: NESHAP for Equipment Leaks (Fugitive Emission Sources),OMB Control Number 2060–0068, EPA ICR Number 1153.07, expiring August 31,2001. This ICR is a revision of a currently approved collection.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Equipment Leaks (Fugitive Emission Sources) were proposed on January 5, 1981, and promulgated on June 6, 1984. These standards apply to fugitive emissions from equipment sources operating in volatile hazardous air pollutant (VHAP) service (containing or contacting fluids with at least 10% VHAP by weight). Affected facilities are those which own and/or operate pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, flanges and other connectors, product accumulator vessels, and control devices or systems in VHAP service. This information is being collected to assure compliance with 40 CFR part 61, subpart V.

EPA is taking action to have the requirements of this Information Collection Request, (40 CFR part 61, subpart V, OMB Control Number 2060–0068, EPA ICR Number 1153.07), authorized by OMB as an Information Collection option within the Information Collection Request for the Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry, (OMB Control Number 2060–0443, EPA ICR Number 1854.02). When approved by OMB, the separate Information Collection Request requirements under OMB Control Number 2060–0068, EPA ICR Number 1153.07 will not be necessary.

Owners or operators of the affected facilities described must make one-time-only notifications including: notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate, notification of the initial performance test, including information necessary to determine the conditions of the performance test, and performance test measurements and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports and records are required, in general, of all sources subject to the NESHAPs.

Monitoring requirements specific to the Equipment Leaks (Fugitive Emission Sources) NESHAP provides information on leak detection. Owners or operators are also required to submit semiannual reports of the number of valves, pumps, and compressors for which leaks were detected, and explanations for any leak repair delays.

Any owner or operator subject to the provisions of this part shall maintain a file of these reports and retain the file for at least two years following the date of such records.

Approximately 75 sources are currently subject to the standard, and no new sources are expected in the next three years. However, approximately two modified, reconstructed, or new process units are expected per year. The number of affected sources is expected to decline during the next three years. Therefore, the number of affected sources by this standard will remain unchanged from the previous submittal.

All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office.

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 February 01, 2001, (66 FR 8588) and no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 561 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/operators of equipment sources operating in volatile hazardous air pollutant (VHAP) service.

Estimated Number of Respondents: 21.

Frequency of Response: Semi-annually.

Estimated Total Annual Hour Burden: 23,558.

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 following addresses. Please refer to EPA ICR No. 1153.07 and OMB Control No.2060–0068 in any correspondence.

Dated: August 24, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22375 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7049–8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing

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: Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing, Subpart BBB, OMB Control Number 2060–0156, expiration date September 30, 2001. 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 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1158.07 and OMB Control No. 2060–0156, to the following addresses: Susan Auby, 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 Susan Auby at EPA by phone at (202) 260–4901, by E-mail at *Auby.Susan@epamail.epa.gov,* or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1158.07. For technical questions about the ICR contact Maria Malavé at (202) 564–7027 or via E-mail to *Malave.Maria@EPAMAIL.EPA.Gov.*

SUPPLEMENTARY INFORMATION:

Title: Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing, EPA ICR No. 1158.07; OMB Control No. 2060–0156, expiring September 30, 2001. This is a request for extension of a currently approved collection..

Abstract: NSPS Subpart BBB applies to affected facilities in rubber tire manufacturing plants that commence construction, modification or reconstruction after January 20, 1983.

The affected facilities include: Each underthread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, each Michelin-C automatic operation. The rule establishes standards for volatile organic compounds (VOCs) use and emission limits.

Monitoring, recordkeeping and reporting requirements allow the regulatory agencies to determine compliance with the standard. One time only reports are required to identify the affected facilities and the compliance method used. Notification of Method 25 performance is also required. Annual reports of Method 24 results to verify VOC content of water-based sprays would be 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 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 in the **Federal Register** on February 1, 2001, (66 FR 8588). No comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average about 167 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/operators of rubber tire manufacturing plants.

Estimated Number of Respondents: 43.

Frequency of Response: Annual and semiannual when a source has excess emissions.

Estimated Total Annual Hour Burden: 13,151 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $17,200.

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. 1158.07 and OMB Control No. 2060–0156 in any correspondence. .

Dated: August 27, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22376 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7049–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Underground Storage Tanks: Technical and Financial Requirements, and State Program Approval Procedures

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: Underground Storage Tanks, Technical and Financial Requirements, and State Program Approval Procedures, OMB Control Number 2050–0068, which expires on September 30, 2001. 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 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1360.06 and OMB Control No. 2050–0068, 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/icr and refer to EPA ICR No. 1360.06. For technical questions about the ICR contact Sammy Ng at the Office of Underground Storage Tanks (OUST) by phone at (703) 603–9900 or by E-mail at Ng.Sammy@epa.gov.

SUPPLEMENTARY INFORMATION: *Title:* Underground Storage Tanks, Technical and Financial Requirements and State Program Approval Procedures, OMB Control Number 2050–0068, EPA ICR Number 1360.06, expiring on September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: Subtitle I of the Resource Conservation and Recovery Act (RCRA), as amended, requires that the EPA develop standards for Underground Storage Tanks (UST) systems as may be necessary to protect human health and the environment, and procedures for approving State programs in lieu of the Federal program. EPA promulgated technical and financial requirements for owners and operators of USTs at 40 CFR part 280, and State program approval procedures at 40 CFR part 281. This ICR is a comprehensive presentation of all information collection requirements contained at 40 CFR parts 280 and 281. The data collected under 40 CFR part 280 are used by the owners and operators and/or EPA or the implementing agency to monitor results of testing, inspections, and operations of UST systems, as well as to demonstrate compliance with regulations. EPA believes strongly that, if the minimum requirements specified under the regulations are not met, neither the facilities nor EPA can ensure that UST systems are being managed in a manner protective of human health and the environment. The data collected under 40 CFR part 281 are used by EPA to determine whether to approve a State program. Before granting approval, EPA must determine that programs will be no less stringent than the Federal program and contain adequate enforcement mechanisms.

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 March 19, 2001 (66 FR 15423); no comments were received.

Burden Statement: For UST facilities, the annual reporting and recordkeeping burden is estimated to average 23 hours per respondent. For States applying for program approval, the annual reporting and recordkeeping burden is estimated to average 48 hours per respondent. 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: Entities potentially affected by this information collection are those facilities that own and operated USTs and those States that implement the UST programs.

Estimated Number of Respondents: 261,904.

Frequency of Response: As needed.

Estimated Total Annual Burden: 6,025,543 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $363.56 million.

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. 1360.06 and OMB Control No. 2050–0068 in any correspondence.

Dated: August 27, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22378 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50889; FRL–6794–1]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits (EUPs) to the following pesticide applicants. An EUP permits use of a pesticide for experimental or research purposes only in accordance with the limitations in the permit.

FOR FURTHER INFORMATION CONTACT: By mail: Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

In person or by telephone: Contact the designated person at the following address at the office location, telephone number, or e-mail address cited in each EUP: 1921 Jefferson Davis Hwy., Arlington, VA.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this action, consult the designated contact person listed for the individual EUP.

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

You may obtain electronic copies of this document from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

II. EUPs

EPA has issued the following EUPs:

68467–EUP–2. Amendment. Mycogen Seeds c/o Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268–1054. The EUP amendment/extension for *Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production (Plasmid Insert PHI8999) in corn plants was published in the **Federal Register** of January 17, 2001 (66 FR 4020) (FRL–6740–2). This subsequent amendment allowed 55 acres from the Nebraska approved total to be planted in Puerto Rico. The transfer reduced the state acreage in Nebraska from 161.96 to 106.96 acres and increased the state acreage in Puerto Rico from 34 to 89 acres. This permit was issued with the limitation that all treated crops be destroyed or used for research purposes only. (Mike Mendelsohn; Rm. 910W13, Crystal Mall #2; telephone number: (703) 308–8715; e-mail address: mendelsohn.mike@epa.gov).

73049–EUP–1. Amendment/Extension. Valent BioSciences Corporation. This EUP allows the use of 292 pounds of the plant regulator aminoethoxyvinylglycine (AVG) on 2,650 acres of stone fruits (apricots, cherries, nectarines, peaches, plums, and prunes) to evaluate harvest benefits in an expanded use area (larger-scale field testing). The program is authorized only in the States of Alabama, Arkansas, California, Georgia, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Virginia, and Washington. The EUP is effective from June 25, 2001 to December 21, 2003. A temporary tolerance of 0.170 part per million (ppm) has been established for residues of the active ingredient in or on food commodities of the stone fruit crop group. (Denise Greenway; Rm. 910W59, Crystal Mall #2; telephone number: (703) 308–8263; e-mail address: greenway.denise@epa.gov).

Persons wishing to review these EUPs are referred to the designated contact person. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: August 23, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–22380 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7050–3]

Proposed CERCLA Prospective Purchaser Agreement; Sanitary Landfill Company (IWD) Superfund Site; Moraine, OH

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9601 et seq., and the authority of the Attorney General of the United States to compromise and settle claims of the United States as delegated, notice is hereby given of a proposed prospective purchaser agreement concerning the Sanitary Landfill Company (IWD) Superfund Site at 1855 Cardington Road in Moraine, Ohio with Debpat, LLC (''Debpat''). The agreement requires the Debpat to pay $5,000.00 to the Hazardous Substance Superfund. Debpat intends to renovate and use an existing warehouse on the property. The agreement includes a covenant not to sue the City of Canton under sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a) and it imposes certain institutional controls on Debpat. For thirty (30) days following the date of publication of this notice, the United States will receive written comments relating to the agreement. The United States will consider all comments received and may modify or withdraw its consent to the agreement if comments received disclose facts or considerations which indicate that the agreement is inappropriate, improper, or inadequate. The United States' response to any comments received will be available for public inspection at U.S. EPA, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604. Please contact Karen L. Peaceman at (312) 353–5751 to make arrangements to inspect the comments.

DATES: Comments must be submitted on or before October 9, 2001.

ADDRESSES: The proposed settlement is available for public inspection at U.S. EPA, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604. A copy of the proposed agreement may be obtained from Karen L. Peaceman, at U.S. EPA, Region 5, 77 W. Jackson Boulevard (C–14J), Chicago, IL 60604, phone (312) 353–5751. Comments should reference the Sanitary Landfill Company (IWD) Superfund Site prospective purchaser agreement, and should be addressed to Karen L. Peaceman.

FOR FURTHER INFORMATION CONTACT: Karen L. Peaceman, at U.S. EPA, Region 5, 77 W. Jackson Boulevard (C–14J), Chicago, IL 60604, phone (312) 353–5751.

Dated: July 20, 2001.

William E. Muno,

Director, Superfund Division, U.S. EPA Region 5.

[FR Doc. 01–22377 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–59378; FRL–6795–1]

Toxic Substances Control Act; Certain Chemicals and Microorganisms; Premanufacture Notices; High Production Volume Challenge Program; Delay in Processing Due to Move of Offices; Extension of Review Periods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Office of Pollution Prevention and Toxics (OPPT) is expected to move a number of its offices on November 1, 2001, from the current location at 401 M St., SW., to 1200 Pennsylvania Ave., NW., in Washington, DC. The move is expected to cause limited delay in OPPT's processing of certain documents submitted for review, including notices submitted under section 5 of the Toxic Substances Control Act (TSCA). EPA is requesting submitters' cooperation in handling this temporary interruption in operations. Other units within OPPT will also be moving at various times before or after this date. This notice discusses how OPPT's move will affect the processing of different types of TSCA section 5 notices, as well as certain documents submitted under the High Production Volume (HPV) Challenge Program. These documents fall into several categories as described below in the notice.

DATES: The anticipated move date is November 1–2, 2001, as of today's **Federal Register** notice, and should this date change, EPA will publish another **Federal Register** notice. For information on other relevant dates, see Unit II.B. of **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: For the New Chemicals Program: Flora Chow, Chief, New Chemicals Notice Management Branch, Chemical Control Division (7405), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–3725, facsimile: (202) 260–0118.

For the HPV Challenge Program: Barbara Leczynski, Chief Existing Chemicals Branch, Chemical Control Division (7405), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–3945, facsimile: (202) 260–1096.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Document Apply to Me?

You may be affected by this document if you are, or may in the future be, a manufacturer or importer of a chemical substance that requires submission of a Premanufacture Notice (PMN), a manufacturer or importer of a microorganism that requires submission of a Microbial Commercial Activity Notice (MCAN), or the manufacturer, importer or processor of a chemical substance for a significant new use that requires a Significant New Use Notice (SNUN), under section 5 of TSCA (15 U.S.C. 2604), or an exemption from these requirements. Particularly affected are submitters of such notices with review periods scheduled to expire between October 25, 2001, and November 15, 2001, and persons wishing to submit new notices between October 25, 2001, and November 8, 2001.

Potentially affected entities may include, but are not limited to the following:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Chemical manufacturers or importers	325, 32411	Anyone who plans to manufacture or import a new chemical substance (including microorganisms), or who intends to manufacture, import or process a chemical substance for a significant new use, for a non-exempt commercial purpose is required to provide the EPA with a PMN or MCAN or SNUN at least 90 days prior to the activity. Any TSCA chemical substance that is not on the TSCA Inventory is classified as a new chemical.

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

This document may also apply to you if you are a sponsor of a HPV chemical under the Agency's voluntary HPV Challenge Program.

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

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

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–59378. The official record consists of the documents specifically referenced in this action, any public comments received, and other information related to this action, including any information claimed as 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, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260–7099.

II. Background

A. What is the Agency's Authority for Taking this Action?

Section 5 of TSCA and 40 CFR part 720 require any person who intends to manufacture (defined by statute to include import) a new chemical substance (i.e., a chemical not on the TSCA section 8(b) Inventory) to notify EPA at least 90 days before commencing non-exempt commercial manufacture in the form of a Premanufacture Notice (PMN). At least 90 days advance notice for manufacture of new microorganisms is required under 40 CFR part 725 in the form of a Microbial Commercial Activity Notice (MCAN). Under section 5 of TSCA and 40 CFR part 721, any person intending to manufacture or process a chemical substance for a significant new use, as designated by EPA in a Significant New Use Rule (SNUR), must also give EPA at least 90 days advance notice in the form of a SNUN. SNURs for microorganisms appear at 40 CFR part 725, subpart M.

There are a number of exemptions from the above-described 90–day PMN, MCAN and SNUN notice requirements. Several of these exemptions require submitting to EPA a written notice or application, which is subject to a review period shorter than 90 days. For example, pursuant to TSCA section 5(h)(1), EPA has promulgated a Test Market Exemption (TME) from all three of the 90–day notice requirements. The TME from the PMN requirement appears at 40 CFR 720.38; the TME from the MCAN requirement is codified in 40 CFR part 725, subpart F (§§ 725.300–725.370); and the TME from the SNUN requirement appears at 40 CFR 721.45(a). Under TSCA section 5(h)(4), EPA promulgated at 40 CFR 721.50 a Low Volume Exemption (LVE) and a Low Release/Low Exposure (LOREX) Exemption from the PMN requirement. The rule in 40 CFR part 725 pertaining to genetically engineered microorganisms provides several exemptions from the 90–day MCAN requirement, including the TSCA Experimental Release Application (TERA) in 40 CFR part 725, subpart E, and the Tier I and Tier II Exemptions in 40 CFR part 725, subpart G.

A submitter may, with EPA's agreement, voluntarily suspend the review period for all these types of notices. Suspensions longer than 15 days must be documented in writing. Suspensions for PMNs, SNUNs, and exemptions therefrom are authorized at 40 CFR 720.75(b). Suspensions for MCANs and exemptions therefrom are authorized at 40 CFR 725.54.

TSCA section 26(c) authorizes EPA to take action with respect to a category of chemical substances. Under TSCA section 5(c), EPA has authority to unilaterally extend the notice review period for PMNs, MCANs and SNUNs. (See also 40 CFR 720.75(c) for PMNs and SNUNs, and 40 CFR 725.56 for MCANs.) However, extensions of the review period for an individual TSCA section 5 notice shall not total more than 90 days. Because the extension described in this **Federal Register** notice is for less than 90 days, EPA reserves the right under TSCA section 5(c) to issue, for good cause, future additional extensions for individual cases up to a total of 90 days.

B. What Action is the Agency Taking in Regard to TSCA Section 5, and Which Notices are Affected by this Action?

EPA's Office of Pollution Prevention and Toxics is moving its offices from the current location at 401 M St., SW., to 1200 Pennsylvania Ave., NW., in Washington, DC. Prior to a move scheduled to occur on November 1, 2001, EPA will conduct an inventory of documents containing CBI in the current location. After relocation, the holdings will be re-inventoried to verify the complete transfer to the new offices. Because of these activities, EPA is taking the following actions and is requesting the assistance of notifiers as described in this unit:

Category 1—TSCA section 5 notices and exemptions submitted to EPA between October 25, 2001, and

November 8, 2001. OPPT will not process any new documents during the 15–day period centered around the November 1, 2001, move date, that is from October 25, 2001, to November 8, 2001. Therefore, the review period for any TSCA section 5 notice submitted between October 25, 2001, and November 8, 2001, will not begin until OPPT resumes normal operations and the TSCA Document Control Office (DCO) receives the document on November 9, 2001, or as soon thereafter as practicable. EPA strongly discourages companies from submitting new notices or exemption applications to OPPT during this time. Also during this period, companies should refrain from submitting any related documents, such as notice of commencement (NOC), prenotice correspondence, consolidation requests, notice of bona fide intent to manufacture, amendments to notices, etc.

Category 2—TSCA section 5 exemptions scheduled to expire between October 25, 2001, and November 15, 2001. For any exemption applications for which the review period is scheduled to expire between October 25, 2001, and November 15, 2001, and which have not been granted by EPA, EPA is requesting submitters to voluntarily suspend the review period until after November 15, 2001. EPA needs to receive these suspensions before October 25, 2001. An additional week is required for these ememptions in *Category 2* to ensure there is suffiecient time to dertimine that the exemptions will not present unreasonalbe risk.

Category 3—TSCA section 5 PMNs, MCANs, and SNUNs scheduled to expire between October 25, 2001, and November 8, 2001. Under the authority of TSCA sections 5(c) and 26(c), EPA is hereby extending the notice review period an additional 15 days for any PMN, MCAN or SNUN for which the review period is scheduled to expire between October 25, 2001, and November 8, 2001, and which are not voluntarily suspended beyond November 8, 2001, except those notices that will not be regulated by EPA, as described in Unit II.D. However, EPA encourages submitters of any notices due to expire between October 25, 2001, and November 8, 2001, to provide voluntary suspensions of the review period beyond November 8, 2001, so that the 15–day unilateral extension under TSCA section 5(c) will not apply to those notices.

C. Are Only TSCA Section 5 Notices Affected?

No, there is another category of documents that will be affected by OPPT's move:

Category 4—Chemical Right-to-Know documents. It is also expected that the move may affect the initial completeness review and posting on the Chemical Right-to-Know (ChemRTK) website (www.epa.gov/chemrtk) of test plans and robust summaries submitted to the Agency under the HPV Challenge Program, as well as the review of submissions for which the 120–day public review period has already begun. Additional information on this program and any delays that may occur can be found at the above ChemRTK website and in Unit II.G. below.

D. Which Notices Will Not Be Affected?

The review period will not be affected for the following notices and exemption applications:

1. PMNs, MCANs, SNUNs, and Low Volume Exemptions for which ''Drop'' or ''Grant'' decisions have been posted on the New Chemicals Program ''Current Status of PMNs'' webpage (http://www.epa.gov/oppt/newchems/dropstat.htm) before October 25, 2001.

2. Low Release and Exposure (LOREX) Exemptions and TMEs for which an EPA representative has orally informed the submitter that EPA has made a ''Grant'' decision for the case.

For these TSCA section 5 notices and exemption applications, because no further review or regulatory action is anticipated, EPA expects to allow the review period to expire without further suspension or extension.

E. If I Am the Submitter of an Affected PMN, MCAN, SNUN, or Exemption Application, What Do I Need to Do?

If you have submitted a notice or notices that fall into any of the categories for which EPA is requesting a voluntary suspension, and you wish to submit such a suspension, you should send a written suspension to the TSCA DCO in accordance with 40 CFR 720.75(b) or 40 CFR 725.54 for microorganisms. You should also contact the OPPT Program Manager assigned to your notice or exemption. If you do not know how to contact the Program Manager, you should contact Flora Chow, Chief, New Chemicals Notice Management Branch, at (202) 260–3725.

There is a possibility that the chemical substances submitted for review in the TSCA section 5 notices in Category 3 (i.e., PMNs, MCANs or SNUNs for which the review period is scheduled to expire between October 25, 2001, and November 8, 2001, and which are not dropped or voluntarily suspended beyond November 8, 2001) may be regulated by EPA under TSCA. EPA requires an extension of the review periods to complete its risk assessment, to examine its regulatory options, and to prepare the necessary documents, should regulatory action be required. Therefore, EPA has determined that good cause exists to extend, under TSCA section 5(c) and 40 CFR 720.75(c), the review period for each such TSCA section 5 notice. Pursuant to 40 CFR 720.75(c)(2)(i), EPA will notify each submitter of such notices that the notice review period will be extended for the reasons set forth in this notice.

F. What Happens If I Submit a TSCA Section 5 Notice During this 15–Day Period?

Any notices submitted to the TSCA DCO between October 25 and November 8 will not be ''received'' by the Agency and the 90–day review period will not commence until the document is processed by the TSCA DCO. (See e.g., 40 CFR 720.75(a) and 40 CFR 725.50.) Because no document processing activities will occur during this 15–day period, all companies are encouraged to refrain from submitting any TSCA section 5 notices or exemption applications, or related actions, such as notice of commencement (NOC), prenotice correspondence, consolidation requests, notice of bona fide intent to manufacture, amendments to notices, etc., to the Agency. The Agency intends to expeditiously process documents after the 15th day, when normal operations resume. However, depending on the number of documents pending on November 9, 2001, it may take several days before all these documents are officially ''received'' and the review period commenced.

G. What Effect Will this Action Have on Submissions to the Agency Under the HPV Challenge Program?

OPPT's move, which will be phased over several months, may affect the review of submissions under the HPV Challenge Program. Sponsors of chemicals in the voluntary HPV Challenge Program submit test plans and robust summaries of existing data to the Agency for a 120–day review. EPA conducts an initial review of such submissions to determine whether all materials needed for the technical review are included. All submissions under the HPV Challenge Program are then made publicly available on the EPA Chemical Right-to-Know (ChemRTK) website (www.epa.gov/

chemrtk) for a 120–day review period prior to the start of any new testing. The Agency completes its technical evaluation of the complete submission during the 120–day period, and forwards its comments to the sponsor and posts them on the website. However, the initial completeness review and posting on the ChemRTK website of newly submitted test plans and robust summaries may be delayed as a result of the move. Submissions for which the 120–day review period has already started may also be affected. Additional information on this program and any delays that may occur can be found at the ChemRTK website.

H. Was this Action Submitted to Congress and the Comptroller General?

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before the Agency can impose binding requirements like those contained in a rule, the Agency must submit a report, which includes a copy of the document, to each House of the Congress and to the Comptroller General of the United States. Although this document is not a rule, it is binding in the sense that the suspensions announced in here are binding. EPA will submit a report to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to its publication in the **Federal Register**. This action is not ''major'' as defined by 5 U.S.C. 804(2).

List of Subjects

Environmental protection, Chemicals, Chemical right-to-know, High Production Volume, Microorganisms, Premanufacture notices, Test marketing exemptions.

Dated: August 17, 2001.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–22379 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of New Exposure Draft *Accounting for National Defense PP&E and Associated Cleanup Costs*

Board Action

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October, 1999, notice is hereby given that the Federal Accounting Standards Advisory Board has published a new exposure draft, *Accounting for National Defense PP&E and Associated Cleanup Costs.*

Summary of the Proposed Statement

On August 29, 2001, the Federal Accounting Standards Advisory Board (FASAB) released for public comment an exposure draft (ED) to amend Statement of Federal Financial Accounting Standards (SFFAS) No. 11, *Amendments to Accounting for Property, Plant, and Equipment—Definitional Changes,* which was issued in December 1998; SFFAS, No. 8, *Supplementary Stewardship Reporting,* which was issued in June 1996; and SFFAS No. 6, *Accounting for Property, Plant, and Equipment,* which was issued in November 1995. The proposed amendments would change the definition of ND PP&E, the method of accounting for it, and the information reported about it. The exposure draft, entitled *Accounting for National Defense PP&E and Associated Cleanup Costs,* amending SFFAS No. 11, *Amendments to Accounting for Property, Plant, and Equipment—Definitional Changes,* SFFAS No. 8, *Supplementary Stewardship Reporting,* and SFFAS No. 6, *Accounting for Property, Plant, and Equipment* will be out for comment until November 29, 2001.

In the existing standards, ND PP&E consists of: (a) PP&E components of weapons systems and support PP&E owned by the Department of Defense or its component entities for use in the performance of military missions and (b) vessels held in a preservation status by the Maritime Administration's National Defense Reserve Fleet. Expenditures made to acquire, replace, or improve those PP&E are recognized as an expense in the period incurred, rather than being recognized as assets on the balance sheet. In addition, ND PP&E valuation (using either a historical or latest acquisition cost valuation method), condition, and deferred maintenance information are to be reported as Required Supplementary Stewardship Information (RSI). Also, the total estimated cleanup cost for ND PP&E is to be recognized as an expense in the period the asset is placed into service.

In early 1998, the FASAB issued an exposure draft to amend SFFAS Nos. 6 and 8. The exposure draft was initiated (1) to respond to definitional questions from several agencies, and (2) in recognition of the need to provide a transition plan in light of DoD's inability to comply with the provisions of SFFAS No. 8. During the process, the Board reconsidered whether SFFAS No. 8 was an appropriate end goal. Ultimately, the 1998 exposure draft included, among other proposals, proposals to replace the requirement to report cumulative cost information in the supplementary stewardship report with a requirement to report ND PP&E annual acquisition costs for each of five years (i.e., annual trend information rather than cumulative costs), unit, and condition information. In addition to considering the written comments, FASAB held a public hearing on these proposals to explore further the concerns expressed by some respondents.

After the public comment period and hearing, the Board proceeded to issue standards relating to various aspects of the proposal. In December of 1998, the FASAB issued SFFAS No. 11, Amendments to Accounting for Property, Plant, and Equipment—Definitional Changes, which amended SFFAS Nos. 6 and 8. SFFAS No. 11 accomplished only the definitional changes sought in the 1998 ED. Because of the divergent views of both respondents and Board members on accounting for ND PP&E, the FASAB did not reach a final conclusion on revisions to the reporting requirements for ND PP&E in SFFAS No. 8.

The amendments proposed in this ED would make the following changes. The definition of ND PP&E would be amended. ND PP&E would consist of 2 separate categories of items within the amended definition: (a) Major End Items and (b) Mission Support Items. The two-category approach facilitates application of different standards for expense recognition and disclosures for different types of ND PP&E. Beginning in fiscal year (FY) 2002, Major End Items would be subject to a reporting of the number of units and condition assessment information by asset type or category. Beginning in FY 2006, Major End Items would be capitalized but not depreciated, while Mission Support Items would be capitalized and depreciated. Also, beginning in FY 2006, data for the ten largest (in planned dollar terms) current acquisition programs would be disclosed. In addition, the total estimated cleanup cost per Major End Items would be recognized as a part of the acquisition cost as items are placed into service. For Mission Support Items, a portion of the total estimated cleanup cost would be recognized as an expense during each period that the item is in operation. The amendments proposed in this ED that affect the definition of ND PP&E, and unit and condition reporting would take effect in FY 2002. The remaining

amendments would take effect in FY 2006 or upon implementation of this standard if implemented earlier.

One Board member, who believes various proposed reporting requirements do not meet criteria to be considered essential for financial statement purposes, provided an alternative view in the ED.

The exposure draft will soon be mailed to FSAB's mailing list subscribers. Additionally, it is available on FSAB's home page http://www.financenet.gov/fasab.htm. Copies can be obtained by contacting FSAB at (202) 512–7350, or wascakr@fasab.gov.

The Board has posed specific questions for comment. Respondents are encouraged to address those questions and to comment on any part of the ED in light of Statement of Federal Financial Accounting Concepts 1, *Objectives of Federal Financial Reporting.* For further information call Risk Wascak (202) 512–7363.

