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Federal Register

4–24–03 Thursday
Vol. 68 No. 79 Apr. 24, 2003
Pages 20069–20326

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Rules and Regulations

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9053]

RIN 1545–BC12

Tax Return Preparers—Electronic Filing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations to facilitate electronic filing by tax return preparers. The existing regulations, which contain references to manually signed returns, have resulted in uncertainty over whether preparers must produce manually signed, paper copies of returns for taxpayers and for the preparers' records. The temporary regulations clarify that preparers may avoid paper copies by retaining and furnishing to taxpayers copies of returns in electronic or digital format prescribed by the Commissioner.

DATES: *Effective Date:* These regulations are effective by April 24, 2003.

Applicability Date: For dates of applicability, see § 1.6107–2T(b) and § 1.6695–1T(b)(5).

FOR FURTHER INFORMATION CONTACT: Richard Charles Grosenick, (202) 622–7940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations that amend the Income Tax Regulations (26 CFR part 1) under sections 6107 and 6695 of the Internal Revenue Code (Code) to facilitate electronic filing and record keeping by tax return preparers. Section 6695 of the Code imposes various penalties on tax return preparers, including a penalty for failure to sign the returns that they prepare. Originally, the regulations under section 6695 contemplated only manually signed (*i.e.*, paper) returns. Although the regulations under section 6695 were amended in 1996 to permit tax return preparers to sign and file returns electronically in the manner prescribed by the Secretary (*see* TD 8689 (61 FR 65319, Dec. 12, 1996)), § 1.6695–1(b) of the regulations continues to refer to manually signed returns and copies. Those references have resulted in uncertainty over whether preparers must produce manually signed, paper copies of returns to satisfy their obligations under section 6107 to provide copies of returns to taxpayers and keep copies of returns in their records.

These temporary regulations eliminate the references to manually signed returns in § 1.6695–1(b). In addition, they provide that the Commissioner may prescribe, in forms, instructions, or other appropriate guidance, the manner in which preparers may satisfy their obligations under section 6107 to furnish returns to taxpayers and to retain copies of returns. These changes and the applicable forms, instructions, and guidance clarify that preparers may maintain electronic (paperless) filing systems.

Special Analyses

It has been determined that this temporary regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation and, because the regulation does not impose a collection of information on small entities, that the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of this regulation is Richard Charles Grosenick, Office of Assistant Chief Counsel (Administrative Provisions & Judicial Practice). However, other personnel from the IRS and the Treasury Department participated in its development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendment to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.6695–1T also issued under 26 U.S.C. 6695(b). * * *

■ **Par. 2.** Section 1.6107–2T is added to read as follows:

§ 1.6107–2T Form and manner of furnishing copy of return and retaining copy or record.

(a) *In general.* The Commissioner may prescribe the form and manner of satisfying the requirements imposed by section 6107(a) and (b) and § 1.6107–1(a) and (b) in forms, instructions, or other appropriate guidance.

(b) *Effective date.* To the extent this section relates to section 6107(a) and § 1.6107–1(a), it applies to income tax returns and claims for refund presented to a taxpayer for signature after December 31, 2002. To the extent this section relates to section 6107(b) and § 1.6107–1(b), it applies after December 31, 2002, to returns and claims for refund for which the 3-year period described in section 6107(b) expires after December 31, 2002.

■ **Par. 3.** Section 1.6695–1 is amended by revising paragraph (b) to read as follows:

§ 1.6695–1 Other assessable penalties with respect to the preparation of income tax returns for other persons.

* * * * *

(b) [Reserved]. For further guidance, see § 1.6695–1T(b).

* * * * *

■ **Par. 4.** Section 1.6695–1T is added to read as follows:

§ 1.6695–1T Other assessable penalties with respect to the preparation of income tax returns for other persons.

(a) [Reserved]. For further guidance, see § 1.6695–1(a).

(b) *Failure to sign return.* (1) An individual who is an income tax return preparer with respect to a return of tax under subtitle A of the Internal Revenue Code or claim for refund of tax under subtitle A of the Internal Revenue Code shall sign the return or claim for refund after it is completed and before it is presented to the taxpayer (or nontaxable entity) for signature. If the preparer is unavailable for signature, another preparer shall review the entire preparation of the return or claim for refund, and then shall sign the return or claim for refund. The preparer shall sign the return in the manner prescribed by the Commissioner in forms, instructions, or other appropriate guidance.

(2) If more than one income tax return preparer is involved in the preparation of the return or claim for refund, the individual preparer who has the primary responsibility as between or among the preparers for the overall substantive accuracy of the preparation of such return or claim for refund shall be considered to be the income tax return preparer for purposes of this paragraph.

(3) The application of this paragraph is illustrated by the following examples:

Example 1. X law firm employs Y, a lawyer, to prepare for compensation returns and claims for refund of taxes. X is employed by T, a taxpayer, to prepare his Federal tax return. X assigns Y to prepare T's return. Y obtains the information necessary for completing the return from T and makes determinations with respect to the proper application of the tax laws to such information in order to determine T's tax liability. Y then forwards such information to C, a computer tax service which performs the mathematical computations and prints the return by means of computers. C then sends the completed return to Y who reviews the accuracy of the return. Y is the individual preparer who is primarily responsible for the overall accuracy of T's return. Y must sign the return as preparer.

Example 2. X partnership is a national accounting firm which prepares for compensation returns and claims for refund of taxes. A and B, employees of X, are involved in preparing the tax return of T Corporation. After they complete the return, including the gathering of the necessary information, the proper application of the tax laws to such information, and the performance of the necessary mathematical computations, C, a supervisory employee of X, reviews the return. As part of this review, C reviews the information provided and the application of the tax laws to this information. The mathematical computations and carried-forward amounts are proved by D, an employee of X's comparing and proving department. The policies and practices of X require that P, a partner, finally review the return. The scope of P's review includes reviewing the information provided by applying to this information his knowledge of T's affairs, observing that X's policies and practices have been followed, and making the final determination with respect to the proper application of the tax laws to determine T's tax liability. P may or may not exercise these responsibilities, or may exercise them to a greater or lesser extent, depending on the degree of complexity of the return, his confidence in C (or A and B), and other factors. P is the individual preparer who is primarily responsible for the overall accuracy of T's return. P must sign the return as preparer.

Example 3. C corporation maintains an office in Seattle, Washington, for the purpose of preparing for compensation returns and claims for refund of taxes. C makes compensatory arrangements with individuals (but provides no working facilities) in several States to collect information from taxpayers and to make determinations with respect to the proper application of the tax laws to the information in order to determine the tax liabilities of such taxpayers. E, an individual, who has such an arrangement in Los Angeles with C, collects information from T, a taxpayer, and completes a worksheet kit supplied by C which is stamped with E's name and an identification number assigned to E by C. In this process, E classifies this information in appropriate income and deduction categories for the tax determination. The completed worksheet kit signed by E is then mailed to C. D, an employee in C's office, reviews the worksheet kit to make sure it was properly completed. D does not review the information obtained from T for its validity or accuracy. D may, but did not, make the final determination with respect to the proper application of tax laws to the information. The data from the worksheet is entered into a computer and the return form is completed. The return is prepared for submission to T with filing instructions. E is the individual preparer primarily responsible for the overall accuracy of T's return. E must sign the return as preparer.

Example 4. X employs A, B, and C to prepare income tax returns for taxpayers. After A and B have collected the information from the taxpayer and applied the tax laws to the information, the return form is completed by computer service. On the day the returns prepared by A and B are ready for their signatures, A is away from the city for 1 week on another assignment and B is on detail to another office for the day. C may sign the returns prepared by A, provided that (i) C reviews the information obtained by A relative to the taxpayer, and (ii) C reviews the preparation of each return prepared by A. C may not sign the returns prepared by B because B is available.

(4) An individual required by this paragraph (b) to sign a return or claim for refund shall be subject to a penalty of $50 for each failure to sign, with a maximum of $25,000 per person imposed with respect to each calendar year, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. If the preparer asserts reasonable cause for failure to sign, the Internal Revenue Service will require a written statement in substantiation of the preparer's claim of reasonable cause. For purposes and prudence exercised by the individual preparer. Thus, no penalty may be imposed under section 6695(b) and this paragraph (b) upon a person who is an income tax return preparer solely by reason of—

(i) Section 301.7701–15(a)(2) and (b) of this chapter on account of having given advice on specific issues of law; or

(ii) Section 301.7701–15(b)(3) of this chapter on account of having prepared the return solely because of having prepared another return which affects amounts reported on the return.

(5) *Effective date.* This paragraph (b) applies to income tax returns and claims for refund presented to a taxpayer for signature after December 31, 2002.

(c) through (f) [Reserved]. For further guidance, see § 1.6695–1(c) through (f).

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

Approved: April 7, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–10192 Filed 4–23–03; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR–03–004a and ID–03–001a; FRL–7487–2]

Approval and Promulgation of State Implementation Plans; Prevention of Significant Deterioration (PSD); Idaho and Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to amend the State implementation plans (SIPs) for Idaho and Oregon concerning the PSD program mandated by part C of title I of the Clean Air Act (CAA or Act). The amendments clarify that the newly published provisions of the Federal PSD rule are incorporated into the applicable implementation plans for Indian Country in Idaho and Oregon. The amendments also clarify that the newly published provisions of the Federal PSD rule are incorporated into the applicable implementation plan for other sources in Idaho that were permitted under the Federal PSD program prior to August

22, 1986, the effective date of EPA's approval of Idaho's PSD program as part of the Idaho SIP.

DATES: This direct final rule will be effective on June 23, 2003 without further notice, unless EPA receives relevant adverse comment by May 27, 2003. If relevant adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Connie Robinson, EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101. Copies of information relevant to this action are available for inspection during normal business hours at the following location: EPA, Region 10, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, (206) 553–1086.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. Please note that if EPA receives relevant adverse comment on an amendment, paragraph or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of a relevant adverse comment.

I. What Action Is EPA Taking?

On December 31, 2002, EPA published in the **Federal Register** (67 FR 80186) revisions to the Federal PSD rule in 40 CFR 52.21 that incorporate new applicability provisions for baseline emissions determinations, actual-to-projected-actual methodology, plantwide applicability limitations, clean units, and pollution control projects. In finalizing these new applicability provisions, the relevant parts of the Federal PSD rule, 40 CFR part 52.21, were extended from 52.21(b) through (w) to 52.21(a)(2) and (b) through (bb). The revisions to the Federal PSD rule became effective on March 3, 2003. On March 10, 2003, EPA published in the **Federal Register** revisions to the applicable implementation plans that apply in States or parts of States that do not have an approvable PSD SIP in place, and in Indian Country. The purpose of that action, which became effective on March 3, 2003, was to incorporate into the Federal implementation plan portion of SIPs the revisions to the Federal PSD rule that became effective on March 3, 2003. (See 68 FR 11316, March 10, 2003.) In revising the applicable implementation plans for these areas, the references to the Federal PSD rule were changed from 40 CFR 52.21(b) through (w) to 40 CFR 52.21(a)(2) and (b) through (bb).

During this same period, EPA published in the **Federal Register** revisions to the SIPs for Idaho and Oregon. Both SIP revisions included revisions to the PSD programs for those States and stated that the Federal PSD rule, rather than the State PSD rules, would continue to apply in Indian Country in those States and, in the case of Idaho, would continue to apply to other sources in Idaho that were permitted under the Federal PSD program prior to August 22, 1986 for the purpose of administering the EPA-issued permits.[1] The SIP revision for Idaho was published on January 16, 2003, and became effective on February 18, 2003. (*See* 68 FR 2217.) The SIP revision for Oregon was published on January 22, 2003 (68 FR 2891), in a direct final rulemaking and became final on March 24, 2003, because no comments were received during the public comment period on the proposal. In promulgating the applicable implementation plan for Indian Country in both the Idaho and Oregon SIP actions and, in the case of Idaho, for other sources that were subject to the Federal PSD program prior to August 22, 1986, EPA incorporated by reference the relevant provisions of the Federal PSD rule in effect prior to March 3, 2003, rather than the Federal PSD rule published on December 31, 2002, and effective March 3, 2003.

In the case of Idaho, EPA's action on March 10, 2003, incorporated the newly published provisions of the Federal PSD rule as part of the applicable implementation plan for Indian Country in Idaho and with respect to other sources in Idaho that were subject to the Federal PSD program prior to August 22, 1986. *See* 68 FR 2217. The March 10, 2003 action, however, inadvertently failed to include minor changes to the language in 40 CFR 52.683(b) and (c) that EPA had made in the Idaho SIP revision that became effective on February 18, 2003, because the changes effective on February 18, 2003 had not yet been codified in the Code of Federal Regulations. In this action, EPA is amending the language in 40 CFR 52.683(b) and (c), as published on March 10, 2003, and effective on March 3, 2003, to include the minor changes to those provisions that became effective on February 18, 2003.

In the case of Oregon, EPA's action on March 10,2003 (68 FR 2891), which incorporated the newly published provisions of the Federal PSD rule as part of the applicable implementation plan for Indian Country in Oregon into 40 CFR 52.1987(c), was amended by the revision to the Oregon SIP that was published before the March 10, 2003, action but became effective after that date. Therefore, the reference to relevant provisions of the Federal PSD rule in 40 CFR 52.1987(c) was erroneously changed back to 40 CFR 52.21(b) through (w) and therefore no longer incorporates EPA's recent revisions to the Federal PSD rule. Therefore, EPA is amending the language in 40 CFR 52.1987(c) to refer to the Federal PSD rule published on December 31, 2002, and effective March 3, 2003, that is 40 CFR 52.21(a)(2) and (b) through (bb).

II. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). 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.*). This rule does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action 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

[1] August 22, 1986 is the effective date of EPA's initial approval of Idaho's PSD program as part of the Idaho SIP.

Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 23, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practices and procedures, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particular matter, Sulfur oxides.

Dated: April 16, 2003.

L. John Iani,

Regional Administrator, Region 10.

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

PART 52—[AMENDED]

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

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

Subpart N—Idaho

■ 2. Section 52.683 is amended by revising paragraphs (b) and (c) to read as follows:

§ 52.683 Significant deterioration of air quality.

* * * * *

(b) The requirements of title 1, part C, subpart 1 of the Clean Air Act are not met for Indian country in Idaho because Idaho has not demonstrated authority to implement and enforce under the Clean Air Act Idaho State rules in Indian country. Therefore, the provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made part of the applicable plan for Indian country in the State of Idaho.

(c) The requirements of section 165 of the Clean Air Act are not met for sources permitted under the prevention of significant deterioration requirements prior to August 22, 1986, the effective date of EPA's original approval of Idaho's prevention of significant deterioration regulations. Therefore, the provisions of § 52.21(a)(2), (b), (c), (d), and (h) through (bb) are hereby incorporated and made part of the applicable plan for sources permitted under § 52.21 prior to August 22, 1986 for the purpose of administering the EPA-issued permits.

Subpart MM—Oregon

■ 3. Section 52.1987 is amended by revising paragraph (c) to read as follows:

§ 52.1987 Significant deterioration of air quality.

* * * * *

(c) The requirements of title 1, part C, subpart 1 of the Clean Air Act are not met for Indian country in Oregon because Oregon has not demonstrated authority to implement and enforce under the Clean Air Act Oregon State rules in Indian country. Therefore, the provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made part of the applicable plan for Indian country in the State of Oregon.

[FR Doc. 03–10066 Filed 4–23–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL—88 –200227(a); FRL–7486–7]

Approval and Promulgation of Implementation Plans

Florida: Revision to Jacksonville, Florida Ozone Air Quality Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) revision submitted by the Florida Department of Environmental Protection (DEP) on November 28, 2001, for Jacksonville, Florida (Duval County) 1-hour ozone maintenance plan. More specifically, EPA is approving the state's new Motor Vehicle Emissions Budgets (MVEB) for volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for 2005. This submittal updates the maintenance plan by establishing new transportation conformity MVEB for the year 2005, for use by the Metropolitan Planning Organization (MPO). The MVEB represent the VOCs and the NO_X emissions currently projected by the MPO for the year 2005, plus a small allocation from the areas' ''safety margin'' for each pollutant to accommodate any further refinements that the MPO may need to make these projections. This allocation will still maintain the total emissions for the area at or below the attainment level for this maintenance area.

DATES: This direct final rule is effective June 23, 2003 without further notice, unless EPA receives adverse written comment by May 27, 2003. If adverse comment is received, EPA 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: All comments should be addressed to: Lynorae Benjamin, Air Quality Modeling and Transportation Section; Air, Pesticides, and Toxics Management Division; Region 4, EPA, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. (Lynorae Benjamin, (404)

562–9040 or Heidi LeSane (404) 562–9035).

Florida Department of Environmental Protection, Air Resource Management Division, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400. Persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file FL–88. The Region 4 office may have additional background documents not available at the other locations.

FOR FURTHER INFORMATION CONTACT:

Lynorae Benjamin, Air Quality Modeling and Transportation Section; Air Planning Branch; Air, Pesticides, and Toxics Management Division; Region 4, EPA, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Ms. Benjamin's telephone number is (404) 562–9040. She can also be reached via electronic mail at *benjamin.lynorae@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under the Clean Air Act of 1990, the Jacksonville area (*i.e.*, Duval County) was classified as a ''transitional'' nonattainment area for the 1-hour ozone national ambient air quality standard (NAAQS). The transitional classification was given to the area because it had been designated as nonattainment for the 1-hour ozone NAAQS prior to the 1990 amendment to the Clean Air Act (CAA) but was showing compliance based on 1987 through 1989 data. On June 23, 1993, DEP submitted a request to the EPA to redesignate Duval County as an ozone attainment area under section 107 (d) of the CAA. Along with the redesignation request on August 23, 1994, the DEP submitted as a proposed revision to the SIP to include a ten year (to 2005) ozone air quality maintenance plan for Duval County. The maintenance plan was approved into the SIP on March 6, 1995, and Duval County was redesignated to attainment status with respect to the 1-hour ozone NAAQS.

On December 10, 1999, the DEP submitted a proposed revision to the Duval County 1-hour ozone maintenance plan to remove the emission reduction credits attributable to the Motor Vehicle Inspection Plan (MVIP) from the future year emissions projections contained in that plan. Through the use of updated planning assumptions and the MOBILE5a emissions model, DEP demonstrated that the MVIP was not essential to maintenance of the 1-hour ozone NAAQS for Duval County. In the December 1999, SIP revision, DEP also updated the year 2005 projected ozone precursor emissions in the Duval County ozone maintenance plan based on the latest available information. This action, approved by EPA and effective on September 4, 2001, modified the MVEB that the MPO used to determine transportation conformity.

II. Analysis of the State's Submittal

On November 28, 2001, the State of Florida through the DEP submitted a revision to the Florida SIP. The revision amends the previously approved ten-year ozone maintenance plan for Duval County by substitution of the revised projections for VOC and NO_X source emission estimates for 2005. In addition, the DEP also added explicit MVEB to the maintenance plan based on these revised projections including small allocations from the plan's safety margins for VOC and NO_X. Approval of the MVEB into the plan by the EPA will allow the MPO to demonstrate conformity for 2005 and beyond. These MVEB are based on the Mobile 5a emissions model.

Section 176(c) of the CAA, 4 2 U.S.C. 7506(c), states that transportation plans, programs and projects must conform to an approved implementation plan. Specifically, the Transportation Conformity Rule and its subsequent amendments require an ozone maintenance area, such as Duval County, to compare projected emissions from cars, trucks and buses on the highway network, to the MVEB established by a maintenance plan (*i.e.*, in the approved SIP). In accordance with the Transportation Conformity rule and its subsequent amendments (*i.e.*, 40 CFR part 93), the State explicitly identifies the MVEB for VOCs and NO_X in this submittal. Additionally, the State establishes 2005 as the budget year for both VOC and NO_X.

The State revised the SIP and MVEB to remove credits attributable to the MVIP. This action consequently lowered the emissions budgets for Duval County. After consultation with the MPO and the interagency consultation work group for the area, DEP investigated the potential to raise the budget. DEP identified an available safety margin for VOC and NO_X. The emissions projected to maintain the area's air quality are consistent with the air quality health standard.

The DEP established MVEB for VOC and NO_X in the maintenance plan to allow the MPO to use its currently available data to demonstrate conformity for 2005 and beyond. The MVEB for NO_X, therefore, is set at 54.0 tons per day (tpd), including a 0.1 tpd allocation from the plan's safety margin, and the MVEB for VOC is set at 50.0 tpd, including a 7.5 tpd allocation from the plan's safety margin. Under 40 CFR part 93.101 the term *safety margin* is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the air quality health standard. The safety margin credit can be allocated to the transportation sector, however the total emission level must stay below the attainment level.

After the update of the 2005 projections, but prior to these allocations, the VOC safety margin was 41.7 tpd, and the NO_X safety margin was 1.3 tpd. After this allocation, the VOC safety margin is 34.2 tpd, and the NO_X safety margin is 1.2 tpd. Use of these budget allocations would not cause 2005 emissions to exceed the 1990 attainment-year levels.

Table 1-A and 1-B below illustrate changes made to the Duval County VOC and NO_X emissions budgets. The new MVEB for NO_X and VOCs are also provided in the tables below.

TABLE 1–A.—DUVAL COUNTY VOC EMISSIONS 1990 ACTUAL AND 2005 PROJECTED

Source category	Tons/day		MVEB 2005
	1990	2005	
Stationary Point	15.60	21.16	n/a
Stationary Area	51.25	39.24	n/a
On-Road Mobile	82.49	42.49	50
Non-Road Mobile	24.63	29.41	n/a
Biogenic	126.70	126.70	n/a

TABLE 1–B.—DUVAL COUNTY NO_X EMISSIONS 1990 ACTUAL AND 2005 PROJECTED

Source Category	Tons/day		MVEB 2005
	1990	2005	
Stationary Point	101.16	98.40	n/a
Stationary Area	8.37	14.67	n/a
On-Road Mobile	61.40	53.85	54
Non-Road Mobile	21.07	23.74	n/a
Biogenic	0.30	0.30	n/a

III. Final Action

EPA is approving the aforementioned revisions to the Florida SIP because they are consistent with the Clean Air Act (CAA) and EPA requirements. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 23, 2003 without further notice unless the Agency receives adverse comments by May 27, 2003.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 23, 2003 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews:

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the 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 June 23, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping

requirements, Volatile organic compounds.

Dated: April 15, 2003.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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

PART 52—[AMENDED]

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

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

Subpart K—[Amended]

■ 2. Section 52.520, is amended:

■ a. In paragraph (e) revise entry ''Revision to Maintenance Plan for Jacksonville and Southeast Florida Areas'' and

■ b. In paragraph (e) add a new entry at the end of the table for ''Revision to Maintenance Plan for Jacksonville, Florida'' to read as follows:

§ 52.520 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA Approval date	Federal Register Notice	Explanation
Revision to Maintenance Plan for Southeast Florida Area	12/10/1999	8/2/2001	66 FR 40137.	
* * * *	*		*	*
Revision to Maintenance Plan for Jacksonville, Florida Area	11/28/2001	11/24/03	[Insert citation of publication].	

[FR Doc. 03–10063 Filed 4–23–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–060–200320(a); FRL–7487–1]

Approval and Promulgation of Implementation Plans: Revisions to the Alabama State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving miscellaneous revisions to the Alabama State Implementation Plan submitted on March 13, 2003, by the State of Alabama. The revisions include addition of rule of chapter 335–3–1–.15 regarding emission inventory reporting requirements for stationary sources, revision of chapter 335–3–3 regarding removal, handling and disposal of asbestos-containing material, revision of chapter 335–3–8 to make minor technical corrections, and revision of chapter 335–3–17 to incorporate changes made to the Federal regulations regarding transportation conformity.

DATES: This direct final rule is effective June 23, 2003 without further notice, unless EPA receives adverse comment by May 27, 2003. If adverse comment is received, EPA 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: All comments should be addressed to: Sean Lakeman; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW.; Atlanta, Georgia 30303–8960.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Alabama Department of Environmental Management, 400 Coliseum Boulevard, Montgomery, Alabama 36110–2059.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW.; Atlanta, Georgia 30303–8960. Mr. Lakeman can also be reached by phone at (404) 562–9043 or by electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Analysis of State's Submittal

On March 13, 2003, the State of Alabama through Alabama Department of Environmental Management submitted revisions to chapter 335–3–1 regarding emission inventory reporting requirements for stationary sources, chapter 335–3–3 regarding removal, handling and disposal of asbestos-containing material, chapter 335–3–8 to make minor technical corrections, and revision of chapter 335–3–17 to incorporate changes made to the Federal regulations regarding transportation conformity.

Rule 335–3–1–.15 is being added to implement the Consolidated Emissions Reporting Rule and adopt the emissions inventory reporting requirements for stationary sources under the Federal Consolidated Emissions Reporting Rule.

Rule 335–3–3–.01(e) is being revised to incorporate a federal requirement for removal, handling and disposal of asbestos-containing material. The regulatory requirements for the demolition of a building by intentional burning is found in 40 CFR 61.145(c)(10).

Rule 335–3–8.10(6)(c) is being revised to clarify intent of the rule to ensure that base years later than 2000 would have an equivalent starting point of 90% data availability. Rule 335–3–8–.12(b)3(ii)(I) and (II) and 335–3–8–.12(b)4(i)(I) and (II) are being revised to make minor technical corrections.

Rule 335–3–17–.01 is being revised to incorporate changes made to the Federal regulations regarding transportation conformity. On August 6, 2002, EPA promulgated two minor revisions to the Transportation Conformity Rule under 40 CFR part 93. First, this rule implements a Clean Air Act (CAA) amendment that provides a one-year grace period before conformity is required in areas that are designated nonattainment for a given air quality standard for the first time. Although the grace period is already available to newly designated nonattainment areas as a matter of law, EPA has incorporated the one-year conformity grace period into the conformity rule. Second, this rule changes the point by which a conformity determination must be made following a State's submission of a control strategy implementation plan or maintenance plan for the first time. This

rule requires conformity to be determined within 18 months of EPA's affirmative finding that the SIP's motor vehicle emissions budgets are adequate. Prior to this action, the conformity rule required a new conformity determination within 18 months of the submission of an initial SIP.

II. Final Action

EPA is approving the aforementioned changes to the State of Alabama's SIP because it is consistent with the CAA and EPA policy. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 23, 2003 without further notice unless the Agency receives adverse comments by May 27, 2003.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 23, 2003 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 23, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).) 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 June 23, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: April 15, 2003.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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

PART 52—[AMENDED]

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

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

Subpart B—Alabama

■ 2. Section 52.50(c) is amended by:

■ a. Adding in numerical order a new entry in Chapter No. 335–3–1 General Provisions for ''Section 335–3–1–.15''; and

■ b. Revising entries for ''Section 335–3–3–.01'', ''Section 335–3–8–.10'', and ''Section 335–3–17–.01''.

The revisions and addition read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED ALABAMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* *	*	*	* *	*
Section 335–3–1–.15	Emissions Inventory Reporting Requirements.	04/03/03	04/24/03 [Insert citation of publication].	
* *	*	*	* *	*
Section 335–3–3–.01	Open Burning	04/03/03	04/24/03 [Insert citation of publication].	
* *	*	*	* *	*
Section 335–3–8–.10	NO_X Allowance Tracking System	04/03/03	04/24/03 [Insert citation of publication].	
* *	*	*	* *	*
Section 335–3–17–.01	Transportation Conformity	04/03/03	04/24/03 [Insert citation of publication].	
* *	*	*	* *	*

* * * * *

[FR Doc. 03–10061 Filed 4–23–03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[LA–58–1–7522; FRL–7487–4]

Notice of Withdrawal of October 2, 2002, Attainment Date Extension, Determination of Nonattainment as of November 15, 1999, and Reclassification of the Baton Rouge Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule finalizes EPA's finding that the Baton Rouge 1-hour ozone nonattainment area (hereinafter referred to as the Baton Rouge area) did not attain the 1-hour ozone national ambient air quality standard (NAAQS or standard) by November 15, 1999, the attainment date for serious nonattainment areas set forth in the Federal Clean Air Act (CAA or Act). As a result of this finding, the Baton Rouge area will be reclassified from a serious to a severe one-hour ozone nonattainment area by operation of law on the effective date of this rule. In addition, EPA is establishing a schedule for Louisiana to submit State Implementation Plan (SIP) revisions addressing the CAA's pollution control requirements for severe ozone nonattainment areas within 12 months of the effective date of this rule and establishing November 15, 2005, as the date by which the Baton Rouge area must attain the ozone NAAQS. Finally, EPA is adjusting the dates by which the area must achieve a 9% reduction in ozone precursor emissions to meet the 2002 rate-of-progress requirement and is adjusting the contingency measure requirements as they relate to the 2002 ROP milestone. On December 11, 2002, the U.S. Court of Appeals for the Fifth Circuit issued its decision on EPA's extension policy used to extend the 1-hour ozone attainment deadline for the Beaumont-Port Arthur, Texas, area, without reclassifying the area. The Court rejected EPA's extension of Beaumont-Port Arthur's attainment date because it determined that the CAA precludes such an extension as a matter of law. We are issuing this rule in response to the rejection by the Fifth Circuit Court of Appeals of EPA's use of the extension policy.

DATES: This final rule is effective on June 23, 2003.

ADDRESSES: Copies of documents relevant to this action are available for public inspection during normal business hours at the Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733; and the Louisiana Department of Environmental Quality (LDEQ), 7920 Bluebonnet Boulevard, Baton Rouge, Louisiana 70884. Please contact the appropriate office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Maria L. Martinez, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–2230.

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

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I. What Is the Background for This Rule?
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VI. What Does This Action Do?
VII. What Is the New Attainment Date for the Baton Rouge Area?
VIII. When Must Louisiana Submit SIP Revisions Fulfilling the Requirements for Severe Ozone Nonattainment Areas?
IX. What Is the Impact of a Reclassification on the Title V Operating Permit Program?
X. Statutory and Executive Order Reviews

I. What Is the Background for This Rule?

On May 9, 2001, EPA proposed its finding that the Baton Rouge serious ozone nonattainment area did not attain the 1-hour ozone NAAQS by November 15, 1999, the applicable attainment date (66 FR 23646). The proposed finding was based upon ambient air quality data from the years 1997, 1998, 1999. These data showed that the 1-hour ozone NAAQS of 0.12 parts per million (ppm) had been exceeded on an average of more than one day per year over this three-year period and that the area did not qualify for an attainment date extension under section 181(a)(5). EPA

also proposed that the appropriate reclassification of the area was to severe.

In that proposed action, we also stated that Louisiana was seeking an extension of its attainment date pursuant to the extension policy, which was published in a March 25, 1999, **Federal Register** notice (64 FR 14441). This policy addressed areas affected by downwind transport of ozone and/or ozone precursors. EPA proposed to take final action on the determination of nonattainment and reclassification of the Baton Rouge area only after the area had received an opportunity to qualify for an attainment date extension under the extension policy. EPA received comments on the May 9, 2001, proposed rule (66 FR 23646). We also received comments from the public on the supplemental proposed rulemaking published on July 25, 2001 (66 FR 38608) for the ''Clean Air Reclassification and Notice of Potential Eligibility for Extension of Attainment Date, Louisiana; Baton Rouge Ozone Nonattainment Area.'' This notice supplemented the proposed actions of the May 9, 2001, notice, by proposing to extend the deadline for submission of an attainment plan from August 31, 2001, to December 31, 2001. Louisiana submitted an Attainment Plan/Transport SIP on December 31, 2001 for the Baton Rouge area.

On March 7, 2002, the United States District Court for the Middle District of Louisiana entered a judgment ordering EPA to issue a determination by June 5, 2002, as to whether the Baton Rouge area had attained the applicable ozone standard under the CAA. *LEAN* v. *Whitman,* No. 00–879–A.

EPA made the determination required by the Court, and as the Court further ordered, EPA then published a notice of this determination in the **Federal Register**. 67 FR 42687 (June 24, 2002). That notice stated EPA's finding that the Baton Rouge area did not attain the 1-hour ozone NAAQS by November 15, 1999, and that the area would be reclassified to ''severe'' by operation of law as of the effective date of the rule. In addition, the June 24, 2002, rulemaking established the dates by which Louisiana was to submit SIP revisions addressing the CAA's pollution control requirements for severe ozone nonattainment areas and to attain the 1-hour NAAQS for ozone. The June 24, 2002, rulemaking was to be effective August 23, 2002. EPA's responses to the comments related to the reclassification are incorporated by reference in this rule and appear in the June 24, 2002, rule.

On August 20, 2002, EPA published a rule extending the effective date of the June 24, 2002, rulemaking to October 4, 2002 (67 FR 53882).

On October 2, 2002, EPA issued a final rule in which EPA extended the attainment date for the Baton Rouge area, consistent with the extension policy, and withdrew the June 24, 2002, rulemaking before its effective date (67 FR 61786). The October 2, 2002, rulemaking also approved the attainment demonstration for the Baton Rouge area and took several other related actions.