Written comments are requested by November 29, 2001, and should be sent to: Wendy M. Comes, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street, NW, Suite 6814, Mail Stop 6K17V, Washington, DC 20548.

FOR FURTHER INFORMATION, CONTACT: Wendy Comes, Executive Director, 441 G St., NW., Room 6814, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463.

Dated: August 30, 2001.

Wendy M. Comes,

Executive Director.

[FR Doc. 01–22327 Filed 9–5–01; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested.

August 29, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden 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.

DATES: Written comments should be submitted on or before November 5, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, SW., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION: *OMB Approval No.:* 3060–0837.

Title: Application for DTV Broadcast Station License.

Form No.: FCC 302–DTV.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit, not-for-profit institutions.

Number of Respondents: 500 license applications, 100 modification applications.

Estimated Hours Per Response: 1.5 hours for license applications, 10 hours for modification applications (2.0 hours applicant; 2 hours attorney, 6 hours contract engineer).

Frequency of Response: On occasion.

Cost to Respondents: $245,000.

Estimated Total Annual Burden: 950 hours.

Needs and Uses: Licensees and permittees of DTV broadcast stations are required to file FCC Form 302–DTV to obtain a new or modified station license, and/or to notify the Commission of certain changes in the licensed facilities of these stations.

The data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit, and to update FCC station files. Data is then extracted from FCC 302–DTV for inclusion in the subsequent license to operate the station.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–22357 Filed 9–5–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

August 28, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden 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.

DATES: Written comments should be submitted on or before October 9, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy

Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0833.

Title: Implementation of Section 255 of the Telecommunications Act of 1996: Complaint Filings/Designation of Agents.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households, businesses or other for-profit, not-for-profit institutions, federal government, and state, local or tribal governments.

Number of Respondents: 8,677 respondents; 11,577 responses.

Estimated Time Per Response: .50—5 hours.

Frequency of Response: On occasion and one time reporting requirements, third party disclosure requirement, and recordkeeping requirement.

Total Annual Burden: 12,338 hours.

Total Annual Cost: $720,000.

Needs and Uses: This information collection includes rules governing the filing of complaints as part of the implementation of Section 255 of the Telecommunications Act of 1996, which seeks to ensure that telecommunications equipment and services are available to all Americans, including those individuals with disabilities. In particular, telecommunications service providers and equipment manufacturers will be asked for a one-time designation of an agent who will receive and promptly handle voluntary consumer complaints of accessibility concerns. As with any complaint procedure, a certain number of regulatory and information burdens are necessary to ensure compliance with FCC rules.

OMB Control No.: 3060–0874.

Title: Consumer Complaint Form.

Form No.: FCC Form 475.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, businesses or other for-profit, not-for-profit institutions, federal government, and state, local or tribal governments.

Number of Respondents: 58,772.

Estimated Time Per Response: .50 hours.

Frequency of Response: On occasion reporting requirements, and third party disclosure requirement.

Total Annual Burden: 29,386 hours.

Total Annual Cost: N/A.

Needs and Uses: FCC Form 475 allows the Commission to collect detailed data from consumers on the practices of common carriers. The information contained in the collection will allow consumers to provide the Commission with the relevant information required to help consumers to develop a concise statement outlining the issue in dispute. The information will then be used to assist in the resolution of informal complaints and to collect data required to assess the practices of common carriers. FCC Form 475 was previously revised to consolidate and streamline information requirements and eliminate the FCC Form 476. This submission to the Office of Management and Budget (OMB) is to seek an extension of OMB approval for three years.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–22358 Filed 9–5–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

[Notice 2001—12]

Filing Dates for the South Carolina Special Election in the 2nd Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: South Carolina has scheduled special elections to fill the U.S. House of Representatives seat in the Second Congressional District held by the late Congressman Floyd Spence. There are three possible special elections, but only two may be necessary.

- Primary Election: October 30, 2001.
- Possible Runoff Election: November 13, 2001. In the event that one candidate does not achieve a majority vote in his/her party's Special Primary Election, the top two vote-getters will participate in a Special Runoff Election.
- General Election: December 18, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory J. Scott, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

Special Primary Only

All principal campaign committees of candidates *only* participating in the South Carolina Special Primary shall file a 12-day Pre-Primary Report on October 18, 2001. (See chart below for the closing date for the report.)

Special Primary and General Without Runoff

If only two elections are held, all principal campaign committees of candidates participating in the South Carolina Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on October 18, 2001; a Pre-General Report on December 6, 2001; and a consolidated Post-General & Year-End Report on January 17, 2002. (See chart below for the closing date for each report.)

Special Primary and Runoff Elections

All principal campaign committees of candidates *only* participating in the South Carolina Special Primary and Special Runoff Elections shall file a 12-day Pre-Primary Report on October 18, 2001; and a Pre-Runoff Report on November 1, 2001. (See chart below for the closing date for each report.)

Special Primary, Runoff and General Elections

All principal campaign committees of candidates participating in the South Carolina Special Primary, Special Runoff and Special General Elections shall file a 12-day Pre-Primary Report on October 18, 2001; a Pre-Runoff Report on November 1, 2001; a Pre-General Report on December 6, 2001; and a consolidated Post-General & Year-End Report on January 17, 2002. (See chart below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees that file on a semiannual basis during 2001 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the South Carolina Special Primary, Runoff or General Elections by the close of books for the applicable report(s). Consult the chart below that corresponds to the committee's situation for close of books and filing date information.

Since disclosing financial activity from two different calendar years on one report would conflict with the calendar year aggregation requirements stated in the Commission's disclosure rules, unauthorized committees that trigger the filing of the consolidated Post-General & Year-End Report will be required to file this report on two separate forms. One form to cover 2001 activity, labeled as the Year-End Report; and the other form to cover only 2002 activity, labeled as the Post-General Report. Both forms must be filed by the due date for the consolidated report, January 17, 2002.

Committees filing monthly that support candidates in the South Carolina Special Primary, Special Runoff or Special General Elections should continue to file according to the non-election year monthly reporting schedule.

CALENDAR OF REPORTING DATES FOR SOUTH CAROLINA SPECIAL ELECTIONS

Report	Close of books[1]	Reg./Cert. mailing date[2]	Filing date
COMMITTEES INVOLVED IN ONLY THE SPECIAL PRIMARY (10/30/01) MUST FILE:			
Pre-Primary	10/10/01	10/15/01	10/18/01
Year-End	12/31/01	01/31/02	01/31/02
IF ONLY TWO ELECTIONS ARE HELD, COMMITTEES INVOLVED IN THE SPECIAL PRIMARY (10/30/01) AND THE SPECIAL GENERAL (12/18/01) MUST FILE:			
Pre-Primary	10/10/01	10/15/01	10/18/01
Pre-General	11/28/01	12/03/01	12/06/01
Post-General & Year-End[3]	01/07/02	01/17/02	01/17/02
IF THREE ELECTIONS ARE HELD, COMMITTEES INVOLVED IN ONLY THE SPECIAL PRIMARY (10/30/01)AND SPECIAL RUNOFF (11/13/01) MUST FILE:			
Pre-Primary	10/10/01	10/15/01	10/18/01
Pre-Runoff	10/24/01	10/29/01	11/01/01
Year-End	12/31/01	01/31/02	01/31/02
COMMITTEES INVOLVED IN THE SPECIAL PRIMARY (10/30/01), SPECIAL RUNOFF (11/13/01)AND THE SPECIAL GENERAL (12/18/01) MUST FILE:			
Pre-Primary	10/10/01	10/15/01	10/18/01
Pre-Runoff	10/24/01	10/29/01	11/01/01
Pre-General	11/28/01	12/03/01	12/06/01
Post-General & Year-End[3]	01/07/02	01/17/02	01/17/02
COMMITTEES INVOLVED IN ONLY THE SPECIAL RUNOFF (11/13/01) MUST FILE:			
Pre-Runoff	10/24/01	10/29/01	11/01/01
Year-End	12/31/01	01/31/02	01/31/02
COMMITTEES INVOLVED IN ONLY THE SPECIAL GENERAL (12/18/01) MUST FILE:			
Pre-General	11/28/01	12/03/01	12/06/01
Post-General & Year-End	01/07/02	01/17/02	01/17/02

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.
[2] Reports sent registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.
[3] Committees should file a consolidated Post-General & Year-End Report by the filing date of the Post-General Report.

Dated: August 31, 2001.

Karl J. Sandstrom,

Commissioner, Federal Election Commission.

[FR Doc. 01–22390 Filed 9–5–01; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1388–DR]

Kentucky; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky, [FEMA–1388–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 21, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 2001: Bath, Clay, Elliot, Estill, Harrison, Lawrence, Lewis, Livingston, Mason, Menifee, Powell, and Rowan for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22304 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1388–DR]

Kentucky; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky, [FEMA–1388–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 23, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include Individual Assistance for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 2001: Floyd, Knott, Letcher, Perry, and Pike Counties for Individual Assistance (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22306 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1388–DR]

Kentucky; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky, [FEMA–1388–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 21, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective August 21, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22305 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1388–DR]

Kentucky; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky, [FEMA–1388–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 27, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 2001: Johnson, Rockcastle and Whitley Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22307 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1387–DR]

Tennessee; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Tennessee, [FEMA–1387–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 21, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Tennessee is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 2001:

Carter and Unicoi Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22301 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1387–DR]

Tennessee; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Tennessee, [FEMA–1387–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 22, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective August 22, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22302 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1387–DR]

Tennessee; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Tennessee, [FEMA–1387–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 27, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Tennessee is hereby amended to include Individual Assistance for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 2001:

Carter, Cocke, Greene, Johnson, Unicoi and Washington Counties for Individual Assistance (already designated for Public Assistance).

Shelby County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22303 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1386–DR]

Virginia; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia, [FEMA–1386–DR], dated July 12, 2001, and related determinations.

EFFECTIVE DATE: August 27, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective August 27, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22300 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 28, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Great River Financial Group, Inc., Burlington, Iowa; to acquire 100 percent of the voting shares of Southeast Security Bank, Mediapolis, Iowa.

2. River Valley Bancorp, Inc., Eldridge, Iowa; to acquire 100 percent of the voting shares of State Bank of Latham, Latham, Illinois, after its

merger with Valley State Bank, Eldridge, Iowa.

Board of Governors of the Federal Reserve System, August 30, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–22288 Filed 9–5–01; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Office of Communications; Cancellation of an Optional Form by the Department of State

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: The Department of State canceled the following Optional Form: OF 156E, Nonimmigrant Treaty/Inventory Visa Application.

This form is now a State Department form (DS Form 2051). You can request copies of the new form from: Department of State, IS/OIS/DIR, 2201 C Street, NW; Room B264NS, Washington, DC 20520–0264, 202.647.0596.

DATES: Effective September 6, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Cunningham, Department of State, 202.312.9605.

Dated: August 27, 2001.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 01–22410 Filed 9–5–01; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Office of Communications, Cancellation of an Optional Form by the Office of Personnel Management (OPM)

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) cancelled OF 630B, Request to Donate Annual Leave to Leave Recipient (Outside Agency) Under the Leave Transfer Program. The form was only available with FPM Letter 630–33 which no longer exists. OPM developed their own form (OPM 630B) which they are happy to share with you. To obtain a copy of this form, go to the following internet site: *http://www.opm.gov/forms*

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

DATES: Effective September 6, 2001.

Dated: August 28, 2001.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 01–22411 Filed 9–5–01; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

Availability of Final Environmental Impact Statement: United States Mission to the United Nations

Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, as implemented by the Council on Environmental Quality (40 CFR parts 1500–1508), the General Services Administration (GSA) has filed with the U.S. Environmental Protection Agency and made available to other government agencies and interested private parties, the Final Environmental Impact Statement (FEIS) for the demolition of the Federal building currently housing the United States Mission to the United Nations (USUN) and the subsequent construction of a new facility on the same site. A public hearing for the Draft Environmental Impact Statement was held on Wednesday, June 13th, 2001.

The FEIS is on file at GSA offices in Manhattan, Manhattan Community District #6 and the Mid-Manhattan Library. Copies of the FEIS Executive Summary or additional information may be obtained from: General Services Administration, Public Buildings Services—2PT, 26 Federal Plaza, Room 1609, New York, New York, 10278, ATTN: Peter Sneed.

Written comments regarding the FEIS may be submitted until Friday October 26th, 2001 and should be addressed to General Services Administration in care of the above noted individual.

Dated: August 28, 2001.

Steve Ruggiero,

Acting Regional Administrator (2A).

[FR Doc. 01–22339 Filed 9–5–01; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Opportunity To Collaborate in the Evaluation of Rapid Diagnostic Tests for HIV

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: Opportunities for collaboration for evaluation of rapid diagnostic tests for HIV. The Centers for Disease Control and Prevention (CDC), National Center for HIV, STD, and TB Prevention (NCHSTP), Division of HIV/AIDS Prevention, has an opportunity for collaboration to evaluate rapid diagnostic tests for HIV. These evaluations will include evaluation of the sensitivity and specificity of the test, and the predictive value of algorithms using two or more different rapid tests in combination.

SUMMARY: The Division of HIV/AIDS Prevention of the National Center for HIV, STD, and TB Prevention (NCHSTP) at the Centers for Disease Control and Prevention (CDC) of the Department of Health and Human Services (DHHS) seeks one or more companies that have developed or is distributing a rapid diagnostic test for HIV and is interested in marketing the test for use in the United States. The Division of HIV/AIDS Prevention is interested in evaluating such tests. The evaluation will include determination of the sensitivity and specificity of the test, and also evaluate the predictive value of two or more different tests used in combination in populations of low prevalence. This collaboration will have an expected duration of two (2) to three (3) years. The goals of the collaboration include the timely development of data to be used to determine whether the test could be used in the diagnosis and/or screening for HIV in the United States.

Confidential proposals, preferably six pages or less (excluding appendices), are solicited from companies who have a product that is suitable for commercial distribution.

DATES: Formal proposals must be submitted no later than October 9, 2001.

ADDRESSES: Formal proposals should be submitted to Cassandra Walker, Division of HIV/AIDS Prevention, NCHSTP, CDC, 1600 Clifton Road, Mailstop E–46 Atlanta, GA 30333; Phone 404–639–6191; Fax 404–639–8640; e-mail:Cwalker5@cdc.gov . Scientific questions should be addressed to Bernard M. Branson, MD,

Division of HIV/AIDS Prevention, NCHSTP, CDC, 1600 Clifton Road, Mailstop E–46, Atlanta, GA 30333; Phone: 404–639–6166; Fax: 404–639–8640; e-mail BBranson@cdc.gov.

SUPPLEMENTARY INFORMATION:

Technology Sought

One mission of the Division of HIV/AIDS Prevention/NCHSTP is to develop new alternatives to increase the number of persons who know their HIV infection status. The Prevention Services Research Branch is seeking rapid diagnostic tests for HIV that are suitable for commercial distribution and that are simple: preferably, tests that: use direct unprocessed specimens (e.g., whole blood or oral fluid); can be performed in 30 minutes or less by persons with minimal training; include all necessary reagents in the test kit; can be stored at temperatures between 25 and 39°C; and have a minimum 1-year shelf life.

NCHSTP and Collaborator Responsibilities

The NCHSTP role may include, but will not be limited to, the following:

(1) Providing scientific, and technical expertise needed for the research project;

(2) Planning and conducting research studies of the diagnostic tests and interpreting results; and

(3) Publishing research results.

The NCHSTP anticipates that the role of the successful collaborator(s) will include the following:

(1) Providing tests that can be used in the evaluation; and

(2) Providing NCHSTP access to necessary data in support of the research activities.

Selection Criteria

Proposals submitted for consideration should address, as best as possible and to the extent relevant to the proposal, each of the following:

(1) Data available on the performance of the tests in different populations;

(2) Information on the technology used for the test;

(3) Information on the time required to perform the test, whether the test is preformed on whole blood, sera, plasma or saliva, and the steps involved in performing the test;

(4) Information on the storage requirements and stability of the test;

(5) Interest by the company to seek FDA approval and market the test in the United States; and

(6) Documentation of production capacity to provide at least 500,000 tests annually, and the ability to deliver a minimum of 45,000 tests within 90 days of order.

Dated: August 29, 2001.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention.

[FR Doc. 01–22431 Filed 9–5–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Evaluation of the Early Head Start Fatherhood Demonstration.

OMB No.: New Collection.

Description: ACYF, in partnership with the Office of Child Support Enforcement (OCSE), recently funded 21 Early Head start grantees to develop and implement creative practices to increase the involvement of fathers in their Early Head Start program and in the lives of their children. This submission requests approval to conduct the survey of demonstration staff and to collect father participation data from the demonstration programs.

Respondents: To reduce of the burden of demonstration staff, the survey will be configured in four versions. The Director Version will be completed by the Early Head Start program directors. The Father Coordinator Version will be completed by the staff member responsible for father activities. The Family Specialist version will be completed by the staff member who works most closely with the Early Head Start families in the home. The Teacher Version will be completed by the staff member working with families of children participating in the Early Head Start child care programs.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Director Version	21	2	.5	18.9
Father Coordinator Version	21	2	.5	17.8
Family Specialist Version	21	2	.4	14.2
Teacher Version	13	2	.4	8.8
Estimated total Annual Burden Hours:				59.7

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: August 30, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–22347 Filed 9–5–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0318]

Medical Devices; Draft Guidance; Class II Special Controls Guidance Document: Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Class II Special Controls Guidance Document: Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis.'' This draft guidance document was developed as a special control guidance to support the reclassification of the hip joint metal/polymer constrained cemented or uncemented prosthesis into class II. Elsewhere in this issue of the **Federal Register**, FDA is publishing a proposed rule to reclassify this device type. This draft guidance is neither final nor is it in effect at this time.

DATES: Submit written or electronic comments concerning this guidance by December 5, 2001.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance document entitled ''Class II Special Controls Guidance Document: Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments are to be identified with the docket number found in the brackets in the heading of this document. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: John S. Goode, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance document was developed as a special control guidance to support the reclassification of the hip joint metal/polymer constrained cemented or uncemented prosthesis into class II. Elsewhere in this issue of the **Federal Register**, FDA is publishing a proposed rule to reclassify this device type. This draft guidance may not be implemented until the reclassification process undergoes notice and comment and completes final rulemaking to reclassify this device. If a final rule to reclassify this device type is not issued, this guidance document will not be issued as a special control.

FDA believes that special controls, when combined with the general controls, will be sufficient to provide reasonable assurance of the safety and effectiveness of the hip joint metal/polymer constrained cemented or uncemented prosthesis. If the device is reclassified, a manufacturer who intends to market a device of this generic type must: (1) Conform with the general controls of the Federal Food, Drug, and Cosmetic Act (the act), including the premarket notification requirements described in FDA regulations (21 CFR 807.81); (2) address the specific risks to health associated with the hip joint metal/polymer constrained cemented or uncemented prosthesis; and (3) receive a substantial equivalence determination from FDA prior to marketing the device.

This special control draft guidance document identifies the classification, product code, and classification definition for the generic hip joint metal/polymer constrained cemented or uncemented prosthesis. In addition, it identifies the risks to health and serves as a special control that, when followed and combined with the general controls, will generally address the risks associated with this generic device type and lead to a timely section 510(k) of the act (21 U.S.C. 360(k)) review and clearance.

II. Significance of Guidance

This draft guidance document represents the agency's current thinking about the hip joint metal/polymer constrained cemented or uncemented prosthesis. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute and regulations.

The agency has adopted good guidance practices (GGPs), and published the final rule, which set forth the agency's regulations for the development, issuance, and use of guidance documents (21 CFR 10.115; 65 FR 56468, September 19, 2000). This draft guidance document is issued as a level 1 guidance in accordance with the GGP regulations.

III. Electronic Access

In order to receive ''Class II Special Controls Guidance Document: Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1328) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. Guidance documents are also available on the Dockets Management Branch Internet site at http://www.fda.gov/ohrms/dockets/default.htm.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this draft guidance on or before [*insert date 90 days after date of publication in the* **Federal Register**]. Submit two copies of any comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this

document. The draft guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 22, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 01–22287 Filed 9–5–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Extended Lung Cancer Incidence Follow-Up for the Mayo Lung Project Participants

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 30, 2001, page 21404, Volume 66, No. 83 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Extended Lung Cancer Incidence Follow-Up for the Mayo Lung Project Participants. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* The Mayo Lung Project (MLP) was an NCI-funded randomized controlled trial (RCT) of lung cancer screening conducted among 9,211 male smokers from 1971 to 1983. No reduction in lung cancer mortality was observed in the MLP with an intense regimen of x-ray and sputum cytology screening. Recent analysis of update mortality and case survival data (through 1996) suggests that lesions with little-to-no clinical relevance (over-diagnosis) may have been detected through screening in the MLP intervention arm. Over-diagnosis leads to unnecessary medical interventions, including diagnostic and treatment procedures that carry with them varying degrees of risk. Consequently, over-diagnosis can result in considerable harm, including premature death, which would not have occurred in the absence of screening. The persistence, after screening ends, of an excess of lung cancer cases in the intervention arm is the strongest evidence in support of over-diagnosis, but this information cannot be adequately obtained with available MLP data. therefore, we propose to re-contact the MLP participants and/or their next-of-kin to determine the participants who were diagnosed with lung cancer after the formal end of the Project. These data will allow the NCI to either more-convincingly state or perhaps refute the possibility of over-diagnosis in lung cancer screening, and may be used to guide future research agendas and lung cancer screening policies. *Frequency of Response:* Once. *Affected public:* Individuals. *Type of Respondents:* MLP participants or their next-of-kin. The annual reporting burden is as follows: *Estimated Number of Respondents:* 6,223; *Estimated Number of Responses per Respondent:* 1. *Average Burden Hours Per Response:* 0.25; *Estimated Total Annual Burden Hours Requested:* 1,556. The annualized cost to respondents is estimated at $27,230. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Pamela Marcus, Epidemiologist, Biometry Research Group, Division of Cancer Prevention, National Cancer Institute, Suite 344 EPN, 6130 Executive Blvd, Bethesda, MD 20892–7354; or call non-toll free 301–496–7468; or email *pm145q@nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: August 27, 2001.

Reesa L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 01–22352 Filed 9–5–01; 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 4, 2001.

Time: 10 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gloria B. Levin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, (301) 435–1017, *leving@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 5, 2001.

Time: 1 pm to 2 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Anne E Schaffner, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *schaffna@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: September 9–11, 2001.
Time: 6 pm to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Hotel St. Francis, 219 Don Gasper Avenue, Sante Fe, NM 87501.
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: Center for Scientific Review Special Emphasis Panel.
Date: September 13, 2001.
Time: 2 pm 3 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: H. Mac Stiles, DDS, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7770, Bethesda, MD 20892, (301) 435–1785.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 28, 2001.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–22351 Filed 9–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Loan Repayment Program for Clinical Researchers

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: Pending approval by the Office of Management and Budget (OMB) under the requirements of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) announces the availability of educational loan repayment under the NIH Loan Repayment Program for Clinical Researchers (the Program). The Program, which is authorized by section 487F of the Public Health Service (PHS) Act (42 U.S.C. 288–5a), as added by the Public Health Improvement Act of 2000 (Pub. L. 106–505), provides for the repayment of the educational loan debt of qualified health professionals who agree to conduct clinical research. The Program provides for the repayment of up to $35,000 of the principal and interest of the educational loans of such health professionals for each year of obligated service. The purpose of the Program is the recruitment and retention of highly qualified health professionals as clinical investigators. Through this notice, the NIH invites qualified health professionals who contractually agree to engage in clinical research for at least two years, to apply for participation in the NIH Loan Repayment Program for Clinical Researchers.

DATES: Interested persons may request information about the Program beginning on September 6, 2001.

ADDRESSES: Information regarding the requirements and application procedures for the Program may be obtained by calling or writing: Marc S. Horowitz, J.D., Office of Loan Repayment and Scholarship, National Institutes of Health, 2 Center Drive, Room 2E30, Bethesda, MD 20892–0230 or call non-toll-free number (301) 402–5666 or e-mail your request, including your address, to <lrp@nih.gov>.

SUPPLEMENTARY INFORMATION: The Public Health Improvement Act of 2000 (Pub. L. 106–505) was enacted on November 13, 2000 adding section 487F of the Public Health Service (PHS) Act (42 U.S.C. 288–5a). Section 487F authorizes the Secretary, acting through the Director of the NIH, to carry out a program of entering into contracts with appropriately qualified health professionals. Under such contracts, qualified health professionals agree to conduct clinical research for at least two years in consideration of the Federal Government agreeing to repay, for each year of service, not more than $35,000 of the principal and interest of the educational loans of such health professionals. This program is known as the NIH Loan Repayment Program for Clinical Researchers (LRP–CR).

Eligibility Criteria

Specific eligibility criteria with regard to participation in the LRP for Clinical Researchers include the following:
(1) Participants must be United States citizens, nationals, or permanent residents;
(2) Participants must have a M.D., Ph.D., Pharm.D., D.O., D.D.S., D.M.D., D.P.M., D.C., N.D., or equivalent degree;
(3) Participants must be affiliated with the NIH in one of the following ways:
(a) a recipient of postdoctoral National Research Service Award support on an individual postdoctoral fellowship (F32) or an institutional research training grant (T32). NRSA recipients will only be eligible for loan repayment during the first and third year of NRSA support. The second year of postdoctoral NRSA involves repayment of a service obligation incurred during the first year of NRSA support which eliminates the possibility of concurrent participation in the loan repayment program.
(b) a recipient of support under an individual or institutional research career development award including the following mechanisms:
(1) K01, the Mentored Research Scientist Development Award,
(2) K07, the Academic Clinical Scientist Development Award,
(3) K08, the Mentored Clinical Scientist Development Award,
(4) K12, Mentored Clinical Scientist Development Program Award,
(5) K22, the Career Transition Award with an extramural phase,
(6) K23, the Mentored Patient-Oriented Research Career Development Award, or
(7) K25, the Mentored Quantitative Research Career Development Award.
(c) a first-time recipient of NIH grant support as the principal investigator of an
(1) R01, a research project grant consisting of one research project,
(2) R03, a small research grant,
(3) R21, an exploratory/developmental grant,
(4) U01, a cooperative agreement consisting of one research project.
(d) a first-time director of subprojects on multicomponent center grants (P series grants, program project grants (P01)), or multicomponent cooperative agreements (U series).
(4) Participants must have qualifying educational debt in excess of 20 percent of their annual income or compensation, as applicable, at their expected date of program eligibility. The expected date of program eligibility is the date by which

the following conditions will be met: (a) Award date of a qualifying grant, and (b) the Secretary executes a LRP–CR contract. Contracts are not effective retroactive to the award date of the grant.

(5) Participants must engage in clinical research, as defined by Section 206 of Public Law 106–505, the Public Health Improvement Act, which states: ''The term clinical research means patient-oriented clinical research conducted with human subjects, or research on the causes and consequences of disease in human populations involving material of human origin (such as tissue specimens and cognitive phenomena) for which an investigator or colleague directly interacts with human subjects in an outpatient or inpatient setting to clarify a problem in human physiology, pathophysiology or disease, or epidemiologic or behavioral studies, outcomes research or health services research, or developing new technologies, therapeutic interventions, or clinical trials.''

(6) Individuals with existing service obligations to Federal, State, or other entities will not be considered for the Program unless and until the existing service obligation is discharged or deferred for the length of Program participation. Further, any individual who has a Federal judgment lien against his/her property arising from a Federal debt is barred from receiving Federal funds, until the judgment is paid in full or satisfied.

(7) Applicants will not be excluded from consideration under the Program on the basis of age, race, culture, religion, gender, sexual orientation, disability, or other non-merit factors.

NIH will evaluate the applicant and awardee pools after the first year of operation to assess and measure the extent of recruitment and retention of qualified health professionals to clinical research. At that time, NIH will expand the pool of individuals eligible to apply for loan repayment.

Selection Process

Individuals submit their LRP–CR applications to the Director, Office of Loan Repayment and Scholarship (OLRS), who forwards those satisfying the basic eligibility criteria to the relevant NIH Institutes and Centers (IC) for review. The IC Loan Repayment Committee (IC–LRC) reviews and ranks applications based upon the following:

(1) A personal statement, which includes a discussion of career goals and research and academic objectives;

(2) A research statement, which provides a description of the proposed research project including the specific responsibilities and role of the applicant in conducting the research;

(3) A research training plan, if applicable, which includes a detailed description of the mentoring plan, including a discussion of the research methods and scientific techniques to be taught;

(4) A description of the current research being conducted in the lab;

(5) Recommendation forms submitted by three individuals. Information provided addresses the applicant's potential for success in clinical research and/or academic medicine, and their main strengths and weaknesses; and

(6) A supporting statement from the sponsoring institution.

Funds for repayment will only be awarded to IC–LRC-approved applications, subject to the receipt of an appropriation and/or allocation of funds from the U.S. Congress, the NIH or IC. The Director, Office of Loan Repayment and Scholarship (OLRS), provides current deadlines, sources for assistance, and additional details regarding application procedures in an Applicant Information Bulletin that is maintained on the Loan Repayment Program's Internet homepage at <http://lrp.info.nih.gov>.

Program Administration and Details

Under the LRP for Clinical Researchers, the NIH will repay a portion of the extant qualified educational loan debt incurred by health professionals to pay for their undergraduate, graduate, and/or health professional school educational expenses. Upon application, individuals must have total qualified educational debt that exceeds 20% of their anticipated annual compensation (''debt threshold'') on the date of program eligibility.

An amount equal to 50 percent of the debt threshold will not be considered for repayment (''participant obligation''). For example, an applicant has a loan debt of $100,000 and a university compensation of $40,000. Since the loan debt exceeds the ''debt threshold'' (20% of university compensation = $8,000), the applicant has sufficient debt for loan repayment consideration. The ''participant obligation'' is one-half the debt threshold, in this case $4,000. Thus, repayment of $4,000 is the applicant's responsibility. The remaining amount (''repayable debt'') will be considered for repayment.

The repayable debt of qualified health professionals will be satisfied at the rate of one-quarter per year, subject to a statutory limit of $35,000 per year, for each year of obligated service. Obligated service requires selected individuals to engage in at least 2 years of qualified clinical research as an investigator on an NIH grant or as the recipient of an NIH award. Following conclusion of the initial two-year contract, participants may apply for renewal contracts if they have remaining repayable debt and continue to engage in qualified clinical research. These continuation contracts may be approved on a year-to-year basis, subject to a finding by NIH that the applicant's clinical research accomplishments are acceptable and qualified clinical research continues. Funding of contracts is contingent upon an appropriation and/or allocation of funds from the U.S. Congress and/or the NIH or ICs.

In return for the repayment of their educational loans, participants must agree to (1) engage in qualified clinical research as an investigator on an NIH grant or as a recipient of an NIH award for a minimum period of 2 years; (2) make payments to lenders on their own behalf for periods of Leave Without Pay (LWOP); (3) pay monetary damages as required for breach of contract; and (4) satisfy other terms and conditions of the LRP–CR contract and application procedures. Applicants must submit a signed contract, prepared by the NIH, agreeing to engage in qualified clinical research at the time they submit an application. Substantial monetary penalties will be imposed for breach of contract.

The NIH will repay lenders for the principal, interest, and related expenses (such as the required insurance premiums on the unpaid balances of some loans) of qualified Government (Federal, State, local) and commercial educational loans obtained by participants for the following:

(1) undergraduate, graduate, and health professional school tuition expenses;

(2) other reasonable educational expenses required by the school(s) attended, including fees, books, supplies, educational equipment and materials, and laboratory expenses; and

(3) reasonable living expenses, including the cost of room and board, transportation and commuting costs, and other living expenses as determined by the Secretary.

Repayments will be authorized for direct payment to lenders, following receipt of (1) the research supervisor's verification of completion of the prior period of research, and (2) lender verification of the crediting of prior loan repayments, including the resulting account balances and current account status. The NIH will repay loans in the

following order, unless the Secretary determines that significant savings would result from a different order of priority:

(1) Loans guaranteed by the U.S. Department of Health and Human Services:

- Health Education Assistance Loan (HEAL);
- Health Professions Student Loan (HPSL);
- Loans for Disadvantaged Students (LDS);
- Primary Care Loan (PCL); and
- Nursing Student Loan Program (NSL);

(2) Loans guaranteed by the U.S. Department of Education:

- Direct Subsidized Stafford Loan;
- Direct Unsubsidized Stafford Loan;
- Direct Consolidation Loan;
- Perkins Loan;
- FFEL Subsidized Stafford Loan;
- FFEL Unsubsidized Stafford Loan; and
- FFEL Consolidation Loan;

(3) Loans made or guaranteed by a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States;

(4) Loans made by Academic Institutions; and

(5) Private (''Alternative'') Educational Loans:

- MEDLOANS; and
- Private (non-guaranteed) Consolidation Loan.

Within each category, loans are repaid in order of interest rate (highest first).

The following loans are NOT repayable under the LRP–CR:

(1) Loans not obtained from a government entity, academic institution, or a commercial or other chartered lending institution such as loans from friends, relatives, or other individuals;

(2) Loans for which contemporaneous documentation is not available;

(3) Loans or portions of loans obtained for educational or living expenses which exceed a reasonable level, as determined by the standard school budget for the year in which the loan was made, and are not determined by the LRP to be reasonable based on additional contemporaneous documentation provided by the applicant;

(4) Loans, financial debts, or service obligations incurred under the following programs, or other programs which incur a service obligation which converts to a loan on failure to satisfy the service obligation:

- Physicians Shortage Area Scholarship Program (Federal or State);
- National Research Service Award Program;
- Public Health and National Health Service Corps Scholarship Program;
- Armed Forces (Army, Navy, or Air Force) Health Professions Scholarship Program; and
- Indian Health Service Scholarship Program;

(5) Delinquent loans, loans in default, loans not current in their payment schedule, loans already repaid or those for which promissory notes have been signed after the program effective date are not eligible for repayment; and

(6) PLUS Loans.

During lapses in loan repayments, due either to LRP administrative complications or a break in service, LRP participants are wholly responsible for making payments or other arrangements that maintain loans current, such that increases in either principal or interest do not occur. Penalties assessed participants as a result of LRP administrative complications to maintain a current payment status may be considered for reimbursement.

Additional Program Information

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs.

This program is subject to OMB clearance under the requirements of the Paperwork Reduction Act of 1995. A Request for OMB Review and Approval of information collection associated with the program is being prepared by the NIH and will be sent to OMB for review and approval prior to implementation of the LRP for Clinical Researchers.

The *Catalog of Federal Domestic Assistance* number for the LRP for Clinical Researchers is 93.280.

Dated: Augsut 20, 2001.

Yvonne T. Maddox,

Acting Deputy Director, National Institutes of Health.

[FR Doc. 01–22353 Filed 9–5–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Pediatric Research Loan Repayment Program

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: Pending approval by the Office of Management and Budget (OMB) under the requirements of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) announces the availability of educational loan repayment under the NIH Pediatric Research Loan Repayment Program (the Program). The Program, which is authorized by section 487F [1] of the Public Health Service (PHS) Act (42 U.S.C. 288–6), as added by the Children's Health Act of 2000 (Pub. L. 106–310), provides for the repayment of the educational loan debt of qualified health professionals who agree to conduct pediatric research. The Program provides for the repayment of up to $35,000 of the principal and interest of the educational loans of such health professionals for each year of obligated service. The purpose of the Program is the recruitment and retention of highly qualified health professionals as pediatric researchers. Through this notice, the NIH invites qualified health professionals who contractually agree to engage in pediatric research for at least two years, to apply for participation in the NIH Pediatric Research Loan Repayment Program.

DATES: Interested persons may request information about the Program beginning on September 6, 2001.

ADDRESSES: Information regarding the requirements and application procedures for the Program may be obtained by calling or writing: Marc S. Horowitz, J.D., Office of Loan Repayment and Scholarship, National Institutes of Health, 2 Center Drive, Room 2E30, Bethesda, MD 20892–0230 or call non-toll-free number (301) 402–5666 or e-mail your request, including your address, to <lrp@nih.gov>.

SUPPLEMENTARY INFORMATION: The Children's Health Act of 2000 (Pub. L. 106–310) was enacted on October 17, 2000 adding section 487F of the Public Health Service (PHS) Act (42 U.S.C. 288–6). Section 487F authorizes the Secretary, acting through the Director of the NIH, to carry out a program of entering into contracts with appropriately qualified health professionals. Under such contracts, qualified health professionals agree to conduct pediatric research for at least two years in consideration of the Federal Government agreeing to repay, for each year of service, not more than $35,000 of the principal and interest of the educational loans of such health professionals. This program is known as

[1] So in law. There are two sections 487F. Section 1002(b) of Public Law 106–310 (114 Stat. 1129) inserted section 487F above. Subsequently, section 205 of Public Law 106–505 (114 Stat. 2329), which relates to a loan repayment program regarding clinical researchers, inserted a section 487F after section 487E.

the NIH Pediatric Research Loan Repayment Program (PR–LRP).

Eligibility Criteria

Specific eligibility criteria with regard to participation in the Pediatric Research LRP include the following:

(1) Participants must be United States citizens, nationals, or permanent residents;

(2) Participants must have a M.D., Ph.D., Pharm.D., D.O., D.D.S., D.M.D., D.P.M., D.V.M., D.C., N.D., or equivalent degree;

(3) Participants must be affiliated with the NIH in one of the following ways:

(a) A recipient of postdoctoral National Research Service Award support on an individual postdoctoral fellowship (F32) or an institutional research training grant (T32). NRSA recipients will only be eligible for loan repayment during the first and third year of NRSA support. The second year of postdoctoral NRSA involves repayment of a service obligation incurred during the first year of NRSA support which eliminates the possibility of concurrent participation in the loan repayment program.

(b) A recipient of support under an individual or institutional research career development award including the following mechanisms:

(1) K01, the Mentored Research Scientist Development Award,

(2) K07, the Academic Clinical Scientist Development Award,

(3) K08, the Mentored Clinical Scientist Development Award,

(4) K12, Mentored Clinical Scientist Development Program Award,

(5) K22, the Career Transition Award with an extramural phase,

(6) K23, the Mentored Patient-Oriented Research Career Development Award, or

(7) K25, the Mentored Quantitative Research Career Development Award.

(c) a first-time recipient of NIH grant support as the principal investigator of an

(1) R01, a research project grant consisting of one research project,

(2) R03, a small research grant,

(3) R21, an exploratory/developmental grant,

(4) U01, a cooperative agreement consisting of one research project.

(d) a first-time director of subprojects on multicomponent center grants (P series grants, program project grants (P01)), or multicomponent cooperative agreements (U series).

(4) Participants must have total qualifying educational debt in excess of 20 percent of their annual income or compensation, as applicable, at their expected date of program eligibility. The expected date of program eligibility is the date by which the following conditions will be met: (a) Award date of a qualifying grant, and (b) the Secretary executes a PR–LRP contract. Contracts are not effective retroactive to the award date of the grant;

(5) Participants must engage in qualified pediatric research. The term pediatric research, according to Pub. L. 106–310 (Title X, section 1001), refers to ''research that is directly related to diseases, disorders, and other conditions in children;'' and

(6) Individuals with existing service obligations to Federal, State, or other entities will not be considered for the Program unless and until the existing service obligation is discharged or deferred for the length of Program participation. Further, any individual who has a Federal judgment lien against his/her property arising from a Federal debt is barred from receiving Federal funds, until the judgment is paid in full or satisfied.

(7) Applicants will not be excluded from consideration under the Program on the basis of age, race, culture, religion, gender, sexual orientation, disability, or other non-merit factors.

NIH will evaluate the applicant and awardee pools after the first year of operation to assess and measure the extent of recruitment and retention of qualified health professionals to pediatric research. At that time, NIH will expand the pool of individuals eligible to apply for loan repayment.

Selection Process

Individuals submit their PR–LRP applications to the Director, Office of Loan Repayment and Scholarship (OLRS), who forwards those satisfying the basic eligibility criteria to the relevant NIH Institutes and Centers (IC) for review. The IC Loan Repayment Committee (IC–LRC) reviews and ranks applications based upon the following:

(1) A personal statement, which includes a discussion of career goals and research and academic objectives;

(2) A research statement, which provides a description of the proposed research project including the specific responsibilities and role of the applicant in conducting the research;

(3) A research training plan, if applicable, which includes a detailed description of the mentoring plan, including a discussion of the research methods and scientific techniques to be taught;

(4) A description of the current research being conducted in the lab;

(5) Recommendation forms submitted by three individuals. Information provided addresses the applicant's potential for success in research and/or academic medicine, potential for success in basic or clinical research, and their main strengths and weaknesses; and

(6) A supporting statement from the sponsoring institution.

Funds for repayment will only be awarded to IC–LRC-approved applications, subject to the receipt of an appropriation and/or allocation of funds from the U.S. Congress, the NIH or IC. The Director, Office of Loan Repayment and Scholarship (OLRS), provides current deadlines, sources for assistance, and additional details regarding application procedures in an Applicant Information Bulletin that is maintained on the Loan Repayment Program's Internet homepage at <http://lrp.info.nih.gov>.

Program Administration and Details

Under the Pediatric Research LRP, the NIH will repay a portion of the extant qualified educational loan debt incurred by health professionals to pay for their undergraduate, graduate, and/or health professional school educational expenses. Upon application, individuals must have total qualified educational debt that exceeds 20% of their anticipated annual compensation (''debt threshold'') on the date of program eligibility.

An amount equal to 50 percent of the debt threshold will not be considered for repayment (''participant obligation''). For example, an applicant has a loan debt of $100,000 and a university compensation of $40,000. Since the loan debt exceeds the ''debt threshold'' (20% of university compensation = $8,000), the applicant has sufficient debt for loan repayment consideration. The ''participant obligation'' is one-half the debt threshold, in this case $4,000. Thus, repayment of $4,000 is the applicant's responsibility. The remaining amount (''repayable debt'') will be considered for repayment.

The repayable debt of qualified health professionals will be satisfied at the rate of one-quarter per year, subject to a statutory limit of $35,000 per year, for each year of obligated service. Obligated service requires selected individuals to engage in at least 2 years of qualified pediatric research as an investigator on an NIH grant or as the recipient of an NIH award. Following conclusion of the initial two-year contract, participants may apply for renewal contracts if they have remaining repayable debt and continue to engage in qualified pediatric research. These continuation contracts may be approved on a year-to-year basis, subject to a finding by NIH that the

applicant's pediatric research accomplishments are acceptable and qualified pediatric research continues. Funding of contracts is contingent upon an appropriation and/or allocation of funds from the U.S. Congress and/or the NIH or ICs.

In return for the repayment of their educational loans, participants must agree to (1) engage in qualified pediatric research as an investigator on an NIH grant or as a recipient of an NIH award for a minimum period of 2 years; (2) make payments to lenders on their own behalf for periods of Leave Without Pay (LWOP); (3) pay monetary damages as required for breach of contract; and (4) satisfy other terms and conditions of the PR–LRP contract and application procedures. Applicants must submit a signed contract, prepared by the NIH, agreeing to engage in qualified pediatric research at the time they submit an application. Substantial monetary penalties will be imposed for breach of contract.

The NIH will repay lenders for the principal, interest, and related expenses (such as the required insurance premiums on the unpaid balances of some loans) of qualified Government (Federal, State, local) and commercial educational loans obtained by participants for the following:

(1) Undergraduate, graduate, and health professional school tuition expenses;

(2) Other reasonable educational expenses required by the school(s) attended, including fees, books, supplies, educational equipment and materials, and laboratory expenses; and

(3) Reasonable living expenses, including the cost of room and board, transportation and commuting costs, and other living expenses as determined by the Secretary.

Repayments will be authorized for direct payment to lenders, following receipt of (1) the research supervisor's verification of completion of the prior period of research, and (2) lender verification of the crediting of prior loan repayments, including the resulting account balances and current account status. The NIH will repay loans in the following order, unless the Secretary determines that significant savings would result from a different order of priority:

(1) Loans guaranteed by the U.S. Department of Health and Human Services:

- Health Education Assistance Loan (HEAL);
- Health Professions Student Loan (HPSL);
- Loans for Disadvantaged Students (LDS);
- Primary Care Loan (PCL); and
- Nursing Student Loan Program (NSL);

(2) Loans guaranteed by the U.S. Department of Education:

- Direct Subsidized Stafford Loan;
- Direct Unsubsidized Stafford Loan;
- Direct Consolidation Loan;
- Perkins Loan;
- FFEL Subsidized Stafford Loan;
- FFEL Unsubsidized Stafford Loan; and
- FFEL Consolidation Loan;

(3) Loans made or guaranteed by a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States;

(4) Loans made by Academic Institutions; and

(5) Private (''Alternative'') Educational Loans:

- MEDLOANS; and
- Private (non-guaranteed) Consolidation Loan.

Within each category, loans are repaid in order of interest rate (highest first).

The following loans are NOT repayable under the PR–LRP:

(1) Loans not obtained from a government entity, academic institution, or a commercial or other chartered lending institution such as loans from friends, relatives, or other individuals;

(2) Loans for which contemporaneous documentation is not available;

(3) Loans that have been consolidated with loans of other individuals, such as a spouse.

(4) Loans or portions of loans obtained for educational or living expenses which exceed a reasonable level, as determined by the standard school budget for the year in which the loan was made, and are not determined by the LRP to be reasonable based on additional contemporaneous documentation provided by the applicant;

(5) Loans, financial debts, or service obligations incurred under the following programs, or other programs which incur a service obligation which converts to a loan on failure to satisfy the service obligation:

- Physicians Shortage Area Scholarship Program (Federal or State);
- National Research Service Award Program;
- Public Health and National Health Service Corps Scholarship Program;
- Armed Forces (Army, Navy, or Air Force) Health Professions Scholarship Program; and
- Indian Health Service Scholarship Program;

(6) Delinquent loans, loans in default, loans not current in their payment schedule, loans already repaid or those for which promissory notes have been signed after the program effective date are not eligible for repayment; and

(7) PLUS Loans.

During lapses in loan repayments, due either to LRP administrative complications or a break in service, LRP participants are wholly responsible for making payments or other arrangements that maintain loans current, such that increases in either principal or interest do not occur. Penalties assessed participants as a result of LRP administrative complications to maintain a current payment status may be considered for reimbursement.

Additional Program Information

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs.

This program is subject to OMB clearance under the requirements of the Paperwork Reduction Act of 1995. A Request for OMB Review and Approval of information collection associated with the program is being prepared by the NIH and will be sent to OMB for review and approval prior to implementation of the Pediatric Research LRP.

Dated: August 20, 2001.

The *Catalog of Federal Domestic Assistance* number for the Pediatric Research LRP is 93.285.

Yvonne T. Maddox,

Acting Deputy Director, National Institutes of Health.

[FR Doc. 01–22354 Filed 9–5–01; 8:45 am]

BILLING CODE 4140–01–P

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.

Methods and Structures for Microengineering Neocartilage Scaffolds

Erik Petersen and Richard Spencer (NIA),
DHHS Reference No. E–175–01/0 filed 27 Apr 2001,

Licensing Contact: Marlene Shinn; 301–496–7056 ext. 285; e-mail: shinnm@od.nih.gov.

Therapy for joint damage due to trauma, congenital abnormality, or osteoarthritis has in the past only been limited to the replacement of the joint with a prosthesis. Recently, autologous transplantation of chondrocytes has begun to be performed, however, there are several hurdles that have needed to be overcome, including problems with cell loss and heterogeneous development of tissue density.

The NIH announces a new method of growing chondrocytes on a two-dimensional surface patterned biocompatible scaffold. These scaffolds consist of creating uniform contoured surfaces using photolithographic methods and then covering the surface with a polysaccharide gel. The gel is then allowed to cure and then is removed from the template. Chondrocytes that have been isolated from explants are then applied to the surface and attach to the gel. Once attached, the cells create an extracellular matrix within the gel and layers of neocartilage are created within the square depressions. Functional tissue is thereby produced which can be used as grafts and/or implants in humans.

Agents Useful for Reducing Amyloid Precursor Protein and Treating Dementia and Methods of Use Thereof

Nigel H. Greig et al. (NIA),
Serial No. 60/245,329 filed 02 Nov 2000,

Licensing Contact: Norbert Pontzer; 301/496–7736 ext. 284; e-mail: pontzern@od.nih.gov.

Alzheimer's disease (AD) is a progressive neurodegenerative condition leading to loss of memory and other cognitive functions. Alzheimer's disease is characterized pathologically by the appearance of senile plaques, primarily composed of amyloid β protein (Aβ), and neurofibrillary tangles in the CNS. Treatments reducing potentially toxic Aβ may thus prevent the occurrence and progression of Alzheimer's disease. As Aβ is derived from the larger β amyloid precursor protein (βAPP), reducing the production of βAPP should provide a therapy for the treatment of Alzheimer's disease.

The production of βAPP is regulated by cytokines, muscarinic receptors, and some cholinesterase inhibitors. The latter also have some utility in treating the symptoms of Alzheimer's disease. The agents and methods disclosed and claimed in this patent application reduce the production of βAPP and Aβ in vivo and in vitro without cholinergic side effects or other toxicity. The agents are structurally related to a known anti-cholinesterase agent in current clinical assessment, but are devoid of anticholinesterase activity and associated side effects. They likely act on a recently described translational regulatory element on βAPP mRNA. Further information as to how these agents effect βAPP processing can be found in the Proceedings of the National Academy of Sciences, Volume 98(13), Pages 7605–7610, June 19, 2001.

Dated: August 29, 2001.

Jack Spiegel,

Director, Division of Technology, Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–22355 Filed 9–5–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 552(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 Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: September 5, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Eugene G. Hayunga, Ph.D., Chief Scientific Review Branch, OSA, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Willco Building, Suite 409, 6000 Executive Boulevard, MSC 7003, Bethesda, MD 20892–7003, 301–443–2860, ehayunga@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: August 28, 2001.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–22350 Filed 9–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4651–N–04]

Submission for Emergency OMB Review: Public Comments on Fair Housing Act (FHA) Training and Technical Guidance

AGENCY: Office of Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of proposed information collection requirement.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budge (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal. The Department of Housing and Urban Development (HUD) will be offering Training and Technical Guidance on the Fair Housing Act. Under the Fair Housing Act, it is unlawful to design and construct certain attached single-family and multifamily (buildings having four or more units) dwellings built for first occupancy after March 13, 1991, in a manner that makes them inaccessible to persons with disabilities.

It also established design and construction requirements to make these dwellings readily accessible to and usable by persons with disabilities. KPMG Consulting, Inc., under contract to HUD, will be collecting information from the appropriate parties including, but not limited to, builders, architects, engineers, disabled persons, realtors, and code bodies in order to tailor the training and technical guidance to the intended audience.

DATES: Submit comments on or before: September 13, 2001.

ADDRESSES: Interested person are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–2374 (this is not a toll-free number) or e-mail to *Wayne_Eddins@HUD.gov.* Copies of the available documents submitted to OMB may be obtained from Mr. Eddins. Hearing or speech-impaired individuals may obtain further information via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8399.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). HUD has requested OMB approval by September 15, 2001.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless collection displays a valid control number.

This notice contains the following information:

(1) The title for the collection of information;

(2) A summary of the collection of information;

(3) A brief description of the need for the information and proposed use of the information;

(4) A description of the likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information;

(5) An estimate of the total annual reporting and recordkeeping burden that will result from the collection of information;

Title: Fair Hosing Act Training and Technical Guidance.

OMB Control Number: Pending.

Type of submission: Emergency expedited.

Form Number(s): No form required.

Reporting Burden:

Number of respondents	×	Frequency of response	×	Hours per response	=	Total burden hours
1000		1		0.3		300

Contract: Cheryl Kent, HUD (202–708–2333, ext. 7058.) Joseph Lackey, OMB, (202) 395–7316

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 29, 2001.

Wayne Eddins,

Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–22408 Filed 9–5–01; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to request information collection authority.

SUMMARY: We, the U.S. Fish and Wildlife Service, have submitted the collection of information described below to OMB for approval under the provisions of the Paperwork Reduction Act of 1995. Copies of specific information collection requirements, related forms, and explanatory materials may be obtained by contacting our Information Collection Officer at the address or phone number listed below.

DATES: You must submit comments on or before October 9, 2001.

ADDRESSES: Send your comments and suggestions on specific requirements to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of the Interior Desk Officer, 725 17th Street NW., Washington, DC 20503, and to Rebecca Mullin, Information Collection Officer, U.S. Fish and Wildlife Service, MS 222–ARLSQ, 4401 N. Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Horwath, Division of Fish and Wildlife Management Assistance and Habitat Restoration, Arlington, Virginia, at 703/358–1718, or Well Stephensen, Office of Marine Mammals Management, Anchorage, Alaska, at 907/786–3815.

SUPPLEMENTARY INFORMATION: We have submitted the following information collection clearance requirements to the OMB for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. The OMB has up to 60 days to approve or disapprove information collection, but they may respond after 30 days. Therefore, for your comments and suggestions to receive maximum consideration, the OMB should receive your input October 9, 2001.

Currently, we have approval from the OMB to collect information under OMB control number 1018–0066. This approval expires on October 31, 2001. We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless we display a currently valid OMB control number.

On March 6, 2001, we published in the **Federal Register** (66 FR 13564) a 60-day notice of our intention to request information collection authority from the OMB; our notice solicited public comments. We received no comments in response to that notice.

As with our 60-day notice, this 30-day notice invites your comments on: (1) Whether this collection of information is necessary for us to properly perform our functions, including whether this information will have practical utility; (2) the accuracy of our estimate of burden, including the validity of the methodology and assumptions we use; (3) ways to enhance the quality, utility, and clarity of the information we are proposing to collect; and (4) ways for us to minimize the burden of the collection of information on people who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological

collection techniques or other forms of information technology.

In October 1988, pursuant to provisions of Section 109(i) of the Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1361–1407), we implemented formal Marking, Tagging, and Reporting Regulations at 50 CFR 18.23(f) for Alaska Natives harvesting polar bear, northern sea otter, and Pacific walrus in Alaska. Under Section 101(b) of the MMPA, Alaska Natives residing in Alaska and dwelling on the coast of the North Pacific or Arctic Oceans may harvest these species for subsistence or handicraft purposes. Section 109(i) of the MMPA authorized us, acting on behalf of the Secretary of the Interior, to prescribe marking, tagging, and reporting regulations applicable to this Native subsistence and handicraft take.

Our regulations have enabled us to gether data on the Native subsistence and handicraft harvest, and on the biology of polar bear, sea otter, and Pacific walrus in Alaska in order to determine what effect such take is having on these populations. The regulations have also provided us with a means of monitoring the disposition of the harvest to ensure that any commercial use of products created from these species meets the criteria set forth in Section 101(b) of the MMPA.

The information that we propose to continue to collect from Alaska Natives beyond the currently authorized period that expires on October 31, 2001 (under OMB Clearance Number 1018–0066), will be used to improve our decision-making ability by substantially expanding the quality and quantity of harvest and biological data upon which we can base future management decisions. It will provide us with the ability to make inferences about the condition and general health of these populations, and to consider the importance and impacts to these populations resulting from the Native harvest and habitat degradation. without authority to collect this harvest information, our ability to measure the take of polar bear, sea otter and walrus is inadequate. We believe that mandatory marking, tagging, and reporting is essential for us, in concert with Alaska Natives, to be able to improve the quality and quantity of harvest and biological data necessary to base future management decisions. It allows us to make rational, knowledgeable decisions regarding the Native harvest and habitat degradation within the range of these species.

We estimate that the annual burden associated with this request will be 674 hours for each year of the 3-year period of OMB authorization. We calculated this estimated burden based on previous experience suggesting that Alaska Natives annually will take about 2,695 polar bears, sea otter, and Pacific walrus for subsistence and handicraft purposes, and that 15 minutes will be needed to provide the required information for each animal taken.

Title: Marine Mammal Marking, Tagging, and Reporting Program.

Bureau form numbers: R7–51, and R7–52.

Frequency of collection: Occasional.

Description of respondents: Individuals and households.

Number of respondents: Approximately 2,695 per year.

Estimated completion time: 15 minutes per response.

Annual burden hours: 674 hours.

Current OMB Clearance Number: 1018–0066.

Approval expires: October 31, 2001.

Dated: July 18, 2001.