Petitions for review of the October 2, 2002, rulemaking have been filed in the U.S. Court of Appeals for the Fifth Circuit (*Louisiana Environmental Action Network (LEAN)* v. *EPA,* No. 02–60991; *Pointe Coupee Parish Police Jury* v. *EPA,* No. 02–61021.

Additionally on December 11, 2002, the U.S. Court of Appeals for the Fifth Circuit issued its decision in *Sierra Club* v. *United States EPA*, 314 F.3d 735. Among the issues in that case was EPA's decision under the extension policy to extend the 1-hour ozone attainment deadline for the Beaumont-Port Arthur, Texas, area without reclassifying the area. The Court rejected this decision because it determined that the CAA precludes such an extension as a matter of law. Because the Court's decision was based on its legal interpretation of the CAA and not on the particular facts at issue in the Beaumont-Port Arthur case, and because the decision is precedential within the Circuit, we must withdraw our determination to extend the attainment deadline for Baton Rouge. Accordingly, we requested that the Fifth Circuit grant a partial voluntary remand of our October 2, 2002, final rule, to allow us to withdraw our decision to extend the attainment date for Baton Rouge. The Court granted that request on February 25, 2003. We are issuing this rule in response to the Fifth Circuit Court of Appeals rejection of EPA's use of the extension policy.

II. What Are the National Ambient Air Quality Standards?

EPA has set NAAQS for six common air pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. The CAA requires that these standards be set at levels that protect public health and welfare with an adequate margin of safety. These standards, established under section 109 of the CAA, present state and local governments with the air quality levels they must meet to achieve clean air. Also, these standards allow the American people to assess whether or not the air quality in their communities is healthful.

III. What Is the NAAQS for Ozone?

The NAAQS for ozone is expressed in two forms which are referred to as the 1-hour and 8-hour [1] standards. Table 1 summarizes the 1-hour ozone standard.

TABLE 1.—SUMMARY OF OZONE STANDARD

Standard	Value	Type [a]	Method of compliance
1-hour	0.12 ppm	Primary and Secondary	Must not be exceeded, on average, more than one day per year over any three-year period at any monitor within an area.

[a] Primary standards are designed to protect public health and secondary standards are designed to protect public welfare and the environment.

The 1-hour ozone standard of 0.12 parts per million (ppm) was promulgated in 1979. The 1-hour ozone standard continues to apply to Baton Rouge and it is the classification of the Baton Rouge area with respect to the 1-hour ozone standard that is addressed in this document.

IV. What Is a SIP?

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the NAAQS established by EPA. After engaging in required public participation, each state must submit the required regulations and control strategies to us for approval and

[1] The 8-hour ozone standard value is 0.08 ppm and is the primary and secondary standard. The method of compliance is the average of the annual fourth highest daily maximum 8-hour average ozone concentration measured at each monitor over any three-year period is less than or equal to 0.08 ppm.

incorporation into the Federally enforceable SIP.

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

V. What Is the Baton Rouge Ozone Nonattainment Area?

The Baton Rouge ozone nonattainment area, located in southern Louisiana, consists of East Baton Rouge, West Baton Rouge, Ascension, Iberville, and Livingston Parishes.

Under section 107(d)(1)(C) of the CAA, each ozone area designated nonattainment for the 1-hour ozone standard before enactment of the 1990 CAA Amendments, such as the Baton Rouge area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. In addition, under section 181(a) of the Act, each area designated nonattainment under section 107(d) was classified as ''marginal,'' ''moderate,'' ''serious,'' ''severe,'' or ''extreme,'' depending on the severity of the area's air quality problem. The design value for an area characterizes the severity of the air quality problem. The design value for an area is the highest site design value. The site design value in turn is the fourth highest 1-hour daily maximum in a given three-year period. Table 2 provides the design value ranges for each nonattainment classification. Ozone nonattainment areas with design values between 0.160 and 0.180 ppm, such as the Baton Rouge area (which had a design value of 0.164 ppm in 1989), were classified as serious. These nonattainment designations and classifications were initially codified in 40 CFR part 81 (*see* 56 FR 56694, November 6, 1991).

TABLE 2.—1-HOUR OZONE NONATTAINMENT CLASSIFICATIONS

Area class	Design value (ppm)	Attainment date
Marginal	0.121 up to 0.138	November 15, 1993.
Moderate	0.138 up to 0.160	November 15, 1996.
Serious	0.160 up to 0.180	November 15, 1999.
Severe	0.180 up to 0.280	November 15, 2005.
Extreme	0.280 and above	November 15, 2010.

VI. What Does This Action Do?

In this action, in accordance with the decisions of the Fifth Circuit Court of Appeals rejecting EPA's use of the extension policy and in fulfilling our nondiscretionary duty under the CAA, EPA is withdrawing the portion of the October 2, 2002, rulemaking that granted Baton Rouge an extension of its attainment date. Specifically we are withdrawing the approvals of the attainment date extension for the Baton Rouge area and the transport demonstration in Louisiana's December 31, 2001, SIP. Additionally, EPA is reinstating its previous final determination that the Baton Rouge area did not attain the 1-hour ozone NAAQS by November 15, 1999, as prescribed in section 181 of the CAA. As a result of this action, the Baton Rouge area is reclassified by operation of law to severe ozone nonattainment pursuant to section 181(b)(2) of the CAA on the effective date of this action.[2] In addition, this action sets the dates by which Louisiana must submit SIP revisions addressing the CAA's pollution control requirements for severe ozone nonattainment areas (the ''severe area SIP'') and to attain the 1-hour NAAQS for ozone. The post-1999 ROP nine percent reduction originally was required under the CAA to occur by November 15, 2002. Because that statutory deadline passed before the area became classified as severe and thus first became subject to the requirement to demonstrate post-1999 ROP, we conclude that the State must have some time to actually develop and implement the measures needed to achieve such progress. Accordingly, in this action we are allowing Louisiana to demonstrate that the first required post-1999 nine percent ROP is achieved as expeditiously as practicable after November 15, 2002, but in any case no later than November 15, 2005. EPA is allowing Louisiana to relate contingency measures for the 2002 ROP milestone to this new date.[3] Further discussion of a severe ozone nonattainment area's SIP requirements appears below in section VIII.

VII. What Is the New Attainment Date for the Baton Rouge Area?

In the June 24, 2002, rulemaking, EPA set forth its conclusion under section 181(a)(1) of the Act that the attainment deadline for the Baton Rouge area, as a serious ozone nonattainment area reclassified to severe under section 181(b)(2), is as expeditiously as practicable but no later than the date provided in the Act for the new classification: November 15, 2005. EPA incorporates this conclusion, supporting reasoning, and responses to comments by reference into this rulemaking.

VIII. When Must Louisiana Submit SIP Revisions Fulfilling the Requirements for Severe Ozone Nonattainment Areas?

Under section 182(i) of the Act, serious ozone nonattainment areas reclassified to severe are required to submit SIP revisions addressing the severe area requirements for the 1-hour ozone NAAQS. Under section 182(d), severe area plans are required to meet all the requirements for serious area plans plus the requirements for severe area plans, which include: (1) A 25 ton per year major stationary source threshold; (2) additional reasonably available control technology (RACT) rules for sources subject to the new lower major stationary source threshold; (3) a new source review (NSR) offset requirement of at least 1.3 to 1; (4) a rate of progress in emission reductions of ozone precursors of at least 3 percent of base line emissions per year from November 15, 1999, until the attainment year; (5) additional transportation control measures (TCMs) needed to offset growth in emissions due to growth in vehicle miles traveled (VMT); and (6) a fee requirement for major stationary sources of volatile organic

[2] This rulemaking is a final action because the Fifth Circuit's decision in *Sierra Club* v. *United States EPA*, 314 F.3d 735, leaves no remaining questions on which we might solicit public comment regarding the reclassification of the Baton Rouge area. In light of the Court's decision and considering that we have already taken public comments and issued a final rule on reclassification (67 FR 42687, June 24, 2002), we have concluded that no good cause exists to require additional public comment regarding the reclassification of the Baton Rouge area.

[3] The severe area ROP plan will also have to provide for the second increment of post-1999 ROP for the period 2002 to 2005 and thus must achieve a minimum of 18 percent emission reductions from base line emissions by November 15, 2005. Therefore, the average ROP emission reductions will not decrease.

compounds (VOC) and nitrogen oxides (NO_X)[4] should the area fail to attain by 2005.[5] In addition, under Section 211(k) of the Act the use of reformulated gasoline (RFG) will be required in the Baton Rouge area beginning one year from the effective date of this rule. The application of the RFG requirement occurs by operation of law in any area reclassified to severe ozone nonattainment status. We have issued a ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' that sets forth our preliminary views on these section 182 requirements and how we will act on SIPs submitted under Title I. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).

Additionally, since the Baton Rouge area did not attain by the serious area attainment date, and in order to fulfill the contingency measures requirements of sections 172(c)(9) and 182(c)(9) of the CAA, the implementation of the failure-to-attain contingency measures in the current SIP is triggered automatically upon the effective date of this rule. Further, Louisiana is required to submit a revision to the SIP containing additional contingency measures for its severe area SIP to meet ROP requirements and backfill for failure to attain. *See* 57 FR 13498, 13511 (1992).

The Baton Rouge severe area plan must also contain enforceable regulations, control measures, means or techniques as necessary or appropriate to make the required rate of progress and to attain the 1-hour ozone NAAQS as expeditiously as practicable but no later than November 15, 2005. The severe area SIP and its budgets must use the MOBILE6 emissions model. Using MOBILE6 may require a revision to the 1990 base year inventory and ROP targets. Section 182(i) further provides that EPA may adjust the CAA deadlines for submitting these severe area SIP requirements. In addition to establishing a new attainment date, EPA must also address the schedule by which Louisiana is required to submit SIP revisions meeting the CAA's pollution control requirements for severe areas. In our June 24, 2002, redesignation rulemaking, after taking comments, we required that Louisiana submit SIP revisions fulfilling all of the severe area requirements, no later than one year after the effective date of the reclassification. We also concluded that if the submission showed that the area could attain the one-hour ozone NAAQS sooner than the attainment date established in the June 24, 2002, reclassification notice, we would adjust the attainment date to reflect the earlier date, consistent with the requirement in section 181(a)(1) that the NAAQS be attained as expeditiously as practicable. EPA did not receive any comments on the proposed schedule. We conclude that the severe SIP revision schedule is reasonable and appropriate. Therefore, EPA is requiring Louisiana to submit SIP revisions within 12 months of the effective date of this rule. These revisions must address the Act's pollution control requirements for severe ozone nonattainment areas and must demonstrate attainment by November 15, 2005.

IX. What Is the Impact of a Reclassification on the Title V Operating Permit Program?

In the June 24, 2002, final rule, EPA listed most of the SIP revisions that would be required to be submitted by Louisiana addressing the severe area requirements. One of these requirements is the lowering of the major stationary source threshold for VOC and NO_X emissions from 50 tons per year to 25 tons per year.

As a consequence of the reclassification of the Baton Rouge area to severe, additional sources become subject to the Title V major stationary source operating permit program. The affected sources are those with a potential to emit at least 25 tons per year of either VOC or NO_X, or both VOC and NO_X. Any new major stationary source must submit a timely Title V permit application. ''A timely application for a source applying for a part 70 permit for the first time is one that is submitted within 12 months after the source becomes subject to the permit program or on or before such earlier date as the permitting authority may establish.'' See 40 CFR 70.5(a)(1) and see 40 CFR 71.5(a)(1). On the effective date of this action that can be found in the **DATES** section of this final rule, the 12 month (or earlier date set by Louisiana) time period to submit a timely application will commence in accordance with the State's Title V program regulations applicable to that source.

X. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to Office of Management and Budget (OMB) review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may ''have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities.''

The Agency has determined that the finding of nonattainment would result in none of the effects identified in section 3(f) of the Executive Order. Under section 181(b)(2) of the CAA, determinations of nonattainment are based upon air quality considerations and the resulting reclassifications must occur by operation of law. They do not, in and of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, determinations of nonattainment and reclassification cannot be said to impose a materially adverse impact on state, local, or tribal governments or communities.

B. Paperwork Reduction Act

This final action to reclassify the Baton Rouge area as a severe ozone nonattainment area and to adjust applicable deadlines does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses,

[4] Ozone is not emitted directly into the air, but is formed through the photochemical reaction of NO_X and VOCs.

[5] Section 182(d)(3) sets a deadline of December 31, 2000, to submit the plan revision requiring fees for major sources should the area fail to attain. This date can be adjusted pursuant to CAA section 182(i). We adjusted this date to coincide with the submittal deadline for the rest of the severe area plan requirements.

small not-for-profit enterprises, and small governmental jurisdictions.

Determinations of nonattainment and the resulting reclassification of nonattainment areas by operation of law under section 181(b)(2) of the CAA do not in and of themselves create any new requirements. Instead, this rulemaking only makes a factual determination, and does not directly regulate any entities. See 62 FR 60001, 60007–8, and 60010 (November 6, 1997) for additional analysis of the RFA implications of attainment determinations. Therefore, pursuant to 5 U.S.C. 605(b), I certify that this final action does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA believes, as discussed previously in this document, that a determination of nonattainment is a factual determination based upon air quality considerations and the resulting reclassification of the area occurs by operation of law. Thus, the finding does not constitute a Federal mandate, as defined in section 101 of the UMRA, because it does not impose an enforceable duty on any entity.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have Federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has Federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation. This determination of nonattainment and the resulting reclassification of a nonattainment area by operation of law will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because this action does not, in and of itself, impose any new requirements on any sectors of the economy, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to these actions.

F. Executive Order 13175, Coordination With Indian Tribal Governments

This final rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000). Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final action is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

Under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), EPA must prepare for those matters identified as significant energy actions. A ''significant energy action'' is any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking, that is a significant regulatory action under Executive Order 12866, and is likely to have a significant adverse effect on the supply, distribution, or use of energy. Under Executive Order 12866, this action is not a ''significant regulatory action.'' For this reason, the finding of nonattainment and reclassification is also not subject to Executive Order 13211.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final action to reclassify the Baton Rouge area as a severe ozone nonattainment area and to adjust applicable deadlines does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

K. 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 June 23, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to reclassify the Baton Rouge area as a severe ozone nonattainment area and to adjust applicable deadlines may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Motor vehicle pollution, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: April 14, 2003.

Richard E. Greene,

Regional Administrator, Region 6.

■ Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.319 the table for Louisiana—Ozone (1-hour Standard) is amended by revising the entry for the Baton Rouge area to read as follows:

§ 81.319 Louisiana.

* * * * *

LOUISIANA-OZONE (1–HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Baton Rouge Area:				
Ascension Parish	11/15/90	Nonattainment	6/23/03	Severe
East Baton Rouge Parish	11/15/90	Nonattainment	6/23/03	Severe
Iberville Parish	11/15/90	Nonattainment	6/23/03	Severe
Livingston Parish	11/15/90	Nonattainment	6/23/03	Severe
West Baton Rouge Parish	11/15/90	Nonattainment	6/23/03	Severe
* * *	*	*	*	*

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

[FR Doc. 03–10172 Filed 4–23–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–1097, MB Docket No. 02–155, RM–10452]

Digital Television Broadcast Service and Television Broadcast Service; Charleston, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Pappas Telecasting of America, substitutes DTV channel 52 for channel 23. *See* 67 FR 44791, July 5, 2002. DTV channel 52 can be allotted to Charleston, West Virginia, in compliance with the principal community coverage requirements of Section 73.625(a) at coordinates 38–30–21 N and 82–12–33 W. Since the community of Charleston is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian Government has been obtained for this allotment. With this action, this proceeding is terminated.

DATES: Effective June 2, 2003.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–155, adopted April 4, 2003, and released April 17, 2003. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Television broadcasting.

■ Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.606 [Amended]

■ 2. Section 73.606(b), the Table of Television Allotments under West Virginia, is amended by removing TV channel 23 at Charleston.

■ 3. Section 73.622(b), the Table of Digital Television Allotments under West Virginia, is amended by adding DTV channel 52 at Charleston.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 03–10190 Filed 4–23–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG75

Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for *Chlorogalum purpureum,* a Plant From the South Coast Ranges of California; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: The Fish and Wildlife Service announces a correction to the final rule to designate critical habitat for two varieties of purple amole, *Chlorogalum purpureum* var. *purpureum* (purple amole) and *Chlorogalum purpureum* var. *reductum* (Camatta Canyon amole), that was published in the **Federal Register** on October 24, 2002 (67 FR 65414). The maps for both varieties of this species and the legal description for *C. p.* var. *reductum* are correct as published in the **Federal Register**. However, the legal description for the *C. p.* var. *purpureum* is incorrect in part. This notice contains the correct version of the legal description for *C. p.* var. *purpureum.*

DATES: This correction is effective on April 24, 2003.

FOR FURTHER INFORMATION CONTACT: Diane Noda, Field Supervisor, or Kirk Waln, GIS Specialist, at Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003 (telephone: 805/644–1766; facsimile: 805/644–3958).

SUPPLEMENTARY INFORMATION: On October 24, 2002, the U.S. Fish and Wildlife Service (Service) published a final rule designating critical habitat for two varieties of the purple amole, *Chlorogalum purpureum:* the *Chlorogalum purpureum* var. *purpureum* and *Chlorogalum purpureum* var. *reductum* (67 FR 65414). The final rule contained correct maps for both varieties and the correct legal descriptions of the final critical habitat unit for *C. p.* var. *reductum.* However, the legal description of the boundaries for the Jolon Unit of critical habitat for *C. p.* var. *purpureum* erroneously contained coordinates describing several additional small polygons lying along the eastern boundary of Fort Hunter Liggett. We are providing a corrected version of the legal description of critical habitat for the Jolon Unit of *C. p.* var. *purpureum* that omits the erroneous coordinates.

■ Accordingly, the following correction to FR Doc. 02–26768 published at 67 FR 65414 on October 24, 2002, is provided.

PART 17—[CORRECTED]

1. On page 65439, in § 17.96(a)(7), correct the coordinates to read as follows:

(7) *Jolon Unit.*

(i) *Chlorogalum purpureum* var. *purpureum.* Monterey County, California. From USGS 1:24,000 quadrangle map Jolon. Lands bounded by UTM zone 10 NAD83 coordinates (E,N): 666471, 3985340; 666646, 3985110; 666965, 3985110; 667260, 3985130; 667281, 3984880; 667567, 3984910; 667699, 3984690; 667849, 3984770; 668125, 3984770; 668175, 3984600; 668224, 3984470; 668334, 3984260; 668086, 3984250; 668094, 3984040; 668004, 3984040; 667888, 3983960; 667891, 3983860; 668085, 3983860; 668118, 3983590; 668538, 3983430; 668526, 3983290; 668780, 3983360; 668909, 3983300; 668905, 3983060; 669317, 3983070; 669346, 3982270; 669638, 3982120; 669638, 3981950; 669463, 3981960; 669396, 3981850; 668647, 3981840; 668649, 3982250; 668435, 3982790; 668126, 3982790; 668122, 3982620; 667509, 3982620; 667426, 3982950; 667272, 3982930; 667261, 3983040; 667283, 3983420; 666998, 3983420; 666907, 3983410; 666887, 3984220; 666496, 3984220; 666471, 3985340.

669233, 3978620; 669242, 3978640; 669244, 3978640; 669255, 3978650; 669303, 3978720; 669365, 3978680; 669374, 3978620; 669441, 3978600; 669504, 3978600; 669542, 3978660; 669614, 3978730; 669639, 3978810; 669616, 3978890; 669610, 3978900; 669594, 3978940; 669654, 3978930; 670986, 3978670; 671848, 3978660; 671854, 3978560; 671879, 3978440; 671888, 3978350; 671880, 3978370; 671821, 3978350; 671804, 3978280; 671833, 3978220; 671933, 3978220; 671918, 3978130; 671922, 3978070; 671947, 3978020; 671981, 3977950; 671985, 3977900; 671964, 3977870; 671961, 3977850; 670600, 3977840; 670599, 3977640; 669239, 3978620; 669233, 3978620.

(ii) **Note:** See Map 2.

Dated: April 16, 2003.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 03–10157 Filed 4–23–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 030414085–3085–01; I.D. 012601B]

RIN 0648–AR04

Fisheries of the Exclusive Economic Zone off Alaska; Revisions to Definition of Length Overall of a Vessel; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects Figure 6 to Part 679 published in the final rule of September 12, 2001 (66 FR 47416), which implemented changes to the definition of length overall (LOA) of a vessel. This action is necessary to correct errors contained in this figure.

DATES: Effective April 23, 2003.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008 or patsy.bearden@noaa.gov.

SUPPLEMENTARY INFORMATION: A final rule implementing changes to the definition of LOA of a vessel at § 679.2 was published in the **Federal Register** September 12, 2001 (66 FR 47416). The final rule omitted revisions to Figure 6 that should have removed the words ''stem'' and ''stern.'' These errors are corrected by removing the figure and adding a new one in its place.

Need for Corrections

The September 12, 2001, revisions to the definition of LOA were not included in Figure 6 to part 679. This action corrects that error by removing Figure 6 to part 679 and adding a new one in its place to make it consistent with the definition of ''LOA of a vessel'' at § 679.2.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator of Fisheries, NOAA, finds good cause to waive prior notice and opportunity for public comment. NOAA finds that prior notice and comment are unnecessary as this rule has a non-substantive effect on the public. This rule corrects two errors in the regulations. Each error is technical in nature because each is a term that was removed from the definition of ''LOA of a vessel'' at § 679.2 but erroneously not removed from Figure 6 to part 679. The public is unaffected by

the corrections. Because this action is not substantive, 5 U.S.C. 553(d) does not apply. Therefore, this final rule is not subject to a 30–day delay in effectiveness.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: April 16, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

Corrections

■ Accordingly, 50 CFR part 679 is corrected by making the following correcting amendments to the final rule published on September 12, 2001 (66 FR 47416):

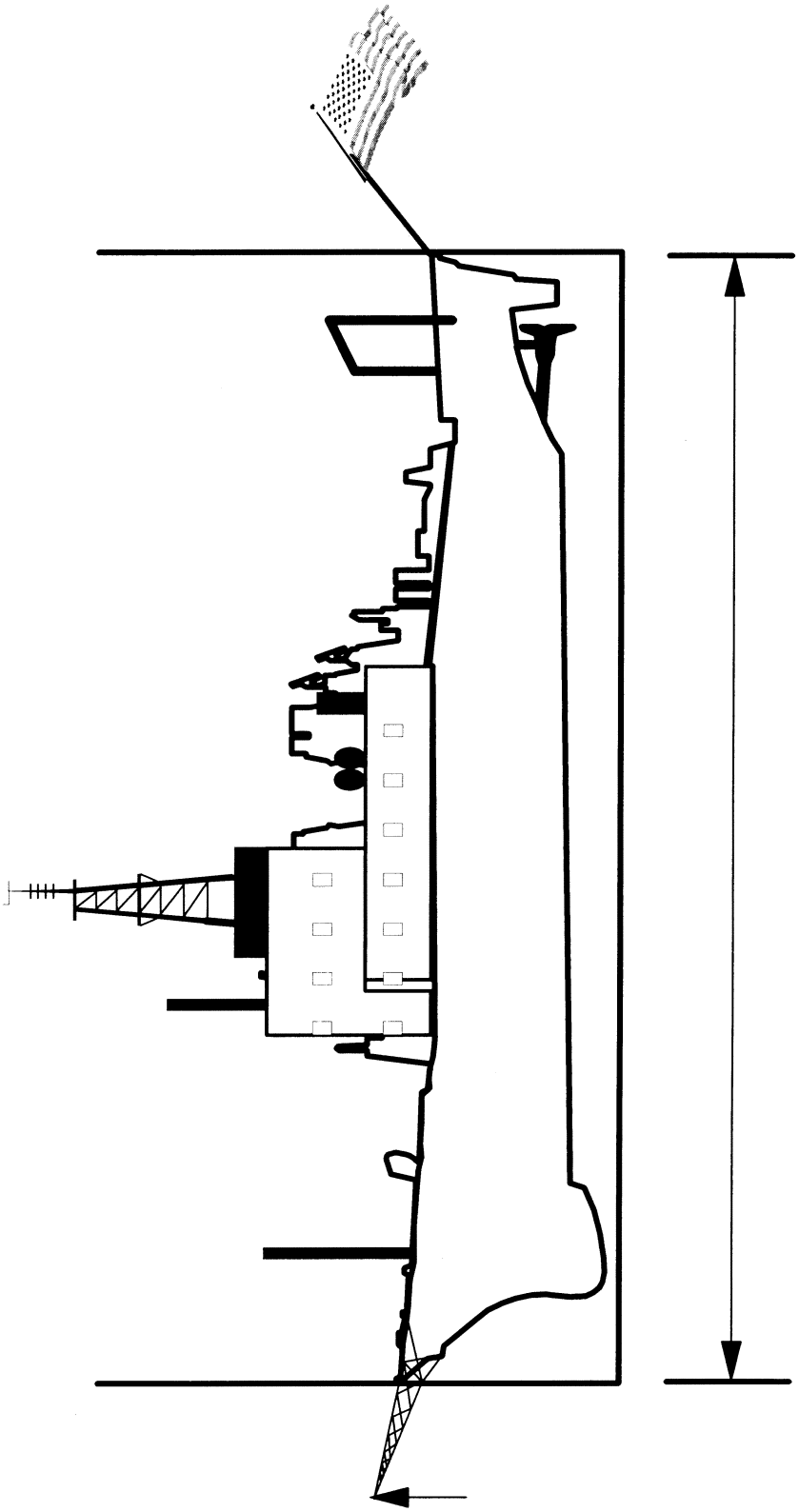
Part 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*; 3631 *et seq.*; Title II of Division C, Pub. L. 105–277; Sec 3027, Pub. L. 106–31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub, L, 106–554.

Figure 6 to Part 679 [Corrected]

■ 2. Figure 6 to Part 679 is correctly revised as follows:



[FR Doc. 03–9928 Filed 4–23–03; 8:45 am]
BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021212307–3037–02; I.D. 041803C]

Fisheries of the Exclusive Economic Zone off Alaska; Pacific Cod by Catcher Vessels less than 60 Feet Length Overall Using Hook-and-line or Pot Gear in the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 feet length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2003 total allowable catch (TAC) of Pacific cod allocated to catcher vessels less than 60 feet LOA using hook-and-line or pot gear in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 22, 2003, until 2400 hrs, A.l.t., December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2003 Pacific cod TAC allocated to catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI is 1,363 metric tons (mt) as established by the final 2003 harvest specifications for Groundfish of the BSAI (68 FR 9907, March 3, 2003).

The A season directed fisheries for Pacific cod by vessels 60 feet LOA and greater using pot gear was closed on February 26, 2003 (68 FR 9942, March 3, 2003). The A season directed fisheries for Pacific cod by vessels 60 feet LOA and greater using hook-and-line gear was closed on March 28, 2003 (68 FR 15969, April 2, 2003). Pursuant to 50 CFR 679.20(a)(7)(i)(C)(2)(ii) and (3)(ii), at the time of the closures the 1,363 mt allowance of Pacific cod became available to catcher vessels less than 60 feet LOA using hook-and line or pot gear.

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the 2003 Pacific cod TAC allocated as a directed fishing allowance to catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI.

Maximum retainable amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the 2003 Pacific cod TAC allocated to catcher vessels less than 60 feet LOA using hook-and-line or pot gear, and therefore reduce the public's ability to use and enjoy the fishery resource.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: April 22, 2003.

Dean Swanson,

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

[FR Doc. 03–10161 Filed 4–21–03; 4:47 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 79
Thursday, April 24, 2003

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–342–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 767 series airplanes. This proposal would require repetitive inspections and tests for discrepancies of the drainage system of the canted pressure deck located in the wheel wells of the main landing gear (MLG) of the left and right wings, and corrective actions if necessary. This action is necessary to prevent ice accumulation on the lateral flight control cables due to water entering the wheel well of the MLG and freezing, which could restrict or jam control cable movement, resulting in loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 9, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–342–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 be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–342–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule 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.

FOR FURTHER INFORMATION CONTACT: Suzanne Masterson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6441; fax (425) 917–6590.

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 shall 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.

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 proposed 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 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–NM–342–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–342–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports of debris blocking the drainage system for the canted pressure deck area on Model 767 series airplanes, which may cause water accumulation in the canted pressure deck located in the wheel wells of the main landing gear (MLG) of the left and right wings. Such accumulation of water has caused excessive corrosion of the upper skin and the rear spar of the wing center section. Cabin pressurization would cause the accumulated water to enter the wheel well of the MLG and solidify during flight. Such ice accumulation could restrict or jam control cable movement, resulting in loss of controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletins 767–51A0023 (for Model 767–200, –300, and –300F series airplanes), and 767–51A0024 (for Model 767–400ER series airplanes), both including Evaluation Form, both dated September 27, 2001; which describe procedures for repetitive inspections and tests for discrepancies of the drainage system of the canted pressure deck located in the wheel wells of the MLG of the left and right wings, and corrective actions if necessary.

- Work Package 1 describes procedures for a test, which includes a visual inspection of the external drains, reducer, and drain lines for discrepancies. The discrepancies include damage, holes, signs of frozen water, and signs of blockage (3 to 5 pounds per square inch (psi) compressed air is sent through the drain hose to check for blockage). The corrective actions include cleaning the drain system to remove blockage, and

replacing any damaged drain line with a new drain line.

- Work Package 2 describes procedures for repetitive inspections for discrepancies and cleaning of the drainage system of the canted pressure deck, as specified in the Boeing 767 Airplane Maintenance Manual.
- Work Package 3 describes procedures for repetitive inspections of the canted pressure deck for discrepancies (loose or missing fasteners; loose, missing, or cracked sealant; and leak paths). The corrective actions include replacing any loose or missing fastener, replacing loose, missing, or cracked sealant; and repairing any leak found.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except that the proposed AD does not require completing the Evaluation Forms, and except as discussed below.

Difference Between This Proposed AD and Service Bulletins

The service bulletins do not provide an initial compliance time for accomplishing the actions, but this proposed AD would require that those actions be accomplished at the following times:

- For Work Package 1, the compliance time is the later of the following: Within 18 months since the date of issuance of the original Airworthiness Certificate or the date of issuance of the Export Certificate of Airworthiness (whichever occurs first); or within 18 months after the effective date of this AD.
- For Work Package 2, the compliance time is the later of the following: Within 36 months since the date of issuance of the original Airworthiness Certificate or the date of issuance of the Export Certificate of Airworthiness (whichever occurs first); or within 36 months after the effective date of this AD.
- For Work Package 1, the compliance time is the later of the following: Within 54 months since the date of issuance of the original Airworthiness Certificate or the date of issuance of the Export Certificate of Airworthiness (whichever occurs first); or within 54 months after the effective date of this AD.

In developing an appropriate compliance time for this proposed AD, we considered not only the manufacturer's recommendation, but also the degree of urgency associated with addressing the unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the actions. In light of all of these factors, we find the compliance times specified previously for completing the required actions to be warranted, in that they represent an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 814 airplanes of the affected design in the worldwide fleet. The FAA estimates that 345 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection/test of the drainage system specified in Work Package 1 of the service bulletins, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection/test proposed by this AD on U.S. operators is estimated to be $20,700, or $60 per airplane, per cycle.

It would take approximately 4 work hours per airplane to accomplish the proposed inspection/cleaning specified in Work Package 2 of the service bulletins, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection/cleaning proposed by this AD on U.S. operators is estimated to be $82,800, or $240 per airplane, per cycle.

It would take approximately 2 work hours per airplane to accomplish the proposed inspection specified in Work Package 3 of the service bulletins, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $41,400, or $120 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed 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 proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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:

Boeing: Docket 2001–NM–342–AD.

Applicability: All Model 767 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 (e) of this AD.

The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent ice accumulation on the lateral flight control cables due to water entering the wheel well of the main landing gear and freezing, which could restrict or jam control cable movement, resulting in loss of controllability of the airplane; accomplish the following:

Repetitive Inspections/Tests of the Drainage System/Corrective Actions

(a) At the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD: Do a general visual inspection of the external drains, reducer, and drain lines for discrepancies (including include damage, holes, signs of frozen water, and signs of blockage), per Work Package 1 of Boeing Alert Service Bulletin 767–51A0023 (for Model 767–200, –300, and –300F series airplanes), or Boeing Alert Service Bulletin 767–51A0024 (for Model 767–400ER series airplanes), both excluding Evaluation Form, both dated September 27, 2001; as applicable. Repeat the test after that at least every 18 months.

(1) Within 18 months since the date of issuance of the original Airworthiness Certificate or the date of issuance of the Export Certificate of Airworthiness, whichever occurs first.

(2) Within 18 months after the effective date of this AD.

(b) At the later of the times specified in paragraphs (b)(1) and (b)(2) of this AD: Clean the cavity for the canted pressure deck and do a general visual inspection of the drainage system for discrepancies per Work Package 2 of the Work Instructions of Boeing Alert Service Bulletin 767–51A0023 (for Model 767–200, –300, and –300F series airplanes), or Boeing Alert Service Bulletin 767–51A0024 (for Model 767–400ER series airplanes), both excluding Evaluation Form, both dated September 27, 2001; as applicable. Repeat the cleaning and inspection after that at least every 36 months.

(1) Within 36 months since the date of issuance of the original Airworthiness Certificate or the date of issuance of the Export Certificate of Airworthiness, whichever occurs first.

(2) Within 36 months after the effective date of this AD.

(c) If any discrepancy is found during any inspection or test required by paragraphs (a) and (b) of this AD, before further flight, repair per the Work Instructions of Boeing Alert Service Bulletin 767–51A0023 (for Model 767–200, –300, and –300F series airplanes), or Boeing Alert Service Bulletin 767–51A0024 (for Model 767–400ER series airplanes), both excluding Evaluation Form, both dated September 27, 2001; as applicable.

Repetitive Inspections of the Canted Pressure Deck/Corrective Action

(d) At the later of the times specified in paragraphs (d)(1) and (d)(2) of this AD: Do a general visual inspection of the canted pressure deck for discrepancies (including loose or missing fasteners; loose, missing, or cracked sealant; and leak paths), per Work Package 3 of the Work Instructions of Boeing Alert Service Bulletin 767–51A0023 (for Model 767–200, –300, and –300F series airplanes), or Boeing Alert Service Bulletin 767–51A0024 (for Model 767–400ER series airplanes), both excluding Evaluation Form, both dated September 27, 2001; as applicable. If any discrepancy is found, before further flight, repair (including replacing any loose or missing fastener or loose, missing, or cracked sealant; and repairing any leak found) per the applicable service bulletin. Repeat the inspection after that at least every 54 months.

(1) Within 54 months since the date of issuance of the original Airworthiness Certificate or the date of issuance of the Export Certificate of Airworthiness, whichever occurs first.

(2) Within 54 months after the effective date of this AD.

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

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permit

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

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

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–10117 Filed 4–23–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–141659–02]

RIN 1545–BB34

Tax Return Preparers—Electronic Filing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulation.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing a temporary regulation relating to a paid income tax preparer's obligation to retain and furnish copies of income tax returns and claims for refund. The text of that temporary regulation also serves as the text of this proposed regulation.

DATES: Written and electronic comments and requests for a public hearing must be received by July 23, 2003.

ADDRESSES: Send submissions to: CC:PA:RU (REG–141659–02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:RU (REG–141659–02), courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically directly to the IRS Internet site at *http://www.irs.gov/regs*.

FOR FURTHER INFORMATION CONTACT: Concerning the regulation, Richard Charles Grosenick, (202) 622–7940; concerning submissions, LaNita Van Dyke, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) under sections 6107 and 6695 of the Internal Revenue Code. The temporary regulations eliminate the references to manually signed returns in the regulations under section 6695. In addition, they provide that the Commissioner may prescribe, in forms, instructions, or other appropriate guidance, the manner in which preparers may satisfy their obligations under section 6107 to furnish returns to

taxpayers and to retain copies of returns.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation and, because the regulation does not impose a collection of information on small entities, that the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments, either electronically or on paper (a signed original and 8 copies), that are timely submitted to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of this regulation is Richard Charles Grosenick, Office of Assistant Chief Counsel (Administrative Provisions & Judicial Practice). However, other personnel from the IRS and the Treasury Department participated in its development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2 Section 1.6107–2 is added to read as follows:

§ 1.6107–2 Form and manner of furnishing copy of return and retaining copy or record.

[The text of this proposed section is the same as the text of § 1.6107–2T published elsewhere in this issue of the **Federal Register**].

Par. 3. Section 1.6695–1 is amended by revising paragraph (b) to read as follows:

§ 1.6695–1 Other assessable penalties with respect to the preparation of income tax returns for other persons.

* * * * *

(b) [The text of this proposed paragraph (b) is the same as the text of § 1.6695–1T(b) published elsewhere in this issue of the **Federal Register**].

* * * * *

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

[FR Doc. 03–10191 Filed 4–23–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[TTB Notice No. 6; Re: ATF Notice Nos. 960 and 966]

RIN: 1512–AC76

Red Hill (Oregon) Viticultural Area (2001R–88P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: TTB reopens the comment period for Notice No. 960, a notice of proposed rulemaking published in the **Federal Register** on October 30, 2002, and subsequently reopened for an additional 60 days on January 16, 2003. The proposed rule would add Red Hill (Oregon) as an approved American viticultural area and amend 27 CFR part 9. We are acting on a request to extend the comment period in order to provide sufficient time for all interested parties to respond to the issues raised in the notice.

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

ADDRESSES: You may send comments to any of the following addresses:

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 50221, Washington, DC 20091–0221 (Attn: Notice No. 960);
- 202–927–8525 (Facsimile);
- *NPRM@ttb.gov* (E-mail);
- *http://www.ttb.gov* (An online comment form is posted with this notice on our Web site.)

You may view copies of the notice of proposed rulemaking, the requests for extension of the comment period, and any comments received on the notice by appointment at the ATF Reference Library, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226, or under Notice No. 960 at *http://www.ttb.gov/alcohol/rules/index.htm.*

FOR FURTHER INFORMATION CONTACT: Tim DeVanney, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone 202–927–8210; e-mail *TPDevanney@ttb.gov.*

SUPPLEMENTARY INFORMATION:

Background

On October 30, 2002, TTB (part of the Bureau of Alcohol, Tobacco and Firearms (ATF) at that time) published two notices of proposed rulemaking (Notice No. 960, 67 FR 66079 and Notice No. 961, 67 FR 66083) to establish Red Hill (Oregon) and Red Hills (California) as American viticultural areas, respectively. The comment period ended on December 30, 2002. Before the close of the comment period, TTB received a request from Mr. Sean Carlton, of Archery Summit, a winery in Dayton, Oregon, to extend the comment period for an additional 60 days. Mr. Carlton requested the extension to allow more time to study the petitions and research the respective areas. The new comment period opened on January 16, 2003, and closed on March 17, 2003.

On March 17, 2003, TTB received a request to extend the comment period for an additional 60 days. Mr. Jess Lyon, of Davis Wright Tremaine, LLP, made this request in order to make a full assessment of the Red Hill petition. Mr. Lyon stated that he did not receive the petitioner's material in a timely manner.

In consideration of the above, TTB reopens the comment period for an additional 30 days. By the time this document is published in the **Federal Register**, the new closing date will be in

excess of the 60 days Mr. Lyon requested.

Public Participation

See the ''Public Participation'' section of Notice No. 960 for detailed instructions on submitting and reviewing comments. Comments received on or before the new closing date will be carefully considered.

TTB will not recognize any submitted material as confidential and comments may be disclosed to the public. Any material that the commenter considers confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting a comment is not exempt from disclosure.

Drafting Information

Tim DeVanney of the Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

Authority and Issuance

Notice No. 960 was issued under the authority of 27 U.S.C. 205.

Signed: April 18, 2003.

Arthur J. Libertucci,

Administrator.

[FR Doc. 03–10095 Filed 4–23–03; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC91

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Revision of Requirements Governing Outer Continental Shelf Rights-of-Use and Easement and Pipeline Rights-of-Way

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: MMS is proposing to modify requirements governing rights-of-use and easements and pipeline rights-of-way on the Outer Continental Shelf (OCS). These changes will increase rental rates for pipeline rights-of-way and establish rentals for rights-of-use and easements. This change is needed because of requests by lessees and pipeline right-of-way holders to use large areas outside of the area covered by their lease and pipeline right-of-way for accessory structures. This rule will require holders of rights-of-use and easements and holders of large areas as part of a pipeline right-of-way to pay rentals on a per acre basis.

DATES: We will consider all comments we receive by May 27, 2003. We will begin reviewing comments then and may not fully consider comments we receive after May 27, 2003.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods. You may mail or hand-carry comments (three copies) to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team. You may also send your comments by e-mail or e-mail attachment. The e-mail address is: *rules.comments@mms.gov.* Reference ''1010–AC91, Rights-of-Use and Easement'' in your subject line. Include your name and return address in your e-mail message and mark your message for return receipt.

FOR FURTHER INFORMATION CONTACT: John Mirabella, Engineering and Operations Division, (703) 787–1600.

SUPPLEMENTARY INFORMATION: This proposed rule provides a 30-day comment period. We believe that the issues involved in this proposed rule are not complex and 30 days will provide sufficient time for interested parties to prepare and submit comments.

Areas of the Gulf of Mexico (GOM) once thought beyond reach, located in water depths greater than 5,000 feet, are now being explored for development. A new generation of drillships and the development of new techniques allow drilling in waters as deep as 10,000 feet. Lease operators and pipeline right-of-way holders are developing more sophisticated and cost-efficient technology that will lower the cost of safely finding, extracting, and delivering deepwater oil and natural gas.

In the next decade, as the offshore industry moves into ultra-deepwater frontiers, the number of floating production vessels will increase substantially. Structures such as tension-leg platforms and floating production and offloading systems will become widely used to produce oil and gas in the GOM. These systems must be stabilized above the seafloor in water depths of 1,000 to 10,000 feet and, therefore, require a mooring system which may have a ''footprint'' radius greater than 8,500 feet. In some cases, we expect that the mooring system will cover the majority of the OCS block on which the facility is positioned.

Additionally, lease operators will produce smaller hydrocarbon discoveries in deep water by means of wells with production trees, *i.e.*, the assemblage of valves, etc., used to control the flow from the well, that are located on the ocean floor. These subsea systems must be tied back to a host facility by means of pipelines that deliver the production for processing and/or measurement, and cable-like control umbilicals that contain electrical conductors and small diameter steel tubing. Umbilicals allow control of the valves in the production tree and the measurement of pressure and temperature within the well to be accomplished remotely from the host facility.

A right-of-use and easement or pipeline right-of-way grant allows OCS operators and pipeline right-of-way holders the freedom to optimize the placement of their facilities on unleased blocks or on blocks leased by other operators. OCS blocks on which facilities such as floating structures with large mooring footprints, convergent pipelines, export pipelines, and control umbilicals are installed may present safety concerns. The safety concerns could occur if drilling facilities, work boats, or other vessel traffic associated with a new lease were located too close to floating structures, convergent pipelines, export pipelines, or control umbilicals associated with a right-of-way or right-of-use and easement previously granted. For this reason, MMS might decide to set aside adequate space around some pipeline rights-of-way or rights-of-use and easements. By removing blocks from the inventory or by otherwise restricting surface occupancy, potential safety and environmental concerns will be eliminated. In reviewing and approving applications for rights-of-use and easements and rights-of-way, MMS will ensure that safety and environmental problems do not occur. However, since issuance of these rights-of-use and easements and rights-of-way could have some adverse affects on other projects, MMS believes that the government should be compensated when the right-of-use and easement or right-of-way is issued.

The proposed modifications of 30 CFR 250.160, in subpart A, and 30 CFR 250.1009, in subpart J, would allow MMS to charge an annual rental to compensate the United States for the use of the unleased area being provided to the lessee or pipeline right-of-way holder. This proposed rule applies to applicants of pipeline rights-of-way who request a site for accessories for the pipeline right-of-way and for operators

who request use of an area which is not part of their lease, *i.e.*, a right-of-use and easement. The proposed rule would cover applications granted after the effective date of a final rule for new areas or applications to modify an existing area. The proposed rule includes a rental of $5 per acre affected in water depths less than 200 meters and $7.50 per acre affected in water depths of 200 meters or greater. These rental rates correspond to the rental rates charged for leases in those water depths. The total proposed annual rental depends on the size of the area requested except that a minimum annual rental will be charged based on 90 acres. The proposed minimum rental is $450 per year in water depths of less than 200 meters and $675 per year in water depths of 200 meters or greater. Establishing the minimum charge based on 90 acres will ensure that the government receives sufficient payment to cover administrative costs.

Existing regulations for payment of pipeline right-of-way rentals allows for payment on an annual basis, for a 5-year period, or for multiples of 5 years. This proposed regulation retains that option for pipeline rights-of-way and establishes the same option for rights-of-use and easements.

Section 160 was rewritten to add a table. Section 1009 was separated and redesignated as sections 1009 through 1014. Current sections 1010 through 1014 were redesignated as sections 1015 through 1019. Redesignated section 1012 was rewritten to add a table. The use of tables and the use of shorter sections with titles are intended to improve the clarity and readability of the regulation.

Procedural Matters

Public Comment Procedure

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, and there may be circumstances in which we would withhold from the rulemaking record a respondent's identity, to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Regulatory Planning and Review (Executive Order 12866)

This document was determined by the Office of Management and Budget to be significant and has been reviewed by OMB under Executive Order 12866.

Over the next 5 years, in water depths 200 meters or greater, MMS anticipates that it will receive an average of two requests per year for a new or modified right-of-use and easement and an average of two requests per year for a new or modified pipeline right-of-way that includes an area for an accessory. These requests would be affected by this rule. Based on historical data, we estimate that the affected area per request in water depths 200 meters or greater will average 5,760 acres, which is the typical size of one OCS lease block. In these water depths, the new rule proposes a rental of $7.50 per acre affected. This equates to a total cost of $86,400 ($5{,}760 \times \$7.50 \times 2$) for pipeline right-of-way applicants and $86,400 ($5{,}760 \times \$7.50 \times 2$) for right-of-use and easement applicants.

Over the next 5 years, in water depths less than 200 meters, MMS anticipates, based on requests in recent years, that it will receive an average of 10 requests per year for a new right-of-use and easement and an average of two requests per year for a new or modified pipeline right-of-way that includes an area for an accessory. These requests would be affected by this rule. We estimate that the affected area per request in water depths less than 200 meters will average 90 acres, which is the proposed minimum size of an affected area. In these water depths, the new rule proposes a rental of $5 per acre affected. This equates to a total annual cost of $4,500 ($90 \times \$5 \times 10$) for right-of-use and easement applicants and $900 ($90 \times \$5 \times 2$) for pipeline right-of-way applicants.

The annual cost to industry for rentals would be $178,200 ($86,400 + $86,400 + $4,500 + $900).

Since the current regulations provide for an annual rental of $75 per site included in an application for pipeline rights-of-way accessories and no cost for right-of-use and easement applications, the total cost under current rules for these same activities is $300 per year for pipeline right-of-way applicants ($\$75 \times 2 + \$75 \times 2$) and no cost for right-of-use and easement applicants.

(1) This rule would not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Issuance of a pipeline right-of way or right-of-use and easement does not interfere with the ability of other agencies to exercise their authority.

(3) This rule would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will have no effect on the rights of the recipients of entitlements, grants, user fees, or loan programs.

(4) This rule may raise novel legal or policy issues.

Regulatory Flexibility (RF) Act

The Department certifies that this rule would not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*).

This rule would affect lessees and operators of leases and holders of pipeline rights-of-way in the OCS. This includes about 130 different companies. These companies are generally classified under the North American Industry Classification System (NAICS) code 211111, which includes companies that extract crude petroleum and natural gas. For this NAICS code classification, a small company is one with fewer than 500 employees. Based on these criteria, we estimate that about 70 percent of these companies are considered small. This rule, therefore, affects a substantial number of small entities.

The companies that are considered small have an average of about 15 offshore facilities. We estimate that the small companies have annual sales between $10 million and $40 million. As discussed earlier, the total annual cost to industry is estimated to be $178,800. No large or small company will bear a significant cost.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of MMS, call 1–888–734–3247. You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from

employment with the Department of the Interior.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under the SBREFA (5 U.S.C. 804(2)). This rule:

(a) Would not have an annual effect on the economy of $100 million or more.

(b) Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

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

We do not expect this rule to have a significant effect because, as discussed under procedural matters, Regulatory Planning and Review (Executive Order 12866), this rule would have a total industry effect of $178,200 annually. This amount is not a significant effect for companies that do business on the OCS.

Paperwork Reduction Act (PRA) of 1995

The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information and assigns a control number, you are not required to respond. The proposed revisions to 30 CFR part 250, subparts A and J, refer to, but do not change, information collection requirements in current regulations. OMB has approved the referenced information collection requirements under OMB control numbers 1010–0114 for subpart A, current expiration date of July 31, 2005; and 1010–0051 for subpart J, current expiration date of August 31, 2003. The rule proposes no new paperwork requirements, and an OMB form 83–I submission to OMB under the PRA is not required.

Federalism (Executive Order 13132)

With respect to Executive Order 13132, the rule would not have Federalism implications. This rule would not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this rule would not affect that role.

Takings (Executive Order 12630)

With respect to Executive Order 12630, the proposed rule would not have significant Takings implications. A Takings Implication Assessment is not required. The proposed rulemaking is not a governmental action capable of interfering with constitutionally protected property rights.

Energy Supply, Distribution, or Use (Executive Order 13211)

This rule is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 13211. The rule would not have a significant effect on energy supply, distribution, or use because proposed payments to compensate the government for making resources unavailable for leasing will occur on the average less than one time a year. The costs due to increases in rental costs will be very small compared to the costs of operating in the OCS. Thus, a Statement of Energy Effects is not required.

Civil Justice Reform (Executive Order 12988)

With respect to Executive Order 12988, the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

National Environmental Policy Act (NEPA) of 1969

This rule would not constitute a major Federal action significantly affecting the quality of the human environment. This rule would not affect the environmental regulations that a right-of-use and easement holder or a pipeline right-of-way holder will need to follow. A detailed statement under the NEPA is not required.

Unfunded Mandate Reform Act (UMRA) of 1995 (Executive Order 12866)

This rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required. This is because the rule would not affect State, local, or tribal governments, and the effect on the private sector is small.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands-mineral resources, Public lands-right-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: January 29, 2003.

Rebecca W. Watson,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

Subpart A—General

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331, *et seq.*

2. In § 250.160, new paragraphs (f) through (h) are added to read as follows:

§ 250.160 When will MMS grant me a right-of-use and easement, and what requirements must I meet?

* * * * *

(f) You must pay a fee as required by paragraph (g) of this section if:

(1) You obtain a right-of-use and easement after the effective date of this rule; or

(2) You ask MMS to modify your right-of-use and easement to change the footprint of the associated platform, artificial island, or installation or device.

(g) If you meet either of the conditions in paragraph (f) of this section, you must pay a fee to MMS as shown in the following table:

If . . .	Then . . .
(1) Your right-of-use and easement site is located in water depths of less than 200 meters	You must pay a rental of $5 per acre per year with a minimum of $450 per year. The area subject to annual rental includes the areal extent of anchor chains, pipeline risers, and other equipment associated with the platform, artificial island, or installation or device.
(2) Your right-of-use and easement site is located in water depths of 200 meters or greater	You must pay a rental of $7.50 per acre per year with a minimum of $675 per year. The area subject to annual rental includes the areal extent of anchor chains, pipeline risers, and other equipment associated with the platform, artificial island, or installation or device.

(h) You must make the rental payments required by paragraph (g)(1) and (g)(2) of this section on an annual basis, for a 5-year period, or for multiples of 5 years. You must make the first payment at the time you submit the right-of-use and easement application. You must make all subsequent payments before the respective time periods begin.

3. In subpart J, §§ 250.1009 through 250.1014 are redesignated as shown in the following table:

Current section and paragraph	Redesignated section and paragraph
250.1009(a)(1)	250.1009(a).
250.1009(a)(2)	250.1009(b).
250.1009(b)(1)	250.1011(a).
250.1009(b)(1)(i)	250.1011(a)(1).
250.1009(b)(1)(ii)	250.1011(a)(2).
250.1009(b)(2)	250.1011(b).
250.1009(b)(2)(i)	250.1011(b)(1).
250.1009(b)(2)(ii)	250.1011(b)(2).
250.1009(b)(2)(iii)	250.1011(b)(3).
250.1009(b)(3)	250.1011(c).
250.1009(b)(4)	250.1011(d).
250.1009(c) introductory text	250.1010 introductory text
250.1009(c)(1)	250.1010(a).
250.1009(c)(2)	250.1012.
250.1009(c)(3)	250.1010(b).
250.1009(c)(4)	250.1010(c).
250.1009(c)(5)	250.1010(d).
250.1009(c)(6)	250.1010(e).
250.1009(c)(7)(i)	250.1010(f)(1).
250.1009(c)(7)(ii)	250.1010(f)(2).
250.1009(c)(7)(ii)(A)	250.1010(f)(2)(i).
250.1009(c)(7)(ii)(B)	250.1010(f)(2)(ii).
250.1009(c)(8)	250.1010(g).
250.1009(c)(9)	250.1010(h).
250.1009(d)	250.1013.
250.1009(e)	250.1014.
250.1010	250.1015.
250.1011	250.1016.
250.1012	250.1017.
250.1013	250.1018.
250.1014	250.1019.

4. The headings for newly redesignated §§ 250.1010 through 250.1014 are revised, and headings for newly redesignated §§ 250.1015 through 250.1019 are added to read as follows:

§ 250.1009 Requirements to obtain pipeline right-of-way grants.

* * * * *

§ 250.1010 General requirements for pipeline right-of-way holders.

* * * * *

§ 250.1011 Bond requirements for pipeline right-of-way holders.

* * * * *

§ 250.1012 Required payments for right-of-way holders.

* * * * *

§ 250.1013 Grounds for forfeiture of pipeline right-of-way grants.

* * * * *

§ 250.1014 When pipeline right-of-way grants expire.

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§ 250.1015 Applications for pipeline right-of-way grants.

* * * * *

§ 250.1016 Granting pipeline rights-of-way.

* * * * *

§ 250.1017 Requirements for construction under pipeline right-of-way grants.

* * * * *

§ 250.1018 Assignment of pipeline right-of-way grants.

* * * * *

§ 250.1019 Relinquishment of pipeline right-of-way grants.

* * * * *

5. Redesignated § 250.1012 is revised to read as follows:

§ 250.1012 Required payments for pipeline right-of-way holders.

(a) You must pay MMS an annual rental of $15 for each statute mile, or part of a statute mile, of the OCS that your pipeline right-of-way crosses.

(b) This paragraph applies to you if you obtain a pipeline right-of-way that includes a site for an accessory to the pipeline, including fixed and floating platforms, subsea manifolds, and other similar structures. If either MMS grants the pipeline right-of-way after the effective date of this rule or you apply to modify the grant to change the site footprint, then you must make additional payment to MMS as shown in the following table.

If . . .	Then . . .
(1) Your accessory site is located in water depths of less than 200 meters.	You must pay a rental of $5 per acre per year with a minimum of $450 per year. The area subject to annual rental includes the areal extent of anchor chains, pipeline risers, and other facilities and devices associated with the accessory.
(2) Your accessory site is located in water depths of 200 meters or greater.	You must pay a rental of $7.50 per acre per year with a minimum of $675 per year. The area subject to annual rental includes the areal extent of anchor chains, pipeline risers, and other facilities and devices associated with the accessory.

(c) If you hold a pipeline right-of-way that includes a site for an accessory to your pipeline and you are not covered by paragraph (b) of this section, then you must pay MMS an annual rental of $75 for use of the affected area.

(d) You must make the rental payments required by paragraphs (a), (b)(1), (b)(2), and (c) of this section on an annual basis, for a 5-year period, or for multiples of 5 years. You must make the first payment at the time you submit the pipeline right-of-way application. You must make all subsequent payments before the respective time periods begin.

[FR Doc. 03–10173 Filed 4–23–03; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR–03–004b and ID–03–001b; FRL–7487–3]

Approval and Promulgation of State Implementation Plans; Prevention of Significant Deterioration (PSD); Idaho and Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing amendments to the State implementation plans (SIPS) for Idaho and Oregon concerning the PSD program mandated by part C of title I of the Clean Air Act (hereinafter CAA or Act). The amendments clarify that the newly published provisions of the Federal PSD rule are incorporated into the applicable implementation plans for Indian Country in Idaho and Oregon. The amendments also clarify that the newly published provisions of the Federal PSD rule are incorporated into the applicable implementation plan for other sources in Idaho that were permitted under the Federal PSD program prior to August 22, 1986, the effective date of EPA's approval of Idaho's PSD program as part of the Idaho SIP.

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

ADDRESSES: Written comments should be addressed to: Connie Robinson, EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the information supporting this action are available for inspection during normal business hours at the following location: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, (206) 553–1086.

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, the EPA is approving these amendments as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. If no adverse comments are received in response to this action, no further activity is contemplated.

If the 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. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**.

Dated: April 16, 2003.

L. John Iani,

Regional Administrator, Region 10.

[FR Doc. 03–10067 Filed 4–23–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–88 –200227(b); FRL–7486–8]

Florida: Revision to Jacksonville, Florida Ozone Air Quality Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the State Implementation Plan (SIP) revision submitted by the Florida Department of Environmental Protection (DEP) on November 28, 2001, for the Duval County 1-hour ozone maintenance plan. More specifically, EPA is proposing to approve the state's new motor vehicle emissions budgets (MVEB) for volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for 2005. This submittal updates the maintenance plan by establishing new transportation conformity MVEB for the year 2005, for use by the Metropolitan Planning Organization (MPO). The MVEB represent the VOCs and the NO_X emissions currently projected by the MPO for the year 2005, plus a small

allocation from the areas ''safety margin'' for each pollutant to accommodate any further refinements that the MPO may need to make these projections. This allocation will still maintain the total emissions for the area at or below the attainment level for this maintenance area. In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, 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 rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

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

ADDRESSES: All comments should be addressed to: Lynorae Benjamin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with appropriated office at least 24 hours before visiting day. Reference file FL-88 . The Region 4 office may have additional background documents not available at the other locations.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. (Lynorae Benjamin, (404) 562–9040).

Florida Department of Environmental Protection, Air Resource Management Division, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Lynorae Benjamin, Air Quality Modeling and Transportation Section; Air Planning Branch; Air, Pesticides, and Toxics Management Division; Region 4 Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Ms. Benjamin's telephone number is (404) 562–9040. She can also be reached via electronic mail at *benjamin.lynorae@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: April 15, 2003.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 03–10064 Filed 4–23–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–060–200320(b); FRL–7486–9]

Approval and Promulgation of Implementation Plans: Revisions to the Alabama State Implementation Plan

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve miscellaneous revisions to the Alabama State Implementation Plan submitted on March 13, 2003, by the State of Alabama. The revisions include addition of rule of chapter 335–3–1–.15 regarding emission inventory reporting requirements for stationary sources, revision of chapter 335–3–3 regarding removal, handling and disposal of asbestos-containing material, revision of chapter 335–3–8 to make minor technical corrections, and revision of chapter 335–3–17 to incorporate changes made to the Federal regulations regarding transportation conformity. In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, 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 rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

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

ADDRESSES: All comments should be addressed to: Sean Lakeman; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW.; Atlanta, Georgia 30303–8960.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Alabama Department of Environmental Management, 400 Coliseum Boulevard, Montgomery, Alabama 36110–2059.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW.; Atlanta, Georgia 30303–8960. Mr. Lakeman can also be reached by phone at (404) 562–9043 or by electronic mail at *lakeman.sean@epa.gov*.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: April 15, 2003.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 03–10062 Filed 4–23–03; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. ; I.D. 032103B]

RIN 0648–AQ72

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery

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

ACTION: Proposed emergency rule; request for comments.

SUMMARY: NMFS proposes an emergency rule under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to implement measures intended to reduce overfishing on species managed under the NE Multispecies Fishery

Management Plan (FMP). This proposed rule would continue measures specified in the Settlement Agreement Among Certain Parties (Settlement Agreement), which were implemented as ordered by the U.S. District Court for the District of Columbia (Court) in a Remedial Order issued on May 23, 2002 (Order). These measures include: a freeze on days-at-sea (DAS) at the highest annual level used from fishing years 1996–2000 and a 20–percent cut from that level; a freeze on the issuance of new open access Hand-gear permits; gear restrictions; modifications and additions to closure areas; and restrictions on yellowtail flounder catch. In addition, this rule would implement a NE Multispecies DAS Leasing Program (Program), which is being proposed to mitigate impacts of these measures and to provide flexibility to some segments of the fishing industry. NMFS and two of the plaintiffs filed a motion with the Court requesting an extension of the August 22, 2003, implementation schedule until May 1, 2004. The Court granted an extension of the Court-ordered timeline for Amendment implementation until May 1, 2004. This emergency action is necessary to ensure that the regulations governing the NE multispecies fishery continue to be in compliance with the Court's Order.

DATES: Comments must be received no later than 5 p.m., local time, on May 27, 2003.

ADDRESSES: Written comments on the proposed emergency rule should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on the Proposed Emergency Rule for Groundfish.'' Comments also may be sent via facsimile (fax) to (978) 281–9135. Comments will not be accepted if submitted via e-mail or Internet.

Requirements should be sent to the Regional Administrator and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

Written comments regarding the proposed collection-of-information Copies of this proposed rule, including the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available upon request from the Regional Administrator. The EA/RIR/IRFA is also accessible via the Internet at *http://www.nero.nmfs.gov*.

FOR FURTHER INFORMATION CONTACT: Thomas Warren, Fishery Policy Analyst, phone: 978–281–9347, fax: 978–281–9135; email: *thomas.warren@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2002, in response to the Order issued by the Court, NMFS published an interim final rule (67 FR 50292) that implemented management measures intended to reduce overfishing on species managed under the FMP and to implement the measures contained in the Settlement Agreement. Measures implemented on August 1, 2002, included: A freeze on DAS based on the highest annual level used from fishing years 1996–2000 and reduced by 20–percent; a freeze on the issuance of new open access Hand-gear permits; increased gear restrictions for certain gear types, including gillnets, hook-gear and trawl nets; modifications and additions to the closure areas; and limits on yellowtail flounder catch.

The Order specified that the management measures implemented by the August 1, 2002, interim rule must remain in effect until implementation of Amendment 13 to the FMP. Amendment 13 was initially scheduled to be in effect no later than August 22, 2003. However, due to the need for additional time to address unanticipated concerns related to NMFS' Northeast Fisheries Science Center's trawl survey and the new biological reference points developed for the NE multispecies stocks, NMFS and two of the plaintiffs filed a motion with the Court requesting an extension of the August 22, 2003, implementation schedule until May 1, 2004. On December 4, 2002, the Court granted an extension of the Court-ordered timeline for Amendment 13 implementation until May 1, 2004.

On January 22, 2003, NMFS published a notice of continuation of regulations in the **Federal Register** to inform the public that NMFS was continuing the interim regulations for a second 180–day period (ending July 27, 2003). Under section 305(c)(3)(B) of the Magnuson-Stevens Act, interim regulations implemented under section 305(c) are limited to two, consecutive 180–day periods. The Court subsequently granted an extension of the original schedule for implementation of Amendment 13 to May 1, 2004. However, because the Settlement Agreement specifies that the current management measures must remain in effect until Amendment 13 is implemented, and because the second 180–day period for the interim regulations expires on July 27, 2003, there is insufficient time to implement an action to continue the interim measures under the Magnuson-Stevens Act, except through the Secretary's emergency authority under section 305(c) of the Magnuson-Stevens Act.

In addition to continuing the August 1, 2002, measures specified in the Settlement Agreement and Order, NMFS proposes to implement a DAS leasing program under its emergency action authority (305(c) of the Magnuson-Stevens Act and 62 FR 44421, August 21, 1997) in order to mitigate the potential harm resulting from the continuation of the August 1, 2002, interim final rule measures. This proposed emergency rule would implement a DAS Leasing Program that would allow limited access NE multispecies vessels to lease their NE multispecies DAS. This Program would alleviate some of the negative economic and social impacts resulting from the reduced DAS allocations that would be continued as a result of this proposed rule. The Program would be designed to maintain conservation neutrality, i.e., maintain groundfish fishing effort close to the level that would be fished under the current management measures in the absence of a DAS Leasing Program.

Management Measures

This proposed rule would implement (i.e., continue) the following management measures, effective July 28, 2003, which are intended to reduce overfishing on all regulated species managed under the FMP, and to reduce the negative economic impact of the current DAS allocations.

Regulated Mesh Areas (RMAs)

This proposed rule would continue the RMAs established by the August 1, 2002, interim rule for the Gulf of Maine (GOM), Georges Bank (GB), Southern New England (SNE) and Mid-Atlantic (MA) RMAs. The GOM RMA is the area north of the GOM cod exemption line, which is currently used to define the areas where the GOM cod and GB cod trip limits apply, and the GB RMA lies south of the GOM cod exemption line, and continues south to the EEZ for the areas east of 69° 00′ W. long. The SNE RMA would be defined as the area west of the GB RMA and east of a line beginning at the intersection of 74° 00′ W. long. and the south-facing shoreline of Long Island, NY, and running southward along the 74 00' W. long. line. The MA RMA would be defined as the area west of the SNE RMA. Specific management measures would apply, depending on the area fished. For the purposes of the exempted fishery programs already implemented under the FMP, the GOM/GB and SNE RMAs, as defined under Amendment 7 to the

FMP, would remain in effect and be referred to as ''Exemption Areas.≥

DAS Freeze

This proposed rule would continue the DAS baseline that was established for each vessel by the August 1, 2002, interim rule, based on the permit history of that vessel. This baseline is as follows: The used DAS baseline for a limited access permit would be calculated based on the highest number of DAS that a vessel(s) fished during any single fishing year among the 1996 through 2000 fishing years, which includes the period May 1, 1996, through April 30, 2001, not to exceed the vessel's current DAS allocation in any given year. For any vessel where the calculation of the baseline DAS results in a net amount of DAS less than 10, that vessel would be allocated a used DAS baseline of 10 DAS. Because vessel owners were already provided an opportunity to correct any errors regarding their current DAS baselines (under the August 1, 2002, interim rule), and the proposed DAS baseline would incorporate any corrections made, no additional opportunity to correct used DAS baseline allocations would be provided under this proposed rule.