Rebecca Mullin,

Information Collection Officer, U.S. Fish and Wildlife Service.

[FR Doc. 01–22345 Filed 9–5–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: Michael M. Smith, Bowie, TX, PRT–047142

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Saint Louis Zoo, Saint Louis, MO, PRT–039855

The applicant requests a permit to import biological samples collected from wild primates in Madagascar for the purpose of scientific research. Samples are to be collected from multiple species of the Lemuridae, Megaladapidae, Indridae, Daubentoniidae, and Cheirogaleidae families. This notification covers activities conducted by the applicant over a five year period.

Applicant: National Marine Fisheries Service, Miami, FL, PRT–045532

The applicant requests a permit to import and or introduce from the sea biological samples collected from wild Leatherback sea turtle (*Dermochelys coriacea*), Hawksbill sea turtle (*Eretmochelys imbricata*), and Kemp's Ridley sea turtle (*Lepdochelys. kempii*) for the purpose of scientific research. Samples are to be collected opportunistically from salvaged specimens. This notification covers activities conducted by the applicant over a five year period.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Written data, comments, or requests for copies of these complete applications or requests for a public hearing on these applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Gerald M. Moschgat, Ebensburg, PA, PRT–047378

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife

Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: August 24, 2001.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–22384 Filed 9–5–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Marine Mammal Protection Act; Notice of Receipt of Petition To List the Alaska Stock of Sea Otters as Depleted

AGENCY: Fish and Wildlife Service (FWS), Interior.

ACTION: Receipt of petition.

SUMMARY: On August 21, 2001, the FWS received a petition under section 115 of the Marine Mammal Protection Act (MMPA) from the Center for Biological Diversity (CBD). The petition requests that FWS list the Alaska stock of sea otters as depleted under the MMPA. Within 60 days of the receipt of this petition, the FWS will publish a finding in the **Federal Register** as to whether the petition presents substantial information indicating that the petitioned action may be warranted.

FOR FURTHER INFORMATION CONTACT: The petition can be viewed online at *http://www.r7.fws.gov/ea/sotter/Pet2.pdf.* For a printed copy of the petition, contact: Douglas Burn, Wildlife Biologist, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, or telephone 907/786–3800 or facsimile 907/786–3816.

Authority: The authority for this action is the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1383b *et seq.*

Dated: August 17, 2001.

Gary Edwards,

Deputy Regional Director.

[FR Doc. 01–22346 Filed 9–5–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Final Supplemental Environmental Impact Statement

AGENCY: U.S. Fish and Wildlife Service, Interior (Lead Agency): New York State Department of Environmental Conservation: Vermont Department of Fish and Wildlife (Cooperating Agencies).

ACTION: Notice of availability of Final Supplemental Environmental Impact Statement for a sea lamprey control proposal in Lake Champlain

SUMMARY: This notice announces the availability of a Final Supplemental Environmental Impact Statement (FSEIS) on a proposal to continue sea lamprey control in Lake Champlain. The U.S. Fish and Wildlife Service (USFWS) in cooperation with the Vermont Department of Fish and Wildlife (VTDFW) and the New York State Department of Environmental Conservation (NYSDEC) prepared the FSEIS pursuant to Sec. 102(2)(c) of the National Environmental Policy Act of 1969.

DATES: A 30-day review period will follow the Environmental Protection Agency's notice of availability of the FSEIS on September 7, 2001.

ADDRESSES: Copies of the FSEIS are available from Mr. Dave Tilton, Project Leader, USFWS Lake Champlain Office, 11 Lincoln St., Essex Junction, Vermont 05452; phone 802–872–0629, fax 802–872–9704.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Tilton, Project Leader, USFWS Lake Champlain Office, 11 Lincoln St., Essex Junction, Vermont 05452; phone 802–872–0629, fax 802–872–9704. New York contact person is Mr. Lawrence Nashett, Acting Regional Fisheries Manager, New York Department of Environmental Conservation, Region 5, P.O. Box 296, Ray Brook, New York 12977; phone 518–897–1333. Vermont contact person is Mr. Brian Chipman, District Fisheries Biologist, Vermont Department of Fish and Wildlife, 111 West Street, Essex Junction, Vermont 05452, phone 802–878–1564.

SUPPLEMENTARY INFORMATION:

Background

Sea lamprey are primitive marine invaders to Lake Champlain. They are parasitic fish that feed on the body fluids of other fish resulting in reduced growth and often the death of host fish. A substantial body of information collected on Lake Champlain indicates sea lamprey have a profound negative impact upon the lake's fishery resources and have suppressed efforts to establish new and historical sportfisheries. In 1990, the USFWS, NYSDEC, and VTDFW initiated an 8-year experimental sea lamprey control program for Lake Champlain. The experimental program treated tributaries and deltas of Lake Champlain with the chemical lampricides TFM and Bayluscide (listed as Bayer 73 in the Final Environmental Impact Statement), which substantially reduced larval sea lamprey numbers in treated waters. The program included monitoring and assessment of the effects of this sea lamprey reduction technique on the characteristics of certain fish populations, the sport fishery, and the area's growth and economy. A set of thirty evaluation standards were established. Overall, the experimental sea lamprey control program met or exceeded the majority of the standards demonstrating a successful reduction in the sea lamprey population. In addition to this evaluation, the cooperating agencies assessed the effects of the program on nontarget organisms.

Two rounds of treatments were planned for each significantly infested stream and delta. From 1990 through 1996, 24 TFM treatments were conducted on 14 Lake Champlain tributaries, and 9 Bayluscide treatments were conducted on 5 deltas. Approximately 141 stream miles and 1220 delta acres were treated.

In summary, trap catches of spawning-phase sea lamprey declined by 80 to 90 percent; nest counts were reduced by 57 percent. Sixteen of 22 TFM treatments reduced ammocoetes at index stations to less than 10 percent of pre-treatment levels. Eight of the nine Bayluscide treatments resulted in mean mortality rates over 85 percent among caged ammocoetes. Relatively small numbers of nontarget amphibian and fish species were killed. Adverse effects on nontarget species were higher for Bayluscide treatments than TFM. Native mussels, snails and some other macroinvertebrates were significantly affected after the 1991 Bayluscide treatments of the Ausable and Little Ausable deltas in New York. However, they recovered to pre-treatment levels within 4 years. American brook lamprey also experienced substantial treatment-related mortality. Yet, the finding of dead American brook lamprey during the experimental program's second-round treatments, in each stream where they were negatively affected during the first round, suggested survival or immigration was adequate to maintain their populations. Wounding rates on lake trout and landlocked Atlantic salmon were reduced in the main lake basin, and catches of both species increased. A significant increase in survival of 3 to 4-year old lake trout was noted: survival of older fish improved, but did not change significantly. Returns of Atlantic salmon to tributaries increased significantly after treatment. Changes in wounding rates on brown

and rainbow trout could not be evaluated, but angler catches increased since 1990. Catch per unit effort of rainbow smelt, the major forage species for salmonids, decreased significantly at one of two sampling stations in the main lake basin and in Malletts Bay, but not at other locations; length-at-age also decreased at most sites. Evaluation of angler responses to the program indicated a favorable economic benefit-cost ratio of 3.5–1.

A Comprehensive Evaluation of an 8–Year Program of Sea Lamprey Control in Lake Champlain provides a detailed description of the results of the project. It is available on the USFWS web-site at, [www.fws.gov/r5lcfwro/lamprey/lamprey.html.], or from any of the contacts for further information listed above.

Decision To Be Made

The responsible officials in the USFWS, NYSDEC, and VTDFW must decide whether to continue sea lamprey control for Lake Champlain. If sea lamprey control will continue, the agencies must also decide whether to implement the following actions:

(1) Establish long term program objectives to include:

(a) Achieve and maintain lamprey wounding rates at or below 25 wounds per 100 lake trout, ideally 10 wounds per 100 lake trout; 15 wounds per 100 landlocked salmon, ideally 5 wounds per 100 landlocked salmon; and 2 wounds per 100 walleye, ideally less than 1 wound per 100 walleye.

(b) Attain target wounding rates within 5 years of full implementation of the Proposed Action. Full implementation is defined as application of optimal sea lamprey control strategies on all tributaries that are identified in the Proposed Action and are known to warrant sea lamprey control measure.

(2) Employ an integrated approach to continuing sea lamprey control using lampricides and nonchemical means.

In addition, if sea lamprey control will continue, the agencies must also make the following determinations:

(1) Determine mitigation and monitoring measures required for sound resource management.

(2) Determine whether sea lamprey control is in the best interest for the resource and citizens of the States of New York and Vermont.

The Record of Decision is expected to be released in September, 2001. The Responsible Officials will make a decision regarding this proposal after considering public comments and the environmental consequences displayed in the Final Supplemental Environmental Impact Statement, applicable laws, regulations, and policies. The decision and supporting reason will be documented in the Record of Decision.

Dated: August 24, 2001.

Richard O. Bennett,

Acting Regional Director.

[FR Doc. 01–22432 Filed 9–5–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permit for Marine Mammals

On June 14, 2001, a notice was published in the **Federal Register** (volume 66 FR page 32371), that an application had been filed with the Fish and Wildlife Service by Samuel T. Fejes, Jr. for a permit (PRT–043925) to import one polar bear taken from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on August 15, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone (703) 358–2104 or fax (703) 358–2281.

Dated: August 24, 2001.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–22383 Filed 9–5–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF JUSTICE

Justice Management Division

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: New Collection; Applicant Qualification Form.

The Department of Justice (DOJ), Justice Management Division (JMD) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 5, 2001. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Joanne Simms, Director, JMD Personnel Staff, Suite 1110, 1331 Pennsylvania Avenue, NW, Washington, DC 20350.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Applicant Qualification Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: N/A. Personnel, Staff, Justice Management Division, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Applicants for employment with certain DOJ components who do not have access to the Internet. Other: None Abstract: This

form would allow applicants for employment with the Department of Justice who do not have access to the Internet to provide the required personal and experience information and job specific criteria in a format that can be scanned into the electronic recruitment module that automatically rates and ranks applicants.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1000 responses are estimated annually with an average of thirty minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 500 hours annually.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW, Washington, D.C. 20004.

Dated: August 28, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–22310 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 6, 2001, and published in the **Federal Register** on April 17, 2001, (66 FR 19796), Novartis Pharmaceutical Corporation, 59 Route 10, East Hanover, New Jersey 07936, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture finished product for distribution to its customers.

DEA has considered the factors in title 21, United States Code, section 823(a) and determined that the registration of Novartis Pharmaceutical Corporation to manufacture methylphenidate is consistent with the public interest at this time. DEA has investigated Novartis Pharmaceutical Corporation on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: August 23, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22323 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to section 1301.33(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 9, 2001, Chattam Chemicals, Inc., 3801 St. Elmo Avenue, Building 18, Chattanooga, Tennessee 37409, made application by renewal and by letter dated June 11, 2001, to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
N-Ethylamphetamine (1475)	I
4-Methoxyamphetamine (7411)	I
2,5-Dimethoxyamphetamine (7396).	I
Difenoxim (9168)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Codeine (9050)	II
Oxycodone (9143)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Morphine (9300)	II
Thebaine (9333)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to bulk manufacture the listed controlled substances to produce products for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than November 5, 2001.

Dated: August 24, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22326 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with section 1301.34 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 31, 2001, Houba Inc., P.O. Box 190, 16235 State Road 17, Culver, Indiana 46511, made application by to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Opium raw (9600)	II
Opium poppy (9650)	II
Poppy straw concentrate (9670)	II

The firm plans to import the controlled substances to use in the manufacture of active pharmaceutical ingredients.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in

accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than October 9, 2001.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: August 23, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22324 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substance; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 6, 2001, Houba Inc., P.O. Box 190, 16235 State Road 17, Culver, Indiana 46511, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II

The firm plans to bulk manufacture the controlled substances for the production of finished dosage form products.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (60 days from publication).

Dated: August 23, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22325 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–09–M

MEDICARE PAYMENT ADVISORY COMMISSION

Commission Meeting

AGENCY: Medicare Payment Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission will hold its next public meeting on Thursday, September 13, 2001, and Friday, September 14, 2001, at the Ronald Reagan Building, International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC. The meeting is tentatively scheduled to begin at 9:30 a.m. on September 13, and at 8:30 a.m. on September 14.

On Thursday, September 13, 2001 MedPAC will conduct a hearing on regulatory complexity in Medicare. Witnesses will include: Bruce Bradley, General Motors; William Roper, University of North Carolina; Robert Berenson, Academy of Health Services Research and Health Policy; Ron Pollack, Families, USA; David Lipschutz, Center for Health Care Rights; Douglas Wood, Mayo Clinic and Foundation; Rebecca Brewer, Colleton Medical Center; Steve Dominquez, Tenet Healthcare; John Markus, Fresenius Medical Care North America; Arthur Rubin, MDxL; James Regan, Denver Medical Society; Robert Margolis, HealthCare Partners; Mara Benner, Gentiva Health Services; Keith Weikel, ManorCare-HCR; Rita Hostak, Sunrise Medical; Richard Jones, United Healthcare; Maureen McLaughlin, Group Health Cooperative; William Haggett, Independence Blue Cross.

On Friday, September 14, 2001 the following topics will be discussed: the new rule on payment for hospital outpatient department services; payment for outpatient hospital care in cancer hospitals; managed care issues in Medicare; Medicare consumer coalitions; quality improvement standards for health plans and providers; complexity of the Medicare program and regulatory burden; blood safety requirements: impact on hospital costs and PPS policy options; and the revised estimate of the payment update for physician services.

Agendas will be mailed on September 5, 2001. The final agenda will be available on the Commission's website (www.MedPAC.gov)

ADDRESSES: MedPAC's address is: 1730 K Street, NW., Suite 800, Washington, DC 20006. The telephone number is (202) 653–7220.

FOR FURTHER INFORMATION CONTACT: Diane Ellison, Office Manager, (202) 653–7220.

Murray N. Ross,

Executive Director.

[FR Doc. 01–22349 Filed 9–5–01; 8:45 am]

BILLING CODE 6820–BW–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–107)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that IntraPace, Inc., of Menlo Park, CA 94025, has applied for a partially exclusive license to practice the invention disclosed in U.S. Patent Application Serial Nos. 09/350,736, entitled, ''Advanced Sensor Systems for Biotelemetry'' and 09/427,043, entitled ''Modular Sensor Signal System'' which are both assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Ames Research Center.

DATES: Responses to this notice must be received on or before September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Padilla, Patent Counsel, NASA Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035–1000, telephone (650) 604–5104.

Dated: August 28, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–22364 Filed 9–5–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is resubmitting the following information collection without change to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until November 5, 2001.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. C. Keith Morton (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: *ckmorton@ncua.gov.*

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, C. Keith Morton, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposals for the following collection of information:

OMB Number: 3133–0116.

Form Number: NCUA 9600, NCUA 4401, NCUA 4221, NCUA 4505, & NCUA 4506.

Type of Review: Extension of a currently approved collection.

Title: 12 U.S.C. 1771—Conversion from Federal to State Credit Union and from State to Federal Credit Union.

12 U.S.C. 1781—Insurance of Member Accounts—Eligibility.

Description: The forms constitute the application for an approval of credit union conversions from federal to state charter and from state to federal charter. In addition, forms in the package contain the application and approval for federal insurance of member accounts in credit unions.

Respondents: Credit unions seeking to convert from federal to state charter and from state to federal charter and non-federally insured state chartered credit unions seeking federal share insurance.

Estimated No. of Respondents/ Recordkeepers: 50.

Estimated Burden Hours Per Response: 4 hours.

Frequency of Response: Other. As credit unions seek approval to convert charter or federal share insurance.

Estimated Total Annual Burden Hours: 200.

Estimated Total Annual Cost: N/A.

Dated: By the National Credit Union Administration Board on August 30, 2001.

Hattie M. Ulan,

Acting Secretary of the Board.

[FR Doc. 01–22296 Filed 9–5–01; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following new information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until November 5, 2001.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. C. Keith Morton, (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: ckmorton@ncua.gov

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, C. Keith Morton, (703) 518–6411. It is also available on the following website: *www.NCUA.gov.*

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0061.

Form Number: CLF–8703.

Type of Review: Revision to a currently approved collection.

Title: Central Liquidity Facility (CLF) Repayment Agreement, Regular Member.

Description: The form is used by CLF regular members borrowing from the CLF.

Respondents: Credit Unions which are CLF regular members who borrow from the CLF.

Estimated No. of Respondents/ Recordkeepers: 40.

Estimated Burden Hours Per Response: 2.875 hours.

Frequency of Response: Other. As the need for borrowing arises.

Estimated Total Annual Burden Hours: 115 hours.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on August 28, 2001.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–22297 Filed 9–5–01; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is resubmitting the following information collection without change to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until November 5, 2001.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. C. Keith Morton, (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: ckmorton@ncua.gov.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, C. Keith Morton, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposals for the following collection of information:

OMB Number: 3133–0114.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: Payment on Shares by Public Units and Nonmembers

Description: 5 CFR 701.32 limits nonmember and public unit deposits in federally insured credit unions to 20 percent of their shares or $1.5 million, whichever is greater. The collection of information requirement is for those credit unions seeking an exemption from the above limit.

Respondents: Credit Unions seeking an exemption from the limits on share deposits by public unit and nonmember accounts set by 5 CFR 701.32.

Estimated No. of Respondents/ Recordkeepers: 20.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Other. As exemption is requested.

Estimated Total Annual Burden Hours: 40.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on August 30, 2001.

Hattie Ulan,

Acting Secretary of the Board.

[FR Doc. 01–22298 Filed 9–5–01; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Leadership Initiatives Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Leadership Initiatives Advisory Panel (AccessAbility section) will be held by teleconference from 2 p.m. to 4 p.m. on Wednesday, September 26, 2001 in Room 528 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of May 22, 2001, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: August 31, 2001.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 01–22388 Filed 9–5–01; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

Davis-Besse Nuclear Power Station; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–3 issued to FirstEnergy Nuclear Operating Company (FENOC) for operation of the Davis-Besse Nuclear Power Station (DBNPS), Unit 1, located in Ottawa County, Ohio.

The proposed amendment would change Technical Specification (TS) Sections 3/4.9.7, Refueling Operations—Crane Travel—Fuel Handling Building, and associated Bases; TS 3/4.9.11, Refueling Operations—Storage Pool Water Level, and associated bases; TS 3/4.9.12, Refueling Operations—Storage Pool Ventilation; TS 3/4.9.13, Refueling Operations—Spent Fuel Assembly Storage, and associated Bases; and TS 5.6 Design Features—Fuel Storage. The purpose of this license amendment application is to propose the necessary revisions to the DBNPS TS to reflect an increase in Spent Fuel Pool (SFP) storage capability, as a result of the SFP re-racking project, from the current capacity of 735 fuel assemblies to a new capacity of 1624 fuel assemblies. To provide additional temporary storage of fuel assemblies to support a complete re-racking of the SFP, this license amendment application also requests approval for up to 90 transfer pit storage locations. The transfer pit storage rack will be relocated into the SFP as part of the completion of this re-racking project. The resulting SFP fuel storage capacity will be sufficient to meet storage needs through the current expiration date of the DBNPS operating license, April 22, 2017.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below. The Davis-Besse Nuclear Power Station (DBNPS) has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the DBNPS, Unit No. 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because the methods and procedures for handling fuel assemblies will remain unchanged, fuel handling equipment reliability will be unaffected, and provisions will remain in place to ensure that the likelihood of a heavy load drop will remain extremely small. The proposed changes involve an expanded SFP storage capacity resulting from the planned re-racking of the SFP, and the inclusion of provisions allowing for temporary storage of fuel assemblies in the transfer pit.

For the installation activities involving the proposed expanded spent fuel storage capacity, heavy load lifts have been given careful consideration. In accordance with the proposed changes to Technical Specifications (TS) 3/4.9.7, ''Crane Travel—Fuel Handling Building,'' except when a specially designed impact cover is placed over fuel assemblies located in the cask pit, heavy loads are prohibited from travel

over stored fuel assemblies. The physical design of the impact cover, together with administrative controls established while the impact cover is being installed or removed, ensure that it can not fall into the cask pit in the unlikely event that it is dropped. As described below, except for the use of a temporary crane, the spent fuel cask crane will be used for the replacement of the existing storage racks in the spent fuel pool (SFP), placement of the temporary rack in the transfer pit, and eventual relocation of racks from the cask pit and transfer pit to the SFP. The spent fuel cask crane is comprised of a main hook rated for 140 tons, as well as an auxiliary hook rated for 20 tons. As described in the DBNPS Updated Safety Analysis Report (USAR) Section 9.1.5, ''Control of Heavy Loads,'' the spent fuel cask crane, including its auxiliary hoist, is subject to compliance with the applicable guidelines of NUREG–0612, ''Control of Heavy Loads at Nuclear Power Plants.'' This will ensure that there will be no significant increase in the probability of a heavy load drop, and that the probability of a heavy load drop will remain extremely small. Due to the limited travel of the spent fuel cask crane, a temporary crane will be used, as necessary, to position existing racks for removal and for final positioning of the new racks. The crane will be designed to meet the intent of NUREG–0612 through a defense-in-depth approach. The temporary crane will only lift the racks several inches above the pool floor, will not be used to lift any heavy loads over fuel assemblies or safety-related equipment, and will not be used to move fuel assemblies. The methods and procedures for handling fuel assemblies during installation activities will not be significantly changed. Based on these considerations, there will be no significant increase in the probability of damage to stored fuel assemblies as a result of installation activities.

For the activities involving the post-installation use of the proposed expanded spent fuel storage capacity, the following previously postulated accident scenarios have been considered: Misloaded or Mislocated Fuel Assembly; Seismic Event; and Fuel Handling Accident. In addition, the effects of a loss of spent fuel pool cooling or level have been evaluated. The probability of the inadvertent misloading or mislocation of a fuel assembly is primarily a function of fuel handling procedures. The probability of a fuel handling accident is primarily a function of fuel handling equipment reliability and fuel handling procedures. The methods and procedures for handling fuel assemblies during normal, post-installation use of the racks will not be significantly changed. In addition, following completion of installation activities, the activities performed in and around the spent fuel pool will not be significantly changed due to the use of the new spent fuel pool racks. The proposed TS changes have no bearing on the probability of a seismic event or the probability of a loss of spent fuel pool cooling or level. Based on these considerations, there will be no significant increase in the probability of an accident previously evaluated as a result of normal, post-installation use of the racks.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because evaluations for each postulated accident have shown that the consequences remain bounded by the consequences from the previously evaluated accidents.

For the installation activities involving the proposed expanded spent fuel storage capacity, heavy load lifts have been given careful consideration. Heavy load lifts are subject to compliance with the applicable guidelines of NUREG–0612. These guidelines include use of defined safe load paths in accordance with approved procedures. This will ensure that there will be no significant increase in the consequences of a heavy load drop, in the unlikely event that one were to occur.

For the activities involving the post-installation use of the proposed expanded spent fuel storage capacity, the following previously postulated accident scenarios have been considered: Misloaded or Mislocated Fuel Assembly; Seismic Event; and Fuel Handling Accident. In addition, the effects of a loss of spent fuel pool cooling or level have been evaluated. The criticality analyses for the new spent fuel pool storage racks require burnup/enrichment limitations similar to those currently in place for the existing racks. These burnup/enrichment limitations are imposed by the proposed changes to TS 3/4.9.13, Refueling Operations-Spent Fuel Assembly Storage. The criticality evaluation for the new racks shows that if an unirradiated fuel assembly of the highest permissible enrichment is placed in an unauthorized storage cell or mislocated outside a storage rack, k_{eff} will be maintained ≤ 0.95, taking credit for soluble boron in the spent fuel pool water. Therefore, there will be no adverse radiological consequences due to the proposed changes.

The results of the seismic evaluation demonstrate that the racks will remain intact and that the structural capability of the pool and liner will not be exceeded. The Auxiliary Building structure will remain intact during a seismic event and will continue to adequately support and protect the fuel racks and pool water inventory, therefore, the rack geometry and cooling to the fuel will be maintained. Thus, there will be no adverse radiological consequences due to the proposed changes.

The new racks do not change the height of the stored fuel relative to any load being handled, and the 72 hour decay time for the fuel assumed in the design basis accident is conservative. Based on this, the design basis fuel handling accident for the pool area remains unchanged.

The mechanical accidents analyses evaluated the extent of rack deformation due to different scenarios. Based on the maximum calculated rack deformation, it was concluded that the criticality and thermal hydraulics limitations were not exceeded. Also, the mechanical accident analyses concluded that the pool liner will not be pierced, and there will be no catastrophic damage to the pool structure. Therefore, the analyzed mechanical accidents will not lead to radiological consequences beyond that already evaluated.

The evaluation of a loss of spent fuel pool cooling shows that sufficient time will be available, before a significant reduction in water level, to restore cooling or to provide a source of makeup water. Therefore, the racks will remain submerged and fuel stored therein will remain sufficiently cooled, and there will be no adverse radiological consequences due to the proposed changes.

The fuel handling area ventilation system will continue to ensure that in the event radioactive material is released from a damaged irradiated fuel assembly, it will be filtered through HEPA and charcoal iodine adsorber filters prior to discharge to the atmosphere. Therefore, the radiological consequences will continue to be mitigated as prior to the proposed changes.

2. Not created the possibility of a new or different kind of accident from any accident previously evaluated because the function and parameters of the components and the associated activities necessary to support safe storage of fuel assemblies in the new racks are similar to those presently in place. The methods and procedures for handling fuel assemblies would not be changed. Therefore, the list of

postulated accidents remains unchanged.

Any event which would modify parameters important to safe fuel storage sufficiently to place them outside of the boundaries analyzed for normal conditions and/or outside of the boundaries previously considered for accidents would be considered a new or different accident. The fuel storage configuration and the existence of the coolant are the parameters that are important to safe fuel storage. The proposed changes do not alter the operating requirements of the plant or of the equipment credited in the mitigation of the design basis accidents, nor do they affect the important parameters required to ensure safe fuel storage. Therefore, the potential for a new or previously unanalyzed accident is not created.

3. Not involve a significant reduction in a margin of safety because for the proposed changes, appropriate evaluations have shown compliance with stipulated safety margins.

The objective of spent fuel storage is to store the fuel assemblies in a subcritical and coolable configuration through all environmental and abnormal loadings, such as a seismic event or a fuel handling accident. The design of the new spent fuel racks meets all applicable requirements for safe fuel storage. The seismic and structural design of the racks preserves the proper margin of safety during normal and abnormal loads. The methodology used in the criticality analysis meets the applicable regulatory guidance. The thermal-hydraulic evaluation demonstrates that the pool will be maintained below the specified thermal limits under the conditions of the maximum heat load and during all credible malfunction scenarios and seismic events. Upon the unlikely event of a complete loss of spent fuel pool cooling, sufficient time will be available, before a significant reduction in water level, to restore cooling or to provide a source of makeup water. Therefore, the racks will remain submerged and fuel stored therein will remain sufficiently cooled. In addition, the results of the fuel handling accident evaluation show that the minimum subcriticality margin will be maintained, cooling will remain adequate, the spent fuel pool structure will not suffer catastrophic damage, and the radiological dose resulting from the release caused by a fuel handling accident will not be increased from that previously considered.

Thus, it is concluded that the proposed changes do not involve a significant reduction in the margin of safety.

Conclusion:

On the basis of the above, the Davis-Besse Nuclear Power Station has determined that the License Amendment Request does not involve a significant hazards considerations. As this License Amendment Request concerns a proposed change to the Technical Specifications that must be reviewed by the Nuclear Regulatory Commission, this License Amendment Request does not constitute an unreviewed safety question.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 9th, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended

petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mary O'Reilly, FirstEnergy Corporation, 76 South Main Street, Akron, OH., attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to ''any matter which the Commission determines to be in controversy among the parties.''

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules and the designation, following argument of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR part 2, subpart K, ''Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors'' (published at 50 FR 41662 dated October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR part 2, subpart G apply.

For further details with respect to this action, see the application for amendment dated December 2, 2000, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 30th day of August, 2001.

For the Nuclear Regulatory Commission.