DAS Effort Reduction

The proposed emergency measures would result in DAS allocations for the 2003 fishing year consistent with the 20–percent DAS reductions that were implemented by the August 1, 2002, interim rule (i.e., the current DAS allocations). That is, for the 2003 fishing year, each vessel's DAS allocation would be equal to that vessel's used DAS baseline, minus 20 percent of that vessel's used DAS baseline. Assuming that these measures become effective July 28, 2003, each vessel's DAS remaining for the 2003 fishing year would equal that vessel's used DAS baseline, minus 20 percent of that vessel's used DAS baseline, minus any DAS that the vessel fished during the period May 1 through July 27, 2003.

Freeze on Issuance of New Hand-gear Permits

Under this proposed rule, vessels that have never been issued an open access NE multispecies Hand-gear permit would be prohibited from obtaining a Hand-gear permit for the duration of this action.

Prohibition on Front-loading the DAS Clock

The term ''frontloading the DAS clock'' refers to the practice of vessel owners starting their DAS clock well in advance of the actual departure of the vessel. This proposed rule would continue the prohibition on frontloading. Under this prohibition, a vessel owner or authorized representative would be required to notify NMFS no earlier than 1 hour prior to the vessel leaving port to fish under the NE multispecies DAS program. A DAS would begin once the call has been received and a confirmation number is given. This measure would apply in all management areas.

Closed Area Additions/Modifications

This proposed rule would continue the closure areas established under the August 1, 2002, interim rule for the Western Gulf of Maine (WGOM) Area Closure, the Rolling Closure Areas, the Cashes Ledge Closure Area, and the GB Seasonal Closure Area. Exemptions to the GOM rolling closure areas, WGOM, Cashes Ledge Closure Area, and GB Seasonal Closure Area would remain the same as established under the August 1, 2002, interim rule. Charts of the proposed closure areas are available from the Regional Administrator upon request (see **ADDRESSES**).

Gear Restrictions

Trawl Vessels, When Fishing in the GOM, GB, or MA RMAs

Under this proposed rule, vessels fishing with otter trawl gear, and fishing any part of a NE multispecies DAS trip in the GOM, GB, or MA RMAs, would be required to fish with a minimum 6.5–inch (16.5–cm) diamond or square mesh codend. This requirement would apply only to the codend of the net; the minimum mesh-size for the remaining portion of the net would be 6.0–inch (15.24–cm) diamond mesh or 6.5–inch (16.5–cm) square mesh, or any combination thereof. The codend would be defined as follows: 25 meshes for diamond mesh, or 50 bars in the case of square mesh, from the terminus of the net for vessels 45 ft (13.7 m) in length and less; and 50 meshes for diamond mesh, or 100 bars in the case of square mesh, from the terminus of the net for vessels greater than 45 ft (13.7 m) in length.

Gillnet Vessels, When Fishing in the GOM RMA

Under this proposed rule, limited access multispecies vessels that obtain an annual designation as a Trip gillnet vessel, when fishing in the GOM RMA during any part of a trip under a multispecies DAS, would be required to fish with nets with a minimum of 6.5–inch (16.5–cm) mesh and would be restricted to 150 nets, with one tag fixed to each net. Multispecies vessels that obtain an annual designation as a Day gillnet vessel would be allowed to fish up to 100 nets, provided that, when fishing any part of a trip under a NE multispecies DAS in the GOM RMA, the vessel complies with the following specifications: When fishing with flatfish nets, vessels could fish no more than 100 nets, with a minimum mesh size of 7 inches (17.8 cm), with one tag affixed to each net; when fishing with roundfish nets, vessels would be restricted to fishing during July through February, and would be allowed to fish no more than 50 nets, with a minimum mesh size of 6.5 inches (16.5 cm), with two tags affixed to each net. Any tag not affixed to a net would have to be retained on the vessel and be immediately available for inspection.

Gillnet Vessels, When Fishing in the GB RMA

Under this proposed rule, limited access NE multispecies vessels that fish under a NE multispecies DAS with gillnet gear in the GB RMA at any time throughout the fishing year would be required to declare into the Day or Trip gillnet category. Vessels fishing under either the Day or Trip gillnet category in the GB RMA during any part of a trip under a NE multispecies DAS would be required to fish with nets with a minimum of 6.5–inch (16.5–cm) mesh and would be restricted from fishing more than 50 nets, with two tags fixed to each net.

Trawl Vessels, When Fishing in the SNE RMA

Under this proposed rule, when fishing any part of a NE multispecies DAS in the SNE RMA, otter trawl vessels would be required to fish with a minimum 7.0–inch (17.8–cm) diamond or 6.5–inch (16.5–cm) square mesh codend. This requirement would apply only to the codend of the net, which is defined as described above under the GOM and GB trawl mesh restrictions.

Gillnet Vessels, When Fishing in the SNE RMA

Under this proposed rule, limited access NE multispecies vessels that fish under a NE multispecies DAS with gillnet gear in the SNE RMA at any time throughout the fishing year would be required to declare into the Day or Trip gillnet category. Vessels fishing under either the Day or Trip gillnet category in the SNE RMA during any part of a trip under a NE multispecies DAS would be required to fish with nets with a minimum of 6.5–inch (16.5–cm) mesh, and would be restricted from fishing

more than 75 nets, with two tags fixed to each net.

Gillnet Vessels, When Fishing in the MA RMA

Under this proposed rule, limited access NE multispecies vessels that fish under a NE multispecies DAS with gillnet gear in the MA RMA would be allowed to fish the same type and number of nets as allowed prior to the implementation of the August 1, 2002, interim rule. That is, vessels would be allowed to continue to fish up to 160 nets. Vessels fishing under the monkfish DAS program would be limited to 150 nets.

Gillnet Vessels, When Fishing Under a Monkfish DAS

Under this proposed rule, any monkfish vessel that has a monkfish limited access Category C or D permit (i.e., a vessel that possesses both a monkfish and NE multispecies limited access permit) and that is fishing under a monkfish DAS, in all areas, would be restricted from fishing more than 150 nets, provided the vessel fishes with nets with a minimum mesh size of 10 inches (25.4 cm). Vessels would be required to affix one tag to each net. Category A and B monkfish vessels would be unaffected by these proposed measures.

Large-Mesh Vessel Permit Categories

Under this proposed rule, vessels that have a valid limited access NE multispecies Large Mesh Individual DAS category or a Large Mesh Fleet DAS category permit, when fishing in the GOM, GB, and SNE RMAs, with trawl nets or sink gillnets, would be required to fish with nets with a minimum mesh size of 8.5–inch (21.6–cm) diamond or square mesh throughout the entire net. Vessels fishing with trawl nets or sink gillnets when fishing in the MA RMA would be required to fish with nets with a minimum mesh size of 7.5–inch (19.0–cm) diamond or 8.0–inch (20.3–cm) square mesh throughout the entire net.

Hook-gear Vessels

Under this proposed rule, vessels that have a valid NE multispecies limited access permit would be prohibited from using de-hookers (crucifiers) with less than 6–inch (15.2–cm) spacing between the fairlead rollers. In addition, limited access Small-vessel permitted vessels and limited access permitted vessels that fish any part of a NE multispecies DAS trip in the GOM, GB or SNE RMAs would be required to use 12/0 or larger circle hooks on longline gear, and would be subject to a maximum number of rigged hooks on board the vessel. Specifically, vessels fishing in the GOM or SNE RMAs would be prohibited from possessing more than 2,000 rigged hooks, and vessels fishing in the GB RMA would be prohibited from possessing more than 3,600 rigged hooks.

Table 1 summarizes the proposed gear restriction measures for each gear sector when fishing in the various RMAs.

Table 1. Gear Restrictions by Regulated Mesh Areas.

	GOM	GB	SNE	Mid-Atl
MINIMUM MESH SIZE RESTRICTIONS FOR GILLNET GEAR				
NE Multispecies Day Gillnet Category*	July-February only: Roundfish nets 6.5" (16.5 cm) mesh; 50-net allowance; 2 tags/net	All nets 6.5" (16.5 cm) mesh; 50-net allowance; 2 tags/net	All nets 6.5" (16.5 cm) mesh; 75-net allowance; 2 tags/net	Roundfish nets 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; 80-net allowance; 2 tags/net
	Year-round: Flatfish nets 7.0" (17.8 cm) mesh; 100-net allowance; 1 tag/net			Flatfish nets 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; 160-net allowance 1 tag/net;
NE Multispecies Trip Gillnet Category*	All nets 6.5" (16.5 cm) mesh; 150-net allowance; 1 tag/net	All nets 6.5" (16.5 cm) mesh; 50-net allowance; 2 tags/net	All nets 6.5" (16.5 cm) mesh; 75-net allowance; 2 tags/net	All gillnet gear 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; No net limit; no tag requirement
Monkfish Vessels**	10" (25.4 cm) mesh/150-net allowance			
	1 tag/net			
MINIMUM MESH SIZE RESTRICTIONS FOR TRAWL GEAR				
Codend only mesh size*	6.5" (16.5 cm) diamond or square		7.0" (17.8 cm) diamond or 6.5" (16.5 cm) square	6.5" (16.5 cm) diamond or square
Large Mesh Category - entire net	8.5" (21.59 cm) diamond or square			7.5" (19.0 cm) diamond or 8.0" (20.3 cm) square
MAXIMUM NUMBER OF HOOKS AND SIZE RESTRICTIONS FOR HOOK-GEAR* **				
Limited access multispecies vessels	2,000 hooks	3,600 hooks	2,000 hooks	4,500 hooks (Hook-gear vessels only)
	No less than 6" (15.2 cm) spacing allowed between the fairlead rollers			
	12/0 circle hooks required for longline gear			N/A

* When fishing under a NE multispecies DAS
** Monkfish Category C and D vessels, when fishing under a monkfish DAS
*** When fishing under a NE multispecies DAS or when fishing under the Small-vessel permit

Cod Minimum Fish Size (Commercial vessels)

Under this proposed rule, the minimum size for cod that may be lawfully sold would be 22 inches (55.9 cm)(total length).

NE Multispecies Possession Restrictions

Yellowtail Flounder

This proposed rule would require enrollment in one of two authorization programs for any possession of yellowtail flounder, and would implement restrictions on the harvest of yellowtail flounder when fishing in the SNE and MA RMAs and in the GB RMA south of 40° 00' N. lat. From March 1 through April 30, 2004, all vessels would be subject to a possession and landing limit of 250 lb (113.4 kg) of yellowtail flounder per trip when

fishing any part of a trip in the SNE and MA RMAs north of 40° 00′ N. lat. In addition, from June 1 through February 28, all vessels would be subject to a possession and landing limit of 750 lb (340.3 kg) of yellowtail flounder per day, and a maximum trip limit of 3,000 lb (1,361.2 kg) per trip when fishing any part of the trip in the SNE and MA RMAs north of 40° 00′ N. lat. A vessel fishing for yellowtail flounder in the SNE and MA RMAs north of 40° 00′ N. lat. would be allowed to possess and land up to the seasonal yellowtail flounder allowable limits, provided the vessel does not fish south of 40° 00′ N. lat. and has on board a SNE/MA yellowtail flounder possession/landing authorization issued by the Administrator, Northeast Region, NMFS (Regional Administrator). Under this proposed rule, all vessels would be prohibited from possessing yellowtail flounder in the MA, SNE or GB RMAs unless fishing north of 40° 00′ N. lat., or unless the vessel is transiting areas south of 40° 00′ N. lat. and all fishing gear on board the vessel is properly stowed according to the regulations. Vessels fishing east or north of this area would not be subject to the yellowtail flounder possession limit restrictions, provided that the vessel does not fish west of the GB RMA and possesses on board a GOM/GB yellowtail flounder possession/landing authorization issued by the Regional Administrator. Vessels exempt from the yellowtail flounder possession limit requirements would be allowed to transit areas outside of the specific exempted area that they are fishing, provided that their gear is stowed in accordance with one of the provisions of § 648.23(b).

Hand-gear Permitted Vessels

Under this proposed rule, the cod, haddock and yellowtail flounder possession limit for vessels that have been issued a valid open access Hand-gear permit would continue to be set at 200 lb (90.7 kg), combined, per trip. Such vessels would not be required to obtain a yellowtail flounder possession/landing authorization in order to harvest yellowtail flounder, but would not be allowed to harvest yellowtail flounder south of 40° 00′ N. lat.

GB Cod Trip Limit

This proposed rule would continue the current method of how the DAS clock accrues for those vessels fishing in the GB RMA and harvesting GB cod, which is consistent with how the DAS clock accrues when fishing in the GOM RMA and harvesting GOM cod. That is, a vessel subject to this landing limit restriction could come into port with, and offload cod in excess of the landing limit, as determined by the number of DAS elapsed since the vessel called into the DAS program, provided that the vessel operator does not call out of the DAS program and does not depart from a dock or mooring in port until the rest of the additional 24–hr block of the DAS has elapsed, regardless of whether all of the cod on board is offloaded.

GOM Cod

This action would maintain the daily possession limit for GOM cod at 500 lb (227.3 kg) per DAS, with a maximum possession limit of 4,000 lb (1,818.2 kg) per trip.

Recreational and Charter/Party Vessel Restrictions

Under this proposed rule, the minimum size for cod and haddock that could be retained by a federally permitted charter/party vessel not on a DAS, or a private recreational vessel not holding a Federal permit and fishing in the EEZ, would be 23 inches (58.4 cm) total length. This proposed rule would also continue a cod and haddock bag (possession) limit for the charter/party recreational fishing sector when a vessel is fishing in the GOM RMA and not under a DAS. During the period April through November, each person on a charter/party vessel not fishing under a DAS would be allowed to possess no more than 10 cod or haddock, combined, per trip. For each trip during the period December through March, each person on a charter/party vessel not fishing under a DAS would be allowed to possess no more than 10 cod or haddock combined, no more than 5 of which may be cod. This action would continue the restriction of the cod possession limit for private recreational vessels by requiring that, when fishing in the GOM RMA during the period December through March, each person on a recreational vessel would be allowed to possess no more than 10 cod or haddock combined, no more than 5 of which may be cod. Cod and haddock harvested by recreational vessels with more than one person aboard could be pooled in one or more containers. Compliance with the possession limit would be determined by dividing the number of fish on board by the number of persons on board.

For a vessel that intends to charter/party fish in the GOM closed areas, this proposed rule would require that the vessel possess on board a letter of authorization (LOA) issued by the Regional Administrator. The LOA would be required for the entire fishing year if the vessel intends to fish in the year-round GOM closure areas, and for a minimum of 3 months if the vessel intends to fish in the seasonal GOM closure areas. Vessels could obtain an LOA by calling the NMFS Permit Office at 978–281–9370.

All other existing recreational measures would remain in effect, including the no-sale provision for all fish caught for both the party/charter and private recreational sectors when not fishing under a NE multispecies DAS. Table 2 summarizes the proposed party/charter and private recreational sector measures. NMFS is especially seeking comment on the recreational measures that would be implemented by this action.

TABLE 2. CHARTER/PARTY AND PRIVATE RECREATIONAL FISHING MEASURES.

	Minimum Fish Size, Inches Cod & Haddock[1]	Bag Limit (combined)	GOM Closure Exemption Authorization
Charter/party not on a DAS	23	*April-November*: 10 cod/haddock[2] *December-March*: 10 cod/haddock, no more than 5 which can be cod[2]	A minimum of 3 months, or duration of closure
Private Recreational	23	*Areas outside of GOM RMA*: 10 cod/haddock *GOM RMA*:10 cod/haddock, no more than 5 which can be cod, Dec.-Mar.	N/A

[1] All other minimum fish sizes remain unchanged.
[2] When fishing in the GOM RMA.

Observer Coverage

NMFS was ordered by the Court to expand for all gear sectors its observer coverage in the NE multispecies fishery by providing 5–percent coverage, or higher, if statistically necessary to monitor and collect information on bycatch, as well as other biological and fishery-related information. Additionally, NMFS was ordered, by May 1, 2003, to expand further its observer coverage to 10 percent for all gear sectors, or that level necessary to provide statistically reliable data. Regarding this issue, NMFS has determined that 5 percent observer coverage would provide sufficiently robust statistical data to assess the amount and type of bycatch in the NE multispecies fishery. This conclusion is based upon an analysis of the relative precision of discard estimates of 17 groundfish stocks, using observer coverage and landings data for the year 2000 (Northeast Fisheries Science Center, 2003).

NE Multispecies DAS Leasing Program

Under this proposed rule, NMFS would implement a program to allow limited access NE multispecies permit holders to lease NE multispecies DAS to one another, under the conditions and restrictions described below. For purposes of this Program, the term ''lease'' refers to the transfer of the use of DAS from one limited access NE multispecies vessel to another for no more than one fishing year (except if carried over). Implementation of the proposed Program on an emergency basis is necessary to provide the fishing industry with an opportunity to mitigate the potential economic harm caused by the continuation of the restrictive measures that would be implemented by the proposed action, while maintaining conservation neutrality. In addition, this program is designed to allow for efficient and effective administration by NMFS.

Vessels Eligible to Lease NE Multispecies DAS

All vessels with a valid limited access NE multispecies DAS permit would be eligible to lease NE multispecies DAS to or from another such vessel through the Program, unless otherwise noted below. Eligible vessels acquiring leased NE multispecies DAS would be termed the ''lessee,'' or transferee, and eligible vessels leasing-out NE multispecies DAS would be termed the ''lessor,'' or transferor. Although all eligible vessels would be allowed to lease NE multispecies DAS from another such vessel, vessels holding the minimum allocation of 8 DAS would be prohibited from leasing-out, or transferring, DAS under the Program. Prohibiting vessels with the minimum allocation of 8 DAS from leasing-out their DAS to another vessel would prevent previously inactive (latent) DAS from becoming active, since most of these vessels fished either zero DAS or close to zero DAS during the 1996–2000 qualification period. This restriction would be necessary to promote the conservation neutrality of the Program. For similar reasons, NE multispecies DAS associated with Confirmation of Permit Histories (CPH) would be prohibited from being activated for the sole purpose of leasing-out DAS to another vessel.

The proposed Program and its restrictions and conditions are described below:

NE Multispecies DAS Leasing Application

Under this proposed rule, an eligible vessel owner wanting to lease NE multispecies DAS would be required to submit a complete application to lease DAS (Application) at least 45 days prior to the time that the vessel intends to fish the leased DAS. (Vessels fishing with a vessel monitoring system would likely be able to receive notification of an approved lease agreement sooner than 45 days.) Upon approval of the Application by NMFS, the lessor and lessee would be sent written confirmation of the approved application. Leased DAS would be effective only during the fishing year for which they were leased, unless the vessel has carry-over DAS (see below). A vessel may lease to as many qualified vessels as desired, provided that all of the restrictions and conditions described in this proposed rule are complied with.

An Application may be submitted at any time throughout the fishing year, up until March 1. A complete application would consist of the following: Lessor's (transferor) owner name, vessel name, permit number and official number or state registration number; lessee's (transferee) owner name, vessel name, permit number and official number or state registration number; number of NE multispecies DAS to be leased; total price paid for the leased DAS; signatures of lessor and lessee; and date the form was completed. Information obtained from the Application would be held confidential in accordance with the Magnuson-Stevens Act and applicable regulations.

The Regional Administrator could reject an Application for any of the following reasons: The application is incomplete or submitted after the March 1 deadline; the lessor or lessee does not possess a valid limited access NE multispecies permit; the lessor's or lessee's DAS are under sanction; lessor's vessel is prohibited from fishing; the lessor's limited access multispecies permit is sanctioned; or the lessor has an insufficient number of allocated DAS available to lease. Upon denial of an Application, the Regional Administrator would send a letter to the applicants describing the reason(s) for application rejection. The decision by the Regional Administrator would be the final agency decision and there would be no opportunity to appeal the Regional Administrator's decision as specified in NMFS' regulations.

Sub-leasing and Carry-over Prohibition

Under this proposed rule, no sub-leasing of NE multispecies DAS would be allowed. This means that, once a lease application is approved by NMFS, the leased DAS could not be leased a second time, even if the lessee was prevented from fishing the leased DAS due to circumstances beyond his/her control (e.g., a vessel sinking). This restriction is necessary to ensure NMFS' ability to administer and account for all leased DAS in an efficient manner.

Under this proposed rule, eligible vessels would be allowed to carry over up to 10 DAS, regardless of whether these DAS were allocated or leased days, in order to promote safety at sea in the waning days of the fishing year. Thus, a vessel that purchased leased DAS that remained unused at the end of the fishing year would be allowed to carry over these leased DAS to the subsequent fishing year. To determine DAS fished for a given fishing year, a vessel's allocated DAS (as opposed to DAS that it acquired through lease) would be counted first for purposes of determining how many DAS remain for the fishing year. As an example, if a vessel was allocated 50 DAS and acquired an additional 20 DAS by leasing them from another vessel, that vessel would have 70 DAS that it could use during the fishing year. If that vessel, for whatever reason, used only 60 DAS during that year, NMFS would consider that the vessel's 50 allocated DAS were used first, and that 10 of the leased DAS were then used. The remaining 10 leased DAS that were unused would be carried over to the next fishing year.

Minimum and Maximum Leased DAS

This proposed rule would require that vessels lease a minimum of 5 NE multispecies DAS to any one vessel, or the full amount of the vessel's

remaining allocated DAS, whichever is less. For example, a vessel with 50 DAS could lease any number of DAS equal to 5 or more DAS to as many vessels as possible. If the vessel leased 6 DAS to eight vessels, leaving 2 DAS (i.e., 6 DAS x 8 = 48 DAS), the vessel could then lease its remaining 2 DAS to another vessel, since it only has 2 DAS left. Although setting a minimum increment at a level less than 5 DAS would provide additional flexibility to the industry, NMFS believes it would be administratively burdensome to process and monitor the increased number of leases that this may invite, particularly in the first year of implementation. Because, as a new Program, the actual administrative burden associated with the Program is unknown, NMFS has determined that a 5- DAS minimum for vessels applying to lease DAS would better enable NMFS to ensure it can effectively administer the Program. Nevertheless, NMFS is interested in soliciting public comment on the feasibility and flexibility of this restriction, to get a better idea of whether the 5–DAS minimum is appropriate. Under this proposed rule, there would be no maximum number of DAS a lessor could lease out to another vessel. Similarly, there would be no maximum number of DAS a lessee could receive. In addition, a lessor would be allowed to lease to multiple lessees, and a lessee could lease from multiple lessors. Vessel owners with more than one vessel with a valid limited access NE multispecies DAS permit would be allowed to lease NE multispecies DAS from one eligible vessel under their ownership to another, to allow the owner to optimize the number of DAS available for use by his/her vessels.

Adjustments to Leased DAS

Several of the stocks managed under the FMP are considered overfished. To help ensure that fishing effort is not increased under the proposed Program, an adjustment factor would be applied to leased DAS when DAS are being leased from a smaller horsepower class vessel to a larger horsepower class vessel (that is, from a vessel with less fishing power to one with more fishing power). For the purposes of the Program, all limited access NE multispecies DAS permit holders would be classified according to the baseline horsepower associated with that permit as of April 24, 2003. Thus, if the lessee vessel were in a higher horsepower category than the lessor vessel, the lessee would receive a fraction of the DAS leased, based on the relative horsepower classes of the two vessels (see Table 3). Conversely, if the lessee vessel were in the same or a lower horsepower category than the lessor vessel, the lessee would be allowed to use the full amount of DAS leased.

TABLE 3. ADJUSTMENT FACTORS FOR DAS LEASES.

		Lessor Vessel (seller vessel) Horsepower Class					
		0–175	176–250	251–324	325–400	401–65	651 +
Lessee Vessel (buyer vessel) Horse-power Class	0–175	1.00	1.00	1.00	1.00	1.00	1.00
	176–250	0.80	1.00	1.00	1.00	1.00	1.00
	251–324	0.70	0.88	1.00	1.00	1.00	1.00
	325–400	0.58	0.73	0.83	1.00	1.00	1.00
	401–650	0.49	0.61	0.70	0.84	1.00	1.00
	651 +	0.36	0.45	0.52	0.62	0.74	1.00

For example, if Vessel A, a 176–250 horsepower class vessel, leases 10 NE multispecies DAS to Vessel B, a vessel in the 325–400 horsepower class, Vessel B would receive 7.3 DAS (10 x 0.73). Using these same horsepower class vessels, if Vessel B leases 10 DAS to Vessel A, Vessel A would receive 10 DAS.

Leasing Restrictions for Hook-gear Permitted Vessels

This rule proposes that limited access NE multispecies Hook-gear permitted vessels (Category D) be allowed to lease NE multispecies to and from other limited access Hook-gear permitted vessels only. This restriction is being proposed because current regulations prohibit limited access Hook-gear permitted vessels from using gear other than hook-gear.

History of DAS Use and Landings

Because, in the future, DAS use and landing history may be used to determine fishing rights, the proposed Program includes provisions for how such history will be accounted for. For ease of administration, under this proposed Program, history of leased DAS use would be presumed to remain with the lessor vessel, and landings resulting from the leased DAS use would be presumed to be attributed to the lessee vessel. However, the history of used leased DAS would be presumed to remain with the lessor only if the lessee actually fished the leased DAS in accordance with the DAS notification program specified at § 648.10. For purposes of DAS-use history, DAS allocated to the vessel would be considered to be the first DAS to be used, followed by the leased DAS. For example, if a vessel had an allocation of 50 DAS, leased an additional 20 DAS, and actually used a total of 60 DAS during the fishing year, the lessor of the 20 DAS would be attributed with 10 DAS, for purposes of its DAS-use history, because the lessee vessel would have used its 50 allocated DAS first, then 10 of the 20 DAS it acquired from the lessor.

Under the proposed Program, history of fish landings would be presumed to be attributed to the vessel that actually landed the fish (lessee). Attributing landings history to the lessor would be inconsistent with the current vessel reporting system used for all other fisheries in the Northeast Region, and would be extremely difficult and costly for NMFS to implement.

In the case of multiple lessors, the leased DAS actually used would be attributed to the lessors based on the order in which such leases were approved by NMFS. For example, if lessee Vessel A has 50 allocated DAS, leases 10 DAS from lessor Vessel B on August 1, and leases another 10 DAS from lessor Vessel C on August 5, then the first 50 DAS used by lessee Vessel A during that fishing year would be attributed to lessee Vessel A, the next 10 DAS would be attributed to lessor Vessel B, and the next 10 DAS would be attributed to lessor Vessel C, for purposes of DAS-use history. If lessee Vessel A used only 60 DAS during the fishing year, then lessor Vessel C would not be attributed with DAS use for the DAS it leased to Vessel A during the fishing year for which the DAS were leased (these DAS could be attributed to

Vessel C in the subsequent fishing year, if they are carried over and used). In cases where a horsepower adjustment factor is applied to leased DAS, the number of DAS attributed to the lessor for those leased DAS used would be the actual number of DAS leased, prior to the calibration reduction. For example, suppose Vessel A leased 10 DAS from Vessel B and, because Vessel A is in a larger horsepower category than Vessel B, the 10 leased DAS were reduced to 8.8 DAS that could actually be fished. If the 8.8 leased DAS were fished by Vessel A, then Vessel B would still be credited with 10 DAS used for that year, for purposes of its DAS use history.

Termination of NE Multispecies DAS Leasing Program

Under this proposed rule, the Regional Administrator would maintain the authority to terminate acceptance of new applicants to the Program if, due to unanticipated impacts, she determines that the goals of reducing fishing mortality or increasing economic opportunity would be seriously undermined by allowing the continuance of leasing of DAS. If such a determination is made, the public would be notified through rulemaking consistent with the Administrative Procedure Act (APA), and would be based upon information including, but not limited to, projected landings, patterns of DAS use, or information obtained from the leasing program.

Monkfish Category C and D Vessels

Similar to the August 1, 2002, interim rule measures, a vessel with both a limited access NE multispecies permit and a limited access monkfish permit (monkfish Category C or D vessels) for which the NE multispecies DAS reductions proposed under this proposed emergency rule would result in the vessel having more allocated monkfish DAS than NE multispecies DAS, the vessel would be allowed to fish under a monkfish-only DAS when multispecies DAS are no longer available, provided the vessel fishes under the provisions of the monkfish Category A or B permit, or unless otherwise noted below. Under this proposed rule, monkfish Category C and D vessels that have remaining monkfish-only DAS at the time of implementation of this emergency rule, and that have submitted a NE Multispecies DAS Leasing Application that has been approved by NMFS, would be required to fish their available ''monkfish-only'' DAS in conjunction with their leased NE multispecies DAS, to the extent that the vessel has NE multispecies DAS available. This is consistent with the original intent of the Monkfish Fishery Management Plan (Monkfish FMP).

Under this proposed rule, if a monkfish Category C or D vessel leases DAS to another vessel, the vessel is required to forfeit a monkfish DAS for each NE multispecies DAS that the vessel leases, equal in number to the difference between the number of remaining multispecies DAS and the number of unused monkfish DAS at the time of the lease. For example, if a lessor vessel, which had 40 unused monkfish DAS and 47 allocated multispecies DAS, leased 10 of its multispecies DAS, the lessor would forfeit 3 of its monkfish DAS (40 monkfish DAS - 37 multispecies DAS = 3) because it would have 3 fewer multispecies DAS than monkfish DAS after the lease. The Monkfish FMP specifies that monkfish Category C and D vessels must fish a NE multispecies DAS concurrently with a monkfish DAS. Not deducting monkfish DAS in a situation where NE multispecies DAS are leased (transferred) would allow monkfish and NE multispecies DAS to be fished independently. This could create a significant effort increase in the monkfish fishery.

Other Proposed Modifications to Regulations

For the 2002 fishing year, vessels electing a Day or Trip gillnet designation were allowed to change their designation prior to September 1, 2002. This exemption applied only to the 2002 fishing year and would therefore be eliminated by this proposed rule.

In the August 1, 2002 interim rule, the Cashes Ledge Area Closure regulations omitted a reference to transiting, under a listing of allowable exemptions to the closure, and would therefore be corrected by this proposed rule.

Classification

This rule has been determined to be significant for purposes of Executive Order 12866.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of the preamble and in the SUMMARY section of the preamble and in the IRFA. For management measures that continue the Settlement Agreement, gross revenue in the absence of reliable cost data is considered to be a proxy for profitability. For leasing of DAS, profitability is estimated using a break-even analysis. A summary of the analysis follows:

The IRFA considered three alternatives: The proposed emergency action, the No Action alternative, and a Hard TAC alternative. Analysis of the proposed emergency action examined the impacts on industry that would result from the continuation of the current management measures (Settlement Agreement), with implementation of a days-at-sea (DAS) leasing program. Analysis of the No Action alternative examined the impacts on industry that would result from implementation of the management measures that were in place for the 2001 fishing year (prior to implementation of the Court Order) and allowing fishing inside the WGOM Area Closure. Analysis of the hard TAC alternative examined the impacts to the industry that would result from a hard TAC system that achieved similar fishing mortality reductions as the proposed emergency action. The economic impacts of the first two alternatives were analyzed and described according to the type of management measure as follows: (a) Commercial measures that were modeled (DAS restrictions, area closures, and trip limits); (b) commercial measures that were not modeled (changes to the open access hand gear category, prohibition on frontloading, prohibition on de-hooker use, mesh size restrictions, and limitations on the number of gillnets and hooks); and (c) recreational measures (private recreational vessel and party/charter). The hard TAC alternative is a fundamentally different type of management scheme and the economic impacts were examined in a qualitative manner.

All commercial vessels with a multispecies permit had gross receipts less than $3.5 million, the SBA size standard for defining a small versus large commercial fishing business (3,894 multispecies vessels) (Environmental Assessment of the Settlement Agreement, June 2002). Therefore, there would be no disproportionate economic impacts between small and large entities.

The proposed measures would impact all limited access permit holders (1,383), all open access Hand gear-only permit holders (2,973), and all party/charter operators (1,028 open access permit holders). Based upon the June 2002 Environmental Assessment, the number of participating vessels that may be affected by any one or more of the proposed measures is about 37 percent of the total number of those eligible to participate in some component of the multispecies fishery.