Anthony J. Mendiola,

Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–22412 Filed 9–5–01; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request For Reclearance of a Revised Information Collection: RI 98–7

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for reclearance of a revised information collection. RI 98–7, We Need Important Information About Your Eligibility for Social Security Disability Benefits, is used by OPM to verify receipt of Social Security Administration (SSA) disability benefits, make necessary adjustments to the Federal Employees Retirement

System (FERS) disability benefit, and to notify the annuitant of any overpayment payable to OPM. It also notifies the annuitant of the responsibility to notify OPM if SSA benefits begin and consequences of non-notification.

Approximately 5,500 RI 98–7 forms will be completed annually. We estimate it takes approximately 5 minutes to complete the form. The annual burden is 458 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or email to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received by October 9, 2001.

ADDRESSES: Send or deliver comments to John C. Crawford, Chief, FERS Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3313, Washington, DC 20415–3520. and Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Donna G. Lease, Team Leader, Forms Analysis and Design, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 01–22359 Filed 9–5–01; 8:45 am]

BILLING CODE 6325–50–U

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish period summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of information collection: Supplemental Information on Accident and Insurance; OMB 3220–0036.

Under section 12(o) of the Railroad Unemployment Insurance Act (RUIA), the Railroad Retirement Board is entitled to reimbursement of the sickness benefits paid to a railroad employee if the employee receives a sum or damages for the same infirmity for which the benefits are paid. Section 2(f) of the RUIA requires employers to reimburse the RRB for days in which salary, wages, pay for time lost or other remuneration is later determined to be payable. Reimbursements under section 2(f) generally result from the award of pay for time lost or the payment of guaranteed wages. The RUIA prescribes that the amount of benefits paid be deducted and held by the employer in a special fund for reimbursement to the RRB.

The RRB currently utilizes Form(s) SI–1c, (Supplemental Information on Accident and Insurance), SI–5 (Report of Payments to Employee Claiming Sickness Benefits Under the RUIA), ID–3s (Request for Lien Information), ID–3s–1, (Lien Information Under Section 12(o) of the RUIA), ID–3u (Request for Section 2(f) Information), ID–30k (Form Letter Asking Claimant for Additional Information on Injury or Illness), and ID–30k–1 (Request for Supplemental Information on Injury or Illness—3rd Party), to obtain the necessary information from claimants and railroad employers. The RRB proposes minor non-burden impacting editorial changes to all of the forms in the collection. Completion is required to obtain benefits. One response is requested of each respondent.

Estimate of Annual Respondent Burden: the estimated annual respondent burden for this collection is as follows:

Form Nos.	Annual responses	Time (min.)	Burden (hrs.)
SI–1c	1,000	5	93
SI–5	2,500	5	208
ID–3s	18,500	3	925
ID–3s.1	500	3	25
ID–3u	1,500	3	75
ID–30k	2,000	5	208
ID–30k.1	2,500	5	167
Total	28,500	.....	1,691

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received on or before November 5, 2001.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–22311 Filed 9–5–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25146; 813–252]

WS Investment Company, L.L.C. et al. Notice of Application

August 29, 2001.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the ''Act'') granting an exemption from all

provisions of the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (f), (g) and (j)), section 30) (other than certain provisions of paragraphs (a), (b), (e), and (h)), sections 36 through 53, and the rules and regulations under the Act.

SUMMARY OF THE APPLICATION: Applicants request an order to exempt certain investment funds formed for the benefit of eligible current and former employees of Wilson Sonsini Goodrich & Rosati, Professional Corporation, and its affiliates from certain provisions of the Act. Each fund will be an ''employees' securities company'' as defined in section 2(a)(13) of the Act.

Applicants: WS Investment Company, L.L.C. (the ''Investment Fund'') and Wilson Sonsini Goodrich & Rosati, Professional Corporation (together with any business organization that results from a reorganization of Wilson Sonsini Goodrich & Rosati, Professional Corporation, into a different type of business organization or into an entity organized under the laws of another jurisdiction, ''WSGR'').

Filing Dates: The application was filed on March 27, 2000 and amended on August 28, 2001.

Hearing or Notificaton of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 24, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 650 Page Mill Road, Palo Alto, CA 94304.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942–0582, or Mary Kay Frech, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. WSGR is a law firm organized as a California professional corporation. WSGR and its ''affiliates,'' as defined in rule 12b–2 under the Securities Exchange Act of 1934 (the ''Exchange Act''), are referred to collectively as the ''WSGR Group'' and individually as a ''WSGR entity.'' The shareholders of WSGR are referred to as ''Members.''

2. The Investment Fund is a Delaware limited liability company established pursuant to a limited liability company agreement. The applicants may in the future offer additional pooled investment vehicles identical in all material respects to the Investment Fund (other than investment objectives and strategies) (the ''subsequent Funds'') (together, the Investment Fund and the Subsequent Funds are referred to as the ''Funds''). The applicants anticipate that each Subsequent Fund will also be structured as a limited liability company, although a Subsequent Fund could be structured as a limited partnership, corporation, trust or other business organization formed as an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act. The Funds will operate as non-diversified, closed-end management investment companies. The Funds will be established to enable the Members and certain attorney and non-attorney employees of WSGR Group to participant in certain investment opportunities that come to the attention of WSGR Group. Participation as investors in the Funds will allow the Eligible Investors, as defined below, to diversify their investments and to have the opportunity to participate in investments that might not otherwise be available to them or that might be beyond their individual means.

3. WSGR or a wholly-owned subsidiary of WSGR will serve as the sole manager (the ''Manager'') or each Fund. The Funds will have one or more investment committees (''Investment Committees''), each member of which shall be a Member. The Manager or WSGR shall appoint the members of each Investment Committee. If the Manager is a wholly-owned subsidiary of WSGR, the members of each Investment Committee will be officers and/or directors of the subsidiary. The Manager or any person involved in the operation of the Funds will register as an investment adviser if required under the Investment Advisers Act of 1940, or the rules under that Act.

4. Interests in the Funds (''Interests'') will be offered without registration in reliance on section 4(2) of the Securities Act of 1933 (the ''Securities Act''), Regulation D under the Securities Act or rule 701 under the Securities Act, or any successor rule, and will be sold solely to Eligible Investors. Eligible Investors consist of ''Eligible Employees,'' ''Qualified Investment Vehicles,'' ''Immediate Family Members,'' each as defined below, and WSGR entities. The term ''Fund Investors'' refers to Eligible Investors who invest in the Funds. Prior to offering Interests in a Fund to an individual, the Manager must reasonable believe that the individual is a sophisticated investor capable of understanding and evaluating the risks of participating in the Fund without the benefit or regulatory safeguards. An ''Eligible Employee'' is a person who is, at the time of investment, a current or former Member of WSGR or employee of WSGR Group who (a) meets the standards of an ''accredited investor'' set forth in rule 501(a)(5) or rule 501(a)(6) of Regulation D under the Securities Act, (b) is one of 35 or fewer employees of WSGR Group who meets certain salary and other requirements (''Category 2 investors''), or (c) is a lawyer employed by WSGR who purchase Interests pursuant to an offering under rule 701 under the Securities Act (''rule 701'') (''Category 3 investors'').

5. Each Category 2 investor will be an employee of WSGR Group, but not a lawyer employed by WSGR, who meets the sophistication requirements set forth in rule (506)(b)(2)(ii) of Regulation D under the Securities Act [1] and who (a) has a graduate degree, has a minimum of 3 years of business experience, has had compensation of at least $150,000 in the preceding 12 month period, and has a reasonable expectation of compensation at a least $150,000 in each of the 2 immediately succeeding 12 month periods, or (b) is a ''knowledgeable employee,'' as defined rule 3c–5 under the Act, of the Fund (with the Fund treated as though it were a ''Covered Company'' for purposes of the rule). In addition, a Category 2 investor qualifying under (a) above will not be permitted to invest in any calendar or fiscal year (as determined by WSGR) more than 10% of his or her income from all sources for the immediately preceding calendar or fiscal year in one or more Funds.

6. Each Category 3 investor will be a lawyer employed by WSGR who reasonable expects to have compensation of at least $120,000 in the

[1] Some or all Category 2 investors may purchase their Interests in an offering under rule 701 rather than under Regulation D.

next 12 months and who has a reasonable expectation of compensation of at least $150,000 in each of the 2 immediately succeeding 12 month periods. (In addition, any Category 3 investors who is not a Member will not be permitted to invest in any calendar or fiscal year (as determine by WSGR) more than 10% (or 5%, if he or she has been employed as a lawyer for less than 3 years) of his or her reasonably expected income from all sources for that year in one or more Funds. Category 3 investors will purchase Interests pursuant to an offering under rule 701. Prior to receiving a subscription agreement from any potential Fund Investor pursuant to an offering in reliance on rule 701, WSGR will make available at no charge to potential Fund Investors the services of an independent third party (''Financial Consultant'') qualified to provide advice concerning the appropriateness of investing in a Fund.

7. A Qualified Investment Vehicle is a trust or other entity the sole beneficiaries of which are Eligible Employees or their Immediate Family Members or the settlers and trustees of which consist of Eligible Employees or Eligible Employees together with Immediate Family Members.[2] Immediate Family Members include any parent, child, spouse of a child, spouse, brother or sister, and includes any step and adoptive relationships. A Qualified Investment Vehicle must be either (a) an accredited investor as defined in rule 501(a) of Regulation D or (b) an entity for which an Eligible Employee is a settlor and principal investment decisionmaker. An Immediate Family Member who purchases Interests must be an accredited investor as defined in rule 501(a)(5) or rule 501(a)(6) of Regulation D.

8. Each Fund may issue its Interests in series (each, a ''Series'' and collectively, the ''Series'') with new Series of Interests being offered from time to time. Each Series may be further divided into two or more separate classes (each, a ''Class''), having such terms and conditions as the Manager may establish. Each Series will represent an interest in some or all of those Fund investments made by the Fund during a specified period of time (the ''Investment Period''). Following the end of a Series' Investment Period, no new investment will be made for that Series, although following a Series' Investment Period additional money may be contributed to an existing investment.

9. The Manager may determine, in its sole discretion, that in cases when the Investment Periods for two or more Series are open concurrently and when a limited amount of securities of an investee company is available, the Investment Committee for one Series (the ''Mandatory Series'') will have the right to determine whether, and to what extent, the Mandatory Series will invest in the securities prior to one or more other Series having the right to invest. In such a case, the Mandatory Series shall be the Series in which Members have a mandatory obligation to invest. Each Member is required to purchase Interests in each Mandatory Series in an amount equal to a specified percentage of the investments made by that Mandatory Series based generally on his or her annual compensation. Members have a right, but not an obligation, to invest in Series other than the Mandatory Series (the ''Voluntary Series''). Associates of WSGR will have the right to invest in Mandatory Series and may have the right to invest in Voluntary Series.

10. Currently, the Mandatory Series consists of two separate Classes: one Class, which is assessable, for Members and certain senior non-attorney employees of WSGR who are accredited investors; and one Class, which is non-assessable, for other Fund Investors. Assessments may be made against assessable interests solely during the Investment Period, and solely for the purpose of funding investments that the Fund otherwise does not have sufficient capital to make.

11. In order to comply with the requirements of rule 701, at the beginning of each Investment Period, the Fund will accept capital contributions or irrevocable commitments for the relevant Series from those Eligible Investors investing pursuant to Regulation D (the ''Regulation D Investors''), and then prepare a balance sheet as required by rule 701. The fund may then receive and accept subscription agreements, and thereafter accept capital contributions or commitments for that Series from those Eligible Investors investing pursuant to rule 701 (the ''rule 701 Investors''). The capital contributions and commitments of the Rule 701 Investors, in the aggregate, will not exceed 15% of the total amount of capital contributions and irrevocable commitments received from the Regulation D Investors. Because the capital commitments of the rule 701 Investors may be funded, in whole or in part, through periodic payroll deductions, the Rule 701 Investors may from time to time contribute money prior to the time the fund is able to invest that money. It currently is anticipated that any such amounts will be placed in a separate bank or escrow account, opening the delivery of the money to the Fund for investment or other authorized purposes.[3] No more than approximately 13% (*i.e.,* 15% of the total amount of capital contributions and irrevocable commitments received from the Regulation D Investors) of all Fund investments and other authorized expenditures for each Series will at any time be paid for out of money contributed to the Fund by Rule 701 Investors.

12. The terms of a Fund will be fully disclosed in the private placement memorandum of the Fund, and each Eligible Investor will receive a private placement memorandum and Fund's limited liability company agreement (or other organizational documents) prior to his or her investment in the Fund. Each Fund will send its Fund Investors annual reports, which will contain audited financial statements with respect to those Series in which the Fund Investor has Interests, as soon as practicable after the end of each fiscal year. In addition, as soon as practicable after the end of each fiscal year, the Funds will send a report to each Fund Investor setting forth such tax information as shall be necessary for the preparation by the Fund Investor of his or her federal and state tax returns.

13. Eligible Investors will be permitted to transfer their Interests only with the express consent of the Manager. Any such transfer must be to another Eligible Investor. No fee of any kind will be charged in connection with the sale of Interests.

14. An Eligible Employee's Interests may be subject to repurchase or cancellation if: (a) A Fund Investor ceases to be an Eligible Investor; (b) a Fund Investor is no longer deemed to be able to bear the economic risk of investment in a Fund; (c) adverse tax consequences were to inure to the Fund were a particular Fund Investor to remain; or (d) the continued membership of the Fund Investor would violate applicable law or regulations. In addition, WSGR reserves the right to impose vesting provisions on a Fund Investor's investments in a Fund. In an investment program that provides for

[2] A Qualified Investment Vehicle is not permitted to participate in a rule 701 offering. WSGR or the Manager may, however, in their discretion and in compliance with rule 701, permit an Eligible Employee who purchases Interests in the Fund in a rule 701 offering to transfer some or all of those Interests to a Qualified Investment Vehicle.

[3] Applicants state that in the future, the Fund may not need to use the separate bank account or escrow arrangements, if (for example) Regulation D Investors make sufficient capital contributions to a Fund at the beginning of the Investment Period.

vesting provisions, all or a portion of a Fund Investor's Interests will be treated as unvested, and vesting will occur through the passage of a specified period of time. The portion of a Fund Investor's Interests that are unvested at the time of the termination of a Fund Investor's employment with WSGR may be subject to repurchase or cancellation. Upon any repurchase or cancellation of all or a portion of a Fund Investor's Interests, a Fund will at a minimum pay to the Fund Investor the lesser of (a) the amount actually paid by the Fund Investor to acquire the Interests less the amount of any distributions received by that Fund Investor from the Fund (plus interest at or above the prime rate, as determined by the Manager) and (b) the fair market value of the Interests determined at the time of repurchase or cancellation, as determined in good faith by the Manager. Any interest owed to a Fund Investor pursuant to (a) above will begin to accrue at the end of the Investment Period.

15. WSGR may be reimbursed by a Fund for reasonable and necessary out-of-pocket costs directly associated with the organization and operation of the Funds, including administrative and overhead expenses. There will be no allocation of any of WSGR's operating expenses to a Fund. In addition, WSGR may allocate to a Series any out-of-pocket expenses specifically attributable to the organization and operation of that Series. No separate management fee will be charged to a Fund by the Manager, and no compensation will be paid by a Fund or by Fund Investors currently employed by WSGR Group to the Manager for its services. The Manager may impose a fixed fee or a management fee, in either case not to exceed one percent of the value of the Interests held by any Fund Investor. Such a fee will be charged only to a person who becomes a former employee of WSGR Group and any Qualified Investment Vehicle associated with that Fund Investor, so that these Fund Investors bear their fair share of the costs of managing the Funds.

16. WSGR may in its discretion advance funds to Eligible Investors for the purpose of making their capital contributions. WSGR currently expects that no interest will be charged on such loans, but WSGR reserves the right to charge interest on such loans in the future. The interest rate charged on such loans will not exceed the prime rate. The Funds may borrow from WSGR Group, Members, or a bank or other financial institution, provided that a Fund will not borrow from any person if the borrowing would cause any person not named in section 2(a)(13) of the Act to own outstanding securities of the Fund (other than short-term paper). Any borrowings by a Fraud will be non-recourse other than to WSGR or a WSGR entity. If WSGR or a WSGR entity or a Member makes a loan to the Funds, the interest rate on the loan will be no less favorable to the Funds than the rate that could be obtained on an arm's length basis.

17. No Fund will acquire any security issued by a registered investment company if immediately after the acquisition the Fund would own more than 3% of the outstanding voting stock of the registered investment company.

Applicants' Legal Analysis

1. Section 6(b) of the Act provides, in part, that the Commission will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) provides that the Commission will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company as any investment company all of whose securities (other than short-term paper) are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 of the Act from selling or redeeming their securities. Section 6(e) provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the Commission, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicants request an order under section 6(b) and 6(e) of the Act exempting the Funds from all provisions of the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (f), (g), and (j)), section 30 (other than certain provisions of paragraphs (a), (b), (e) and (h)), sections 36 through 53 of the Act, and the rules and regulations under the Act.

3. Section 17(a) generally prohibits any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from knowingly selling or purchasing any security or other property to or from the company. Applicants request an exemption from section 17(a) to permit a Fund to: (1) Purchase, from WSGR or any affiliated person thereof, securities or interests in properties previously acquired for the account of WSGR or any affiliated person thereof; (b) sell, to WSGR or any affiliated person thereof, securities or interested in properties previously acquired by the Funds; (c) invest in companies, partnerships or other investment vehicles offered, sponsored or managed by WSGR or any affiliated person thereof; and (d) purchase interests in any company or other investment vehicle (i) in which WSGR owns 5% or more of the voting securities, or (ii) that otherwise is an affiliated person of the Fund (or an affiliated person of such a person) or any affiliated person of WSGR.

4. Applicants state that an exemption from section 17(a) is consistent with the protection of investors and the purposes of the Act. Applicants state that the Fund Investors will be informed in the Fund's private placement memorandum of the possible extent of the Fund's dealings with WSGR or any affiliated person thereof. Applicants also state that, as financially sophisticated professionals, Fund Investors will be able to evaluate the attendant risks. Applicants assert that the community of interest among the Fund Investors and WSGR will provide the best protection against any risk of abuse.

5. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person or principal underwriter of a registered investment company, or any affiliated person of an affiliated person or principal underwriter, acting as principal, from participating in any joint arrangement with the company unless authorized by the Commission. Applicants request relief to permit affiliated persons of each Fund, or affiliated persons of any of these persons, to participate in any joint arrangement in which the Fund is a participant. Joint transactions in which a Fund may participate could include the following: (a) An investment by one or more Funds in a security in which WSGR or its affiliated person, or another Fund, is a participant, or with respect to which WSGR or an affiliated person is entitled to receive fees (including, but not limited to, legal fees, placement fees, investment banking fees, brokerage commissions, or other economic

benefits or interests); (b) an investment by one or more Funds in an investment vehicle sponsored, offered or managed by WSGR; and (c) an investment by one or more Funds in a security in which an affiliate is or may become a participant.

6. Applicants state that strict compliance with section 17(d) would cause the Funds to forego investment opportunities simply because a Fund Investor, WSGR or other affiliates of the Fund also had made or contemplated making a similar investment. In addition, because investment opportunities of the types considered by the Funds often require that each participant make available funds in an amount that may be substantially greater than that available to the investor alone, there may be certain attractive opportunities of which a Fund may be unable to take advantage except as a co-participant with other persons, including affiliates. Applicants note that, in light of WSGR's purpose of establishing the Funds so as to reward Eligible Investors and to attract highly qualified personnel to WSGR, the possibility is minimal that an affiliated party investor will enter into a transaction with a Fund with the intent of disadvantaging the Fund. Finally, applicants contend that the possibility that a Fund may be disadvantaged by the participation of an affiliate in a transaction will be minimized by compliance with the lockstep procedures described in condition 4 below. Applicants assert that the flexibility to structure co-investments and joint investments will not involved abuses of the type section 17(d) and rule 17d–1 were designed to prevent.

7. Section 17(f) of the Act designate the entities that may act as investment company custodians, and rule 17f–2 allows an investment company to act as self-custodian, subject to certain requirements. Applicants request an exemption from section 17(f) and rule 17f–2 to permit the following exceptions from the requirements of rule 17f–2: (a) A Fund's investments may be kept in the locked files of WSGR or of a Member; (b) for purposes of paragraph (d) of the rule, (i) employees of WSGR will be deemed employees of the Funds, (ii) officers of the Manager and the Manager of a Fund will be deemed to be officers of the Fund, and (iii) the Manager of a Fund will be deemed to be the board of directors of the Fund; and (c) in place of the verification procedure under paragraph (f) of the rule, verification will be effected quarterly by two employees of WSGR. Applicants assert that the securities held by the Funds are most suitably kept in WSGR's files, where they can be referred to as necessary.

8. Section 17(g) and rule 17g–1 generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons (''disinterested directors'') take certain actions and give certain approvals relating to fidelity bonding. Paragraph (g) of rule 17g–1 sets forth certain materials relating to the fidelity bond that must be filed with the Commission and certain notices relating to the fidelity bond that must be given to each member of the investment company's board of directors. Paragraph (h) of rule 17g–1 provides that an investment company must designate one of its officers to make the filings and give the notices required by paragraph (g). Paragraph (j) of rule 17g–1 exempts a joint insured bond provided and maintained by an investment company and one or more other parties from section 17(d) of the Act and the rules thereunder. Rule 17g–1(j)(3) requires that investment companies relying on this exemption have a majority of disinterested directors, that those disinterested directors select and nominate any other disinterested directors, and that any legal counsel of those disinterested directors be independent. Applicants request an exemption from section 17(g) and rule 17g–1 to the extent necessary to permit each Fund to comply with rule 17g–1 without the necessity of having a majority of the disinterested directors take such action and make such approvals as are set forth in the rule. Specifically, each Fund will comply with rule 17g–1 by having the Manager take such actions and make such approvals as are set forth in rule 17g–1. Applicants state that, because the Manager will be an interested person of the Fund, a Fund could not comply with rule 17g–1 without the requested relief. Applicants also request an exemption from the requirements of rule 17g–1(g) and (h) relating to the filing of copies of fidelity bonds and related information with the Commission and the provision of notices to the board of directors and from the requirements of rule 17g–1(j)(3). Applicants believe the filing requirements are burdensome and unnecessary as applied to the Funds. The Manager will maintain the materials otherwise required to be filed with the Commission by rule 17g–1(g) and agree that all such material will be subject to examination by the Commission and its staff. The Manager will designate a person to maintain the records otherwise required to be filed with the Commission under paragraph (g) of the rule. Applicants also state that the notices otherwise required to be given to the board of directors would be unnecessary as the Funds will not have boards of directors. The Funds will comply with all other requirements of rule 17g–1.

9. Section 17(j) and paragraph (b) of rule 17j–1 make it unlawful for certain enumerated persons to engage in fraudulent or deceptive practices in connection with the purchase or sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of a registered investment company report personal securities transactions. Applicants request an exemption from the requirements of rule 17j–1, except for the anti-fraud provisions of paragraph (b), because they are unnecessarily burdensome as applied to the Funds.

10. Applicants request an exemption from the requirements in sections 30(a), 30(b), and 30(e), and the rules under those sections, that registered investment companies prepare and file with the Commission and mail to their shareholders certain periodic reports and financial statements. Applicants contend that the forms prescribed by the Commission for periodic reports have little relevant to the Funds and would entail administrative and legal costs that outweigh any benefit to the Fund Investors. Applicants request exemptive relief to the extent necessary to permit each Fund to report annually to its Fund Investors. Applicants also request an exemption from section 30(h) to the extent necessary to exempt the Manager of each Fund and any other persons who may be deemed members of an advisory board of a Fund from filing Forms 3, 4 and 5 under section 16 of the Exchange Act with respect to their ownership of Interests in the Fund. Applicants assert that, because there will be no trading market and the transfers of Interests will be severely restricted, these filing are unnecessary for the protection of investors and burdensome to those required to make them.

Applicant's Conditions

The applicants agree that any order granting the requested relief will be subject toe the following conditions:

Fund Operations

1. Each proposed transaction to which a Fund is a party otherwise prohibited

by section 17(a) or section 17d–1 (each a ''Section 17 Transactions'') will be effected only if the Manager determines that: (a) the terms of Section 17 Transaction, including the consideration to be paid or received, are fair and reasonable to the Fund Investors of the participating Fund and do not involve overreaching of the Fund of its Fund Investors on the part of any person concerned; and (b) the Section 17 Transaction is consistent with the interests of the Fund Investors of the participating Fund, the Fund's organizational documents and the Fund's reports to its Fund Investors.

In addition, the Manager will record and preserve a description of such Section 17 Transactions, its findings, the information or materials upon which its findings are based and the basis therefore. All such records will be maintained for the life of a Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff. All such records will be maintained in an easily accessible place for at least the first two years.

2. If purchases or sales are made by a Fund from or to an entity affiliated with the Fund by reason of a Member or employee of the WSGR Group (a) serving as an officer, director, general partner or investment adviser of the entity, or (b) having a 5% or more investment in the entity, such individual will not participate in the Fund's determination of whether or not to effect the purchase or sale.

3. The Manager will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any Section 17 Transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for the Funds, or any affiliated person of such a person, promoter, or principal underwriter.

4. The Manager will not make on behalf of a Fund any investment in which a Co-Investor, as defined below, has or proposes to acquire the same class of securities of the same issuer, where the investment involves a joint enterprise or other joint arrangement within the meaning of rule 17d–1 in which the Fund and the Co-Investor are participants, unless any such Co-Investor, prior to disposing of all or part of its investment, (a) gives the Manager sufficient, but not less than one day's, notice of its intent to dispose of its investment, and (b) refrains from disposing of its investment unless the participating Fund holding such investment has the opportunity to dispose of its investment prior to or concurrently with, on the same terms as, on a *pro rata* basis with the Co-Investor. The term ''Co-Investor'' with respect to any Fund means any person who is (a) an ''affiliated person'' (as defined in section 2(a)(3) of the Act) of the Fund; (b) the WSGR Group; (c) a Member, lawyer, or employee of the WSGR Group; (d) an investment vehicle offered, sponsored, or managed by WSGR or an affiliated person of WSGR; or (e) an entity in which a WSGR entity acts as a general partner or has a similar capacity to control the sale or other disposition of the entity's securities.

The restrictions contained in this condition, however, shall not be deemed to limit or prevent the disposition of an investment by a Co-Investor; (a) To its direct or indirect wholly-owned subsidiary, to any company (a ''parent'') of which the Co-Investor is a direct or indirect wholly-owned subsidiary, or to a direct or indirect wholly-owned subsidiary of its parent; (b) to Immediate Family Members of the Co-Investor or a trust established for any such Immediate Family Member; (c) when the investment is comprised of securities that are listed on a national securities exchange registered under section 6 of the Exchange Act; (d) when the investment is comprised of securities that are national market system securities pursuant to section 11A(a)(2) of the Exchange Act and rule 11Aa2–1 thereunder; or (e) when the investment is comprised of securities (i) that meet the requirements of and are authorized as Nasdaq SmallCap Market securities by The Nasdaq Stock Market, Inc., (ii) that have an average daily trading volume value over the last 60 calendar days of at least $1 million, and (iii) are issued by an issuer whose common equity securities have a public float value of at least $150 million.

5. The Manger of each Fund will send to each person who was a Fund Investor in such Fund at any time during the fiscal year then ended audited financial statements with respect to those Series in which the Fund Investor held Interests. At the end of each fiscal year, the Manager will make a valuation or have a valuation made of all of the assets of the Fund as of the fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Fund. In addition, as soon as practicable after the end of each fiscal year of each Fund, the Manager of the Fund shall send a report to each person who was a Fund Investor at any time during the fiscal year then ended, setting forth such tax information as shall be necessary for the preparation by the Fund Investor of his or her federal and state income tax returns and a report of the investment activities of such Fund during such year.

6. Each Fund and the Manager will maintain and preserve, for the life of each Series of that Fund and at least two years thereafter, such accounts, books, and other documents as constitute the record forming the basis for the audited financial statements and annual reports of such Series to be provided to its Fund Investors, and agree that all such records will be subject to examination by the Commission and its staff. All such records will be maintained in an easily accessible place for at least the first two years.

Compliance With Rule 701

7. Prior to receiving a subscription agreement from any potential Fund Investor pursuant to an offering in reliance on rule 701, WSGR will make available at no charge to potential Fund Investors the services of a Financial Consultant qualified to provide advice concerning the appropriateness of investing in a Fund. Specifically, the Financial Consultant will hold one or more group meetings with potential Fund Investors at which the Financial Consultant will discuss the risks and other considerations relevant to determining whether to invest in a Fund. The Financial Consultant also will be available to the group of potential Fund Investors to answer general questions regarding an investment in the Fund. In addition, potential Fund Investors will be given the opportunity to submit relevant questions and issues to the Financial Consultant in advance of the group meetings, so that the Financial Consultant can address those questions and issues at the meetings. WSGR will not need to reveal the specific investments made by any Fund to the Financial Consultant, as long as the investment objectives, risk characteristics and other material information about the Fund of the type that would be disclosed in the offering documents for the Fund is made available to the Financial Consultant.

8. WSGR will at all times control each Fund, within the meaning of rule 405 under the Securities Act. In this regard, WSGR will, either directly or through a wholly-owned subsidiary, be the sole manager of the Fund, own at least 95% of the voting Interests of the Fund, and make all investment and other operational decisions for the Fund.

9. WSGR or a wholly-owned subsidiary will own not less than 5% of the economic Interests issued each year

by the Fund, and (as discussed above) at least 95% of the voting Interests of the Fund. In addition, WSGR and its Members, directly or through Qualified Investment Vehicles, together will own at least 80% of the economic Interests of each Series.

10. WSGR prepares its financial statements on a modified cash basis, and does not consolidate the Fund's financial statements with its own. If, however, WSGR prepared its financial statements in accordance with GAAP, it would consolidate the Fund's financial statements with its own.

11. WSGR, when offering Interests pursuant to rule 701 under the Securities Act, will issue Interests in each Series in compliance with rule 701(d)(2),[4] and will comply with all applicable requirements of rule 701(e).[5]

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22387 Filed 9–5–01; 8:45 am]

BILLING CODE 8010–01–M

[4] If WSGR relies on rule 701(d)(2)(ii), it will not sell pursuant to rule 701, during any consecutive 12-month period, Interests in the Fund if the sales prices of those Interests exceeds 15% of the total assets of the Fund.

[5] In order to comply with the requirements of rule 701, at the beginning of each Investment Period the Fund will accept capital contributions or irrevocable commitments from Regulation D Investors for the relevant Series, and then prepare a balance sheet as required by rule 701. The Fund may then receive and accept subscription agreements, and thereafter accept capital contributions or commitments, from Rule 701 Investors for that Series, which in the aggregate will not exceed 15% of the total amount of capital contributions and irrevocable commitments received from Regulation D Investors.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25145; 812–12070]

Keeper Holdings, LLC, et al.; Notice of Application

August 29, 2001.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Act, under section 6(c) of the Act for an exemption from section 17(e) of the Act and rule 17e–1 under the Act, and under section 17(d) of the Act and rule 17d–1 under the Act permitting certain joint transactions.

SUMMARY OF THE APPLICATION: The order would permit (1) registered investment companies (''funds'') for which certain affiliates of State Street Corporation (''State Street'') act as investment adviser, promoter or principal underwriter to engage in certain transactions with certain affiliates of Citigroup, Inc. (''Citigroup''), and (2) funds for which certain affiliates of Citigroup act as investment adviser, promoter or principal underwriter to engage in certain transactions with certain affiliates of State Street.

Applicants: Keeper Holdings, LLC (the ''Citigroup Member'') and State Street Bank and Trust Company (the ''State Street Member'').

Filing Dates: The application was filed on April 24, 2000 and amended on August 28, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 24, 2001, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o Keeper Holdings, LLC, Travelers Life and Annuity, One Tower Square, Hartford, Connecticut 06183.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942–0582, or Mary Kay Frech, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Citigroup is a large diversified financial services company. It currently has ten investment advisory subsidiaries (including Citibank N.A.) that collectively act as investment adviser to at least 111 funds consisting of at least 289 portfolios. Its subsidiaries Salomon Smith Barney Inc. and Citibank, N.A. are among the largest underwriters, dealers and/or brokers in securities, commodities, foreign exchange, commercial loans, securities loans, derivative instruments and other financial instruments and conduct hundreds of billions of dollars per year of principal and agency transactions with funds.

2. State Street provides transfer agency, custody or administration services for funds and other investment vehicles holding at least $6 trillion in assets as of December 31, 1999, including 16 Ctigroup funds, as defined below. SSgA Funds Management, Inc. a subsidiary of State Street (''Funds Management''), acts as investment adviser to at least 27 funds consisting of at least 91 portfolios.[1] Funds Management in registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). State Street also has three investment advisory subsidiaries registered under the Advisers Act, each of which manages one fund. State Street currently engages in a large volume of principal and agency transactions with third party funds, in areas such as securities, foreign exchange, settlement credit, repurchase agreements, securities loans, derivative instruments and other financial instruments.

3. On December 9, 1999, Citigroup and State Street, through the Citigroup Member and the State Street Member, entered into a definitive agreement to form and operate a joint venture, for the primary purpose of providing recordkeeping and other bundled services for defined benefit and defined contribution pension plans (the ''Venture''). The Venture consists of CitiStreet LLC (''CitiStreet'') and persons controlled by CitiStreet (together with CitiStreet, the ''Venture Entities''). The State Street Member and the Citigroup Member each own 50% of CitiStreet. State Street obtained its interest by contributing its recordkeeping business for institutional clients, primarily defined contribution pension plans, and its benefits outsourcing business, which provide services for defined benefit and health and welfare benefit plans. Citigroup obtained its interest by contributing cash and its interest in various subsidiaries engaged in defined contribution plan recordkeeping, plan communication and administration services, investment advisory services and related products and services for

[1] Prior to May 2001 these services were provided through the State Street Global Advisors division of the State Street Member. However, as a result of the Gramm-Leach-Bliley Act of 1999, State Street now provides these services through funds Management.

business, government and tax-exempt organization employers and their participants. The State Street Member and the Citigroup Member each has a 50% interest in the profits of the Venture. The Venture will operate and expand the businesses contributed by State Street and Citigroup for the purpose of marketing and providing bundled recordkeeping and administrative services and, to a lesser extent, investment advisory and broker-dealer services and outsourcing services, for defined benefit and defined contribution retirement plans and for health and welfare benefit plans, both in the United States and globally, for business and not-for-profit entities. One of the Venture Entities acts as investment adviser for, and another as the principal underwriter for, a fund consisting of six portfolios, the shares of which are held exclusively by various variable annuity accounts sold by various of the Venture Entities. No fund advised, promoted or distributed by a Venture Entity would be covered by the requested order.

4. The Venture will conduct its own businesses, operating completely separately from the business units of either State Street or Citigroup. CitiStreet is managed by its board of managers (the ''Board''), which has delegated day-to-day management authority to CitiStreet's chief executive officer but retains the ability to revoke all or a portion of such authority at any time. The Board consists of twelve individuals, five chosen by the Citigroup Member, five by the State Street Member and two (from the Venture's officers) by the Citigroup Member and the State Street Member together. Certain material contracts, incentive compensation and pension plans, hiring or firing the chief financial officer and approval of annual budgets and business plans require unanimous approval by the non-management members of the Board. Certain extraordinary actions, such as hiring or firing the chief executive officer, capital calls, acquisitions, change in business purpose, changing the distribution policy, liquidating, commencing bankruptcy proceedings, amending the joint venture agreement and redeeming interests, require the direct approval of each of the Citigroup Member and the State Street Member.

5. CitiStreet has adopted policies on behalf of itself and the other Venture Entities prohibiting any information regarding investment advisory and portfolio execution matters relating to the Citigroup Funds and the State Street Funds, each as defined below, from being communicated between the Venture Entities, on the one hand, and the Citigroup asset management units and the State Street asset management units, on the other hand.

6. The Citigroup Member is indirectly wholly owned by Citigroup through a chain of intermediate holding companies and The Travelers Insurance Company and is a sister company to, rather than owned or controlled by, any of Citigroup's banking companies, broker-dealer units or investment management units. The Citigroup Member is a holding company the sole purpose of which is to hold Citigroup's interest in CitiStreet. It does not conduct any business other than acting as a 50% owner of CitiStreet. Its managing member is Plaza, LLC. Its only other member is SSB Keeper Holdings, LLC. The Citigroup Member has no officers.

7. The legal entity serving as the State Street Member is State Street Bank and Trust Company, which is the primary operating entity of State Street. State Street's interest in the Venture is supervised by the senior executives who serve as members of the Board, none of whom are involved in day-to-day administration or investment management of the State Street Funds (as defined below).

8. The applicants seek relief under sections 6(c), 17(b) and 17(d) of the Act and rule 17d–1 under the Act on behalf of (a) Citigroup Member, Citigroup and any entity controlling, controlled by or under common control with Citigroup other than the Venture Entities and (b) State Street Member, State Street and any entity controlling, controlled by or under common control with State Street other than the Venture Entities. The persons referred to in clause (a) of the preceding sentence are referred to as the ''Citigroup Affiliates'' and those referred to in clause (b) are referred to as the ''State Street Affiliates.'' The requested order would permit the Citigroup Affiliates to engage in Covered Transactions (as defined below) with any fund or portfolio thereof for which one or more of the State Street Affiliates acts as the investment adviser or as the promoter or principal underwriter (the ''State Street Funds''). The requested order would also permit the State Street Affiliates to engage in Covered Transactions with any fund or portfolio thereof for which one or more of the Citigroup Affiliates acts as the investment adviser or as the promoter or principal underwriter (the ''Citigroup Funds'').

9. The ''Covered Transactions'' are transactions between (a) State Street Funds and Citigroup Affiliates and (b) Citigroup Funds and State Street Affiliates that would be prohibited or restricted by sections 17(a)(1), 17(a)(2), 17(a)(3), 17(d) (and rule 17d–1 thereunder), 17(e)(1), 17(e)(2) (and paragraphs (b) and (d) of rule 17e–1 thereunder) solely because (a) Citigroup Affiliates may be deemed to be affiliated persons of an affiliated person (the Venture) of the State Street Funds and (b) State Street Affiliates may be deemed to be affiliated persons of an affiliated person (the Venture) of the Citigroup Funds, in each case solely by reason of Citigroup's and State Street's interest in and control over the Venture through the Citigroup Member or the State Street Member, respectively.

10. Citigroup will operate the fund investment management businesses conducted by Citigroup Affiliates independently of its broker-dealer, foreign exchange, commodities, custody and other businesses that would be likely to seek to conduct business with the State Street Funds. Independent operation would consist of separate line-of-business management, a separate compensation system that does not reward employees based on business done by other business units of Citigroup with the Venture or the State Street Affiliates, and separate investment portfolio and transaction execution management in which the other business units do not have input.

11. All Citigroup Affiliates are subject to confidentiality and ''Chinese Wall'' policies designed to keep information about customers and suppliers and transactions with them on a need-to-know basis. Pursuant to these policies, the Citigroup asset management units have designated information regarding investment advisory and portfolio execution matters relating to the Citigroup Funds as information that may not be communicated between the Venture Entities, on the one hand, and the Citigroup asset management units, on the other hand.

12. The Citigroup Affiliates have adopted policies that have the effect of prohibiting the Citigroup Affiliates from (a) linking any approval or action relating to the Venture to any action by any State Street Fund or by any State Street Affiliate relating to any State Street Fund or (b) using the existence of the Venture as a basis for seeking to persuade any State Street Fund to engage in business with any Citigroup Affiliate.

13. State Street's investment advisory units (including the State Street Global Advisors division and Funds Management) operate as completely separate business units from State Street and its other business units. The investment advisory units have their own officers and employees, maintain

their own books and records and collectively operate as a separate line of business and profit center. As a matter of policy and regulatory requirements, the other business units and State Street have no input into investment advisory policy or portfolio decisions on behalf of the State Street Funds.

14. State Street will operate the fund investment management businesses conducted by the State Street Affiliates independently of its broker-dealer, foreign exchange, commodities, custody and other businesses that would likely seek to do business with the Citigroup Funds. Independent operation would consist of separate line-of-business management, a separate compensation system that does not reward employees based on business done by other business units of State Street with the Venture or the Citigroup Affiliates, and separate investment portfolio and transaction execution management in which the other business units do not have input.

15. Funds Management and State Street's other advisory units have adopted confidentiality policies designed to keep information about clients and suppliers on a need-to-know basis. Pursuant to these policies, Funds Management and State Street's other advisory units have designated information regarding investment advisory and portfolio execution matters relating to the State Street Funds as information that may not be communicated between the Venture Entities, on the one hand, and Funds Management and State Street's other advisory units, on the other hand.

16. The State Street Affiliates have adopted policies that have the effect of prohibiting the State Street Affiliates from (a) linking approval or action relating to the Venture to any action by any Citigroup Fund or any Citigroup Affiliate relating to any Citigroup Fund or (b) using the existence of the Venture as a basis for seeking to persuade any Citigroup Fund to engage in business with any State Street Affiliate.

17. There is not, and each of Citigroup and State Street have adopted policies effectively prohibiting, any express or implied understanding between State Street and Citigroup that (a) any State Affiliate will cause any State Street Fund to enter into transactions with any Citigroup Affiliate or to give to preference to any Citigroup Affiliate in selecting with whom to effectuate transactions, or (b) any Citigroup Affiliate will cause any Citigroup Fund to enter into any transactions with any State Street Affiliate or to give a preference to any State Street Affiliate in selecting with whom to effectuate transactions. The boards of directors of the Citigroup Funds and the boards of directors of the State Street Funds will be informed of the existence of the Venture in connection with any consideration by them of any contract, arrangement or product involving a Citigroup Fund and a State Street Affiliate or a State Street Fund and a Citigroup Affiliate.

Applicants' Legal Analysis

1. Applicants request an order under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, under section 6(c) of the Act for an exemption from section 17(e) of the Act and rule 17e–1 under the Act, and under section 17(d) of the Act and rule 17d–1 under the Act permitting certain joint transactions.

Section 17(a) of the Act

2. Sections 17(a(1) and 17(a)(2) of the Act prohibit an affiliated person of a fund, or any affiliated person of the affiliated person (''second-tier affiliate''), acting as principal, from selling any security or other property to, or purchasing any security or other property from, the fund. Section 17(a)(3) of the Act prohibits any affiliated person of a fund, or any second-tier affiliate, from borrowing money or other property from the fund. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act defines control to mean ''the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company.'' Section 2(a)(9) also provides that any person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the voting securities of a company is presumed to control the company. Since Citigroup and State Street each own, indirectly, more than 25% of the voting securities of CitiStreet, they each are presumed to control CitiStreet. In addition, the Citigroup Affiliates and the Citigroup Funds are under the control of Citigroup and the State Street Affiliates and State Street Funds are under the control of State Street. Therefore, the Citigroup Affiliates and Citigroup Funds are under common control with CitiStreet, making them affiliated persons of each other. The State Street Affiliates and State Street Funds are also under common control with CitiStreet, making them affiliated persons of each other. The Citigroup Affiliates and Citigroup Funds are therefore second-tier affiliates of the State Street Funds and the State Street Affiliates and State Street Funds are second-tier affiliates of the Citigroup Funds. The Citigroup Affiliates are thus prohibited under sections 17(a)(1) and 17(a)(2) from conducting principal transactions in securities or other property with the State Street Funds and the State Street Affiliates are prohibited from conducting principal transactions in securities and other property with the Citigroup Funds. In addition, the Citigroup Affiliates are prohibited under section 17(a)(3) from borrowing money or other property from the State Street Funds and the State Street Affiliates are prohibited from borrowing money or other property from the Citigroup Affiliates. Applicants seek relief under sections 6(c) and 17(b) to exempt transactions prohibited by sections 17(a)(1), 17(a)(2) and 17(a)(3).

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each fund and the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transaction from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

4. Applicants state that section 17(a) was intended to protect funds from self-dealing and overreaching by insiders. Applicants assert that because of the remoteness of the affiliations involved, the Citigroup Affiliates are unable to influence portfolio decisions by the State Street Funds and the State Street Affiliates are unable to influence portfolio decisions by the Citigroup Funds. In addition, since any pecuniary benefits realized by the Citigroup Affiliates from the State Street Funds would not be shared with the State Street Affiliates and any benefits realized by the State Street Affiliates from the Citigroup Funds would not be shared with the Citigroup Affiliates, there would be no incentive for the State Street Affiliates or the Citigroup Affiliates to recommend or cause their funds to enter into such transactions if they were not consistent with the best interests of the funds. In addition, the Citigroup Affiliates have put in place a number of protections, as stated in the conditions and representations, that will

ensure that any decisions made by the Citigroup Affiliates on behalf of the Citigroup Funds or the State Street Affiliates on behalf of the State Street Funds will be based on the best interests of the funds. For example, condition 3 provides that the compensation schemes of the Citigroup Affiliates will not be based on the amount of business done by the Citigroup Funds with State Street Affiliates and that the compensation schemes of the State Street Affiliates will not be based on the amount of business done by the State Street Funds and the Citigroup Affiliates. Accordingly, applicants believe that the terms of any Covered Transactions otherwise prohibited by section 17(a) would be fair, that there would be no overreaching, and that the transactions would be consistent with the policy of each fund and with the general purposes of the Act. Applicants also assert that permitting the transaction will be in the public interest and consistent with the protection of investors because permitting the proposed transactions would likely benefit the State Street Funds and the Citigroup Funds by increasing their investment opportunities and ability to obtain best execution with respect to the proposed transactions.

Section 17(d)

5. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person or principal underwriter for a fund, or any affiliated person of such a person or principal underwriter, acting as principal, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which the fund participates, without an order of the Commission. Certain potential transactions between the Citigroup Affiliates and the State Street Funds and the State Street Affiliates and the Citigroup Funds could be deemed a joint enterprise or other joint arrangement within the meaning of section 17(d) and rule 17d–1. These could include securities lending, investments in private placement securities, participation in credit programs and participation in back office providers. Applicants request an order in accordance with section 17(d) and rule 17d–1 to permit any joint transactions between the Citigroup Affiliates and the State Street Funds and the State Street Affiliates and the Citigroup Funds that would otherwise be prohibited by section 17(d) and rule 17d–1.

6. In passing on applications for orders under rule 17d–1, the Commission considers whether the fund's participation in the joint enterprise is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

7. As discussed above, the Citigroup Affiliates do not have the power to influence the decisions of the State Street Funds and the State Street Affiliates do not have the power to influence the decisions of the Citigroup Funds. Because of this lack of influence, applicants assert that any joint transactions will be consistent with the provisions, policies and purposes of the Act. For the same reason, applicants believe that the participation by the State Street Funds in joint transactions with the Citigroup Affiliates will not be on a basis different from or less advantageous than the Citigroup Affiliates, and that the participation by the Citigroup Funds in joint transactions with the State Street Affiliates will not be on basis different from or less advantageous than that of the State Street Affiliates.

Section 17(e)

8. Section 17(e)(1) of the Act prohibits an affiliated person or a second-tier affiliate of a fund from receiving any compensation in connection with acting as an agent in connection with the purchase or sale of any property to or for the fund except as a securities underwriter or broker. Section 17(e)(2) of the Act prohibits an affiliated person or a second-tier affiliate of a fund from receiving compensation for acting as broker in connection with the sale of securities to or by the fund if the compensation exceeds the limits prescribed by the section unless otherwise permitted by rule 17e–1 under the Act. Rule 17e–1 sets forth the conditions under which an affiliated person or a second-tier affiliate of a fund may receive a commission which would not exceed the ''usual and customary broker's commission'' for purposes of section 17(e)(2). Rule 17e–1(b) requires the fund's board of directors, including a majority of the directors who are not interested persons under section 2(a)(19) of the Act, to adopt certain procedures and to determine at least quarterly that all transactions effected in reliance on the rule complied with the procedures. Rule 17e–1(d) specifies the records that must be maintained by each investment company with respect to any transaction effected pursuant to rule 17e–1.

9. Section 17(e)(1) would prevent the Citigroup Affiliates from acting as an agent in non-securities transactions by the State Street Funds, such as obtaining insurance, leasing office space, and entering into credit arrangements. A parallel prohibition would apply to the State Street Affiliates with respect to the Citigroup Funds. Applicants request an exemption under section 6(c) from section 17(e)(1) to permit any such transactions. Applicants believe such an exemption is consistent with the standard of section 6(c) because of the remote affiliation between the Citigroup Affiliates and the State Street Funds and the State Street Affiliates and the Citigroup Funds and the potential benefits to the Citigroup Funds and State Street Funds from being able to engage in the Covered Transactions.

10. Applicants request an exemption under section 6(c) from section 17(e)(2) and rule 17e–1 to the extent necessary to permit a State Street Fund to pay brokerage compensation to a Citigroup Affiliate acting as broker in the ordinary course of business in connection with the sale of securities to or by the State Street Fund, without complying with the requirements of rule 17e–1 (b) and (d). Applicants request the same relief with respect to brokerage compensation paid by a Citigroup Fund to a State Street Affiliate. Applicants believe that the proposed brokerage transactions involve no conflicts of interest or possibility of self-dealing and will meet the standards of section 6(c). The interests of the State Street Affiliates that manage the State Street Funds, and those of the Citigroup Affiliates that manage the Citigroup Funds, are directly aligned with the funds they manage rather than with the other venturer's affiliates and the manager will only enter into brokerage transactions with the other venturer's affiliates if the fees charged are reasonable and fair as required by rule 17e–1(a). Applicants will also comply with rule 17e(a). Applicants will also comply with rule 17e–1(c).

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. No State Street Affiliate will control any Citigroup Fund relying on the order or any investment adviser, promoter or principal underwriter of any Citigroup Fund relying on the order. No Citigroup Affiliate will control any State Street Fund relying on the order or any investment adviser, or principal underwriter of any State Street Fund relying on the order.

2. No officer, director or employee of any Venture Entity will seek to influence in any way the terms of any Covered Transactions.

3. None of the Citigroup Affiliates will adopt any compensation scheme any component of which is based on the amount of business done by the Citigroup Funds with State Street Affiliates. None of the State Street Affiliates will adopt any compensation scheme any component of which is based on the amount of business done by the State Street Funds with Citigroup Affiliates.

4. None of Citigroup Member, State Street Member or the Venture Entities will directly or indirectly control any Citigroup Fund, State Street Fund, or any investment adviser, promoter, or principal underwriter of any Citigroup Fund or State Street Fund.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22385 Filed 9–5–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25144; 812–12134]

The Charles Schwab Family of Funds, et al.; Notice of Application

August 29, 2001.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 12(d)(1) of the Act, under section 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered management investment companies to use cash collateral from securities lending transactions to purchase shares of affiliated registered management investment companies or affiliated private investment funds, and to pay fees based on a share of the revenue generated from securities lending transactions to an affiliated agent.

Applicants: The Charles Schwab Family of Funds, Schwab Investments, Schwab Capital Trust, Schwab Annuity Portfolios (each a ''Trust'' and, together, the ''Trusts''), on behalf of each of their existing or future series (each a ''Fund'' and, together, the ''Funds''), Charles Schwab Investment Managements, Inc. (''CSIM''), and Charles Schwab & Co., Inc. (CS&Co.).

Filing Dates: The application was filed on June 20, 2000, and amended on August 17, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 24, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609; Applicants, 101 Montgomery Street, San Francisco, CA 94104.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574 or Mary Kay Frech, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. Each Trust is a Massachusetts business trust registered under the Act as an open-end management investment company. Each Trust offers multiple Funds. The Money Market Fund, Value Advantage Fund, Government Securities Fund, and Treasury Fund (the ''Registered Investment Funds'') are money market Funds that comply with the requirements of rule 2a-7 under the Act. CSIM, a wholly-owned subsidiary of The Charles Schwab Corporation (''Charles Schwab''), is registered as an investment adviser under the Investment Advisers Act of 1940. CSIM serves an investment adviser and provide administrative services to each Fund. CS&Co., a wholly-owned subsidiary of Charles Schwab, acts as principal underwriter of the shares of each Registered Investment Fund and provides shareholder and transfer agency services to each Fund.

2. Applicants request that any relief granted pursuant to the application also apply to (a) any other registered open-end investment company that is advised or sub-advised by CSIM or any entity controlling, controlled by, or under common control with CSIM and is part of the same group of investment companies, as defined in section 12(d)(1)(G)(ii) of the Act as the Trust (''Future Fund'') and (b) any investment entity excluded from the definition of investment company under section 3(c)(1) or section 3(c)(7) of the Act, advised by CSIM, and established for the purpose of investment of cash collateral in connection with the securities lending program described below (''Private Investment Fund'' and together with the Registered Investment Funds, the ''Investment Funds'').[1]

3. CS&Co. proposes to establish and administer a securities lending program (''Program'') for the Funds. In connection with the Program, CS&Co. will enter into a securities lending agreement (''Securities Lending Agreement'') with the Funds that participate as lenders in the Program (''Lending Funds''). The Securities Lending Agreement will authorize CS&Co., as agent for a Lending Funds, to enter into a borrowing agreement (''Borrowing Agreement'') with one or more entities designated by CS&Co and approved by the Lending Funds as eligible to borrow portfolio securities (''borrowers''). The Securities Lending Agreement and the Borrowing Agreement will establish, with respect to each transaction, the initial and on-going collateralization requirements, the types of collateral that may be accepted, and the manner in which the Borrower's rebate will be established. With respect to cash collateral, a Borrower will be paid a fixed return on the cash collateral for the term of the loan. The difference between the fixed return and the actual return on the investment of the cash collateral is divided between the Lending Fund and CS&Co. In the case of collateral other than cash, the Borrower pays the Lending Fund a lending fee, which is split between the Lending Fund and CS&Co.

4. The Securities Lending Agreement will authorize and instruct CS&Co. as agent for the Lending Fund to invest the cash collateral in accordance with specific guidelines or instructions

[1] All existing entities that currently intend to rely on the requested relief have been named as applicants. Any future Fund or Private Investment Fund will rely on the requested relief only in accordance with the terms and conditions of the application.

provided by the Lending Fund. These guidelines or instructions will identify the particular Investment Funds or other investment vehicles, instruments, and accounts, if any, in which cash collateral may be invested, and the amounts or percentages of cash collateral that may be invested in each Investment Funds and other authorized investments. Applicants state that the personnel who will provide lending agency services to the Lending Funds will not provide investment advisory services to the Lending Funds or participate in any way in the selection of portfolio securities or other aspects of the portfolio management of the Lending Funds.

5. CS&Co. is proposing to invest cash collateral received in the Program on behalf of a Lending Fund in units of beneficial interests of one or more of the Investment Funds (''Shares'') to the extent permitted by the Securities Lending Agreement between CS&Co. and a Lending Fund. Shares will not be subject to any sales load, redemption fee, asset-based sales charge, or service fee (as defined in rule 2830(b)(9) of the Rules of Conduct of the National Association of Securities Dealers, Inc. (''NASD'')). The Private Investment Funds will comply with the requirements of rule 2a–7 under the Act, except CSIM as the general partner of the Private Investment Funds shall take any action required to be taken by the board of directors under rule 2a–7. Each Private Investment Fund will offer daily redemption of Shares at the current net asset value per share. As agent for the Lending Fund, CS&Co. will not purchase Shares of an Investment Fund with cash collateral unless participation in the Program has been approved by a majority of the trustees of the Lending Fund who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''Independent Trustees''). In addition, CS&Co. will not purchases Shares of any Investment Fund, unless the Lending Fund has represented to CS&Co., among other things, that: (a) Its policies generally permit the Lending Fund to engage in securities lending transactions; (b) the transactions will be conducted in accordance with the conditions prescribed by the staff in various no-action and interpretive letters as they may be modified or updated; (c) it policies permit the Lending Fund to purchase Shares of the Investment Funds; and (d) its securities lending activities will be conducted in accordance with all representations and conditions in the application applicable to the Lending Fund.

6. Applicants request an order to permit the Lending Funds to use cash collateral received from Borrowers to purchase Shares of the Investment Funds. Applicants also request an order to permit the Lending Funds to pay CS&Co., for its services as lending agent, fees based on a share of the revenue generated from securities lending transactions undertaken pursuant to the Program.

Applicants' Legal Analysis

A. Investment of Cash Collateral by the Lending Funds in the Investment Funds

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may knowingly sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by the investment companies.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent the exemption is consistent with the public interest and the protection of investors.