The DAS allocations implemented under the August 2002 rule would continue under the proposed emergency action. The reductions in 2002 DAS allocations impacted all permit categories. There were 1,383 limited access permits with baseline DAS allocations for the 2002 fishing year. Of these permits, 343 received the minimum allocation of 8 DAS. A total of 71, 180 DAS were allocated for the fishing year; a reduction of 45.7 percent compared to the final fishing year 2001 allocations.

The relative reduction in DAS allocations varied by permit category. The total reduction for individual allocation vessels (category A) was 21.7 percent, as compared with 49 percent for category B and 65.9 percent for Category D. Reductions in total DAS allocations for FY 2002 were larger for small vessels (less than 50 ft (15.2 m)), than for medium or large vessels. New York and New Jersey were the two states with the largest reduction in fishing year 2002 DAS allocations. In contrast, under the No Action alternative, the DAS allocations would be markedly larger, with the potential for DAS use to increase above that which was recorded for the 2001 fishing year.

Relative changes to gross revenue were calculated based upon an estimation that DAS use in fishing year 2003 would range from 25 percent to 35 percent less than the number of DAS used during the 2001 fishing year. The estimated revenue loss for the 84 most affected vessels would be 21.3 percent or greater for an assumed 25 percent reduction in DAS, and would be 25 percent for an assumed 35 percent reduction in DAS. For vessels in the 25th to 50th percentile, the estimated revenue loss range from 19.7 percent to 11.5 percent for a 35 percent reduction in DAS use. Revenue loss for the least affected vessels would be no more than 1.5 percent. Relative dependence upon groundfish revenue is an important factor among the various factors that may determine the severity of the impact of the proposed measures on a particular vessel. The greater a vessel's dependence upon groundfish for annual fishing income, the greater the revenue loss is likely to be. The No Action alternative would result in no negative impacts or slightly positive impacts, in comparison with the proposed measures.

With respect to gross annual revenue earned during the 2001 fishing year (pre-settlement agreement), the proposed measures would have the largest adverse economic impacts on vessels in Maine, New Hampshire, and Massachusetts, but among these states, the estimated impacts would be similar. The No Action alternative would have positive economic impacts on vessels that fish in the GOM and fish in the Western Gulf of Maine specifically. The least adverse economic impacts would be for those vessels from states bordering the Gulf of Maine, and for small gillnet vessels or large hook vessels.

A break even analysis was conducted that estimated a total of 86 vessels that would not have enough DAS to cover overhead costs. The analysis further concluded that if vessels were to make a minimum crew share payment of $25,000 per person, there would be 268 vessel that would be able to cover overhead costs, but would not have enough DAS to make this minimum labor payment. However, at this relatively low crew payment, DAS leasing could make it possible for vessels to redistribute DAS so that all vessels could operate profitably.

Leasing of DAS would provide individual vessel owners an opportunity to offset and mitigate the impact of the DAS reductions that were implemented in August, 2002 that would be continued under the preferred alternative. On a scale of the fishery as a whole, the aggregate supply of groundfish is not expected to differ under a DAS leasing program, however, changes in the distribution of landings could result in increases in supply in one port while supplies in other ports may decline. Although it is difficult to predict the number of vessels that would participate in a DAS leasing program, two analyses were conducted. The first analysis identified the number of vessels whose fishing year 2002 DAS allocations would not be sufficient to pay fixed costs plus provide a minimum payment to the vessel crew. Under the leasing program, fewer vessels will actually fish, but the profits for all vessels will be higher than if days at sea leasing were not allowed, and all vessels fished their allocation. Vessels which choose to lease all their DAS can greatly enhance their profit, because the owner is getting all the revenue from the lease without incurring any costs, and in particular not having to pay labor costs. Under the analytical scenario where all vessels can fish up to 100 or 150 days, the average profit level for vessels which lease DAS from other vessels is projected to increase from 31 percent to 60 percent (depending on gear sector) compared to what they would earn if they only fished their allocation. These vessels would fish on average from 97 to 149 days, and would lease on average between 37 and 94 days, at an average cost of between $ 724 and $ 1,153 per day. At the same time the number of vessels actively fishing would decline from 41 to 67 percent. Average profit for the vessels which don't fish under this scenario and instead lease all their DAS is projected to increase approximately from 38 percent to 305 percent compared to what they would earn from fishing their allocation of DAS.

The required changes to mesh size were estimated to affect 424 trawl vessels fishing in the GOM or GB area and 221 trawl vessels the fished in the SNE area. The average cost to replace the cod end was estimated to be $1,250. The mesh changes were estimated to affect 18 day boat gillnet vessels that used tie-down nets fished in the GOM. The average cost to these vessels to replace their nets was $7,794. The mesh changes were estimated to affect 31 day boat gillnet vessels that used stand-up nets that fished in the GOM. The average cost to these vessels to replace their nets was $9,300. The mesh changes were estimated to affect 25 trip gillnet vessels that fished in the GOM. The average cost to these vessels to replace their nets was $18,352. The mesh changes were estimated to affect 32 gillnet vessels that fished in either GB or SNE. The average cost to these vessels to replace their nets was $8,800.

The required changes to gear limits would affect 30 bottom longline vessels, 72 day gillnet vessels, and 24 trip gillnet vessels. The average revenue loss for these vessels was estimated to be $21,400.

Under the proposed measures, individuals that provide passenger services to recreational anglers (charter/party vessels) will also be directly affected. Economic impacts are expected to be minimal since the relationship between changes in bag and possession limits and passenger demand has historically been weak. Following implementation of a reduction in minimum fish size in 1997, the number of passengers on charter/party vessels increased.

Relative to the proposed measures, the No Action alternative would mitigate most of the adverse economic impacts associated with the proposed action. In general, gross fishing incomes would increase particularly for vessels operating in the GOM and would have particularly beneficial impact on small vessels and gillnet vessels in general. However, the No Action alternative also would result in unacceptably high increases in fishing mortality rates that could compromise the rebuilding of several GOM stocks, GOM cod in particular. For this reason the No Action alternative would not meet the

regulatory objectives for this Emergency Action.

Relative to the proposed measures and the no action alternative, the hard TAC alternative would have a more severe adverse economic impact because of the severe consequences of closing down fisheries when a TAC is reached. In any event, neither the No Action alternative nor the Hard TAC alternative are viable because they were not agreed upon in the Settlement Agreement ordered by the Court to be implemented.

If DAS leasing was implemented, the economic impact resulting from other proposed measures would be minimized. Under the leasing program, fewer vessels would actually fish, but the profits for all vessels would be higher than if days at sea leasing were not allowed, and all vessels fished their allocation. Vessels choosing to lease all their DAS to other vessels could greatly enhance their profitability, because owners would be getting all the revenue from the lease without incurring any costs, and in particular not having to pay labor costs.

This action does not duplicate, overlap or conflict with other Federal rules and takes into consideration the monkfish regulations in order to be consistent with the objectives of the Monkfish Fishery Management Plan.

There are no recordkeeping requirements associated with this action. There is one reporting requirement that would require lessors and lessees to complete and submit an application to NMFS to transfer DAS.

This rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for completion of the application form for vessel owners choosing to lease NE multispecies DAS is estimated to average 5 minutes per response. This proposed rule also contains previously-approved collection-of-information requirements that have been approved under OMB control number 0648–0202. Public reporting requirements for these requirements are 15 minutes for a request for a change in permit category and 5 minutes for an annual declaration as either a Day or Trip gillnet vessel. The response time estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Public comment is sought regarding: 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; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 21, 2003.

Rebecca Lent,

Deputy Assistant Administrator, for Regulatory Programs, National Marine Fisheries Services.

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.2, new definitions for ''DAS Lease,'' ''DAS Lessee,'' ''DAS Lessor,'' and ''Sub-lease'' are added in alphabetical order, to read as follows:

§ 648.2 Definitions.

* * * * *

DAS Lease, with respect to the NE multispecies limited access fishery, means the transfer of the use of DAS from one limited access NE multispecies vessel to another limited access NE multispecies vessel for a period not to exceed the 2003 fishing year, unless the leased DAS qualify as carry-over DAS.

DAS Lessee, with respect to the NE multispecies limited access fishery, means the NE multispecies limited access vessel owner and/or the associated vessel that acquires the use of DAS from another NE multispecies limited access vessel.

DAS Lessor, with respect to the NE multispecies limited access fishery, means the NE multispecies limited access vessel owner and/or the associated vessel that transfers the use of DAS to another NE multispecies limited access vessel.

* * * * *

Sub-lease, with respect to the NE multispecies fishery, means the leasing of DAS that have already been leased to another vessel.

* * * * *

3. In § 648.4, paragraphs (a)(1)(i)(G), (a)(1)(i)(I)(*2*) and (c)(2)(iii) are revised to read as follows:

§ 648.4 Vessel permits.

* * * * *

(a) * * *

(1) * * *

(i) * * *

(G) Consolidation restriction. Except as provided for in the NE Multispecies DAS Leasing Program, as specified in § 648.82(m), limited access permits and DAS allocations may not be combined or consolidated.

* * * * *

(I) * * *

(*2*) The owner of a vessel issued a limited access multispecies permit may request a change in permit category, unless otherwise restricted by paragraph (a)(1)(i)(I)(1) of this section. The owner of a limited access multispecies vessel eligible to request a change in permit category must elect a category upon the vessel's permit application and will have one opportunity to request a change in permit category by submitting an application to the Regional Administrator within 45 days of the effective date of the vessel's permit. If such a request is not received within 45 days, the vessel owner may not request a change in permit category and the vessel permit category will remain unchanged for the duration of the fishing year. A vessel may not fish in more than one multispecies permit category during a fishing year.

* * * * *

(c) * * *

(2) * * *

(iii) An application for a limited access NE multispecies permit must also contain the following information: For vessels fishing for NE multispecies with gillnet gear, with the exception of vessels fishing under the Small Vessel permit category, an annual declaration as either a Day or Trip gillnet vessel designation as described in § 648.82(k). A vessel owner electing a Day or Trip gillnet designation must indicate the number of gillnet tags that he/she is requesting and must include a check for the cost of the tags. A permit holder letter will be sent to the owner of each eligible gillnet vessel informing him/her of the costs associated with this tagging requirement and directions for obtaining

tags. Once a vessel owner has elected this designation, he/she may not change the designation or fish under the other gillnet category for the remainder of the fishing year. Incomplete applications, as described in paragraph (e) of this section, will be considered incomplete for the purpose of obtaining authorization to fish in the NE multispecies gillnet fishery and will be processed without a gillnet authorization.

* * * * *

4. In § 648.14, paragraph (c)(3) is revised, and paragraphs (c)(34) through (42) are added to read as follows:

§ 648.14 Prohibitions.

* * * * *

(c) * * *

(3) Combine, transfer, or consolidate DAS allocations, except as provided for under the NE Multispecies DAS Leasing Program as specified under § 648.82(m).

* * * * *

(34) Lease NE multispecies DAS or use leased DAS that have not been approved for leasing by the Regional Administrator as specified under § 648.82(m).

(35) Provide false information on the application for NE multispecies DAS leasing, as required under § 648.82(m)(4).

(36) Act as lessor of NE multispecies DAS, if the vessel's current allocation is 8 DAS, as determined under § 648.82(l).

(37) Lease NE multispecies DAS to or from vessels other than Hook-gear limited access NE multispecies vessels (Category D), if the vessel is permitted with a NE multispecies limited access Hook-gear permit (Category D).

(38) Sub-lease NE multispecies DAS.

(39) Accrue DAS use history through use of leased DAS as specified under § 648.82(m)(6).

(40) Lease NE multispecies DAS to a vessel that does not have a valid limited access multispecies permit.

(41) Lease NE multispecies DAS associated with a Confirmation of Permit History.

(42) Lease NE multispecies DAS if the number of unused allocated DAS is less than the number of DAS requested to be leased.

5. In § 648.81, paragraph (h)(1) is revised to read as follows:

§ 648.81 Multispecies closed areas.

* * * * *

(h) * * *

(1) No fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in the area known as the Cashes Ledge Closure Area, as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (d) and (h)(2) of this section:

* * * * *

6. In § 648.82, paragraph (a)(1) is revised, paragraph (l)(3) is removed, and paragraph (m) is added to read as follows:

§ 648.82 Effort-control program for multispecies limited access vessels.

(a) * * *

(1) *End-of-year carry-over*. With the exception of vessels that held a Confirmation of Permit History as described in § 648.4(a)(1)(i)(J) for the entire fishing year preceding the carry-over year, NE multispecies limited access vessels that have unused allocated DAS, or unused leased DAS, on the last day of April of any year may carry over a maximum of 10 DAS into the next year. DAS sanctioned vessels will be credited with unused DAS based on their DAS allocation minus the total DAS sanctioned.

* * * * *

(m) *NE Multispecies DAS Leasing Program*—(1) *Program Description*. Eligible NE multispecies vessels, as specified in paragraph (m)(2) of this section, may lease NE multispecies DAS to and from other eligible NE multispecies vessels, in accordance with the restrictions and conditions of this section. This program will be administered by NMFS, whereby the Regional Administrator will have final approval over a NE multispecies DAS leasing request.

(2) *Eligible Vessels and Vessel Owners*. All vessels with a valid limited access NE multispecies permit are eligible to lease NE multispecies DAS to or from another such vessel, except as specified in paragraphs (m)(2)(i) through (iii) of this section.

(i) Vessels allocated the minimum allocation of only 8 DAS, as calculated in accordance with § 648.82(l), may not act as a lessor, but may act as a lessee.

(ii) Vessel owners in possession of a confirmation of permit history may not activate their limited access NE multispecies permit for the sole purpose of acting as a lessor.

(iii) Vessels that possess a limited access Hook-gear permit may lease NE multispecies DAS to and from other limited access Hook-gear vessels only.

(3) *Application to lease NE multispecies DAS*. Eligible vessels wanting to lease DAS must submit a completed application on an appropriate form obtained from the Regional Administrator. The application must be signed by both lessor and lessee and submitted to the Regional Office at least 45 days before the date on which the applicant desires to have the leased DAS effective. The Regional Administrator will notify the applicant of any deficiency in the application pursuant to this section. Applications may be submitted at any time throughout the fishing year up until March 1. Eligible vessel owners may submit multiple lease applications throughout the application period.

(i) *Application information requirements*. An application to lease NE multispecies DAS must contain the following information: Lessor's owner name, vessel name, permit number and official number or state registration number; lessee's owner name, vessel name, permit number and official number or state registration number; number of NE multispecies DAS to be leased; total priced paid for leased DAS; signatures of lessor and lessee; and date form was completed. Information obtained from the lease application will be held confidential, and will be used only in summarized form for management of the fishery.

(ii) *Approval of lease application*. Unless an application to lease NE multispecies DAS is denied according to paragraphs (m)(3)(iii) and (vii) of this section, the Regional Administrator shall issue confirmation of application approval to both lessor and lessee within 45 days of receipt of an application.

(iii) *Denial of lease application*. The Regional Administrator may reject an application to lease NE multispecies DAS for the following reasons: The application is incomplete or submitted past the March 1 deadline; the lessor or lessee does not possess a valid limited access NE multispecies permit; the lessor's or lessee's DAS are under sanction; the lessor's vessel is prohibited from fishing; the lessor's limited access multispecies permit is sanctioned; or; the lessor has an insufficient number of allocated or unused DAS available to lease. Upon denial of an application to lease NE multispecies DAS, the Regional Administrator shall send a letter to the applicants describing the reason(s) for application rejection. The decision by the Regional Administrator would be the final agency decision and there would be no opportunity to appeal the Regional Administrator's decision.

(4) *Restrictions on leased DAS use*.—(i) *Sub-leasing*. A vessel that has leased DAS may not sub-lease these same DAS to another vessel.

(ii) *Carry-over of leased DAS*. Leased DAS that remain unused at the end of the fishing year may be carried over to

the subsequent fishing year in accordance with the restrictions specified in paragraph (a)(1) of this section.

(iii) *Minimum number of DAS that can be leased.* Vessels may lease NE multispecies DAS only in blocks of 5 DAS or more, or the full amount of a vessel's remaining allocated DAS, whichever is less.

(iv) *Adjustments to leased DAS.* An adjustment factor, in accordance with Table A below, shall be applied to leased DAS where DAS are being leased from a smaller horsepower class vessel to a larger horsepower class vessel. For the purposes of this program, all limited access NE multispecies DAS permit holders are classified according to the baseline horsepower associated with that permit as of April 24, 2003. If the lessee vessel is in a larger size horsepower category than the lessor vessel, then the lessee will receive a fraction of the DAS leased based on the horsepower class of the two vessels, as specified in Table A below. Conversely, if the lessee vessel is in the same or a smaller size horsepower category than the lessor vessel, the lessee vessel will be allowed to use the full amount of DAS leased.

TABLE A. ADJUSTMENT FACTORS FOR DAS LEASES.

		Lessor Vessel (seller vessel) Horsepower Class					
		0–175	176–250	251–324	325–400	401–65	651 +
Lessee Vessel (buyer vessel) Horsepower Class	0–175	1.00	1.00	1.00	1.00	1.00	1.00
	176–250	0.80	1.00	1.00	1.00	1.00	1.00
	251–324	0.70	0.88	1.00	1.00	1.00	1.00
	325–400	0.58	0.73	0.83	1.00	1.00	1.00
	401–650	0.49	0.61	0.70	0.84	1.00	1.00
	651 +	0.36	0.45	0.52	0.62	0.74	1.00

For example, if Vessel A, a 176–250 horsepower class vessel, leases-out 1 NE multispecies DAS to Vessel B, a vessel in the 325–400 horsepower class, Vessel B will receive 0.73 DAS (1 x 0.73), or approximately three-quarters of a DAS. Using these same horsepower class vessels, if Vessel A leases-out 5 DAS to Vessel B, Vessel B will receive 3.65 DAS (5 x 0.73).

(v) *History of leased DAS use and landings.* Unless otherwise specified in paragraph (v) of this section, history of leased DAS use will be presumed to remain with the lessor vessel and landings resulting from a leased DAS will be presumed to remain with the lessee vessel, i.e., the vessel landing the fish. History of leased DAS use will be presumed to remain with the lessor only if the lessee actually fished the leased DAS legally (i.e., in accordance with the DAS notification program specified at § 648.10). For the purpose of accounting for leased DAS use, allocated DAS will be accounted for prior to leased DAS. In the case of multiple leases to one vessel, history of leased DAS use will be presumed to remain with the lessor in the order in which such leases were approved by NMFS. In cases where an adjustment factor is applied to leased DAS, as described in paragraph (m)(3)(iv)of this section, the number of used DAS presumed to remain with the lessor will be the actual number of DAS leased, prior to the adjustment factor reduction.

(vi) *Monkfish Category C and D vessels.* A vessel that possesses a valid limited access monkfish Category C or D permit and leases NE multispecies DAS to another vessel is subject to the restrictions specified in § 648.92(b)(2).

(vii) *Termination of NE Multispecies DAS Leasing Program.* The Regional Administrator may terminate acceptance of new applicants to the NE Multispecies DAS Leasing Program if he/she determines that the goals of reducing fishing mortality or increasing economic opportunity may be undermined by allowing the continued leasing of DAS. Such a determination shall be based upon all information available, including, but not limited to, projected landings, patterns of DAS use, and information obtained from the leasing program. The termination of accepting new applicants to the NE Multispecies DAS Leasing Program shall be made in accordance with the Administrative Procedure Act.

7. In § 648.92, paragraph (b)(2)(ii) is revised and paragraph (b)(2)(iii) is added to read as follows:

§ 648.92 Effort-control program for monkfish limited access vessels.

* * * * *

(b) * * *

(2) * * *

(ii) *Beginning May 1, 2003.* Unless otherwise specified in paragraph (b)(2)(iii) of this section, each monkfish DAS used by a limited access NE multispecies or scallop vessel holding a Category C or D limited access monkfish permit shall also be counted as a NE multispecies or scallop DAS, as applicable, except when a Category C or D vessel that has an allocation of NE multispecies DAS under § 648.82(l) that is less than the number of monkfish DAS allocated for the fishing year May 1 through April 30, that vessel may fish under the monkfish limited access Category A or B provisions, as applicable, for the number of DAS that equal the difference between the number of its allocated monkfish DAS and the number of its allocated multispecies DAS. For such vessels, when the total allocation of NE multispecies DAS has been used, a monkfish DAS may be used without concurrent use of a NE multispecies DAS. (For example, if a monkfish Category D vessel's NE multispecies DAS allocation is 30, and the vessel fished 30 monkfish DAS, 30 NE multispecies DAS would also be used. However, after all 30 NE multispecies DAS are used, the vessel may utilize its remaining 10 monkfish DAS to fish on monkfish, without a NE multispecies DAS being used, provided that the vessel fishes under the regulations pertaining to a Category B vessel and does not retain any regulated NE multispecies.)

(iii) *Category C and D vessels that lease NE multispecies DAS.* (1) A monkfish Category C or D vessel that has ''monkfish-only'' DAS, as specified in paragraph (b)(2)(ii) of this section, and that leases NE multispecies DAS from another vessel pursuant to § 648.82(m), is required to fish its available ''monkfish-only'' DAS in conjunction with its leased NE multispecies DAS, to the extent that the vessel has NE multispecies DAS available.

(2) A monkfish Category C or D vessel which leases DAS to another vessel(s), pursuant to § 648.82(m), is required to forfeit a monkfish DAS for each NE

multispecies DAS that the vessel leases, equal in number to the difference between the number of remaining multispecies DAS and the number of unused monkfish DAS at the time of the lease. For example, if a lessor vessel, which had 40 unused monkfish DAS and 47 allocated multispecies DAS, leased 10 of its multispecies DAS, the lessor would forfeit 3 of its monkfish DAS (40 monkfish DAS - 37 multispecies DAS = 3) because it would have 3 fewer multispecies DAS than monkfish DAS after the lease.

* * * * *

[FR Doc. 03–10163 Filed 4–23–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 68, No. 79

Thursday, April 24, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 03–016N]

Codex Alimentarius Commission: 3rd Session of the Codex Ad Hoc Intergovernmental Task Force on Fruit and Vegetable Juices

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting, request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, United States Department of Agriculture, and the Food And Drug Administration (FDA) are sponsoring a public meeting on April 24, 2003, to provide information and receive public comments on agenda items that will be discussed at the Codex Ad Hoc Intergovernmental Task Force on Fruit and Vegetable Juices taking place in Salvador, Bahia, Brazil, on May 5–9, 2003. The Under Secretary and FDA recognize the importance of providing interested parties the opportunity to obtain background information, including draft U.S. positions on agenda items for the Third Session of the Ad Hoc Intergovernmental Task Force on Fruit and Vegetable Juices of the Codex Alimentarius Commission (Codex) and to address items on the Agenda for the 3rd Session.

DATES: The public meeting is scheduled for Thursday, April 24, 2003, from 1 p.m. to 3 p.m.

ADDRESSES: The public meeting will be held in Room 1B–042 , Harvey W. Wiley Federal Building, 5100 Paint Branch Parkway, College Park, MD. To receive copies of the documents referenced in the notice contact the FSIS Docket Room, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp.* If you have comments, please send an original and two copies to the FSIS Docket Room and reference Docket #03–016N. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edith Kennard, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, Phone: (202) 205–7760, Fax: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for protecting the health and economic interests of consumers and encouraging fair international trade in food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, FDA, and EPA manage and carry out U.S. Codex.

The Codex Ad Hoc Intergovernmental Task Force on Fruit and Vegetable Juices is tasked with revising and consolidating the existing Codex standards and guidelines for fruit and vegetable juices and related products. It is also tasked with revising and updating the methods of analysis and sampling for these products. The Committee is chaired by Brazil.

Issues To Be Discussed at the Public Meeting

The provisional agenda items and draft U.S. positions will be discussed during the public meeting:

1. Adoption of the Agenda;
2. Matters referred by the Codex Alimentarius Commission and other Codex Committees;
3. Consideration of Proposed Draft Standards:

a. Proposed draft Codex General Standard for Fruit Juices and Nectars;

b. Proposed Draft Revised Codex Standard for Vegetable Juices.

Each issue listed will be fully described in documents distributed, or to be distributed, by the Brazilian Secretariat to the Meeting. Members of the public may access or request copies of these documents (*see* **ADDRESSES**).

Public Meeting

At the April 24th public meeting, the agenda items will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the FSIS Docket Room (*see* **ADDRESSES**). Written comments should state that they relate to activities of the 3rd Session of the Codex Ad Hoc Governmental Task Force on Fruit and Vegetable Juices.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS Web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the ''Constituent Update'' page on the FSIS Web site at *http://www.fsis.usda.gov/oa/update/update.htm.* Click on the ''Subscribe to

the Constituent Update Listserv'' link, then fill out and submit the form.

Done in Washington, DC, on April 17, 2003.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 03–10109 Filed 4–23–03; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Northeast Oregon Forests Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463), the Northeast Oregon Forests Resource Advisory Committee (RAC) will meet on May 15–16, 2003, in Unity, Oregon. The purpose of the meeting is to meet as a Committee to discuss the selection of title II projects under Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the ''Payments to States'' Act.

DATES: The meeting will be held on May 15, 2003, from 8 a.m. to 5 p.m. and May 16, 2003, from 8 a.m. until 4 p.m.

ADDRESSES: The meeting will be held at the Unity Community Hall, Highway 26, Unity, Oregon.

FOR FURTHER INFORMATION CONTACT: Jennifer Harris, Designated Federal Official, USDA, Malheur National Forest, P.O. Box 909, John Day, Oregon 97845. Phone: (541) 575–3000.

SUPPLEMENTARY INFORMATION: This meeting of the committee will focus on reviewing and recommending title II project proposals for funding under Pub. L. 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000. The meeting is open to the public. A public input opportunity will be provided at 1 p.m. May 15, and individuals will have the opportunity to address the committee at that time.

Dated: April 17, 2003.

Jennifer L. Harris,

Designated Federal Official.

[FR Doc. 03–10112 Filed 4–23–03; 8:45 am]

BILLING CODE 3410–DK–M

DEPARTMENT OF AGRICULTURE

Forest Service

Clarification of Direction on Safety Priorities During Wildland Firefighting Activities

AGENCY: Forest Service, USDA.

ACTION: Notice of issuance of agency interim directives.

SUMMARY: The Forest Service is issuing three interim directives to provide internal administrative direction to guide its employees during wildland firefighting activities. These interim directives are issued to Forest Service Manual (FSM) chapters FSM 5100 zero code (ID 5100–2003–1); FSM 5120, Preparedness (ID 5100–2003–2); and FSM 5130, Wildland Fire Suppression (ID 5130–2003–3). The ID's clarify existing direction to ensure that the safety of firefighters, other personnel, and the public is always the first priority in fire suppression. While this is already the current agency policy, the agency believes that the direction should be clarified and better stated. The agency will consider any comments received in the development of final directives.

DATES: The interim directives are effective April 24, 2003.

ADDRESSES: The interim directives are available electronically from the Forest Service via the World Wide Web/Internet at *http://www.fs.fed.us/im/directives.* Single paper copies of the interim directives also are available by contacting Shelly Steen, National Interagency Fire Center, 3833 South Development Avenue, Boise, Idaho 83705 (telephone 208–387–5100). Members of the public who wish to comment on the interim directives may mail their written comments in paper format to this address or send them electronically to *directivecomment@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Shelly Steen, National Interagency Fire Center (208–387–5100) or Tina Kingsberry, Fire and Aviation Management Staff, Forest Service, USDA (202–205–1205).

Dated: April 4, 2003.

Dale N. Bosworth,

Chief, Forest Service, USDA.

[FR Doc. 03–10108 Filed 4–23–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of Security Servicing for Multiple Family Housing Loans.

DATES: Comments on this notice must be received by June 23, 2003, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: James E. Vollmer, Senior Loan Specialist, Multi-Family Housing Portfolio Management Division, Rural Housing Service, Stop 0782, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–0782. Telephone: (202) 720–1060.

SUPPLEMENTARY INFORMATION:

Title: Security Servicing for Multiple Family Housing Loans.

OMB Number: 0575–0100.

Expiration Date of Approval: October 31, 2003.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Housing Service (RHS) is an Agency of the U.S. Department of Agriculture (USDA). As a creditor of last resort, the Agency extends financial assistance in support of housing for rural residents. The Agency is authorized under sections 514, 515, 516, and 521 of title V of the Housing Act of 1949, as amended, to provide loans and grants to eligible recipients for the development of rural rental housing. Such Multiple Family Housing projects are intended to meet the housing needs of persons or families having low to moderate incomes, senior citizens, the disabled, and domestic farm laborers.

The Agency has the responsibility of assuring the public that the housing projects financed are owned and operated as mandated by Congress. This regulation was issued to ensure proper servicing actions are accomplished for projects financed with Multiple Family Housing loan and grant funds. Minimal requirements have been established as deemed necessary to assure that applicable laws and authorities are

carried out as intended, and to improve the Agency's ability to assure the continued availability of the facilities financed under the Agency's multiple housing programs to eligible users.

Without the provisions of this regulation, the Agency would be unable to provide the necessary guidance to the Agency's field staff to assist borrowers in processing servicing actions affecting their projects. The Agency also would not be able to quickly respond to servicing requests from borrowers, initiate servicing actions, or establish a uniform procedure for processing such requests from borrowers. The Agency must be able to assure Congress and the general public that all projects financed with Multiple Family Housing funds will be maintained for the purposes for which they are intended and used for the benefit of those they are mandated to serve.

Public Law (Pub. L.) 95–375 provides administrative powers for the Secretary of Agriculture to carry out the provisions of title V of the Housing Act of 1949, as amended. This law provides for making rules and regulations necessary to carry out the purposes of title V. The purpose of the applicable sections 514, 515, 516, and 521 of the Housing Act as stated above is to provide rental housing to eligible low- (including very low-) and moderate-income tenants at affordable rental rates. The Agency has been charged with the responsibility of protecting the interest of the taxpayer's funds and to assure that the objectives of the loans and grants are carried out as intended. In an effort to carry out the responsibilities of assuring that the objectives of the law are met, it is required that information be collected to assure program objectives and integrity is maintained.

Pub. L. 88–352, ''Civil Rights Act of 1965,'' as amended, title VI, Pub. L. 90–284 and 93–383, Pub. L. 93–383, ''Sex Discrimination, Executive Order 11246, the Equal Credit Opportunity Act of 1974, and the Fair Housing Amendments Act of 1988 are also applicable to the 514, 515, 516, and 521 programs. Civil Rights compliance reviews are conducted to assure nondiscrimination in these Federally assisted programs. The owners are, therefore, required to keep certain information, such as a list of applicants, list of tenants, verifications of income of the tenants, and records or rejected applicants, and make such information available to the compliance review officer upon request.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.7 hours per response.

Respondents: The primary respondents are small business organizations.

Estimated Number of Respondents: 930.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 930.

Estimated Total Annual Burden on Respondents: 1,583 hours.

Copies of this information collection can be obtained from Tracy Givelekian, Regulations and Paperwork Management Branch, at (202) 692–0039.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Tracy Givelekian, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW., Washington DC 20250. 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.

Dated: April 7, 2003.

James E. Selmon, III,

Acting Administrator, Rural Housing Service.

[FR Doc. 03–10158 Filed 4–23–03; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–814]

Pure Magnesium From Canada; Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of 2001–2002 administrative review.

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on pure magnesium from Canada. The period of review is August 1, 2001, through July 31, 2002. This review covers imports of pure magnesium from one producer/exporter.

We have preliminarily found that sales of subject merchandise have not been made below normal value. If these preliminary results are adopted in our final results, we will instruct the Customs Service not to assess antidumping duties.

Interested parties are invited to comment on these preliminary results. We will issue the final results not later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: April 24, 2003.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder or Scott Holland, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–0189 or (202) 482–1279, respectively.

Background

On August 31, 1992, the Department published in the **Federal Register** (57 FR 39390) an antidumping duty order on pure magnesium from Canada. On August 6, 2002, the Department published a notice in the **Federal Register** (67 FR 50856) of ''Opportunity to Request an Administrative Review'' of this order. On August 28, 2002, U.S. Magnesium, LLC (''the petitioner'') requested an administrative review of imports of the subject merchandise produced by Norsk Hydro Canada, Inc. (''NHCI'') and Magnola Metallurgy Inc. (''Magnola''). On August 30, 2002, NCHI made a request for review and also requested that the Department revoke the antidumping duty order with respect to NHCI. On September 25, 2002, the Department published a notice in the **Federal Register** (67 FR 60210) initiating the review for the period August 1, 2001, through July 31, 2002.

On September 6, 2002, Magnola reported that it had no shipments of subject merchandise to the United States during the August 1, 2001, through July 31, 2002, period of review (''POR''). *See* ''*Partial Rescission*'' section, below.

On September 17, 2002, the petitioner submitted comments objecting to NHCI's August 30, 2002, request for revocation. According to the petitioner, NHCI failed to meet the Department's requirements for revocation, as described in 19 CFR 351.222. On

October 15, 2002, NHCI withdrew its August 30, 2002, request for revocation.

On October 9, 2002, the Department issued an antidumping questionnaire to NHCI. On November 22, 2002, we received NHCI's questionnaire response. We issued a supplemental questionnaire to NHCI on January 13, 2003, and received the response on February 10, 2003.

Scope of the Order

The product covered by this order is pure magnesium. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Granular and secondary magnesium are excluded from the scope currently classifiable under subheading 8104.11.0000 of the Harmonized Tariff Schedule (''HTS''). The HTS item number is provided for convenience and for customs purposes. The written description remains dispositive.

Partial Rescission

In accordance with 19 CFR 351.213(d)(3), we are rescinding this review with respect to Magnola, which reported that it made no shipments of subject merchandise during this POR. We examined shipment data furnished by the Customs Service and are satisfied that the record does not indicate that there were U.S. shipments of subject merchandise from Magnola during the POR.

Export Price

For sales to the United States, we used export price (''EP''), as defined in section 772(a) of the Act, because the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation. The use of constructed export prices was not warranted based on the facts of the record. EP was based on the packed price to unaffiliated purchasers in the United States. We adjusted the price for billing adjustments. We made deductions, consistent with section 772(c)(2)(A) of the Act, for the following movement expenses: inland freight from the plant to the distribution warehouse, pre-sale warehousing expense, inland freight from the distribution warehouse to the unaffiliated customer, and foreign brokerage and handling.

Normal Value

In order to determine whether there was a sufficient volume of sales of pure magnesium in the home market to serve as a viable basis for calculating NV, we compared NHCI's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a) of the Act. Because the aggregate volume of home market sales of the foreign like product was greater than five percent of the respective aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provided a viable basis for calculating NV. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like product was first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade.

We calculated NV based on the price to unaffiliated customers. We adjusted the price for billing adjustments. We made adjustments for differences in packing in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act. We also made adjustments, consistent with section 773(a)(6)(B)(ii) of the Act, for the following movement expenses: inland freight from the plant to the distribution warehouse, warehousing expense, and inland freight from the plant/warehouse to the customer. In addition, we made adjustments for differences in circumstances of sale (''COS'') in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made COS adjustments by deducting direct selling expenses incurred on home market sales (credit expenses) and adding U.S. direct selling expenses (credit expenses).

Preliminary Results of the Review

As a result of this review, we preliminarily determine that NHCI's margin for the period August 1, 2001, through July 31, 2002, is 0.01 percent, *de minimis*.

Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held 42 days after the publication of this notice, or the first workday thereafter. Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or hearing, within 120 days of publication of these preliminary results.

Assessment Rates and Cash Deposit Requirements

Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.*, at or above 0.5 percent), the Department will issue appraisement instructions directly to the Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping duties due for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer.

Pending the final disposition of a NAFTA panel appeal by NHCI, the Department will not order the liquidation of entries of pure magnesium from Canada exported by NHCI on or after August 1, 2000, at this time (*see*, letter from Jarrod Goldfeder to NHCI, dated January 28, 2003, granting NHCI's request). Liquidation will occur at the rates described in the final results of review following the final judgement in the NAFTA panel appeals process.

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of pure magnesium from Canada entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this administrative review (except no cash deposit will be required for the company if its weighted-average margin is *de minimis*, *i.e.*, less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received an individual rate; (3) if the exporter is a firm not covered in this or any previous reviews, the cash deposit rate will be 21 percent, the ''all others'' rate established in Pure Magnesium from

Canada; Amendment of Final Determination of Sales At Less Than Fair Value and Order in Accordance With Decision on Remand (58 FR 62643, November 29, 1993).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 16, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–10193 Filed 4–23–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–808, A–122–830, A–475–822, A–580–831, A–791–805, A–583–830]

Notice of Correction to the Amended Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of correction to the Amended Antidumping Duty Orders.

EFFECTIVE DATE: March 11, 2003.

FOR FURTHER INFORMATION CONTACT: Robert Bolling at (202) 482–3434 or Robert James at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Background

On March 11, 2003, the Department published in the **Federal Register** the amended antidumping duty orders on certain stainless steel plate in coils (stainless steel plate) from Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan. *See Amended Antidumping Duty Orders; Certain Stainless Steel Plate in Coils from Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan,* 68 FR 11520 (March 11, 2003) (*Amended Antidumping Duty Orders*).

In the amended antidumping duty orders, the Department inadvertently failed to convert certain old HTS numbers to their new designated HTS number in the Scope of the Orders section. Due to changes in the HTS numbers, subheadings 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, and 7219.12.00.80 are replaced by 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, and 7219.12.00.81. We are now correcting the scope of the orders section to reflect those changes. As we note below and in the *Amended Antidumping Duty Orders,* the HTS subheadings are provided for convenience and Customs purposes; the written description of the merchandise subject to these orders is dispositive. *See* Scope of the Orders section below. Additionally, the **Federal Register** is going to correct an inadvertent error it made in the publication of the ''All Others'' rate for South Africa.

Scope of the Orders

The product covered by these orders is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of these orders are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this review is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise subject to these orders is dispositive.

Amended Antidumping Duty Orders and Suspension of Liquidation

In accordance with section 736(a)(1) of the Tariff Act, the Department will direct Customs officers to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of stainless steel plate in coils, as described in the ''Scope of the Orders'' section above, from Belgium, Canada, Italy, Korea, South Africa and Taiwan. These antidumping duties will be assessed on all unliquidated entries of stainless steel plate in coils, other than cold-rolled stainless steel plate in coils, from Belgium, Canada, Italy, Korea, South Africa and Taiwan entered, or withdrawn from warehouse, for consumption on or after November 4, 1998, the date on which the Department published its notices of preliminary determination in the **Federal Register** (63 FR 59524 through 59544).

Furthermore, effective March 11, 2003, we will instruct the Customs service to require cash deposits on all entries of cold-rolled stainless steel plate in coils, as well as other stainless steel plate in coils subject to these orders, in accordance with the Court's December 12, 2002 opinion in *Allegheny Ludlum* v. *United States.*

For unreviewed producers, and for ''All Others,'' the applicable weighted-average margins are those established in the original final determinations. For those producers that have been reviewed the applicable weighted-average margins are those established in the investigation or the most recently completed final results of an antidumping administrative review, as noted below:

Producer/manufacturer/exporter	Cash deposit rate percentage
Belgium:	
ALZ, N.V	3.84 (67 FR 64352)
All Others	9.86

Producer/manufacturer/exporter	Cash deposit rate percentage
Canada:	
Atlas Stainless Steel (Sammi Atlas).	15.35
All Others	11.10
Italy:	
ThyssenKrupp Acciai Speciali Terni SpA (TKAST).	0.00 (67 FR 63618)
All Others	39.69
Republic of Korea:	
Pohang Iron & Steel Co., Ltd.	1.19 (66 FR 64017)
All Others	6.08 (66 FR 45279)
South Africa:	
Columbus Stainless	[1] 37.77
All Others	[1] 37.77
Taiwan:	
Yieh United Steel Corporation (YUSCO).	8.02 (67 FR 40914)
YUSCO/Ta Chen	10.20
All Others	7.39

[1] In accordance with section 772(c)(1)(C) of the Tariff Act the cash deposit rate for South Africa has been reduced by 3.86 percent to account for export subsidies found in the concurrent countervailing duty investigation (*See Final Affirmative Countervailing Duty Determination: Stainless Steel Plate in Coils From South Africa,* 64 FR 15553, March 31, 1999), *Antidumping Duty Orders, and* Memorandum to Bernard Carreau, ''Ministerial Error Allegations * * * in the Final Determination of the Countervailing Duty Investigation of Certain Stainless Steel Wire Rod [sic] from South Africa,'' April 30, 1999.

Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, cash deposits equal to the rates presently in effect. This notice constitutes the amended antidumping duty orders with respect to certain stainless steel plate in coils from Belgium, Canada, Italy, Korea, South Africa and Taiwan. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

These amended orders are published in accordance with section 736(a) of the Tariff Act of 1930, as amended.

Dated: April 4, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–10197 Filed 4–23–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–423–809, C–475–823, C–791–806]

Certain Stainless Steel Plate in Coils From Belgium, Italy and South Africa; Notice of Correction to the Amended Countervailing Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of correction to the amended countervailing duty orders.

EFFECTIVE DATE: March 11, 2003.

FOR FURTHER INFORMATION CONTACT: Andrew Smith at (202) 482–1276 for Belgium and Italy, Eric Greynolds at (202) 482–6071 for South Africa, or Robert James at (202) 482–0649, Antidumping and Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Background

On March 11, 2003, the Department published in the **Federal Register** the amended countervailing duty orders on certain stainless steel plate in coils (stainless steel plate) from Belgium, Italy and South Africa. *See Amended Countervailing Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Italy, and South Africa,* 68 FR 11524 *(Amended Countervailing Duty Orders).*

In its amended countervailing duty orders the Department inadvertently failed to convert certain old numbers under the *Harmonized Tariff System of the United States, annotated (HTS),* to their new *HTS* numbers in the ''Scope of the Orders'' section. Due to changes in the *HTS* numbers, subheadings 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, and 7219.12.00.80 are replaced by 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, and 7219.12.00.81. We are now correcting the scope of the orders section to reflect those changes. As we note below and in the *Amended Countervailing Duty Orders,* the *HTS* subheadings are provided for convenience and Customs purposes; the written description of the merchandise subject to these orders is dispositive. *See* ''Scope of the Orders'' section below.

Scope of the Orders

The product covered by these orders is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of these orders are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to these orders is currently classifiable in the *Harmonized Tariff Schedule of the United States (HTS)* at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the *HTS* subheadings are provided for convenience and Customs purposes, the written description of the merchandise subject to these orders is dispositive.

Amended Countervailing Duty Orders and Suspension of Liquidation

In accordance with section 706(a)(1) of the Tariff Act of 1930, as amended (the Tariff Act), the Department will direct Customs officers to assess, upon further advice by the Department, countervailing duties for each entry of the stainless steel plate in coils, as described in the ''Scope of the Orders'' section above, from Belgium, Italy and South Africa in an amount based on the net countervailable subsidy rate for the subject merchandise. These countervailing duties will be assessed on all unliquidated entries of stainless steel plate in coils, other than cold-rolled stainless steel plate in coils, from Belgium, Italy and South Africa entered, or withdrawn from warehouse, for

consumption on or after September 4, 1998, the date on which the Department published its notices of preliminary determination in the **Federal Register** (63 FR 47239 (Belgium), 63 FR 47263 (South Africa) and 63 FR 47246 (Italy)).[1]

Furthermore, effective March 11, 2003, we will instruct the Customs service to require cash deposits on all entries of cold-rolled stainless steel plate in coils, as well as other stainless steel plate in coils subject to these orders, as a result of the Court of International Trade's December 12, 2002 opinion in *Allegheny Ludlum* v. *United States,* No. 99–06–00361, Slip Op. 02–147 (Ct. Int'l Trade, December 12, 2002).

For unreviewed producers, and for ''All Others,'' the applicable weighted-average margins are those established in the original final determinations. For those producers that have been reviewed the applicable weighted-average margins are those established in the investigation or the most recently completed final results of an antidumping administrative review, as noted below:

Producer/Manufacturer/Exporter	Cash deposit rate (percent)
Belgium:	
ALZ, N.V	1.78% (66 FR 45007)
All Others	2.00
Italy:	
ThyssenKrupp Acciai Speciali Terni SpA (TKAST)	15.16
All Others	15.16
South Africa:	
Columbus Stainless	3.95
All Others	3.95

Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, cash deposits equal to the rates presently in effect. This notice constitutes the amended countervailing duty orders with respect to certain stainless steel plate in coils from Belgium, Italy and South Africa. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of countervailing duty orders currently in effect.

These amended orders are published in accordance with section 706(a) of the Tariff Act of 1930, as amended.

[1] In accordance with section 703(d) of the Tariff Act, suspension of liquidation was lifted for entries made between January 2, 1999 and May 11, 1999, the date of publication of the *Countervailing Duty Orders. See Countervailing Duty Orders* 64 FR 25288, 25289 (May 11, 1999).

Dated: April 17, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–10196 Filed 4–23–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Trade Mission

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to apply to participate in the below described overseas trade mission. For a more complete description of the trade mission, obtain a copy of the mission statement from the contact officer indicated for this mission below.

Business Development Mission to Romania and Bulgaria

Bucharest and Sofia; July 14–19, 2003.

Deputy Secretary of Commerce Samuel Bodman, with Assistant Secretary and Director General of the U.S. and Foreign Commercial Service Maria Cino and Assistant Secretary of Commerce for Market Access and Compliance William Lash, will lead a senior-level business development mission to help U.S. companies explore business opportunities in Romania and Bulgaria. The delegation will include 10–15 U.S.-based senior executives of small, medium and large U.S. firms representing, but not limited to, the following sectors: automotive parts, building products, information technology, telecommunications, defense industry, energy, medical products, environmental technologies, and tourism infrastructure.

Recruitment closes on May 9, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Andberg, Office of Business Liaison, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–1360, fax 202–482–4054, or e-mail *obl@doc.gov.*

SUPPLEMENTARY INFORMATION:

Goals for the Mission

The mission will further both U.S. commercial policy objectives and advance specific business interests. It is intended to: Assist individual U.S. companies to pursue business opportunities by introducing them to government decision-making officials and to potential business partners; assist new-to-market firms to evaluate the market potential for their products and gain an understanding of how to operate successfully in Romania and Bulgaria; enhance the dialogue between government and industry on issues affecting the development of commercial relations; promote U.S. and Romanian and Bulgarian trade and investment and, as a result, contribute to the political and economic stability of important American allies; and assist U.S. companies to take advantage of opportunities arising from NATO accession.

Scenario for the Mission

American Embassy officials will provide a detailed briefing on the economic, commercial and political climate, and participants will receive individual counseling on their specific interests from the in-country U.S. Commercial Service industry specialists. Meetings will be arranged as appropriate with senior government officials and potential business partners. Networking events also will be organized to provide opportunities to meet Romanian and Bulgarian business and government representatives, as well as U.S. business people living and working in Romania and Bulgaria. The tentative trip itinerary is as follows: July 14, arrive Bucharest; July 15–16, one-on-one business meetings in Bucharest and evening travel to Sofia; July 17–18, one-on-one business meetings in Sofia. The precise schedule will depend in part on the availability of local government and business officials and the specific goals of the mission participants.

Recruitment and selection of private sector participants for this mission will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions dated March 3, 1997.

Dated: April 18, 2003.

Carlos Poza,

Deputy Director General, U.S. & Foreign Commercial Service.

[FR Doc. 03–10113 Filed 4–23–03; 8:45 am]

BILLING CODE 3510–FP

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Coastal Zone Management Program

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and

Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the U.S. Virgin Islands Coastal Zone Management Program.

This Coastal Zone Management Program evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended, (CZMA) and regulations at 15 CFR part 923, subpart L.

The CZMA requires continuing review of the performance of states and territories with respect to coastal program implementation. Evaluation of Coastal Zone Management Programs requires findings concerning the extent to which a state or territory has met the national objections, adhered to its Coastal Zone Management Program document approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluation will include a site visit, consideration of public comments, and consultations with interested Federal, state, and local agencies and members of the public. Public meetings will be held as part of the site visit.

Notice is hereby given of the dates of the site visit for this evaluation, and the dates, local times, and locations of the public meetings during the site visit.

The U.S. Virgin Islands Coastal Zone Management Program evaluation site visit will be held June 9–13, 2003. Three public meetings will be held during the week. The first will be held on Tuesday, June 10, 2003, 6 p.m.–8 p.m., Department of Planning and National Resources Conference Room, Cyril E. King Airport, Terminal Building 2nd Floor, St. Thomas, U.S. Virgin Islands 00802. The second will be held on Wednesday, June 11, 2003, 6 p.m.–8 p.m., Florence Williams Public Library, 1122 King Street, Christiansted St. Croix, U.S. Virgin Islands 00820. The third will be held on Thursday, June 12, 2003, 6 p.m.—8 p.m., Legislature of the Virgin Islands Conference Room, 109 Contant-Enighed, Hilltop Building, Cruz Bay, St. John, U.S. Virgin Islands 00831.

Copies of the U.S. Virgin Island's most recent performance reports, as well as OCRM's notification and supplemental request letters to the Territory, are available upon request from OCRM. Written comments from interested parties regarding this Program are encouraged and will be accepted until 15 days after the last public meeting. Please direct written comments to Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th floor, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3155, Extension 118.

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: April 18, 2003.

Captain Ted I. Lillestolen,

Associate Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 03–10159 Filed 4–23–03; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031903G]

Marine Mammals; File No. 1034–1685

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. Markus Horning, Department of Marine Biology, Texas A&M University, Galveston, Texas 77551, has been issued a permit to take California sea lions (*Zalophus californianus*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: On July 22, 2002, notice was published in the **Federal Register** (67 FR 47774) that a request for a scientific research permit to take the species identified above had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The permit authorizes implantation of dual satellite-linked life history transmitters in up to 30 rehabilitated California sea lions at the Marine Mammal Center to determine long-term post-release survival rates. External tags will also be attached for short-term monitoring. To assess stress levels from surgical procedures, and to relate post-rehabilitation health status to survival, blood samples will be collected for standard clinical hematology and chemistry panels. Blubber biopsies, bioelectrical impedance analysis, deuterium dilution determinations, and blubber ultrasound will also be performed. In addition, three control groups of California sea lions of similar age undergoing rehabilitation at TMMC will be utilized to compare short-term effects on animals with the implanted tags to animals without the implanted tags having similar procedures (e.g., anesthesia, laparoscopy) performed as part of their rehabilitation. Up to a total of 90 control animals (three groups of 30) will be used in this study, and will have some or all of the following procedures performed: blood and blubber sampling, bioelectrical impedance analyses, deuterium dilutions, and blubber ultrasound. The permit is for a five year period.

Dated: April 17, 2003.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–10162 Filed 4–23–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Notice, Two-Day "Wireless Innovations: New Technologies and Evolving Policies'

AGENCY: National Telecommunications and Information Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Commerce Department's National Telecommunications and

Information Administration (NTIA), in cooperation with the Federal Communications Commission (FCC) and the U.S. Department of State's Office of International Communications and Information Policy (CIP), will host a two-day wireless technology showcase and policy discussion. The first day will consist of an exhibition and demonstration of new, innovative wireless technologies, devices and applications. The second day will feature panel discussions on unlicensed wireless technologies by key policy makers, entrepreneurs, industry representatives, and experts from government and academia.

DATES: The technology showcase will be held 10 a.m. to 3 p.m., Monday, May 12, 2003. The roundtable will be held 9 a.m. to 5 p.m., Tuesday, May 13, 2003.

ADDRESSES: The Wireless Innovations Conference will be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC. (Entrance to the Department of Commerce is on 14th Street between Constitution and Pennsylvania avenues.) The showcase will take place in the Commerce Lobby, and the roundtable will take place in the Commerce Auditorium. All events are open to the public. To facilitate entry into the Department of Commerce, please have a photo identification and/or U.S. Government building pass, if applicable.

FOR FURTHER INFORMATION CONTACT: Joe Gattuso, NTIA Office of Policy Analysis and Development, at (202) 482–1880, or electronic mail: *jgattuso@ntia.doc.gov*; Kathleen Ham, Federal Communications Commission, Office of Strategic Planning and Policy Analysis, at (202) 418–2030, or electronic mail: *kham@fcc.gov*; or Andrew Weinschenk, Department of State, Office of International Communications and Information Policy, at (202) 647–9340, or electronic mail: *weinschenkaj@state.gov.* All media inquiries should be directed to the Office of Public Affairs, NTIA, at (202) 482–7002.

SUPPLEMENTARY INFORMATION: This two-day event will build upon NTIA's ''Spectrum Summit'' held last year, the findings and recommendations of the FCC's Spectrum Policy Task Force, and the State Department's international policy and regulatory reform efforts by highlighting and demonstrating new and emerging technologies and creating a forum to discuss important spectrum policy issues that are likely to impact tomorrow's ever-changing marketplace. The technology exhibition will provide policy makers and members of the public and news media an opportunity to witness live demonstrations of cutting edge wireless technologies and applications. The panel discussions, which will be webcast over the Internet, will focus on unlicensed wireless technologies and will allow technology innovators and entrepreneurs the opportunity to interact and exchange ideas with key policy decision makers. Additional information about the panel discussion and the webcast will be announced in the near future and will be available on the NTIA home page at *www.ntia.doc.gov,* on the Spectrum Policy Task Force's home page at *www.fcc.gov/sptf,* and on CIP's home page at: *www.state.gov/e/eb/cip/.*

Public Participation: The showcase and panel discussions will be open to the public and press on a first-come, first-served basis. Space is limited. Due to security requirements and to facilitate entry to the Department of Commerce building, attendees must have photo identification available and/or a U.S. Government building pass, if applicable, and plan to arrive at least one half hour ahead of the panel sessions. The events are physically accessible to people with disabilities. Any member of the public wishing to attend and requiring special services, such as sign language interpretation or other ancillary aids, should contact Joe Gattuso at (202) 482–1880 or at *jgattuso@ntia.doc.gov,* at least three (3) days prior to the meeting.

Dated: April 18, 2003.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 03–10078 Filed 4–23–03; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 03–07]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 03–07 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: April 17, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

27 MAR 2003
In reply refer to:
I-03/000560

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 03-07 and under separate cover the classified offset certificate thereto. This Transmittal concerns the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Norway for defense articles and service estimated to cost $107 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Reporting of Offset Agreements in accordance with Section 36(b)(1)(C) of the Arms Export Control Act (AECA), as amended, requires a description of any offset agreement with respect to this proposed sale. Section 36(g) of the AECA, as amended, provides that reported information related to offset agreements be treated as confidential information in accordance with section 12(c) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(c)). Information about offsets for this proposed sale is described in the enclosed confidential attachment.

Sincerely,

Richard J. Millies
Deputy Director

Attachment
As stated

Separate Cover:
Offset certificate

Transmittal No. 03-07

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser**: Norway

(ii) **Total Estimated Value**:

Major Defense Equipment*	$ 71 million
Other	$ 36 million
TOTAL	$107 million

(iii) **Description of Articles or Services Offered**: 92 JAVELIN anti-tank missile systems (consisting of 92 JAVELIN command launch units and 556 JAVELIN missile rounds), simulators, trainers, support equipment, spare and repair parts, publications and technical data, personnel training and equipment, U.S. Government and contractor engineering and logistics personnel services, a Quality Assurance Team, and other related elements of logistics support.

(iv) **Military Department**: Army (VJM)

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid**: none

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold**: See Annex attached

(vii) **Date Report Delivered to Congress**: 27 MAR 2003

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Norway - JAVELIN Anti-tank Missile Systems

The Government of Norway has requested a possible sale for 92 JAVELIN anti-tank missile systems (consisting of 92 JAVELIN command launch units and 556 JAVELIN missile rounds), simulators, trainers, support equipment, spare and repair parts, publications and technical data, personnel training and equipment, U.S. Government and contractor engineering and logistics personnel services, a Quality Assurance Team, and other related elements of logistics support. The estimated cost is $107 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Norway to fulfill its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

Norway will use these JAVELIN anti-tank missile systems to enhance their direct fire capability for infantry, cavalry and commando units against armored vehicles, buildings and field fortifications. This system will provide Norway with a strong man-portable, direct fire capability and will increase interoperability with U.S. forces. Norway will have no difficulty absorbing these systems into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be JAVELIN Joint Venture (Raytheon and Lockheed Martin) of Orlando, Florida. One or more proposed offset agreements may be related to this proposed sale.

Implementation of this proposed sale will require the assignment of a U.S. Government Quality Assurance Team consisting of two U.S. Government and one contractor representatives to Norway for one week to assist in the delivery and deployment of the missiles.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 03-07

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The JAVELIN anti-tank missile system provides a man-portable, medium anti-tank capability to infantry, scouts, and combat engineers. JAVELIN is comprised of two major tactical components; a reusable Command Launch Unit (CLU) and a missile sealed in a disposable launch tube assembly. The CLU incorporates an integrated day/night sight and provides target engagement capability in adverse weather and countermeasure environments. The CLU may also be used in the stand-alone mode for battlefield surveillance and target detection. JAVELIN's key technical feature is the use of fire-and-forget technology that allows the gunner to fire and immediately take cover. Additional special features are the top attack and/or direct fire modes (for targets under cover), integrated day/night sight, advanced tandem warhead, imaging infrared seeker, target lock-on before launch, and soft launch from enclosures or covered fighting positions. If the software was compromised, it could result in a loss of sensitive technology, revealing the performance capabilities of the JAVELIN Missile System. Reverse engineering of the software would require a substantial effort. While the JAVELIN system is Unclassified, Secret disclosure is required in order to employ, operate, and train on the system.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that Norway can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 03–10091 Filed 4–23–03; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Council on Dependents' Education

AGENCY: Department of Defense Education Activity (DoDEA), DoD.

ACTION: Open meeting notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, appendix 2 of title 5, United States Code, Public Law 92–463, notice is hereby given that a meeting of the Advisory Council on Dependents' Education (ACDE) is scheduled to be held on May 2, 2003. The purpose of the ACDE is to recommend to the Director, DoDEA, general policies for the operation of the Department of Defense Defendents Schools (DoDDS); to provide the Director with information about effective educational programs and practices that should be considered by DoDDS; and to perform other tasks as may be required by the Secretary of Defense. The meeting emphases will be on the recently approved Program Objective Memoranda (POM) and other educational issues.

DATES: May 2, 2003, from 8 a.m. to 5 p.m.

ADDRESSES: The meeting will be held on the 9th floor conference room at the Department of Defense Education Activity located at 4040 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Jarrard, at 703–696–4471, extension 1964.

Dated: April 17, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–10090 Filed 4–23–03; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on Integrated Fire Support in the Battlespace will meet in closed session on June 4–5, 2003; July 9–10, 2003; September 10–11, 2003; October 8–9, 2003; November 5–6, 2003; and December 10–11, 2003, at locations to be determined. The Task Force will apply the methodology developed in the 2001 Precision Targeting Summer Study to broadly develop the system of systems required to provide truly integrated fire support.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will assess: the adequacy of current and proposed munitions with respect to speed, accuracy, lethality, cost, etc., to meet the spectrum of threats; Intelligence Surveillance and Reconnaissance (ISR) techniques and mechanisms to meet the needs of tactical and operational battlefield forces; the adequacy of battlefield command and control and integration techniques for tactical, operational, and strategic forces operating on the battlefield; the current impediments to a fully integrated Air, Land and Sea fire support; and the need for predictive engagement tools and derived intelligence products to guide the battlefield commander in use of forces to shape the outcome to the desired effect.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, the meetings will be closed to the public.

Dated: April 17, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–10088 Filed 4–23–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on Seabasing will meet in closed session on May 27, 2003, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA. The Task Force will assess how seabasing of expeditionary forces can best serve the nation's defense needs through at least the first half of the 21st century.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Defense Science Board Task Force will examine the broadest range of alternatives for seabasing of expeditionary forces and be guided by: the expected naval environment for the next 20–50 years; the role of naval forces in enabling access for joint forces through the world's littorals; assets and technologies needed to establish a robust and capable Enhanced Networked Seabase; the timing of the acquisition of the technologies, platforms and systems which replace the legacy systems; and the function of new hardware and opportunities to reallocate functionality to improve effectiveness, or efficiency, or economy.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, the meeting will be closed to the public.

Dated: April 17, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–10089 Filed 4–23–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 23, 2003.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 21, 2003.

John D. Tressler,

Leader, Regulatory Management Group, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Revision.
Title: Student Aid Report (SAR).
Frequency: Annually.
Affected Public:
Individuals or household.
Reporting and Recordkeeping Hour Burden:
Responses: 20,675,546.
Burden Hours: 4,486,234.
Abstract: The Student Aid Report (SAR) is used to notify all applicants of their eligibility to receive Federal student aid for postsecondary education. The form is submitted by the applicant to the institution of their choice.

Requests for copies of the proposed information collection request may be

accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2234. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to (202) 708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at (202) 708–9266 or via his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–10125 Filed 4–23–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC03–587–000]

Proposed Information Collection and Request for Comments; Errata Notice

April 18, 2003.

On April 4, 2003, the Commission issued a Notice of Proposed Information Collection and Request for Comments in the above-docketed proceeding (68 FR 17789, published April 11, 2003). In the document, the Commission requested comments on proposed information and its revised Form 587. The attachments ''Instructions for Completing Forms FERC 587'' and ''FERC Form 587'' which follow, were not included in the issued document.

Magalie R. Salas,

Secretary.

Form Approved
OMB No. 1902–0143
(Expires / /)

Instructions for Completing Forms FERC–587

Form FERC–587 is issued to identify those project boundary maps associated with federal lands. There are two versions of the form to account for the two different ways land is surveyed in the United States, the Public Land States and the Non-Public Land States. The Public Land States version is used for projects located on the western side of the United States, and is based on the federal township and range system. The Non-Public Land States version is to be used for most of the projects located on the eastern side of United States, including Texas, and is based just on county information.

To complete either form you must:

1. Identify the boundary maps in the license, preliminary permit, or in the application for license, amendment of license, or preliminary permit.

2. Provide the project number assigned by FERC. Type or print legibly when entering information on the form. Include your signature, and date completing the form.

3. Microfilm copies of the project boundary maps must be submitted with the land description forms as directed by FERC. Each map must be reproduced on silver or gelatin 35 mm microfilm mounted on type D (3¼″ x 7⅜″) aperture cards. The project number followed by a hyphen and sheet number or letter must be typed on the front of each card in the upper right corner.

4. Mail a copy of the completed land description forms and aperture cards to: Secretary, Routing Code PJ–12, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Another copy of the form FERC–587 must be filed with the Bureau of Land Management state office(s) involved using the format below. Go to the following Internet address to get mailing address for a particular State Office; (*http://www.blm.gov/nhp/directory/index.htm*).

State Director, Bureau of Land Management, City, State Zip, ATTN: FERC Withdrawal Recordation.

5. Keep the land description forms and project boundary drawings up-to-date. If the project boundary changes, revised land description forms and drawings must be provided to the Commission immediately. The revised land description forms must be fully completed so as to supersede (not supplement) earlier forms. Mail updates in accordance with instruction 4.

If there are any questions, please contact the FERC at (202) 502–8836.

6. Where to send comments on the Public Reporting Burden.

The public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any aspect of this collection of information, including suggestions for reducing this burden, to the Federal Energy Regulatory Commission, 888 First Street, Washington, DC 20426 (Attention: Mr. Michael Miller, ED–30); and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission). This is a mandatory information collection requirement.)

To complete the Public Land States (Rectangular Survey System Lands) you need to:

1. Identify the state in which the project is located. If the project lies within multiple states, then provide the state for the township which the form refers.

2. Provide the FERC Project Number assigned by FERC (*i.e.*, P–96). Only one project number should appear on the form.

3. Identify the Township, Range and Meridian where the project lands and federal lands overlap. Each township is depicted in a map by an identifying number according to where it falls (*i.e.*, T9SR22E). The east/west numbers are identified by the term ''Range'' and the north/south numbers are identified by the term ''Township''. The completed land description form will identify the sections of the township affected by the project (both federal and non-federal lands) and provide references to the maps that show the project boundary in those sections. Complete a separate form for each township identified, regardless of the ownership status of the lands.

4. Identify whether you are completing the form for a licensed project or a preliminary permit. Identify whether the license is pending or issued. Provide an expiration date in case of a preliminary permit.

5. Using the township grid provided on the form, identify the section (s), in which the federal land is located on the map. Every Section is numbered, from 1 to 36, depending upon its position within the township. Specify the exhibit sheet (drawing) number, or letter within the appropriate township section. If the FERC sheet numbers have been assigned, they must be used on the land description forms. In those cases where FERC has not assigned sheet numbers, assign letter designations A, B, C, etc., in lieu of FERC sheet numbers. Permittees and permit applicants must assign letter designations since FERC does not assign sheet numbers for permits. The sheet numbers or letters are to be entered in the appropriate place on the land description forms to provide references to the maps. (*i.e.*, if sheets 74 and 75 show the project boundary in sections 13 and 24 of a township, the numbers 74 and 75 would be inserted in the box on the land description form representing sections 13 and 24).

6. Provide the name and telephone number of the person completing the form, and the date the form is submitted.

FERC Form No. 587
OMB control No. 1902–0143
Expires (/ /)

Land Description

Public Land States, (Rectangular Survey System Lands)

1. State _____
2. FERC Project No. _____
3. Township _____ Range _____
Meridian _____
4. Check one:

_____ License
_____ Preliminary Permit

Check one:

_____ Pending
_____ Issued

If preliminary permit is issued, give expiration date: _____

5. EXHIBIT SHEET NUMBERS OR LETTERS

Section 6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

6. Contact's name _____
Telephone no. ( ) _____
Date submitted _____

This information is necessary for the Federal Energy Regulatory Commission to discharge its responsibilities under Section 24 of the Federal Power Act.

To complete the Non-Public Land States (Non-Rectangular Survey System Lands in Public Land States) form you need to:

1. Identify the state in which the project is located. If the project lies within multiple states, then provide the state for the counties which the form refers.