3. Applicants seek an order under section 12(d)(1)(I) of the Act exempting them from the provisions of section 12(d)(1) of the Act to permit the Lending Funds to purchase, and the Registered Investment Funds to sell, Shares in excess of the limits imposed by sections 12(d)(1)(A) and 12(d)(1)(B) in connection with the Lending Funds' investment of cash collateral.

4. Applicants state that the proposed investment of cash collateral in Shares of the Registered Investment Funds will not give rise to the policy concerns underlying sections 12(d)(1)(A) and (B). Shares will not be subject to any sales load, redemption fee, asset-based sales charge, or service fee. Applicants state that the advisory and other fees of the Lending Fund associated with securities lending activities will be determined solely with respect to its own assets (including the assets that are being loaned) and will not be affected by the value of the collateral received in connection with the loan because the collateral will not increase the net asset value of the Lending Funds. Accordingly, applicants state that the fees charged by an Investment Fund with respect to these additional assets, including fees for advisory, custody, transfer agency, and administrative services should not be viewed as duplicative of the fees charged by the Lending Funds with respect to the underlying securities that have been loaned. Applicants state that each Registered Investment Fund, because it will comply with rule 2a–7, has the necessary liquidity to satisfy the demands of the Program and will not be susceptible to control through the threat of large-scale redemptions. Moreover, an Investment Fund will not invest in any investment company in excess of the limits of section 12(d)(1)(A) of the Act.

5. Section 17(a)(1) and 17(a)(2) of the Act make it unlawful for any affiliated person of a registered investment company, or any affiliated person of the affiliated person, acting as principal, to sell any security to, or purchase any security from, the registered investment company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; any person directly or indirectly controlling, controlled by, or under common control with the other person; and, in the case of an investment company, its investment adviser. As investment adviser to the Lending Funds and the Investment Funds, CSIM could be deemed to control both the Lending Funds and the Investment Funds. Accordingly, the Lending Funds and Investment Funds could be deemed to be under common control and affiliated persons of each other. In addition, if a Lending Fund acquire 5% or more of an Investment Fund's securities, the Lending Fund and Investment Fund would be deemed affiliated persons of each other. In light of these possible affiliations, section 17(a) could prevent an Investment Fund from selling Shares to and redeeming Shares from the Lending Funds.

6. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) if the terms of the proposed transactions, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, and the general purposes of the Act. Section 6(c) of the Act provides

that the Commission may exempt any person, security, or transaction from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

7. Applicants request an order under sections 6(c) and 17(b) of the Act to permit the Lending Funds to purchase and redeem from the Investment Funds, and the Investment Funds to sell and to redeem for the Lending Funds, Shares in one or more of the Investment Funds. Applicants state that the Lending Funds will purchase, hold, and redeem Shares on the same basis as any other holder of Shares. Applicants assert that a Lending Fund's cash collateral will be invested in a particular Investment Fund only if that Investment Fund invests in the types of instruments that the Lending Fund only if that Investment Fund invests in the types of instruments that the Lending Fund has authorized for the investment of its cash collateral. Applicants state that cash collateral of a Lending Fund that complies with rule 2a–7 under the Act will not be used to acquire Shares of any Investment Fund that does not comply with rule 2a–7 under the Act. Applicants state that permitting the Lending Funds to invest cash collateral in the Private Investment Funds enables the Lending Funds to invest in a lower-cost vehicle with liquidity, maturity, quality and diversification similar to a registered investment company that complies with rule 2a–7. For these reasons, applicants believe their requested relief meets the standards of sections 6(c) and 17(b) of the Act.

8. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of or principal underwriter for a registered investment company or any other affiliated person of such persons, acting as principal, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which the investment company participates, unless an application regarding the joint transaction has been filed with the Commission and granted by an order. CSIM, as investment adviser, is an affiliated person of the Lending Funds and the Investment Funds. CS&Co. is an affiliated person of an affiliated person of the Lending Funds and the Investment Funds, because CS&Co. and CSIM are both wholly-owned subsidiaries of Charles Schwab and are therefore under common control.

9. Applicants state that the Lending Funds, CSIM (by serving as investment adviser to and providing other services to the Investment Funds at the same time that the Investment Funds sell Shares to and redeem them from the Lending Funds and by managing the portfolio securities of the Lending Funds and the Investment Funds at the same time that the Lending Funds' cash collateral is invested in Shares), CS&Co. (by acting as lending agent, investing cash collateral in Shares and receiving a portion of the revenue generated by securities lending transactions), and the Investment Funds (by selling Shares to and redeeming them for the Lending Funds), could be deemed to be participants in a joint enterprise or arrangement within the meaning of section 17(d) and rule 17d–1 under the Act.

10. Under rule 17d–1, in passing on applications for orders under section 17(d), the Commission considers whether the company's participation in the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the proposed transactions meet these standards, because the Lending Funds will invest in the Investment Funds on the same basis as any other shareholder.

B. Payment of Fees by the Lending Funds to CS&Co.

1. Applicants state that CS&Co. as an entity under common control with CSIM, the investment adviser to the Lending Funds, is an affiliated person of an affiliated person of the Lending Funds. As noted above, section 17(d) and rule 17d–1 generally prohibit joint transactions involving investment companies and their affiliated persons unless the Commission has approved the transaction. Applicants state that a lending agent agreement between a registered investment company and an affiliated person of the investment company under which compensation is based on a share of the revenue generated by the lending agent's efforts may constitute a joint arrangement within the meaning of section 17(d) and rule 17d–1. Consequently, applicants request an order to permit the Lending Funds to pay, and CS&Co. as lending agent to accept, fees based on a share of the revenue generated from securities lending transactions undertaken pursuant to the Program.

2. Applicants propose that each Trust, on behalf of a Lending Fund, adopt the following procedures to ensure that the proposed fee arrangement and the other terms governing the relationship with CS&Co., as lending agent, will meet the standards of rule 17d–1:

a. In connection with the approval of CS&Co. as lending agent for a Trust on behalf of a Lending Fund and implementation of the proposed fee arrangement, a majority of the board of trustees (''Board'') of the Lending Fund, including a majority of the Independent Trustees, will determine that: (i) the contract with CS&Co. is in the best interests of the Lending Fund and its shareholders; (ii) the services to be performed by CS&Co. are appropriate for the Lending Fund; (iii) the nature and quality of the services provided by CS&Co. are at least equal to those provided by others offering the same or similar services for similar compensation; and (iv) the fees for CS&Co.'s services are fair and reasonable in light of the usual and customary charges imposed by others for services of the same nature and quality.

b. Each Trust's contract with CS&Co. on behalf of its Lending Funds for lending agent services will be reviewed annually and will be approved for continuation only if a majority of the Board, including a majority of the Independent trustees, makes the findings referred to in paragraph (a) above.

c. In connection with the initial implementation of an arrangement whereby CS&Co. will be compensated as lending agent based on a percentage of the revenue generated by a Lending Fund's participation in the Program, the Board will obtain competing quotes with respect to lending agent fees from at least three independent lending agents to assist the Board in making the findings referred to in paragraph (a) above.

d. The Board of each Trust, including a majority of its Independent Trustees, (i) at each regular quarterly meeting will determine, on the basis of reports submitted by CS&Co., that the loan transactions during the prior quarter were conducted in compliance with the conditions and procedures set forth in the application and (ii) will review no less frequently than annually the conditions and procedures set forth in the application for continuing appropriateness.

e. Each Lending Fund will (i) maintain and preserve permanently in an easily accessible place a written copy of the procedures and conditions (and modifications thereto) described in the application or otherwise followed in connection with lending securities pursuant to the Program and (ii) maintain and preserve for a period of not less than six years from the end of

the fiscal year in which any loan transaction pursuant to the Program occurred, the first two years in an easily accessible place, a written record of each loan transaction setting forth a description of the security loaned, the identity of the person on the other side of the loan transaction, and the terms of the loan transaction. In addition, each Lending Fund will maintain all information or materials upon which a determination was made in accordance with the procedures set forth above and the conditions to the application.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. The securities lending program of each Lending Fund will comply with all present and future applicable Commission and staff positions regarding securities lending arrangements.

2. The approval of the relevant Trust's Board, including a majority of the Independent Trustees, will be required for the initial and subsequent approvals of CS&Co.'s service as securities lending agent for each Lending Fund pursuant to the Program, for the institution of all procedures relating to the Program as it related to a Lending Fund, and for any periodic review of loan transactions for which CS&Co. acted as lending agent pursuant to the Program.

3. A majority of the Board of each relevant Trust, including a majority of the Independent Trustees, will initially and at least annually thereafter determine that the investment of securities lending cash collateral in Shares of the Investment Funds is in the best interests of the shareholders of each Lending Fund.

4. Investment in Shares of an Investment Fund by a particular Lending Fund will be consistent with such Lending Fund's investment objectives and policies.

5. Investment in Shares of an Investment Fund by a particular Lending Fund will be in accordance with the guidelines regarding the investment of securities lending cash collateral specified by the Lending Fund in the Securities Lending Agreement. A Lending Fund's cash collateral will be invested in a particular Investment Fund only if that Investment Fund has been approved for investment by the Lending Fund and if that investment Fund invests in the types of instruments that the Lending Fund has authorized for the investment of its cash collateral.

6. The Shares of an Investment Fund will not be subject to a sales load, redemption fee, any asset-based sales charge, or service fee (as defined in rule 2830(b)(9) of the Conduct Rules of the NASD).

7. An Investment Fund will not acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

8. Each Private Investment Fund will comply with the requirements of sections 17(a), (d), and (e) and 18 of the Act as if such Private Investment Fund were a registered open-end investment company. With respect to all redemption requests made by a Lending Fund, each Private Investment Fund will comply with section 22(e) of the Act. CSIM, as investment adviser to a Private Investment Fund, with the approval of its board or other governing body, shall adopt procedures designed to ensure that the Private Investment Fund will comply with sections 17(a), (d), and (e), 18, and 22(e) of the Act. CSIM will also periodically review and update, as appropriate, such procedures and maintain books and records describing such procedures, as well as records required by rules 31a–1(b)(1), 31a–1(b)(2)(ii), and 31a–1(b)(9) under the Act. All books and records required to be maintained pursuant to this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, and will be subject to examination by the Commission and the staff.

9. Each Investment Fund will use the amortized cost method of valuation, as defined in rule 2a–7, and will comply with rule 2a–7. Each Private Investment Fund will value its shares as of the close of business on each business day using the amortized cost method to determine its net asset value per share. Each Private Investment Fund will adopt the procedures described in rule 2a–7(c)(7), and CSIM will comply with these procedures and take any other actions as are required to be or may be taken pursuant to these procedures.

10. Each Lending Fund will purchase and redeem Shares of the Private Investment Funds as of the same time and at the same price, and will receive dividends and bear its proportionate share of expenses on the same basis, as other shareholders of the Private Investment Funds. A separate account will be established in the shareholder records of the Private Investment Funds for the account of each applicable Lending Fund.

11. The net asset value per share with respect to Shares of a Private Investment Fund will be determined separately for each Private Investment Fund by dividing the value of the assets belonging to that Private Investment Fund, less the liabilities of that Private Investment Fund, by the number of Shares outstanding with respect to the Private Investment Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22386 Filed 9–5–01; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Delegation of Authority No. 247]

Delegation of Responsibilities Under the Government Information Security Reform Act From the Deputy Secretary of State to the Chief Information Officer

By virtue of the authority vested in me by Delegation of Authority 245 dated 4/23/01, and in accordance with section 3534(a)(3) of the Government Information Security Reform Act (44 U.S.C. 3531 *et seq.*) (the ''Act''), I hereby delegate to the Chief Information Officer the authority to administer all functions under Subchapter II of Chapter 35 of title 44, United States Code, including—

(A) Designating a senior agency information security official who shall report to the Chief Information Officer;

(B) Developing and maintaining an agencywide information security program as required by the Act;

(C) Ensuring that the agency effectively implements and maintains information security policies, procedures and control techniques;

(D) Training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities ; and

(E) Assisting senior agency officials concerning their responsibilities pursuant to the Act.

Notwithstanding the provisions of this delegation of authority, the Secretary of State, the Deputy Secretary of State, or the Under Secretary for Management may at any time exercise any function hereby delegated.

The functions hereby delegated to the Chief Information Officer may be redelegated in consultation with the Under Secretary for Management.

This delegation of authority shall be published in the **Federal Register**.

Dated: August 20, 2001.

Richard L. Armitage,

Deputy Secretary of State, Department of State.

[FR Doc. 01–22419 Filed 9–5–01; 8:45 am]

BILLING CODE 4710–10–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Membership of the Performance Review Board (PRB)

AGENCY: Office of the United States Trade Representative.

SUMMARY: the following staff members are designated to serve on the Performance Review Board:

Performance Review Board (PRB)

Chair—Joseph Papovich.

Alternate Chair—Florie Liser.

Members—Regina Vargo, Ralph Ives, David Walters.

Executive Secretary—Lorraine Green.

EFFECTIVE DATE: August 22, 2001.

FOR FURTHER INFORMATION CONTACT: Lorraine Green, Director, Human Resources, (202) 395–7360.

John Hopkins,

Assistant United States Trade Representative for Administration.

[FR Doc. 01–22406 Filed 9–5–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–64]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. 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.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before September 26, 2001.

ADDRESS: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, 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 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on August 30, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2001–9792.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: 14 CFR 91.319(d)(3).

Description of Relief Sought: To permit Boeing to operate an aircraft holding an experimental certificate into or out of airports with an operating control tower without notifying the control tower of the experimental nature of the aircraft.

Docket No.: FAA–2001–10205.

Petitioner: Massachusetts Institute of Technology.

Section of 14 CFR Affected: 14 CFR 142.57(a)(1).

Description of Relief Sought: To permit MIT to conduct the crewmember qualification check with an 85% check in the simulator and a 15% check in the aircraft.

Docket No.: FAA–2000–8497.

Petitioner: America West Airlines, Inc.

Section of 14 CFR Affected: 14 CFR 91.205(b)(12).

Description of Relief Sought: To permit AWA to operate it's aircraft over water without at least one pyrotechnic signaling device onboard.

Docket No.: FAA–2001–10342.

Petitioner: Gulfstream Aerospace Corporation.

Section of 14 CFR Affected: 14 CFR 25.813(a).

Description of Relief Sought: To provide Gulfstream with relief from the 20-inch passageway requirements to allow for a minimum passageway dimension of 12 inches for installation of a forward mounted crew/observer Jumpseat in the Gulfstream Model G–IV aircraft.

[FR Doc. 01–22251 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–65]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, 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 14 CFR 11.85 and 11.91.

Issued in Washington, D.C., on August 30, 2001.

Donald P. Bryne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–10013.
Petitioner: Federal Express Corporation.
Section of 14 CFR Affected: 14 CFR 121.623(a) and (d), 121.643, and 121.645(e).
Description of Relief Sought/ Disposition: To permit FedEx Express to conduct supplemental operations within the 48 contiguous United States and the District of Columbia using the flight regulations for alternate airports as required by § 121.619 and the fuel reserve regulations as required by § 121.639 that are applicable to domestic operations.
Grant, 08/17/2001, Exemption No. 7608.

Docket No.: FAA–2001–8943.
Petitioner: Avianca S.A.
Section of 14 CFR Affected: 14 CFR 121.344(d).
Description of Relief Sought/ Disposition: To permit Avianca to operate a B–757 (registration No. N321LF; serial No. 26269) without that airplane being able to record data in accordance with the following paragraphs of § 121.344(a): (14) Rudder pedal input, and (17) Primary yaw control surface position.
Grant, 08/17/2001, Exemption No. 7607.

Docket No.: FAA–2001–8883.
Petitioner: Atlantic Southeast Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(d)(1).
Description of Relief Sought/ Disposition: To permit ASA to operate 19 Avions de Transport Regional ATR 72 airplanes without those airplanes having the capability to record data in accordance with certain paragraphs of § 121.344(a).
Grant, 08/17/2001, Exemption No. 7601.

Docket No.: 29900.
Petitioner: Atlantic Coast Airlines and Trans States Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(d)(1).
Description of Relief Sought/ Disposition: To permit ACA and Trans States to operate their currently-owned British Aerospace Jetstream 41 airplanes without recording all the parameters specified in § 121.344(d)(1) from the source prescribed by the regulations.
Grant, 08/17/2001 Exemption No. 7595.

Docket No.: FAA–2001–9513.
Petitioner: Big Sky Transportation Company dba Big Sky Airlines.
Section of 14 CFR Affected: 14 CFR 121.344(a).
Description of Relief Sought/ Disposition: To permit Big Sky to operate it's 6 Fairchild SA–227DC/ Metro 23 aircraft after August 20, 2001, without those aircraft being equipped with an approved digital flight data recorder.
Grant, 08/17/2001, Exemption No. 7596.

Docket No.: FAA–2001–9512.
Petitioner: Peninsula Airways, Inc. dba PenAir.
Section of 14 CFR Affected: 14 CFR 121.344(a).
Description of Relief Sought/ Disposition: To permit PenAir to operate it's 2 Fairchild SA–227DC/ Metro 23 aircraft after August 20, 2001, without those aircraft being equipped with an approved digital flight data recorder.
Grant, 08/17/2001, Exemption No. 7603.

Docket No.: FAA–2001–9740
Petitioner: American Eagle Airlines, Inc. and Executive Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(c)(1) and (d)(1).
Description of Relief Sought/ Disposition: To permit AME and Executive to operate certain Avions de Transport Regional ATR 42 and ATR 72 airplanes without those airplanes having the capability to record data in accordance with the following paragraphs of § 121.344(a): (12) Pitch control input; (13) Lateral control input; and (14) Rudder pedal input.
Grant, 08/17/2001, Exemption No. 7599.

[FR Doc. 01–22252 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–66]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202 267–8033, Sandy Buchanan-Sumter (202) 267–7271, 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 14 CFR 11.85 and 11.91.

Issued in Washington, D.C., on August 30, 2001.

Donald P. Bryne,

Assistant Chief Counsel for Regulations.

Dispositions of petitions

Docket No.: FAA–2001–9581 (previously Docket No. 29146).
Petitioner: BFGoodrich Aerospace MRO Group, Inc.
Section of 14 CFR Affected: 14 CFR 145.45(f).
Description of Relief Sought/ Disposition: To permit BFGoodrich to (1) extend its October 31, 2001, termination date to October 31, 2003,unless sooner superseded or rescinded, and 92) change the name of the exemption holder to ''Goodrich Aviation Technical Services, Inc.
Grant, 07/20/2001, Exemption No. 7024A

Docket No.: FAA–2001–9348 (previously Docket No. 25974).
Petitioner: Air Transport Association of America, Inc
Section of 14 CFR Affected: 14 CFR 91.203.
Description of Relief Sought/ Disposition: To permit ATA-member airlines to operate certain U.S.-registered aircraft on a temporary basis following the incidental loss or mutilation of a certificate of Airworthiness, aircraft registration certificate, or both.
Grant, 07/13/2001, Exemption No. 5318G

Docket No.: FAA–2001–9784.
Petitioner: The Boeing Company Wichita Modification Center.
Section of 14 CFR Affected: 14 CFR 145.45(f).
Description of Relief Sought/ Disposition: To permit Boeing to make it's Inspection Procedures Manual (IPM) available electronically to its supervisory, inspection, and other personnel, rather than give a paper copy of the IPM to each of its supervisory and inspection personnel.
Grant, 07/20/2001, Exemption No. 7578

Docket No.: FAA–2001–9553 (previously Docket No. 25233).

Petitioner: Alaska Air Carriers Association.
Section of 14 CFR Affected: 14 CFR 43.3(g), 121.709(b)(3), and 135.443(b)(3).
Description of Relief Sought/ Disposition: To permit certificated and appropriately trained pilots employed by an AACA-member airline to remove and reinstall passenger seats in aircraft type certificated for 10 to 19 passenger seats used by that AACA-member airline in operations conducted under 14 CFR 121 or 14 CFR 135 and permit those pilots to make required logbook entries.
Grant, 07/25/2001, Exemption No. 7048A

Docket No.: 24237.
Petitioner: Department of the Air Force.
Section of 14 CFR Affected: 14 CFR 91.177(a)(2) and 91.179(b)(1).
Description of Relief Sought/ Disposition: To permit the United States Army Special Operations Command, 160th Special Operations Aviation Regiment to operate under an exemption, granted to the Air Force, when training to conduct joint operations with the Air Force Special Operations Command. This exemption permits the Air Force to conduct low-level operations without complying with en route minimum altitudes for flight under instrument flight rules (IFR) or direction of flight requirements for IFR en route segments in uncontrolled airspace.
Grant, 07/27/2001, Exemption No. 4371G

Docket No.: FAA–2000–8189.
Petitioner: United Parcel Service Company.
Section of 14 CFR Affected: 14 CFR 121.344(a)(53)
Description of Relief Sought/ Disposition: To permit UPS to operate certain Airbus A300–600 airplanes without recording the parameters listed in § 121.344(a)(53) within the ranges, accuracies, resolutions, and recording intervals specified in appendix M to part 121.
Denial, 07/22/2001, Exemption No. 7582

Docket No.: FAA–2001–8963 (previously Docket No. 29002).
Petitioner: Peninsula Airways, Inc. dba PenAir.
Section of 14 CFR Affected: 14 CFR 121.709(b)(3).
Description of Relief Sought/ Disposition: To permit properly trained PenAir flight crewmembers to install and/or remove medevac stretchers on PenAir Fairchild Metro III aircraft and make the appropriate entries in the aircraft maintenance records.
Grant, 07/22/2001, Exemption No. 6674B

Docket No.: FAA–2001–9366 (previously Docket No. 28552).
Petitioner: World Free Fall Convention.
Section of 14 CFR Affected: 14 CFR 105.43(a).
Description of Relief Sought/ Disposition: To permit WFFC to allow nonstudent, foreign nationals to participate in WFFC-sponsored parachute jumping events held at WFFC's facilities without complying with the parachute equipment and packing requirements of Section 105.43(a).
Grant, 07/22/2001, Exemption No. 6390A

Docket No.: FAA–2001–9342.
Petitioner: Phillipsburg Aviation.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353 and appendixes I and J to part 121.
Description of Relief Sought/ Disposition: To permit Phillipsburg Aviation to conduct local sightseeing flights in the vicinity of Phillipsburg, Ohio, for the benefit of the Special Wish Foundation during August 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 07/25/2001, Exemption No. 7580

Docket No.: FAA–2001–9781.
Petitioner: Martin County Board of County Commissioners.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353 and appendixes I and J to part 121.
Description of Relief Sought/ Disposition: To permit MCBCC to conduct local sightseeing flights at the Martin County Airport for the 11th Annual Stuart Air Show sponsored by the Visiting Nurse Association in November 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 07/25/2001, Exemption No. 7579

Docket No.: FAA–2001–9734.
Petitioner: Kent State University.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353 and appendixes I and J to part 121.
Description of Relief Sought/ Disposition: To permit KSU to conduct local sightseeing flights in the vicinity of Stow, Ohio, for its community Aviation Day during September 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 07/25/2001, Exemption No. 7581

[FR Doc. 01–22253 Filed 9–5–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–67]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, 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 14 CFR 11.85 and 11.91.

Issued in Washington, D.C., on August 30, 2001.

Donald P. Bryne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–10167.
Petitioner: Cumberland Air Charter.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit CAC to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
Grant, 08/10/2001, Exemption No. 7591

Docket No.: FAA–2001–10072.
Petitioner: Bay Air Charter, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit BACI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 08/10/2001, Exemption No. 7592

Docket No.: FAA–2001–10091.
Petitioner: Mr. Lloyd E. Swenson.
Section of 14 CFR Affected: 14 CFR 91.109(a) and (b)(3).
Description of Relief Sought/ Disposition: To permit Mr. Swenson to conduct certain flight instruction and simulated instrument flights to meet recent instrument experience requirements in certain Beechcraft airplanes equipped with a functioning throwover control wheel in place of functioning dual controls.

Grant, 08/10/2001, Exemption No. 7593

Docket No.: FAA–2001–10268.
Petitioner: Phillipsburg Aviation.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121.
Description of Relief Sought/ Disposition: To permit Phillipsburg Aviation to conduct local sightseeing flights into the vicinity of Phillipsburg, Ohio, for its 6th benefit for the Special Wish Foundation during August 2001 for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.

Grant, 08/10/2001, Exemption No. 7594

Docket No.: FAA–2001–9791 (previously Docket No. 27306).
Petitioner: NockAir Helicopter, Inc.
Section of 14 CFR Affected: 14 CFR 133.43(a) and (b).
Description of Relief Sought/ Disposition: To permit Nockair to use its helicopters to perform aerial trapeze acts without using an approved external-load attachment or quick-release device for carrying a person on a trapeze bar.

Grant, 08/03/2001, Exemption No. 6685B

Docket No.: FAA–2001–9563.
Petitioner: Mr. Michael Kulbacki.
Section of 14 CFR Affected: 14 CFR 61.123(a) and 61.183(a).
Description of Relief Sought/ Disposition: To permit Mr. Kulbacki to be eligible for a commercial pilot certificate and a flight instructor certificate or rating at 17 years of age instead of 18 years of age.

Denied, 08/03/2001, Exemption No. 7585

Docket No.: FAA–2001–9619.
Petitioner: Dassault Falcon Jet Corporation.
Section of 14 CFR Affected: 14 CFR 25.813(e).
Description of Relief Sought/ Disposition: To permit DFJC to install interior doors between passenger compartments, on the Dassault Falcon Jet airplane models Mystere Falcon 900 and Falcon 900EX.

Grant, 08/10/2001, Exemption No. 7590

Docket No.: 29891.
Petitioner: Houston Helicopters, Inc.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit HHI to operate its 3 Bell 212 helicopters (Registration Nos. N8145Y, N8223V. and N8224V) under part 135 without those helicopters being equipped with an approved digital flight data recorder.

Grant, 08/08/2001, Exemption No. 7588

Docket No.: 29675.
Petitioner: OMNI Energy Services Corp. dba OMNI Aviation Services L.L.C.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit OMNI to operate one Bell 212 helicopter (Registration No. N250MH, Serial No. 30519) under part 135 without an approved digital flight data recorder installed on the helicopter.

Grant, 08/08/2001, Exemption No. 7587

Docket No.: FAA–2001–9328.
Petitioner: Era Aviation Inc.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit ERA to operate its 4 Bell 212 helicopters (Registration Nos. N399EH, N361EH, N362EH, and N522EH; and Serial Nos. 30810, 30554, 30853, and 31199, respectively) under part 135 without those helicopters being equipped with an approved digital flight data recorder.

Grant, 08/08/2001, Exemption No. 7589

Docket No.: FAA–2001–9321.
Petitioner: Aviation Ventures, Inc. dab Vision Air.
Section of 14 CFR Affected: 14 CFR 135.153(a) and 135.180(a).
Description of Relief Sought/ Disposition: To permit Vision Air to conduct part 135 on-demand operations in Malaysia in its Dornier 228–202K and Dornier 228–212 airplanes without (1) an approved ground proximity warning system, and (2) and approved traffic alert and collision avoidance system.

Grant, 08/08/2001, Exemption No. 7586

[FR Doc. 01–22254 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–68]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purposed 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.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, 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 14 CFR 11.85 and 11.91.

Issued in Washington DC on August 13, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Disposition of Petitions

Docket No.: FAA–2001–9285.
Petitioner: Mesaba Aviation, Inc.
Section of 14 CFR Affected: 14 CFR § 121.344(d).
Description of Relief Sought/ Disposition: To permit Mesaba to operate 18 RJ85 airplanes without those airplanes having the capability to record data in accordance with the following paragraphs of § 121.344(a): (12) Pitch control input; (13) Lateral control input; (14) Rudder pedal input.

Grant, 08/17/2001, Exemption No. 7600

Docket No.: FAA–2001–9875.
Petitioner: Continental Express Airlines.
Section of 14 CFR Affected: 14 CFR § 121.344 (c) and (d).
Description of Relief Sought/ Disposition: To permit Continental Express to operate certain Avions de Transport Regional ATR 42 airplanes without those airplanes having the

capability to record data in accordance with the following paragraphs of § 121.344(a), as applicable: (12) Pitch control input; (3) Lateral control input; (14) Rudder pedal input; (15) Primary pitch control surface position; (16) Primary lateral control surface position; (30) Master warning; (31) Air/ground sensor (primary airplane system reference nose or main gear).