2. Provide the FERC Project Number assigned by FERC (*i.e.*, P–96). Only one project number should appear on the form

3. Identify the Federal reservation that is located within the project boundary as shown on the maps.

4. Identify the Federal land holding agency responsible for the federal land within the project boundary as shown on the maps

5. Identify the county or counties the Federal land lies in.

6. Identify whether you are completing the form for a licensed project or a preliminary permit. Identify whether the license is pending or issued. Provide an expiration date in case of a preliminary permit.

7. Complete a land description form for each Federal tract with lands inside project boundaries. If more than one land description form is required to list the Federal tracts, page numbers must be shown in the upper right corner of the form, *e.g.*, page 1 of 2. Do not list more than one project or state on each form.

8. Provide sheet numbers or letters that should be entered on the lines provided under ''Exhibit Sheet Numbers) or Letter(s)'' opposite to the corresponding Federal tract identification designated by the Federal land holding agency. Specify the exhibit sheet (drawing) number within the appropriate township section. If the FERC sheet numbers have been assigned, they must be used on the land description forms. In those cases where FERC has not assigned sheet numbers, assign letter designations A, B, C, etc., in lieu of FERC sheet numbers. Permittees and permit applicants must assign letter designations since FERC does not assign sheet numbers for permits.

9. Provide the name, telephone number of the person completing the form, and the date the form is submitted.

FERC Form No. 587
OMB control No. 1902–0143
Expires (/ /)

Land Description

Non-Public Land States (and Non-Rectangular Survey System Lands in Public Land States)

1. State _____
2. FERC Project No. _____
3. Federal Reservation: _____
4. Federal Land Holding Agency: _____
5. Counties: _____
6. Check one:

_____ License
_____ Preliminary Permit

Check one:

_____ Pending
_____ Issued

If preliminary permit is issued, give expiration date: _____

7. Federal Tract(s) Identification

_____
_____
_____

ACTION: Notice; correction.

SUMMARY: The Federal Energy Regulatory Commission published a document in the **Federal Register** on April 11, 2003, reinstating FERC Form No. 587 and requesting comments on this proposed information collection. The notice document issued by the Commission did not include Form No. 587.

FOR FURTHER INFORMATION CONTACT: Michael Miller at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov* or Anumzziatta Purchiaroni at (202) 502–6191, by fax (202) 219–2732, *anumzziatta.purchiaroni@ferc.gov*.

Correction

In the **Federal Register** of April 11, 2003, 70 FR 17789, on page 17790, add the attachment which follows titled: ''Instructions for Completing Forms FERC–587''.

Magalie R. Salas,

Secretary.

Instructions for Completing Forms FERC–587

Form FERC–587 is issued to identify those project boundary maps associated with federal lands. There are two versions of the form to account for the two different ways land is surveyed in the United States, the Public Land States and the Non-Public Land States. The Public Land States version is used for projects located on the western side of the United States, and is based on the federal township and range system. The Non-Public Land States version is to be used for most of the projects located on the eastern side of United States, including Texas, and is based just on county information.

To complete either form you must:

1. Identify the boundary maps in the license, preliminary permit, or in the application for license, amendment of license, or preliminary permit.

2. Provide the project number assigned by FERC. Type or print legibly when entering information on the form. Include your signature, and date completing the form.

3. Microfilm copies of the project boundary maps must be submitted with the land description forms as directed by FERC. Each map must be reproduced on silver or gelatin 35 mm microfilm mounted on type D (3¼″ x 7⅜″) aperture cards. The project number followed by a hyphen and sheet number or letter must be typed on the front of each card in the upper right corner.

4. Mail a copy of the completed land description forms and aperture cards to: Secretary, Routing Code PJ–12, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Another copy of the form FERC–587 must be filed with the Bureau of Land Management state office(s) involved using the format below. Go to the following internet address to get mailing address for a particular State Office (*http://www.blm.gov/nhp/directory/index.htm*): State Director, Bureau of Land Management, City, State Zip, ATTN: FERC Withdrawal Recordation.

5. Keep the land description forms and project boundary drawings up-to-date. If the project boundary changes, revised land description forms and drawings must be provided to the Commission immediately. The revised land description forms must be fully completed so as to supersede (not supplement) earlier forms. Mail updates in accordance with instruction 4.

If there are any questions, please contact the FERC at (202) 502–8836.

6. Where to send comments on the Public Reporting Burden. The public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any aspect of this collection of information, including suggestions for reducing this burden, to the Federal Energy Regulatory Commission, 888 First Street, Washington, DC 20426 (Attention: Mr. Michael Miller, ED–30); and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission). This is a mandatory information collection requirement.)

To complete the Public Land States (Rectangular Survey System Lands) you need to:

1. Identify the state in which the project is located. If the project lies within multiple states, then provide the state for the township which the form refers.

2. Provide the FERC Project Number assigned by FERC (*i.e.*, P–96). Only one project number should appear on the form.

3. Identify the Township, Range and Meridian where the project lands and federal lands overlap. Each township is depicted in a map by an identifying number according to where it falls (*i.e.* T9SR22E). The east/west numbers are identified by the term ''Range'' and the north/south numbers are identified by the term ''Township''. The completed land description form will identify the sections of the township affected by the project (both federal and non-federal lands) and provide references to the maps that show the project boundary in those sections. Complete a separate form for each township identified, regardless of the ownership status of the lands.

4. Identify whether you are completing the form for a licensed project or a preliminary permit. Identify whether the license is pending or issued. Provide an expiration date in case of a preliminary permit.

5. Using the township grid provided on the form, identify the section(s), in which the federal land is located on the map. Every Section is numbered, from 1 to 36, depending upon its position within the township. Specify the exhibit sheet (drawing) number, or letter within the appropriate township section. If the FERC sheet numbers have been assigned, they must be used on the land description forms. In those cases where FERC has not assigned sheet numbers, assign letter designations A, B, C, *etc.,* in lieu of FERC sheet numbers. Permittees and permit applicants must assign letter designations since FERC does not assign sheet numbers for permits. The sheet numbers or letters are to be entered in the appropriate place on the land description forms to provide references to the maps. (*i.e.*, if sheets 74 and 75 show the project boundary in sections 13 and 24 of a township, the numbers 74 and 75 would be inserted in the box on the land description form representing sections 13 and 24).

6. Provide the name and telephone number of the person completing the form, and the date the form is submitted.

BILLING CODE 6717–01–P

FERC Form No. 587
OMB control No. 1902-0143
Expires (/ /)

LAND DESCRIPTION

Public Land States
(Rectangular Survey System Lands)

1. STATE_____ 2. FERC PROJECT NO. _____

3. TOWNSHIP _____ RANGE _____ MERIDIAN _____

4. Check one: Check one:

_____License _____Pending
_____Preliminary Permit _____Issued

If preliminary permit is issued, give expiration date:_____

5. EXHIBIT SHEET NUMBERS OR LETTERS

Section 6	**5**	**4**	**3**	**2**	**1**
7	**8**	**9**	**10**	**11**	**12**
18	**17**	**16**	**15**	**14**	**13**
19	**20**	**21**	**22**	**23**	**24**
30	**29**	**28**	**27**	**26**	**25**
31	**32**	**33**	**34**	**35**	**36**

6. contact's name _____
telephone no. ( ) _____
Date submitted _____

This information is necessary for the Federal Energy Regulatory Commission to discharge its responsibilities under Section 24 of the Federal Power Act.

To complete the Non-Public Land States (Non-Rectangular Survey System Lands in Public Land States) form you need to:

1. Identify the state in which the project is located. If the project lies within multiple states, then provide the state for the counties which the form refers.

2. Provide the FERC Project Number assigned by FERC (*i.e.*, P–96). Only one project number should appear on the form

3. Identify the federal reservation that is located within the project boundary as shown on the maps.

4. Identify the federal land holding agency responsible for the federal land within the project boundary as shown on the maps

5. Identify the county or counties the federal land lies in.

6. Identify whether you are completing the form for a licensed project or a preliminary permit. Identify whether the license is pending or issued. Provide an expiration date in case of a preliminary permit.

7. Complete a land description form for each federal tract with lands inside project boundaries. If more than one land description form is required to list the Federal tracts, page numbers must be shown in the upper right corner of the form, *e.g.*, page 1 of 2. Do not list more than one project or state on each form.

8. Provide sheet numbers or letters that should be entered on the lines provided under ''Exhibit Sheet Number(s) or Letter(s)'' opposite to the corresponding Federal tract identification designated by the Federal land holding agency. Specify the exhibit sheet (drawing) number within the appropriate township section. If the FERC sheet numbers have been assigned, they must be used on the land description forms. In those cases where FERC has not assigned sheet numbers, assign letter designations A, B, C, *etc.,* in lieu of FERC sheet numbers. Permittees and permit applicants must assign letter designations since FERC does not assign sheet numbers for permits.

9. Provide the name, telephone number of the person completing the form, and the date the form is submitted.

BILLING CODE 6717–01–P

FERC Form No. 587
OMB control No. 1902-0143
Expires (/ /)

LAND DESCRIPTION

Non-Public Land States
(and Non-Rectangular Survey System Lands in Public Land States)

1. STATE _____ 2. FERC PROJECT NO. _____

3. FEDERAL RESERVATION:_____

4. FEDERAL LAND HOLDING AGENCY: _____

5. Counties: _____

6. Check one:
_____ License
_____Preliminary Permit

Check one:
_____ Pending
_____ Issued

If preliminary permit is issued, give expiration date: _____

7. Federal Tract(s) Identification	8. Exhibit Sheet Number(s) or Letter(s)

9. contact's name_____

telephone no. (_____)_____

date submitted _____

This information is necessary for the Federal Energy Regulatory Commission to discharge its responsibilities under Section 24 of the Federal Power Act.

[FR Doc. 03–10105 Filed 4–23–03; 8:45 am]
BILLING CODE 6717–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–683–000]

California Independent System Operator Corporation; Notice of Technical Conference

April 18, 2003.

The Federal Energy Regulatory Commission Staff is convening a technical conference to facilitate discussions of and solutions for congestion management issues raised by the California Independent System Operator Corporation's (CAISO) filing of Tariff Amendment No. 50. The conference will be held in San Francisco, California, at the Marriott San Francisco, 55 Fourth Street, San Francisco, CA, on May 1, 2003, beginning at 9 a.m.

All interested persons may attend. However, attendees are asked to notify the Commission of their intent to attend by sending an email message to Cynthia Henry at *cynthia.henry@ferc.gov*. No telephone communication bridge will be provided at this technical conference.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10205 Filed 4–23–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–280–001]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

April 18, 2003.

Take notice that on April 15, 2003, Columbia Gas Transmission Corporation (Columbia Gas) made its filing in compliance with the Commission's order issued March 31, 2003, in this proceeding (*See* Columbia Gas Transmission Corp., 102 FERC ¶ 61,347 (2003)(March 31 Order). In this filing, Columbia states that it is submitting the information requested by the March 31 Order.

Columbia states that copies of its filing have been mailed to all parties on the official service list in Docket No. RP03–280.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: April 28, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10210 Filed 4–23–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–083]

Columbia Gulf Transmission Company; Notice of Compliance Filing

April 18, 2003.

Take notice that on April 15, 2003, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets bearing a proposed effective date of December 15, 2002:

Fifth Revised Sheet No. 46
Third Revised Sheet No. 47
Third Revised Sheet No. 318

Columbia Gulf states that it is making this filing to comply with the Commission's March 26, 2003 order in RP96–389–076 (103 FERC ¶61,320, March 26 Order). In the March 26 Order, the Commission accepted the non-conforming agreement between Stone Energy and Columbia Gulf (Stone Agreement) subject to conditions. The Commission directed Columbia Gulf to either remove the non-conforming provision from the Stone Agreement or, alternately, modify its Tariff and *pro forma* service agreement to provide similarly situated shippers taking service under Columbia Gulf's FTS–2 firm transportation rate schedule the right to adjust transportation demand at predetermined intervals. In compliance with the Commission's March 26 Order, Columbia Gulf's proposed tariff sheets add Section 2(g) to its FTS–2 Rate Schedule.

Columbia Gulf states that copies of the filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: April 28, 2003.

Dated:

Magalie R. Salas,

Secretary.

[FR Doc. 03–10211 Filed 4–23–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–101–000]

Dominion Transmission, Inc.; Notice of Application

April 18, 2003.

On April 16, 2003, Dominion Transmission, Inc. (DTI), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP03–101–000, an application pursuant to section 7(b) of the Natural Gas Act (NGA), as amended, and part 157 of the regulations of the Federal Energy Regulatory Commission (Commission), for authorization to

abandon Well 932 in the Fink Kennedy Storage Complex in Lewis County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

DTI states that Well 932 is located in the Fink Kennedy Storage Pool located in Lewis County, West Virginia and has been operational as a storage well since 1943. According to DTI, the operational capabilities of the Fink Kennedy Storage Complex will not be affected by the plugging and abandonment of this storage well.

DTI states that it will abandon 185 feet of Line H–18227. DTI states that the abandonment of this line will be performed under the Commission's part 157 pipeline blanket certificate program and the blanket authorization DTI received in Docket No. CP82–537–000, and will be reported as part of DTI's part 157 Annual Report.

DTI states that the abandonment of Well 932 involves only the removal of minor surface facilities and appropriate erosion control and site restoration will be implemented at the well site. Earth disturbance will be limited to the area immediately around the wellbore and placing a monument at the site to indicate the location of the well. DTI states that all work will be confined to the original well pad site on previously disturbed ground and the well location will be restored to its original state or landowner's preference.

DTI states that due to its age and condition, Well 932 was placed in idle service on February 22, 2003. DTI states that Well 932 is not necessary for the continued operation of the Fink Kennedy Storage Pool and that the remediation of the well necessary for the useful operation is neither feasible nor economically efficient.

Any questions concerning this application may be directed to Sean R. Sleigh, Certificates Manager, Dominion Transmission, Inc., 120 Tredegar Street, Richmond, Virginia 23219, at (304) 627–3462 or fax (304) 627–3305.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10) by the comment date, below. 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.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

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.

Comment Date: April 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10202 Filed 4–23–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–102–000]

Dominion Transmission, Inc.; Notice of Application

April 18, 2003.

On April 16, 2003, Dominion Transmission, Inc. (DTI), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP03–102–000, an application pursuant to section 7(b) of the Natural Gas Act (NGA), as amended, and part 157 of the regulations of the Federal Energy Regulatory Commission (Commission), for authorization to abandon Well 9375 in the Racket Newberne Storage Complex in Gilmer County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

DTI states that Well 9375 is located in the Racket Newberne Storage Pool located in Gilmer County, West Virginia and has been operational as a storage well since 1949. According to DTI, the operational capabilities of the Racket Newberne Storage Complex will not be affected by the plugging and abandonment of this storage well.

DTI states that it will abandon 89 feet of Line H–18146, that connects Well 9375 to DTI's TL–297. DTI states that the abandonment of this line will be performed under the Commission's part 157 pipeline blanket certificate program and the blanket authorization DTI received in Docket No. CP82–537–000, and will be reported as part of DTI's part 157 Annual Report.

DTI states that the abandonment of Well 9375 involves only the removal of minor surface facilities and appropriate erosion control and site restoration will be implemented at the well site. Earth disturbance will be limited to the area immediately around the wellbore and placing a monument at the site to indicate the location of the well. DTI states that all work will be confined to the original well pad site on previously disturbed ground and the well location will be restored to its original state or landowner's preference.

DTI states that due to its age and condition, Well 9375 was placed in idle service on February 22, 2003. DTI states that Well 9375 is not necessary for the continued operation of the Racket Newberne Storage Pool and that the remediation of the well necessary for the useful operation is neither feasible nor economically efficient.

Any questions concerning this application may be directed to Sean R. Sleigh, Certificates Manager, Dominion Transmission, Inc., 120 Tredegar Street, Richmond, Virginia 23219, at (304) 627–3462 or fax (304) 627–3305.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10) by the comment date, below. 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.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

If the Commission decides to set the 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.

Comment Date: April 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10203 Filed 4–23–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–258–002]

Iroquois Gas Transmission System, L.P.; Notice of Compliance Filing

April 18, 2003.

Take notice that on April 15, 2003, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Tenth Revised Sheet No. 4A; and Substitute Original Sheet No. 4B, with the proposed effective date to be April 1, 2003.

Iroquois states that the filing is being made in compliance with the Commission's March 31, 2003 order in the captioned proceeding. Iroquois states that the Commission's March 31 order accepted and suspended Iroquois' revised tariff sheets implementing a new Extended Receipt and Extended Delivery Point Service (ER/ED Service) subject to refund and required Iroquois to resubmit Sheets 4A and 4B to be consistent with its ruling in Texas Eastern Transmission, L.P. 102 FERC ¶61,198 (2003).

Iroquois further states that copies of this amended filing were served on all jurisdictional customers and interested state regulatory agencies and all parties to the proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: April 28, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10209 Filed 4–23–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–134–003]

Maritimes & Northeast Pipeline L.L.C.; Notice of Compliance Filing

April 18, 2003.

Take notice that on April 15, 2003, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective on April 1, 2003.

Third Revised Sheet No. 7
Third Revised Sheet No. 8
Fourth Revised Sheet No. 12
Fourth Revised Sheet No. 13
Fourth Revised Sheet No. 14

Maritimes states that the purpose of this filing is to comply with the Commission's order dated March 12, 2003, (March 12 Order), in Docket Nos. RP02–134, *et al.* Maritimes states that the March 12 Order approved an uncontested Stipulation and Agreement (Settlement) filed by Maritimes on December 20, 2002.

Maritimes states that the Settlement resolved all issues set for hearing in a rate proceeding under Section 5 of the Natural Gas Act in Docket Nos. RP02–134, *et al.*, and that the March 12 Order approving the Settlement also approved the tariff changes tendered in the instant filing, which tariff changes were submitted on pro forma tariff sheets as part of the Settlement. The March 12 Order directed that Maritimes file the instant tariff sheets by the deadline specified in the Settlement.

Maritimes states that copies of this filing were mailed to all affected customers of Maritimes and interested state commissions, as well as all parties on the Commission's Official Service List compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: April 28, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10208 Filed 4–23–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–548–001, et al.]

Citizens Communications Company, et al.; Electric Rate and Corporate Filings

April 17, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Citizens Communications Company

[Docket No. ER03–548–001]

Take notice that on April 11, 2003, Citizens Communications Company (Citizens) tendered for filing six copies of a Notice of Cancellation of Rate Schedule 46, applicable to sales-for-resale service to Mohave Electric Cooperative.

Citizens states that copies of this filing have been served to Mohave Electric Cooperative and Arizona Corporation Commission.

Comment Date: May 2, 2003.

2. California Independent System Operator Corporation

[Docket No. ER03–746–000]

Take notice that on April 15, 2003 the California Independent System Operator Corporation (ISO) tendered for filing with the Commission, Amendment No. 51 to the ISO Tariff. ISO states that the purpose of Amendment No. 51 is to modify the Tariff to facilitate conducting market re-runs necessary in anticipation of the major market re-run required by the Commission in Docket No. EL00–95–000, *et al.* The ISO states that this filing has been served on the Public Utilities Commission of the State of California, the California Energy Commission, the California Electricity Oversight Board, and all parties with effective Scheduling Coordinator Agreements under the ISO Tariff.

The ISO is requesting waiver of the 60-day notice requirement to allow Amendment No. 51 to be made effective May 1, 2003.

Comment Date: May 6, 2003.

3. American Ref-Fuel Company of Hempstead

[Docket No. ER03–747–000]

Take notice that on April 15, 2003, American Ref-Fuel Company of Hempstead (ARC-Hempstead) tendered for filing a proposed supplement to ARC-Hempstead's FERC Electric Tariff, Original Volume No. 1, which governs sales of energy from ARC-Hempstead to Long Island Lighting Company d/b/a LIPA, under Section 205 of the Federal Power Act, 16 U.S.C. 824d, and part 35 of the Commission's Regulations.

Comment Date: May 6, 2003.

4. Wolverine Power Supply Cooperative, Inc.

[Docket No. ER03–748–000]

Take notice that on April 15, 2003, Wolverine Power Supply Cooperative, Inc., submitted for filing a Petition for Waiver of Pre-Order No. 2001 Filing Requirements, and requested that the Commission waive the requirement for the filing of the Power Sales Agreement.

Comment Date: May 6, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

[FR Doc. 03–10204 Filed 4–23–03; 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

April 18, 2003.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Applicant Type:* Amendment of License to Change Project Boundary.

b. *Project No:* 10855–005.

c. *Date Filed:* January 15, 2003.

d. *Applicant:* Upper Peninsula Power Company.

e. *Name of Project:* Dead River Hydroelectric Project.

f. *Location:* The Dead River Hydroelectric Project is located on the Dead River, in Marquette County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825 (r) and 799 and 801.

h. *Applicant Contact:* Shawn Puzen, Environmental Analyst, Upper Peninsula Power Company, 600 E. Lakeshore Drive, PO Box 130, Houghton, MI 49931–0130, (920) 433–1094.

i. *FERC Contact:* Any questions on this notice should be addressed to Etta Foster at (202) 502–8769, or e-mail address: *etta.foster@ferc.gov*.

j. *Deadline for filing comments and/or motions:* May 19, 2003.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–10855–005) on any comments or motions filed.

k. *Description of Request:* Upper Peninsula Power Company (UPPCO) proposes to add additional acreage to the project boundary in the area of the Emergency Fuse Plug. The additional acres are necessary for project operations.

l. *Location of the 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) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. 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 Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents-Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', 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.

q. 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 at *http://www.ferc.gov* under the ''e-filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10207 Filed 4–23–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Surplus Plutonium Disposition Program

AGENCY: National Nuclear Security Administration, Department of Energy.

ACTION: Amended record of decision.

SUMMARY: The U.S. Department of Energy/National Nuclear Security Administration (DOE/NNSA) is amending the Record of Decision (ROD) for the *Surplus Plutonium Disposition Environmental Impact Statement* (SPD EIS) to allow for the disposition of up to 34 metric tons (MT) of surplus weapons-grade plutonium as mixed oxide (MOX) fuel to be irradiated in commercial nuclear reactors. The ROD for the SPD EIS indicated that DOE would dispose of up to 50 MT of weapons-usable surplus plutonium by making MOX fuel from 33 MT and immobilizing the remaining 17 MT. However, on April 19, 2002, DOE/NNSA amended that ROD to cancel the immobilization portion of the surplus plutonium disposition program due to budgetary constraints. DOE/NNSA also noted in the April 19, 2002 ROD that in response to a statutory directive, it had submitted to Congress a report on a strategy for the disposal of surplus plutonium currently located at, or to be shipped to the Savannah River Site (SRS). That strategy involved converting this plutonium to MOX fuel and irradiating it in commercial power reactors. DOE/NNSA stated in the April 19, 2002 ROD that it was evaluating the changes to the MOX fuel portion of the surplus plutonium disposition program that would be entailed by such a MOX-only strategy, including the need for additional environmental reviews pursuant to the National Environmental Policy Act (NEPA), and that it would make no final decisions regarding the MOX portion of the program until these reviews were completed.

In accordance with the April 19, 2002 amended ROD, DOE/NNSA has now evaluated the changes to the MOX fuel portion of the program that would be entailed by pursuit of such a MOX-only disposition strategy and the impacts of those changes. This evaluation is presented in a Supplement Analysis (SA) prepared pursuant to DOE procedures implementing NEPA (10 CFR 1021.314), Supplement Analysis for Changes Needed to the Surplus Plutonium Disposition Program (DOE/EIS–0283–SA1). It concludes that the potential environmental impacts of the changes in the MOX program are not significantly different from the impacts analyzed in the SPD EIS. Therefore, DOE/NNSA will now pursue a MOX-only surplus plutonium disposition program. The program will dispose of 34 MT of surplus plutonium, including approximately 6.5 MT of the 17 MT of surplus plutonium originally intended for immobilization.

FOR FURTHER INFORMATION CONTACT: For further information concerning the disposition of surplus plutonium, copy of the Supplement Analysis for Changes Needed to the Surplus Plutonium Disposition Program or this amended ROD, contact Hitesh Nigam, Deputy NEPA Compliance Officer, Office of Fissile Materials Disposition, National Nuclear Security Administration, 1000 Independence Avenue, SW., Washington, DC 20585, or leave a message at 800–820–5134.

For further information concerning DOE's NEPA process, contact Ms. Carol Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 586–4600, or leave a message at (800) 472–2756. Additional information regarding the DOE NEPA process and activities is also available on the Internet through the NEPA home page at *http://tis.eh.doe.gov/nepa*.

SUPPLEMENTARY INFORMATION:

I. Background

On April 19, 2002, DOE/NNSA issued an amended ROD (67 FR 19432) for the Surplus Plutonium Disposition Environmental Impact Statement (SPD EIS) (DOE/EIS–0283, November 1999) and the Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact

Statement (Storage and Disposition PEIS) (DOE/EIS–0229, December 1996). That amended ROD canceled the immobilization component of the U.S. surplus plutonium disposition program for surplus weapons-usable [1] (weapons-grade [2] and non-weapons-grade) plutonium described in the two EISs. The amended ROD selected the alternative of immediate implementation of consolidated long-term storage at the SRS of surplus non-pit plutonium now stored separately at the Rocky Flats Environmental Technology Site (RFETS). DOE has begun shipping the RFETS surplus non-pit plutonium to SRS pursuant to that ROD, and anticipates that the shipping campaign will be completed by late summer of 2003.

The April 19 amended ROD also explained that in response to a Congressional directive set out in Section 3155(c) of The National Defense Authorization Act for Fiscal Year 2002, on February 15, 2002 DOE/NNSA submitted a Report to Congress: Disposition of Surplus Defense Plutonium at Savannah River Site (supplemented by letter on March 5, 2002). That report stated that DOE/NNSA's current disposition strategy involves a MOX-only approach, under which DOE/NNSA would dispose of up to 34 MT of surplus weapons-grade plutonium by converting it to MOX fuel and irradiating it in commercial power reactors. The April 19 ROD noted that implementation of this strategy would allow the successful completion of the September 2000 Agreement Between the Government of the United States and the Government of the Russian Federation Concerning the Management and Disposition of Plutonium Designated as No Longer Required for Defense Purposes and Related Cooperation (U.S.-Russia Agreement). It also stated, however, that DOE was in the process of analyzing the changes to the MOX fuel portion of the surplus plutonium disposition program that would be entailed by such a strategy, including analysis conducted pursuant to NEPA, and that no final decisions regarding the MOX portion of the surplus plutonium disposition program would be made until DOE/NNSA completed this analysis.

DOE has previously prepared a number of NEPA documents regarding the surplus plutonium disposition program. The Storage and Disposition PEIS evaluated the potential environmental consequences of alternative strategies for the long-term storage of weapons-usable plutonium and highly enriched uranium and the disposition of weapons-usable plutonium that has been or may be declared surplus to national security needs. The ROD for the Storage and Disposition PEIS, issued on January 21, 1997 (62 FR 3014), outlined DOE's decision to pursue a hybrid disposition strategy that allowed for both the immobilization of some (and potentially all) of the surplus plutonium and the fabrication of some of the surplus plutonium into MOX fuel to be irradiated in existing domestic, commercial reactors. Subsequent to issuing the ROD for the Storage and Disposition PEIS, DOE conducted a competitive procurement and in March 1999 selected the team of Duke Cogema Stone & Webster (DCS) to design, construct and operate a potential MOX facility in accordance with U.S. Nuclear Regulatory Commission (NRC) regulations.

The SPD EIS, which tiered from the Storage and Disposition PEIS, evaluated site-specific alternatives for the construction and operation of three facilities to dispose of up to 50 MT [3] of surplus plutonium. The ROD for the SPD EIS, issued on January 11, 2000 (65 FR 1608), affirmed DOE's decision to implement a hybrid approach for the safe and secure disposition of up to 50 MT of surplus plutonium. Clean metals and clean oxides were identified as feed for the MOX fuel fabrication facility (MOX facility). Impure metals, plutonium alloys, impure oxides, uranium/plutonium oxides, alloy reactor fuel, and oxide reactor fuel were identified as feed for the immobilization facility. In addition, SRS was selected as the site for construction and operation of the three disposition facilities: the pit disassembly and conversion facility, the MOX facility, and the plutonium conversion and immobilization facility (immobilization facility).

In 2001, the schedule for design, construction and operation of the immobilization facility was delayed due to budgetary constraints. In its February 15, 2002 Report to Congress, DOE/NNSA stated that after evaluating the feasibility of implementing two disposition approaches, it believed that the best way to make the most progress with available funds while maintaining Russian interest in and commitment to surplus plutonium disposition was to pursue a MOX-only disposition strategy. On April 19, 2002, DOE/NNSA issued an amended ROD revising the earlier decisions announced in the RODs for the Storage and Disposition PEIS and the SPD EIS. With respect to surplus plutonium disposition, the amended ROD announced DOE/NNSA's decision to cancel the immobilization program and conduct additional NEPA analyses, as appropriate, before making any final decisions regarding the MOX portion of the surplus plutonium disposition.

In addition to these various NEPA documents that DOE has prepared, DOE/NNSA notes that the NRC is preparing an EIS for the MOX facility based on an Environmental Report submitted by DCS in support of its application, pursuant to 10 CFR part 70, for an NRC license to possess and use special nuclear material in the MOX facility.

Finally, DOE/NNSA takes note of Division C, Title XXXI, Subtitle E of the recently enacted Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107–314, December 2, 2002). That Subtitle, entitled ''Disposition of Weapons-Usable Plutonium at Savannah River, South Carolina,'' directs the Secretary to submit to Congress a plan for and series of reports regarding construction and operation of a MOX facility at SRS under a specific timetable. It also directs the Secretary to take certain actions if that schedule is not being met, which depending on the circumstance may include preparation of a corrective action plan, cessation of further transfers of weapons-usable plutonium to SRS until the Secretary certifies that the MOX production objective can be met, removal of weapons-usable plutonium transferred to SRS, and payment of economic assistance to SRS from funds available to the Secretary. In DOE/NNSA's view, enactment of this legislation demonstrates strong congressional interest in seeing DOE/NNSA proceed with the MOX facility as promptly as is reasonably possible, and DOE/NNSA is proceeding accordingly.

II. Changes to the MOX Facility and Program

There are two sets of changes that are relevant to evaluating the environmental impacts of a MOX facility that would be used in the MOX program currently being contemplated as compared with the impacts of the MOX facility evaluated in the SPD EIS. First, entirely independently of the fact that the

[1] Weapons-usable plutonium is plutonium in forms (*e.g.,* metals or oxides) that can be readily converted for use in nuclear weapons. Weapons-grade, fuel-grade, and power-reactor-grade plutonium are all weapons-usable.

[2] Weapons-grade plutonium is plutonium with an isotopic ratio of plutonium-240 to plutonium-239 of no more than 0.10.

[3] This amount (50 MT) accommodates the potential declaration of additional surplus plutonium in the future. To date, 38 MT of weapons-grade plutonium have been declared surplus. Of this amount, approximately 4 MT is already in the form of waste or spent nuclear fuel.

revised strategy contemplates the fabrication of additional material into MOX, as the detailed design for the MOX facility has progressed in conjunction with the NRC licensing process, some of the facility design parameters originally assumed in preparing the SPD EIS have changed.

Second, the MOX-only program DOE is now contemplating would entail fabricating into MOX slightly more plutonium than previously analyzed (34 MT rather than 33 MT, a difference of approximately 3%). It would also include in the MOX program a portion (approximately 6.5 MT) of the 17 MT of plutonium originally destined for immobilization.[4] This latter plutonium, referred to as ''alternate feedstock,'' is currently in storage at various sites around the DOE complex. The majority of this material is now at RFETS, and DOE/NNSA is in the process of shipping it to SRS.[5] The remainder is located primarily at the Hanford Reservation, SRS, the Lawrence Livermore National Laboratory, and the Los Alamos National Laboratory. This alternate feedstock has more impurities and some larger particles sizes than the plutonium originally analyzed. This means additional equipment will need to be incorporated into the MOX facility to homogenize and reduce the particle size of some of the new feedstock and to remove the additional impurities.

III. NEPA Process for Amending ROD

The Council on Environmental Quality (CEQ) regulations implementing NEPA at 40 CFR 1502.9(c) require Federal agencies to prepare a supplement to an EIS when an agency makes substantial changes in the proposed action that are relevant to environmental concerns or when there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. DOE regulations at 10 CFR 1021.314(c) direct that when it is unclear whether a supplement to an EIS is required, an SA be prepared to assist in making that determination. DOE/NNSA has recently prepared the Supplement Analysis for Changes Needed to the Surplus Plutonium Disposition Program (DOE/EIS–0283–SA1) in accordance with these CEQ and DOE regulations.