Grant, 08/17/2001, Exemption No. 7602

Docket No.: FAA–2001–10007.
Petitioner: Era Aviation, Inc.
Section of 14 CFR Affected: 14 CFR § 135.152(a).
Description of Relief Sought/ Disposition:
Description of Relief Sought/ Disposition: To permit Era to operate two S–76As (registration Nos. N575EH and N579EH; serial Nos. 760366 and 760274, respectively) under part 135 without an approved digital flight data recorder installed.

Grant, 08/17/2001, Exemption No. 7605

Docket No.: FAA–2001–8601 (previously Docket No. 29142).
Petitioner: Geo-Seis Helicopters, Inc.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit Geo-Seis to add 5 Burocopter Puma 330J helicopters (Registration Nos. N330J, N330JA, N330JF, N405R, and N505R; and Serial Nos. 1647, 1140, 1514, 1475, and 1478, respectively) to the list of aircraft covered by Exemption No. 6785.

Grant, 08/17/2001, Exemption No. 6785B

Docket No.: FAA–2001–10437.
Petitioner: Mesa Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(d).
Description of Relief Sought/ Disposition: To permit Mesa to operate two CL600–2B19 airplanes (Registration Nos. N27173 and N37228) under part 121 without those aircraft being equipped with an approved digital flight data recorder capable of recording the following parameters: Pitch control Position(s); Lateral Control Position(s); and Yaw Control Position(s).

Grant, 08/17/2001, Exemption No. 7604

Docket No.: FAA–2001–9799.
Petitioner: Atlantic Coast Airlines.
Section of 14 CFR Affected: 14 CFR 121.344(d).
Description of Relief Sought/ Disposition: To permit ACA to operate one CL–600 airplane without that airplane having the capability to record data in accordance with the requirements of § 121.344(a).

Grant, 08/17/2001, Exemption No. 7598

Docket No.: FAA–2001–9441 (previously Docket No. 28962).
Petitioner: Bombardier Services Corporation, West Virginia Air Center.
Section of 14 CFR Affected: 14 CFR 145.45(f).
Description of Relief Sought/ Disposition: To permit Bombardier to assign copies of its Inspection Procedures Manual (IPM) to key individuals within departments and to strategically place an adequate number of IPMs for access by all employees, rather than giving a copy of the IPM to all supervisory and inspection personnel.

Grant, 08/08/2001, Exemption No. 6677B

[FR Doc. 01–22414 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

RIN 2127–AI23

Reports, Forms and Record Keeping Requirements OMB Approval of Agency Information Collection Activity

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice.

SUMMARY: On June 4, 2001 and July 5, 2001, we published Notices in the **Federal Register** reporting that we had submitted to the Office of Management and Budget (OMB) a request for an extension of a previously approved collection of information. Those Notices are located at 66 FR 30046 and 66 FR 35499 respectively. The approved collection of information pertained to a statutorily-mandated final rule requiring that any person who knowingly or willfully sells or leases a defective or noncompliant tire for use on a motor vehicle, with actual knowledge that the manufacturer of the tire has notified its dealers of the defect or noncompliance, report that sale or lease to us. The **Federal Register** published that Final Rule on July 23, 2001, and it may be reviewed at 66 FR 38159.

This Notice serves to inform the public that OMB has approved this collection of information and has assigned it OMB control number 2127–0610. This collection of information has been approved through July 31, 2004. This Notice also serves to remind the public that there is no obligation to respond to a collection of information without a valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Jennifer T. Timian, NHTSA 400 Seventh Street, SW., Room 5219, NCC–10, Washington, DC 20590. Ms. Timian's telephone number is (202) 366–5263.

Issued on: August 30, 2001.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–22399 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–10512]

Notice of Receipt of Petition for Decision That Nonconforming 2002 Harley Davidson FX, FL, and XL Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of receipt of petition for decision that nonconforming 2002 Harley Davidson FX, FL, and XL motorcycles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2002 Harley Davidson FX, FL, and XL motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is October 9, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm)

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally

manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Milwaukee Motorcycle Imports, Inc. of Milwaukee, Wisconsin (''MMI'') (Registered Importer 99–192) has petitioned NHTSA to decide whether non-U.S. certified 2002 Harley Davidson FX, FL, and XL motorcycles are eligible for importation into the United States. The vehicles which MMI believes are substantially similar are 2002 Harley Davidson FX, FL, and XL motorcycles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2002 Harley Davidson FX, FL, and XL motorcycles to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

MMI submitted information with its petition intended to demonstrate that non-U.S. certified 2002 Harley Davidson FX, FL, and XL motorcycles, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2002 Harley Davidson FX, FL, and XL motorcycles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 106 *Brake Hoses,* 111 *Rearview Mirrors,* 116 *Brake Fluid,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* 122 *Motorcycle Brake Systems,* and 205 *Glazing Materials.*

The petitioner also states that vehicle identification number plates that meet the requirements of 49 CFR Part 565 are already affixed to non-U.S. certified 2002 Harley Davidson FX, FL, and XL motorcycles.

Petitioner additionally contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated below:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S. model headlamp assemblies which incorporate headlamps that are certified to meet the standard; (b) replacement of all stop lamp and directional signal bulbs with bulbs that are certified to meet the standard; (c) replacement of all lenses with lenses that are certified to meet the standard.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* installation of a tire information label.

Standard No. 123 *Motorcycle Controls and Displays:* installation of a U.S. model speedometer calibrated in miles per hour and a U.S. model odometer that measures distance traveled in miles.

The petitioner states that when the vehicle has been brought into conformity with all applicable Federal motor vehicle safety standards, a certification label that meets the requirements of 49 CFR Part 567 will be affixed to the front of the motorcycle frame.

Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: August 30, 2001.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 01–22400 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–01–8587, Notice No. 01–09]

Safety Advisory: Unauthorized Marking of Compressed Gas Cylinders

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

ACTION: Safety advisory notice.

SUMMARY: This is to notify the public that RSPA is investigating the unauthorized marking of high-pressure compressed gas cylinders by Underwater Adventures, 400 West Magnolia, Leesburg, Florida, 32757. RSPA has determined that Underwater Adventures marked and certified an undetermined number of cylinders as being properly tested in accordance with the Hazardous Materials Regulations (HMR), when the cylinders were improperly tested.

A hydrostatic retest and visual inspection, conducted as prescribed in the HMR, are used to verify the structural integrity of a cylinder. If the hydrostatic retest and visual inspection are not performed in accordance with the HMR, a cylinder with compromised structural integrity may be returned to service when it should be condemned. Extensive property damage, serious personal injury, or death could result from rupture of a cylinder. Cylinders that have not been retested in accordance with the HMR may not be charged or filled with compressed gas or other hazardous material.

FOR FURTHER INFORMATION CONTACT: Cheryl K. Johnson, Senior Inspector, Southern Region, Office of Hazardous Materials Enforcement, Research and Special Programs Administration, U.S. Department of Transportation, 1701 Columbia Avenue, Suite 520, College Park, GA 30337. Telephone: (404) 305–6120, Fax: (404) 305–6125.

SUPPLEMENTARY INFORMATION: Through its inspection of Underwater Adventures, RSPA has determined that Underwater Adventures marked and certified an undetermined number of cylinders as having been properly tested in accordance with the HMR, without properly retesting the cylinders. In addition, Underwater Adventures marked an undetermined number of

cylinders with a Retester Identification Number (RIN) that belongs to another company. In 1981, Underwater Adventures was issued RIN B095. That RIN authorization expired on June 24, 1986. Underwater Adventures has never renewed its RIN authorization and has been servicing cylinders without holding a RIN since 1986. During the inspection, Underwater Adventures was unable to calibrate its test equipment. In addition, Underwater Adventures failed to keep any records of its retest and reinspections; thus, it is impossible to determine the number of cylinders that Underwater Adventures improperly tested. These cylinders may pose a safety risk to the public.

The cylinders in question are stamped with one of the following two RINs: B095 or B059. The markings appear in the following pattern:

(1)

B0
M Y
59

(2)

B0
M Y
95

M is the month of retest (e.g. 10), and Y is the year of the retest (e.g. 01).

On May 19, 1981, RSPA issued RIN B059 to Safety Systems of Biloxi, Inc., P.O. Drawer 6039, 10970 Old Highway 67, Biloxi, Mississippi 39532–6039. Safety Systems renewed this RIN on March 12, 2001, and is the only authorized user of that RIN. Any cylinder marked and serviced by Safety Systems of Biloxi, Inc. is not covered by this safety advisory.

Anyone who has a cylinder that has been serviced by Underwater Adventures and that is marked with RIN numbers B095 or B059 and stamped with a retest date after 1986 should consider the cylinder unsafe and not fill it with a hazardous material unless the cylinder is first properly retested by a DOT-authorized retest facility. Filled cylinders (if filled with an atmospheric gas) described in this safety advisory should be vented or otherwise safely discharged, and then taken to a DOT-authorized cylinder retest facility for proper retest to determine compliance with the HMR and their suitability for continuing service. Under no circumstance should a cylinder described in this safety advisory be filled, refilled or used for its intended purpose until it is reinspected and retested by a DOT-authorized retest facility.

It is further recommended that persons finding or possessing a cylinder described in this safety advisory contact Ms. Johnson for additional information.

Issued in Washington, DC on August 30, 2001.

Frits Wybenga,

Deputy Associate Administrator for Hazardous Materials Safety.

[FR Doc. 01–22398 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or email to *ahunt@omb.eop.gov*; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov*. Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov*.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov*, (202) 906–7380, or facsimile number (202)–906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Amendment of a Savings Association Charter.

OMB Number: 1550–0018.

Form Number: N/A.

Regulation requirement: N/A.

Description: All federally chartered savings associations are required to obtain approval of any changes in its charter that are not preapproved by regulation.

Type of Review: Renewal.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 3.

Estimated Frequency of Response: 3.

Estimated Burden Hours per Response: 20.

Estimated Total Burden: 60 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation.

[FR Doc. 01–22289 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to

infocollection.comments@ots.treas.gov. Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov*.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov*, (202) 906–7380, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Application Processing Fees.

OMB Number: 1550–0053.

Form Number: N/A.

Regulation requirement: N/A.

Description: Fees must accompany certain applications, including securities filings, notices, and requests, before such applications will be accepted for processing by OTS.

Type of Review: Renewal.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 2,543.

Estimated Frequency of Response: 1 per year.

Estimated Burden Hours per Response: .036.

Estimated Total Burden: 92 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel Regulations & Legislation.

[FR Doc. 01–22290 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov*; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov*. Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov*.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov*, (202) 906–7380, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Management Official Interlocks.

OMB Number: 1550–0051.

Form Number: N/A.

Regulation requirement: N/A.

Description: OTS uses the requested information to evaluate the merits of interlocks exemption applications.

Type of Review: Renewal.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 1.

Estimated Frequency of Response: 1.

Estimated Burden Hours per Response: 4.

Estimated Total Burden: 4 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation.

[FR Doc. 01–22291 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov.*

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov,* (202) 906–7380, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Application to Issue Mutual Capital Certificates.

OMB Number: 1550–0050.

Form Number: N/A.

Regulation requirement: 12 CFR 563.74.

Description: 12 CFR 563.74 requires any insured mutual institution wishing to issue mutual capital certificates to obtain OTS approval. Approval may not be granted unless the proposed issuance of the mutual capital certificates, the form, and the manner of the filing of the application are in accordance with the provisions of section 563.74.

Type of Review: Extension.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 1.

Estimated Frequency of Response: Annually.

Estimated Burden Hours per Response: 6 hours.

Estimated Total Burden: 6 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation.

[FR Doc. 01–22292 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov.*

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov,* (202) 906–7380, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Amendment of a Savings Association's Bylaws.

OMB Number: 1550–0017.

Form Number: N/A.

Regulation requirement: N/A.

Description: Collection information is in compliance with the legal requirement for all federally chartered savings associations to file bylaw amendment applications or notices with .OTS.

Type of Review: Renewal.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 7.

Estimated Frequency of Response: 1 per year.

Estimated Burden Hours per Response: 8 hours.

Estimated Total Burden: 56 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation.

[FR Doc. 01–22293 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov*. Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov*.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov*, (202) 906–7380, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Application Filing Requirements.

OMB Number: 1550–0056.

Form Number: N/A.

Regulation requirement: 12 CFR 516.1(c).

Description: 12 CFR 516.1 contains OTS application filing procedures. Three copies of the applications must be filed with the appropriate OTS Regional Office. Certain applications require

more than three copies because the application raises a significant issue of policy or law or because other agencies have statutory oversight over the application.

Type of Review: Extension.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 2,543.

Estimated Frequency of Response: Annually.

Estimated Burden Hours per Response: .17 hours.

Estimated Total Burden: 432 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel Regulations & Legislation.

[FR Doc. 01–22294 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or email to *ahunt@omb.eop.gov*; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov*. Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov*.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov*, (202) 906–7380, or facsimile number (202)-906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Electronic Operations.

OMB Number: 1550–0095.

Form Number: Not applicable.

Regulation requirement: 12 CFR 555.300(b).

Description: OTS requires a savings association to notify OTS before it establishes a transactional web site. This information collection is needed to evaluate a thrift's risks in the use of information technology so that any safety and soundness concerns may be addressed in a timely manner.

Type of Review: Renewal without change.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 100.

Estimated Frequency of Response: 1 per year.

Estimated Burden Hours per Response: 2 hours.

Estimated Total Burden: 458 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel Regulations & Legislation.

[FR Doc. 01–22295 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0091]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to apply for VA medical care, nursing home, domiciliary and dental benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 5, 2001.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail *ann.bickoff@mail.va.gov*. Please refer to ''OMB Control No. 2900–0091'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) way to minimize the burden of the collection of information on respondents,

including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: Application for Medical Benefits, VA Form 10–10EZ.

OMB Control Number: 2900–0091.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to establish a system of records on veterans applying and/or enrolling for VA medical care benefits. The information collected is used to establish basic eligibility for VA benefits; enroll veterans into the VA health care enrollment system; determine a veteran's marital status, next-of-kin and emergency contacts for care management and consent purposes; establish eligibility for cost free health care, mileage reimbursement and prescription co-payment exemption for certain veterans; identify those veterans who have third party health insurance for billing purposes to recover the cost of medical care furnished to veterans for treatment of nonservice-connected conditions; and establish an individual's eligibility for other health services, including but not limited to nursing home, dental and domiciliary care.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,467,447 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 2,372,766.

Dated: August 10, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–22314 Filed 9–5–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0507]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine eligibility for reinstatement of insurance and/or Total Disability Income Provision.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 5, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0507'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501—3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Medical Information for Reinstatement, VA Form Letter 29–762.

OMB Control Number: 2900–0507.

Type of Review: Extension of a currently approved collection.

Abstract: The form letter is used by the veteran's attending physician to provide medical information that is required to determine eligibility for reinstatement of insurance and/or Total Disability Income Provision.

Affected Public: Individuals or households.

Estimated Annual Burden: 240 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 480.

Dated: August 23, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–22315 Filed 9–5–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0469]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to establish entitlement to Government Life Insurance proceeds.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 5, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0469'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is

being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Certificate Showing Residence and Heirs of Deceased Veterans or Beneficiary, VA Form 29–541.

OMB Control Number: 2900–0469.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to establish entitlement to Government Life Insurance proceeds in estate cases when formal administration of the estate is not required.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,039 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,078.

Dated: August 23, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–22316 Filed 9–5–01; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 66, No. 173

Thursday, September 6, 2001,

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal Plant and Health Inspection Service

9 CFR Parts 54 and 79

[Docket No. 97–093-5]

RIN 0579–AA90

Scrapie in Sheep and Goats; Interstate Movement Restrictions and Indemnity Program

Correction

In rule document 01–20693, beginning on page 43964, in the issue of Tuesday, August 21, 2001, (and **Federal Register** correction C1–20693 printed in 66 FR 46066, on Friday, August 31, 2001) make the following correction:

On page 43964, in the first column, under the heading **DATES:**, in the last line, ''February 18, 2002'' should read ''February 19, 2002''.

[FR Doc. C1–20693 Filed 9–5–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
September 6, 2001

Part II

Department of Education

Privacy Act of 1974; System of Records (ED Web Personalization Pilot Data Collection); Notice

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Office of the Chief Information Officer, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Chief Information Officer for the Department of Education publishes this Notice of a New System of Records for the ED Web Personalization Pilot Data Collection (System Number 18–04–03). The U.S. Department of Education (ED) plans to pilot test a customer personalization capability as part of the upcoming redesign of its main web site, www.ed.gov.

DATES: We must receive your comments on the proposed routine uses for this system of records included in this notice on or before October 9, 2001. The Department seeks comment on this new system of records described in this notice, in accordance with the requirements of the Privacy Act.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Committee on Governmental Affairs of the Senate, the Chair of the Committee on Government Reform of the House, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on August 31, 2001. This new system of records will become effective at the later date of: (1) The expiration of the 40-day period for OMB review on October 10, 2001, or (2) October 9, 2001, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments on the proposed routine uses of this system, and requests for information about the final pilot test results, to Keith Stubbs, Office of the Chief Information Officer, Web Services Group, U.S. Department of Education, 7th and D Streets, SW., Regional Office Building 3, room 4923–B, Washington, DC 20202–0001. If you prefer to send your comments through the Internet, use the following address: *Comments@ed.gov.* You must include the term ''ED Web Pilot Project'' in the subject line of your electronic message.

During and after the comment period, you may inspect all comments about this notice in room 4923–B, Regional Office Building 3, 7th and D Streets, SW., Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service at 1–800–877–8339.

FOR FURTHER INFORMATION CONTACT: Sally Budd, U.S. Department of Education, Office of the Chief Information Officer, 7th and D Streets, SW., Regional Office Building 3, room 4923–A, Washington, DC 20202–0001. Telephone number: (202) 205–2280. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of a new system of records managed by the Department. The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, applies to a record about an individual that is maintained in a system of records from which information is retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a ''record'' and the system, whether manual or computer-driven, is called a ''system of records.'' The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to the Office of Management and Budget (OMB) whenever the agency publishes a new or ''altered'' system of records.

Pilot Project

Through its Internet Customer Survey (OMB control number 1800–0011), ED has identified several different constituencies among its Internet customers, and the fact that each one of these constituencies has different educational interests and information needs. Web site personalization is viewed by many as an effective means of fulfilling the diverse needs of Internet customers. Pilot testing web site personalization is necessary to (1) determine its effectiveness as a customer service tool and its potential role in improving the delivery of the Agency information and services, and (2) determine the policy, resource and other implications of the implementation of web personalization by a Federal agency.

The pilot test will be conducted for a period of nine months that will begin with the release of the redesigned web site. The new reengineered web site will be launched in the fall of 2001. We anticipate that a significant number of our web site users will take advantage of the new personalization feature due to the start of the new school year and renewed focus on education. Responses to the ed.gov on-line Internet Customer Survey indicate a strong shift in users of our Internet services from education administrators and teachers to students (up 24%) and parents and family members (up 12%). Students and parents constitute 62% of respondents in the most recent analysis of results.

In addition, we anticipate a significant increase in the number of users during the March, April, and May timeframe when many of our customers will be college-age students who wish to apply for student financial aid. Our WebTrends system usage analysis indicates that the FAFSA (Free Application for Student Aid) web application receives the highest volume of users during this period. Responses to the ed.gov on-line Internet Customer Survey indicates that these Internet users are likely to be more technically astute, have less time to surf the Internet for the information they need, and thus more likely to want and to take advantage of a web personalization feature. Conducting the pilot for nine months from the fall of 2001 through the March-May timeframe will give customers sufficient opportunity to respond to new personalization features and provide an adequate sample upon which to base the analysis of our pilot test.

During the pilot test, ED will offer its Internet customers the opportunity to use a web personalization form which

will allow users to select a login name and password (to avoid using persistent cookies), to define their interests, and to elect to receive weekly email notification of new postings in their areas of interest. This information will be used by the system to present a customized view of the ED web site.

Registered users will have access to a home page that features content that matches their interests and allows them to bookmark their favorite pages on the ED site and save search criteria for reuse.

In conjunction with this pilot test, ED will also give its Internet customers the opportunity to complete a very brief survey designed to record their opinions about the usefulness and effectiveness of the web personalization feature. The customer survey is very similar to the existing ED Internet Customer Survey (http://www.ed.gov/Survey/cust.html) in its overall approach, question design, and technologies used. The survey will contain questions designed to collect respondents' demographic information, level of satisfaction with the personalization service, reasons for registering or not registering for the service, preferred features, and potential enhancements. This short survey consists of 12 questions and requires approximately 10 minutes to complete. ED will evaluate the results of this survey as part of its analysis of the pilot test. ED will also publish the results of the pilot test, the analysis, and a proposed web personalization model once the pilot test and analysis are complete.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: http://www.ed.gov/legislation/FedRegister/.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

Dated: August 31, 2001.

Craig B. Luigart,

Chief Information Officer.

For the reasons discussed in the preamble, the Chief Information Officer of the U.S. Department of Education publishes notice of a new system of records to read as follows:

18–04–03

SYSTEM NAME:

ED Web Personalization Pilot Data Collection.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION(S):

Office of the Chief Information Officer, Web Services Group, U.S. Department of Education, Seventh and D Streets, SW., room 4923, ROB–3, Washington, DC 20202–5130.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All users of the U.S. Department of Education web site (*www.ed.gov*) who choose to personalize the web site.

CATEGORIES OF RECORDS IN THE SYSTEM:

The ED Web Personalization Pilot Data Collection contains user customization data. The system contains data elements such as customer first name, middle initial and last name; customer email address; Ed.gov ID and password; and information selection criteria such as desired subject(s), audience type, level(s) of education, resource type(s).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The general statutory authority is 40 U.S.C. 1425(b) and 44 U.S.C. Chapter 35.

PURPOSE(S):

The purpose of this system of records is to give ED customers the option of customizing the retrieval and delivery of web site content and services based on their interests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice (DOJ) and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(2) *Disclosure to the DOJ.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(3) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(6) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(7) *Disclosure for Use By Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local or foreign agency or other authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative or prosecutive responsibility within the entity's jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISCLOSING OF RECORDS IN THE SYSTEM:

STORAGE:

System records will be maintained on a database server as part of the *www.ed.gov* web site, and are backed up and archived onto electronic storage media.

RETRIEVABILITY:

Each record in this system is indexed and retrieved by a personal ID and password that is created by the user of the *www.ed.gov* web site.

SAFEGUARDS:

All users of this system will have a unique user ID with a personal identifier.

This system does not use persistent cookies (data that a web server causes to be placed on a user's hard drive) to implement personalization. It is the policy of the Department to prohibit the use of persistent cookies on U.S. Department of Education Web sites except where: there is a compelling need; there are appropriate safeguards in place; the use is personally approved by the Secretary of Education; and there is clear and conspicuous notice to the public.

All physical access to the U.S. Department of Education web site and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the U.S. Department of Education offers a high degree of resistance to tampering and circumvention. This security system limits data access to the Department, and contract staff on a ''need to know'' basis, and controls individual users'' ability to access and alter records within the system.

RETENTION AND DISPOSAL:

U.S. Department of Education web personalization customers can remove any information about their web preferences (i.e., the subjects, levels of education, types of resources, and audience-targeted materials in which they are interested), as well as any bookmarks or saved searches they have stored on the Department's web pages. U.S. Department of Education customers, however, cannot delete their names, zip codes, or email addresses from the system (although they can replace it with other information). The system, however, automatically will purge any unused accounts after a certain period of disuse. If approval to continue the ED web personalization service is received before the end of pilot, ED will keep the existing registration database active to avoid forcing customers to reregister. If approval is not received, ED will delete all customer information from the database and disable the service. If the personalization service is continued, the Department will retain and dispose of these records in accordance with National Archives and Records Administration General Records Schedule 20, Item 1.c. This schedule provides disposal authorization for electronic files and hard-copy printouts created to monitor system usage, including, but not limited to, log-in files, password files, audit trail files, system usage files, and cost-back files used to assess charges for system use. Records will be deleted or destroyed when the agency determines they are no longer needed for administrative, legal, audit, or other operational purposes.

SYSTEM MANAGERS AND ADDRESS:

Internet Project Manager, U.S. Department of Education, Office of the Chief Information Officer, 7th and D Streets, SW., Regional Office Building 3, room 4923–B, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, you may gain access to the system via the *www.ed.gov* web site, or by contacting the system administrator through the *webmaster@inet.ed.gov* email address. Requests for notification about an individual must meet the requirements of the regulations at 34 CFR 5b.5. Individuals may also present their requests in writing or in person at any of the locations identified for this system of records.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, follow the directions described in the Notification Procedure.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in this system of records, you may gain access to the system and alter the record via the *www.ed.gov* web site and the system edit and update function. If you wish to contest the content of a record, contact the system manager by following the directions described in the Notification Procedure. Requests to amend a record must meet the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from customers who use the *www.ed.gov* web site and complete the optional web site personalization. The personalization form provides the information contained within the system.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01–22389 Filed 9–5–01; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Thursday,
September 6, 2001

Part III

Department of Agriculture

Animal and Plant Health Inspection Service

7 CFR Part 301

Pine Shoot Beetle; Addition to Quarantined Area; Correction; Interim Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 01–048–2]

Pine Shoot Beetle; Addition to Quarantined Areas; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule; correction.

SUMMARY: This document corrects an interim rule published July 18, 2001, that amended the pine shoot beetle regulations. The correction changes an instruction to reflect that a paragraph containing a map depicting the quarantined area (7 CFR 301.50–3(d)) was being added rather than revised.

EFFECTIVE DATE: July 18, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Jones, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737–1236, (301) 734–8247.

SUPPLEMENTARY INFORMATION: On January 5, 1999, we published in the **Federal Register** (64 FR 385–387, Docket No. 98–113–1) an interim rule that amended the pine shoot beetle regulations (contained in 7 CFR 301.50 through 301.50–10) by, among other things, removing paragraph (d) of § 301.50–3. Paragraph (d) contained a map that showed the quarantined counties listed in § 301.50–3(c). This interim rule was affirmed as a final rule on April 2, 1999 (63 FR 15916–15918, Docket No. 98–113–2).

However, due to an oversight by the Office of the Federal Register, paragraph (d) of § 301.50–3 continued to appear in the Code of Federal Regulations revised as of January 1, 2000, and January 1, 2001.

On July 18, 2001, we published in the **Federal Register** (66 FR 37401–37405, Docket No. 01–048–1) an interim rule that amended the pine shoot beetle regulations by, among other things, revising the map contained in paragraph (d) of § 301.50–3. Since § 301.50–3(d) should have been removed prior to that date, we are now correcting the interim rule published July 18, 2001, to reflect that paragraph (d) of § 301.50–3 was being added rather than revised.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—[CORRECTED]

The interim rule amending 7 CFR part 301 published July 18, 2001, at 66 FR 37401 is corrected as follows:

1. On page 37403, in the first column, amendatory instruction 2k for § 301.50–3 is corrected to read as follows:

k. By adding paragraph (d).

2. On page 37404, in the third column, § 301.50–3, paragraph (d) is corrected by removing the three asterisks following the paragraph designation and adding in their place: ''A map of the quarantined areas follows:''.

Done in Washington, DC, this 30th day of August 2001.

Alfonso Torres,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–22404 Filed 9–5–01; 8:45 am]

BILLING CODE 3410–34–U

Reader Aids

Federal Register

Vol. 66, No. 173

Thursday, September 6, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–523–5227**
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H.R. 93/P.L. 107–27
Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28
To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the ''Marjory Williams Scrivens Post Office''. (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the ''Edward N. Cahn Federal Building and United States Courthouse''. (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32
To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the ''W. Joe Trogdon Post Office Building''. (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33
To designate the United States courthouse located at 40 Centre Street in New York, New York, as the ''Thurgood Marshall United States Courthouse''. (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34
To designate the facility of the United States Postal Service located at 113 South Main

Street in Sylvania, Georgia, as the ''G. Elliot Hagan Post Office Building''. (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35

To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the ''M. Caldwell Butler Post Office Building''. (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36

To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the ''Elwood Haynes 'Bud' Hillis Post Office Building''. (Aug. 20, 2001; 115 Stat. 218)

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