In the SPD EIS ROD, DOE selected the Preferred Alternative (SPD EIS Alternative 3), which involves the construction and operation of three disposition facilities at SRS. The SA evaluates the proposed changes to the MOX facility within the context of the SPD EIS Preferred Alternative, and recognizes that, with the cancellation of the immobilization facility, only two disposition facilities are to be constructed and operated at SRS. The analysis also reflects the design changes in the MOX facility proposed during the NRC licensing process. The SA also evaluates the proposed processing of 34 MT of surplus plutonium, including the alternate feedstock, and compares the impacts of that proposal to the associated impacts presented in the SPD EIS. The conclusions from the SA are summarized in Section IV of this amended ROD. Section IV also discusses the effect of using the alternate feedstock to fabricate MOX fuel on DOE/NNSA's decision in the April 19, 2002 amended ROD to consolidate long-term storage at SRS of surplus non-pit plutonium stored separately at RFETS (*see* Section I).

IV. Summary of Impacts

None of the changes to the program described above would result in impacts significantly different from, or significantly greater than, those described in the SPD EIS. For most of the resource areas analyzed, no differences or only very minor differences in impacts were identified. Where there are differences in impacts, they are relatively small and are well within DOE's capacity to manage.

Increased impacts result from increases in the volume of low-level radioactive waste, transuranic (TRU) waste, and nonradioactive, nonhazardous wastewater from the MOX facility over levels identified in the SPD EIS. However, there is sufficient capacity within the waste management infrastructure at SRS, and available disposal capacity within the DOE complex, to accommodate the additional waste. Moreover, the total number of shipments of TRU waste from SRS to the Waste Isolation Pilot Plant (WIPP) remains within the number of shipments evaluated in the Waste Isolation Pilot Plant Disposal Phase Final Supplemental Environmental Impact Statement (WIPP SEIS) when the additional shipments of TRU waste generated by MOX facility operations are included. Finally, from a programmatic perspective (*i.e.*, construction and operation of only two facilities rather than three), overall generation of non-radioactive, non-hazardous wastewater decreases.

The amount of land estimated to be temporarily and permanently disturbed for construction of the MOX facility would increase from that identified in the SPD EIS. However, construction of the MOX facility in F-Area is consistent with other SRS uses and with the surrounding industrial land use.

Changes to the MOX facility and associated operations would result in only minor additional impacts on other resource areas, including an overall decrease in water use and a small positive socioeconomic benefit from the need for a slightly larger workforce. No new or different bounding accident scenarios or impacts have been identified, and operation of the MOX facility continues to pose no more than a small risk to human health and the environment.

Prior to issuing the April 19 amended ROD to provide for the transfer of RFETS surplus non-pit plutonium to SRS, DOE prepared an SA entitled Supplement Analysis for Storage of Surplus Plutonium Materials in the K-Area Material Storage Facility at the Savannah River Site (KAMS SA), DOE/EIS–0229–SA–2, February 2002. That SA analyzed the impacts of storing up to 15 MT of plutonium in the KAMS facility for up to 50 years. Like the rest of the non-pit plutonium, this material will have to be sampled before any final decision can be made whether it can be fabricated into MOX, but DOE/NNSA anticipates that, depending on system performance and actual material

[4] In its original February 15, 2002 Report to Congress, DOE/NNSA indicated that it believed that 6.4 MT of impure surplus plutonium, previously intended for immobilization, could reasonably be purified and used as feedstock for MOX fuel fabrication. That report also indicated that an additional 2 MT of impure surplus plutonium was too heavily contaminated to be cost-effectively used as MOX feedstock, and would therefore be disposed of as waste. A March 5, 2002 letter supplementing the February 15 Report noted that, while disposal of the 2 MT as waste remains a possibility, DOE was evaluating other disposal options, including additional processing that might result in the recovery of additional plutonium suitable for fabrication as MOX fuel. DOE recently determined that a small portion of this material, currently stored at RFETS, would most appropriately be disposed of as waste at the Waste Isolation Pilot Plant near Carlsbad, New Mexico. See Supplement Analysis for the Disposal of Certain Rocky Flats Plutonium-Bearing Materials at the Waste Isolation Pilot Plant (DOE/EIS–0026–SA–3, November 2002); Amendment to the Record of Decision on Waste Isolation Pilot Plant Disposal Phase Supplemental Environmental Impact Statement (67 FR 69512, November 18, 2002). DOE is still evaluating options to determine the most cost-effective manner for disposing of the remainder of the 2 MT of impure plutonium, and at present this plutonium is not included in the surplus plutonium that will be used to implement the U.S.-Russia Agreement. If that remains the case, this 2 MT would be replaced with an equivalent amount of additional weapons-grade plutonium to be identified in a future surplus declaration.

[5] In the April 19, 2002 amended ROD, DOE decided to transfer the non-pit surplus plutonium at RFETS to SRS for long-term storage, in order to facilitate the closure of RFETS. It otherwise left unmodified its earlier decision to continue to store the non-pit material at the sites where it is currently located. Today's decision likewise leaves unmodified that earlier decision to leave that material in place.

characteristics, almost all of the RFETS plutonium will be included in the approximately 6.5 MT of alternate feedstock, meaning that this material would not require long-term storage.

Based on these analyses, DOE/NNSA has determined that the potential environmental impacts associated with the proposed changes to the revised disposition program, including facility design changes, a small increase in the total amount of material to be fabricated into MOX fuel, and the processing of approximately 6.5 MT of surplus plutonium originally intended for immobilization, would not constitute significant new circumstances or information relevant to environmental concerns and bearing on the action and impacts previously analyzed in the SPD EIS. Therefore, pursuant to 10 CFR 1021.314, no additional NEPA analysis is required for DOE/NNSA to move forward with the design changes and modify its disposition program so that it will entail processing 34 MT of surplus plutonium, including approximately 6.5 MT of plutonium originally intended for immobilization, into MOX fuel.

V. Amended Decision

DOE/NNSA is modifying its previous surplus plutonium disposition decisions in order to implement the U.S.-Russia Agreement using a 34-MT MOX-only approach. DOE/NNSA is modifying its decisions on the disposition of surplus plutonium as follows:

- Pursue a program of fabricating into MOX fuel (after appropriate sampling to determine actual material characteristics) approximately 6.5 MT of surplus weapons-grade plutonium originally intended for immobilization, including the material transferred from RFETS to SRS for storage that after appropriate sampling is determined to meet the MOX fabrication facility's specifications.
- Increase the total amount of surplus plutonium to be fabricated into MOX fuel under that program from 33 MT to 34 MT.

Issued in Washington, DC, this 17th day of April, 2003.

Linton F. Brooks,

Acting Administrator, National Nuclear Security Administration.

[FR Doc. 03–10151 Filed 4–23–03; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OW–2002–0064; FRL–7487–6]

Agency Information Collection Activities; Submission of EPA ICR No. 0029.08 (OMB No. 2040–0068) to OMB for Review and Approval; Comment Request

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: NPDES Modifications and Variance Requests. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before May 27, 2003.

ADDRESSES: Follow the detailed instructions in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Jack Faulk, Water Permits Division, Office of Wastewater Management, Mail Code 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–0768; fax number: (202) 564–6431; email address: *faulk.jack@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On January 10, 2003, (68 *FR* 1454), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OW–2002–0064, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice, and according to the following detailed instructions: (1) Submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to *ow-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket, Mail Code: 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) Mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 *FR* 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: NPDES Modification and Variance Requests (OMB Control Number 2040–0068, EPA ICR Number 0029.08). This is a request to renew an existing approved collection that is scheduled to expire on April 30, 2003. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: This ICR calculates the burden and costs associated with modifications and variances made to NPDES permits and to the National Sewage Sludge Management Program permit requirements. The regulations specified at 40 CFR 122.62 and 122.63 specify information a facility must report in order for the U.S.

Environmental Protection Agency (EPA) to determine whether a permit modification is warranted. A NPDES permit applicant may request a variance from the conditions that would normally be imposed on the applicant's discharge. An applicant must submit information so the permitting authority can assess whether the facility is eligible for a variance, and what deviation from Clean Water Act (CWA) provisions is necessary. In general, EPA and authorized States use the information to determine whether: (1) The conditions or requirements that would warrant a modification or variance exist, and (2) the progress toward achieving the goals of the (CWA) will continue if the modification or variance is granted. Other uses for the information provided include: updating records on permitted facilities, supporting enforcement actions, and overall program management, including policy and budget development and responding to Congressional inquiries.

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.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average about 23 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: NPDES permit applicants that request a variance or modification of the NPDES or sewage sludge management conditions.

Estimated Number of Respondents: 13,137.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 303,997 hours.

Estimated Total Annual Cost (non labor costs): $10,952,021, includes $0 annualized capital or O&M costs.

Changes in the Estimates: There is an increase of 10,674 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase in the applicant respondent and NPDES-authorized state burden is due to an increase in the number of States authorized to administer the NPDES permitting program (*i.e.*, shift of burden from EPA to the States).

Dated: April 10, 2003.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 03–10165 Filed 4–23–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OAR–2003–0033; FRL–7487–7]

Agency Information Collection Activities; Submission of EPA ICR No. 2078.01 to OMB for Review and Approval; Comment Request

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: ENERGY STAR® Product Labeling. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before May 27, 2003.

ADDRESSES: Follow the detailed instructions in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Rachel Schmeltz, Climate Protection Partnerships Division, Office of Air and Radiation, MC 6202J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–9124; fax number: 202–565–2077; email address: *schmeltz.rachel@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On July 17, 2002 (67 *FR* 46969), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OAR–2003–0033, which is available for public viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice, and according to the following detailed instructions: (1) Submit your comments to EPA online using EDOCKET (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 *FR* 38102 (May

31, 2002), or go to *http://www.epa.gov/edocket.*

Title: ENERGY STAR Product Labeling (EPA ICR Number 2078.01). This is a request for a new collection.

Abstract: ENERGY STAR® is a voluntary program developed in collaboration with industry to create a self-sustaining market for energy efficient products. The center piece of the program is the ENERGY STAR label, a registered certification label that helps consumers identify products that save energy, save money, and help protect the environment without sacrificing quality or performance. In order to protect the integrity of the label and enhance its effectiveness in the marketplace, EPA must ensure that products carrying the label meet appropriate program requirements. Since ENERGY STAR is a self-certification program, it is important that program participants submit signed Partnership Agreements indicating that they will adhere to logo-use guidelines and that participating products meet specified energy performance criteria based on a standard test method.

As part of our contribution to the overall success of the program, EPA has agreed to facilitate the sale of qualifying products by providing consumers with easy-to-use information about the products. To be effective, EPA must receive qualifying product information from participating manufacturers. Partners will be requested to submit updates to qualifying product information on an annual basis, so as to ensure that EPA information is recent and accurate. The information will be compiled into a complete qualifying products list per product category, posted on the ENERGY STAR Web site, and supplied to those purchasers who request it via phone, fax, or e-mail. In addition, because of the nature of these products, manufacturer of roof products and residential light fixtures will be requested to submit testing reports in order to verify qualification.

In order to monitor progress and support the best allocation of resources, EPA will also ask manufacturers to submit annual shipment data for their ENERGY STAR qualifying products. EPA is flexible as to the methods by which manufacturers may submit unit shipment data. For example, if manufacturers already submit this type of information to a third party, such as a trade association, manufacturers are given the option of arranging for shipment data to be sent to EPA via this third party to avoid duplication of efforts and to ensure confidentiality. In using any shipment data received directly from a partner, EPA will mask the source of the data so as to protect confidentiality.

Finally, Partners that wish to receive recognition for their efforts in ENERGY STAR may submit an application for the Partner of the Year Award.

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, and are identified on the form and/or instrument, if applicable.

Burden Statement: The average annual public reporting and recordkeeping burden for this collection of information is about 173 hours. EPA collects initial information in the Partnership Agreement (PA), which is completed and submitted by every Partner participating in ENERGY STAR. One overarching PA has been developed by EPA for ENERGY STAR product labeling. It is expected that 118 new Partners will join each year for the three years of this ICR. The reporting burden for information collection requirements associated with completing the PA for each respondent is estimated to be about 13 hours. This estimate includes times for reviewing the instructions on the PA, completing and reviewing the information requested by the PA, and submitting the PA.

Every manufacturing Partner is required to submit information on each of their qualifying products. Annual updates, notifying EPA of any changes in qualifying product information, are required as well. Thirty-two different product categories are covered by EPA under ENERGY STAR. Each product category has specific qualifying product information that must be submitted by each Partner for at least one qualifying product. Qualifying product information is expected for 3,112 new qualifying products each year for the three years of this ICR. The qualifying product list for each product category is updated by the Agency once each month, for a total of 384 times annually (32 product categories times 12 months in a year). Approximately twice each month the Agency receives a request for qualifying product information that cannot be fulfilled by the ENERGY STAR Web site, for a total of 768 requests. The reporting burden for information collection requirements associated with submitting the qualifying product information for each qualifying product submitted by a respondent is estimated to be about 19 hours. This estimate includes time for compiling and reviewing the information requested, and submitting the information.

ENERGY STAR Partners for residential light fixtures and roof products are required to submit testing reports for each product determined to by qualified with the ENERGY STAR criteria. It is anticipated that qualifying product information for 654 new roof and residential light fixture products will be received by EPA each year for the three years of this ICR. The reporting burden for information collection requirements associated with testing reports by roof product and residential light fixture Partners for each qualifying product submitted by a respondent is estimated to be about 70 hours. This estimate includes performing testing in house or by a Third Party, assembling the data into a report format, reviewing it and submitting it.

EPA also requires that manufacturing Partners submit information on their unit shipments of ENERGY STAR labeled products annually. Each year, ENERGY STAR Partners are required to submit unit shipment data for their ENERGY STAR labeled products. There will be an average of 1,143 total Partners each year for the three-years of this ICR. Therefore, 1,143 reports of unit shipment data are expected each year for the three years of this ICR. Unit shipment data will be aggregated for each of the 32 product categories covered by EPA under ENERGY STAR. The reporting burden for information collection requirements associated with unit shipment data for each respondent is estimated to be about 27 hours. This estimate includes gathering unit shipment data compiling and reviewing unit shipment data by product category, and submitting unit shipment data.

Partners interested in receiving recognition for their efforts on ENERGY STAR are required to submit a Partner of the Year Award application. One set of Partner of the Year award criteria are developed by the Agency each year and posted on the ENERGY STAR Web site. An average of 30 Partners of the Year Award applications are expected each year for the three years of this ICR. The reporting burden for information collection requirements associated with the Partner of the Year Application for each respondent is estimated to be about 44 hours. This estimate includes reviewing the eligibility requirements and instruction on the application, gathering data and information for submission, completing the application, reviewing the information and narrative description required, and submitting the application to EPA.

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 affected by this action are product manufacturers which are Partners in EPA's ENERGY STAR program.

Estimated Number of Respondents: 1,143.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 129,623.

Estimated Total Annual Cost: $8,245,116 includes $346,667 annualized capital and $153,570 O&M costs.

Dated: April 11, 2003.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 03–10166 Filed 4–23–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OW–2002–0065; FRL–7487–8]

Agency Information Collection Activities; Submission of EPA ICR No. 0226.17 (OMB No. 2040–0086) to OMB for Review and Approval; Comment Request

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: Applications for NPDES Discharge Permits and the Sewage Sludge Management Permits. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before May 27, 2003.

ADDRESSES: Follow the detailed instructions in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Jack Faulk, Water Permits Division, Office of Wastewater Management, Mail Code 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–0768; fax number: (202) 564–6431; e-mail address: *faulk.jack@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On January 10, 2003 (68 *FR* 1454), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OW–2003–0065, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice, and according to the following detailed instructions: (1) Submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to *ow-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket, Mail Code: 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 *FR* 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: Applications for NPDES Discharge Permits and the Sewage Sludge Management Permit (OMB Control Number 2040–0086, EPA ICR Number 0226.17). This is a request to renew an existing approved collection that is scheduled to expire on April 30, 2003. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: This ICR calculates the burden and costs associated with permit applications for National Pollutant Discharge Elimination System (NPDES) discharges and sewage sludge management activities. EPA and States use the data contained in applications and supplemental information requests to set appropriate permit conditions, issue permits, and assess permit compliance. EPA maintains national applications information in databases, which assist permit writers in determining permit conditions. Depending on the application form they are using, applicants may be required to supply information about their facilities, discharges, treatment systems, sewage sludge use and disposal practices, pollutant sampling data, or other relevant information. In its burden and cost calculations, this ICR includes requests for information supplemental to permit applications. Application information is necessary to obtain an NPDES or sewage sludge permit. This ICR also includes the development of a storm water pollution prevent plan as part of the requirements for the multi-sector general permit, for industrial activities.

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.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 4.8 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: Publicly owned treatment works (POTWs), privately owned treatment works, new and existing industrial manufacturing and commercial discharger, storm water dischargers, treatment works treating domestic sewage (TWTDS), and States and territories.

Estimated Number of Respondents: 291,898.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 1,398,737 hours.

Estimated Total Annual Cost: $53,546,024, includes $0 annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 639,957 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease in the applicant respondent and NPDES-authorized state burden is due to a reduction in the burden associated with existing storm water permittees updating rather than developing Storm Water Pollution Prevention Plans.

Dated: April 10, 2003.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 03–10167 Filed 4–23–03; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2003–0003; FRL–7487–9]

Agency Information Collection Activities; Submission of EPA ICR No. 1061.09, OMB No. 2060–0037 to OMB for Approval; Comment Request

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: NSPS for the Phosphate Fertilizer Industry (40 CFR part 60, subparts T, U, V, W, and X), OMB Control No. 2060–0037, EPA ICR No. 1061.09. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before May 27, 2003.

ADDRESSES: Follow the detailed instructions in the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division (Mail Code 2223A), Office of Compliance, United States Environmental Protection Agency, 1200 Pennsylvania Avenue, NW. Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 26, 2002 (67 FR 60672), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number OECA–2003–0003, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center Docket is: (202) 566–1514. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket*. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice, and according to the following detailed instructions: (1) Submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code: 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

EPA's policy is that public comment, whether submitted electronically or on paper, will be available for public viewing in EDOCKET, as EPA receives them without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment placed in EDOCKET. The entire printed comment, including copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket*.

Title: NSPS for the Phosphate Fertilizer Industry (40 CFR part 60, subparts T, U, V, W, and X), OMB Control No. 2060–0037, EPA ICR No. 1061.09. This is a request to renew an existing, approved collection that is scheduled to expire on June 30, 2003. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The NSPS for the Phosphate Fertilizer Industry, published at 40 CFR part 60, subparts T, U, V, W, and X,

were proposed on October 22, 1974 and promulgated on August 6, 1975. These standards apply to each wet-process phosphoric acid plant, each superphosphoric acid plant, each granular diammonium phosphate plant, and each triple superphosphate plant, having a design capacity of more than 15 tons of equivalent phosphorous pentoxide (P_2O_5) feed per calendar day. These standards also apply to granular triple superphosphate storage facilities.

Owners or operators of affected facilities described must make the following one-time-only initial notifications and reports on the results of the initial performance test. 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. The owners or operators must install, calibrate, maintain, and operate a monitoring device which continuously measures and permanently records the total pressure drop across the scrubbing system.

Also required are semiannual reports. The 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 measurements. Responses to the collection of information are mandatory and are being collected to assure compliance with 40 CFR part 60, subparts T, U, V, W, and X. These notifications, reports and records are essential in determining compliance.

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, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 46 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: Phosphate Fertilizer Industry.

Estimated Number of Respondents: 13.

Frequency of Response: Initial and Semiannual.

Estimated Total Annual Hour Burden: 1,194.

Estimated Total Annualized Operations and Maintenance Cost: $320,000.

Changes in the Estimates: There is an increase of 231 hours and $320,000 in the total estimated burden currently identified in the OMB Inventory of approved ICR burdens. This is due to an increase in the number of sources and a reconsideration of the operation and maintenance costs for the required continuous emission monitors.

Dated: April 10, 2003.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 03–10171 Filed 4–23–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2003–0018; FRL–7303–4]

National Tribal Conference on Environmental Management; Notice of Proposal Solicitation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is requesting proposals from federally recognized Indian tribes or intertribal consortia to co-sponsor the 7th National Tribal Conference on Environmental Management (NTCEM). EPA will be the federal sponsor. The Tribal Conference will provide an opportunity for tribal leaders, tribal environmental managers, tribal organizations, federal agencies, and other interested entities/persons to share information about tribal environmental programs and discuss issues of vital interest to Indian country. The scope of the conference traditionally encompasses multi-media environmental issues involving tribes. The goals for the conference are to facilitate tribal environmental programs; establish stronger networks and relationships across environmental efforts in Indian country; identify shared lessons learned; and familiarize tribes with the full extent of tribal and EPA program environmental activities. EPA will award a cooperative agreement to the selected host tribe to co-sponsor the conference, including personnel, planning, facilities, and management expenses.

DATES: Proposals must be received or postmarked byJune 23, 2003.

A conference call for potential applicants to ask questions or seekpre-application assistance is scheduled for May 7, 2003, from 2 p.m. to 4:30 p.m. eastern standard time. Please call Caren Rothstein-Robinson at (202) 564–0544 to obtain the conference call telephone number and the access code.

ADDRESSES: Mail proposals via the U.S. Postal Service (including express and priority mail) to: Clara Mickles, Environmental Protection Agency, American Indian Environmental Office, Mail code 4104M, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Mail proposals via commercial overnight delivery service (e.g., FedEx, DHL, UPS) to: Clara Mickles, Environmental Protection Agency, American Indian Environmental Office, Room 3334, EPA East, Mail code 4104M, 1201 Constitution Ave., NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Caren Rothstein-Robinson, Environmental Protection Agency, Office of Program Management Operations, Mail code 7101M, Office of Prevention, Pesticides and Toxic Substances, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–0544.

Applicants may submit written questions for clarification electronically to: *rothstein-robinson.caren@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of particular interest to federally recognized Indian tribes or tribal consortia. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action

under docket identification (ID) number OPPT–2003–0018. The official public docket consists of documents specifically referenced in this action and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B–102 Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the**Federal Register** listings at *http://www.epa.gov/fedrgstr/*.You may also access this document and copies of past conference agendas from EPA's American Indian Environmental Office's web page at *http://www.epa.gov/indian/*.

Significant questions and responses as well as any significant clarifications to this request for proposals will be posted on EPA's American Indian Environmental Office's web page at *http://www.epa.gov/indian/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background

Starting in 1992, EPA has co-sponsored six bi-annual NTCEM conferences to provide an opportunity for tribal leaders, tribal environmental program managers, tribal organizations, federal agencies, and other interested entities to share information about tribal environmental programs and discuss issues of vital interest to Indian country. Topics at past conferences have helped to build tribal capacity in the following areas:

1. Managing environmental programs (including integrated waste programs).
2. Grant assistance to tribes.
3. Addressing concerns about human health risks and subsistence.
4. Contracting, research, and business development opportunities.
5. Technology (GIS) and natural resource management.
6. Air, water, and waste management issues.

The conference has traditionally been held in late spring. Following is a list of previous conference locations and dates:

1. Cherokee Nation, NC (May 1992)
2. Cherokee Nation, NC (May 1994)
3. Confederated Salish and Kootenai Tribes of the Flathead Nation, MT (May 1996)
4. Prairie Island Indian Community, MN (May 1998)
5. Confederated Tribes of Siletz Indians, OR (June 2000)
6. Pyramid Lake Paiute Tribe, NV (June 2002)

The most recent conference, hosted by the Pyramid Lake Paiute Tribe, in Reno, NV, was very successful in content as well as in attendance. Over 700 people attended this conference. Past conferences have drawn500–700 participants representing more than 200 tribes, Native Alaskans, intertribal consortia, federal employees and private/non-profit organizations. The conference agenda included all aspects of tribal environmental issues.

EPA has decided to sponsor the 7th NTCEM in the spring of 2005, with EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS), serving as the lead office for the event. In the past, the NTCEM has been held bi-annually in late spring which would place the 7th NTCEM sometime in late spring of 2004.

The decision to hold the conference in the spring of 2005 is being made because EPA and its tribal partners are planning several significant activities in the 2004 calendar year. Moreover, EPA is aware that the National Museum of the American Indian is planned to have its grand opening in the fall of 2004. EPA understands that there are a number of tribal activities and celebrations being held in conjunction with the Museum's opening and does not want to detract from these events. EPA also believes that spacing major tribal events more widely presents several positive benefits. It will help spread scarce tribal travel expenses over a longer period and encourage tribal participation at more events. Scheduling the NTCEM for the spring of 2005 would also give the host tribe additional time to plan for and work with other tribes across the country to ensure fuller participation and a diverse agenda more accurately reflecting Tribal interest and issues.

III. 2005 Host Responsibilities

The tribal host will be the primary non-federal co-sponsor for this conference. Strong conference management capabilities are essential, and include: Developing the conference agenda, handling conference logistics (such as registration, transportation, and travel scholarships for tribal participants), developing conference materials, and communications planning and outreach to ensure that priority environmental issues of interest to tribes are represented. The host tribe will support the tribal community in their participation by encouraging attendance and covering related travel expenses for the appropriate tribal personnel. The host tribe will also take the lead role in developing a conference theme.

EPA will be the federal co-sponsor of the NTCEM and will work with the tribal co-sponsor to identify national tribal environmental issues and arrange for federal participation. The Agency will enter into a written co-sponsorship agreement under EPA Ethics Advisory 96–15 with the selected tribal co-sponsor. EPA will provide technical assistance to the tribal co-sponsor, as needed, to resolve logistics and communication issues associated with the event. In consultation with the tribal co-sponsor, EPA may advertise the conference in EPA websites, notices, newsletters and other internal EPA communications materials.

IV. Coordination with Other Federal Agencies and Tribal Organizations

EPA and the host tribe will coordinate with other federal agencies and key EPA-supported tribal entities (including the Tribal Operations Committee, Tribal Pesticide Program Council, Tribal Science Council, Tribal Association on Solid Waste and Emergency Response, and many other broader-based intertribal organizations and consortia) to strengthen the multi-media character of this conference. These groups will be invited to participate on the conference agenda or independently around the other on-going conference events. Once the conference host is selected, EPA encourages interested organizations to contact the host to coordinate efforts.

V. Evaluation Criteria

EPA is requesting proposals from federally recognized Indian tribes or intertribal consortia to host the National

Tribal Conference on Environmental Management through a cooperative agreement with EPA, generally with a project period of 2 years. The applicable Catalog of Federal Domestic Assistance number is 66.604. To be eligible to receive a cooperative agreement under the authorities listed in today's Notice, an intertribal consortium must meet the definition of eligibility in the Environmental Program Grants for Tribes Final Rule, at 40 CFR 35.504 (66 FR 3782, January 16, 2001) (FRL–6929–5), and is a non-profit organization within the meaning of OMB Circular A–122. The funding amount for the cooperative agreement is subject to the availability of funds in EPA. Prior cooperative agreement awards for co-hosting the Tribal Conference have been in the amount of about $300,000. EPA will negotiate the final amount of the award with the selected tribal host.

Tribes or intertribal consortia that wish to submit proposals must first meet the four threshold factors described below under Unit V.B. Proposals that do not meet the threshold factors will not be considered further by EPA. If your tribe or intertribal consortium meets these threshold factors, EPA will score your proposal based on how well you meet the evaluation criteria. Please make sure you address the threshold factors first and then provide detailed information on all the listed criteria in your proposal. Clearly mark any information you consider confidential. EPA will make confidentiality decisions in accordance with Agency regulations at 40 CFR part 2, subpart B. Submissions which do not address a particular criterion will receive a zero score for that criterion. EPA strongly encourages direct involvement by staff from your environmental program/department, facility managers, and members of the local business community/chamber of commerce.

An EPA panel consisting of representatives from across the Agency will evaluate all qualifying submissions according to the listed criteria, and rank them according to final score. EPA will award a grant to the selected tribal host with the highest scoring proposal to cover personnel, planning, and management expenses. EPA reserves the right to reject all proposals and make alternative arrangements for the conference. EPA will follow the dispute resolution process in accordance with 40 CFR part 31, subpart F for disagreements.

Please submit a description of your facilities and a summary of your capabilities (with limited examples, if appropriate) for all of the criteria listed below.

A. Threshold Factors

1. Proposal must be submitted by an eligible federally recognized Indian tribe or intertribal consortium.
2. Have a conference center or other suitable meeting facilities capable of holding at least 4 concurrent sessions and a plenary session that will accommodate 700 people.
3. Have the capability to lodge 700 people.
4. Demonstrate the ability to effectively manage EPA financial assistance (i.e., an adequate financial management system with effective accounting procedures that maintain fiscal control).

B. Evaluation Criteria

1. *Conference management*. The proposal should clearly demonstrate the capability to manage all aspects of a major conference with detailed information and examples. The proposal should provide a preliminary conference plan of the host tribe's proposed approach. Conference management includes outreach, preparation, implementation, and wrap-up of the conference. Outreach should address issues such as effective involvement of tribes, communications plan, and internet capability. Preparation and implementation should address such issues as staffing; design and development of agenda; travel and facility logistics; registration; tribal travel scholarships; events; and contractual support. Wrap-up should address issues such as conference proceedings and evaluation by participants. Inclusion of (limited) documentation that specifically illustrates tribal conference management capability is strongly encouraged. (Maximum of 20 points)

2. *Tribal environmental capabilities*. Tribe or intertribal consortium demonstrates they have developed substantive environmental capabilities through, for example, establishing and implementing tribal environmental programs or coordinating/leading tribal environmental projects. Tribe or intertribal consortium demonstrates how such experience will be integrated into the conference, to include tribal environmental management and program perspectives, approaches and cultural aspects, such that the conference is distinguished from other environmental conferences. Proposal demonstrates how the tribe or intertribal consortium will closely tie the event to Indian country or tribal homelands. Proposal highlights how the host tribe will reflect tribal environmental issues in the conference theme and agenda. Proposal highlights local events, activities and/or projects that reflect tribal perspective. Examples from previous conferences include host tribe environmental program presentations and tours, technical and ceremonial demonstrations, tours of communities, and field trips to environmental sites. (Maximum of 20 points)

3. *Conference facilities*. Consideration will be given for conference facilities/amenities that are tribally owned or located on tribal land. Tribes that do not have facilities located on their lands can outline a plan to utilize nearby facilities that meet the logistical needs described in the criteria. (Maximum of 12 points).

4. *Conference transportation*. Demonstrate that: (i) Airline transportation is economically feasible for most conference participants; (ii) the conference facilities are located within 90 minutes of a major airport; and (iii) ground transportation can be provided for attendees to and from the airport and around the meeting sites (e.g., between meeting facility and offsite locations such as hotels and special event locations). Lodging should be available within a reasonable travel time, preferably within 15 minutes of conference facilities. (Maximum of 12 points)

5. *Conference materials*. Capability to produce and distribute conference materials, such as a conference logo, registration materials, signs/banners, an agenda booklet, and handouts. (Maximum of 12 points)

6. *Vendor area*. Use of an area in close proximity to the meeting area(s) capable of accommodating 25 or more vendors, providing exhibit booth space of 8' x 8' or 10' x 10' per vendor and access to electrical and telephone service. (Maximum of 12 points)

7. *Resource conservation*. Commitment to find flexible, yet more protective ways to conserve natural resources in the conduct of the conference. Proposal describes how the host tribe will communicate the environmentally friendly practices used at the conference to conference participants. Examples of resource conservation include: Using products with recycled content or other environmentally friendly materials, collecting recyclables, energy or water-use efficiency activities, providing opportunities for reuse, and providing sources of education. (Maximum of 12 points)

Total: 100 points.

In addition to soliciting proposals for the 2005 conference, EPA encourages you to submit suggestions or ideas for

potential agenda topics that your tribe would like to see addressed at the conference. EPA will forward all suggestions to the selected tribal host. EPA also encourages you to attend the conference regardless of whether you are interested in hosting the event.

List of Subjects

Environmental protection, Indian tribes.

Dated: April 16, 2003.

Stephen L. Johnson,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 03–10168 Filed 4–23–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0231; FRL–7293–6]

RIN 2070–AD36

Pesticides; Emergency Exemption Process Revisions Pilot and Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to issue emergency exemptions to States and Federal agencies, allowing them to use a pesticide for an unregistered use for a limited time if EPA determines that emergency conditions exist. EPA is announcing and seeking comment on a limited pilot program initiated by this Notice. The pilot is limited to exemption applications for which the requested chemical is a pesticide previously identified by EPA as a reduced-risk pesticide. Under this limited pilot, EPA will allow applicants for certain exemptions to re-certify that the emergency conditions which initially qualified for an exemption continue to exist in the second and third years, and will allow for a new tiered approach to be used for documenting a ''significant economic loss.'' This limited pilot is the result of extensive stakeholder involvement and an effort to streamline the emergency exemption process. EPA is also seeking comment on another potential improvement to the emergency exemption program that would provide exemptions for certain pest resistance management purposes. EPA is considering these improvements to the emergency exemption program in an effort to reduce the burden to both applicants and EPA, allow for quicker decisions by the Agency, and facilitate resistance management, while maintaining health and safety requirements. EPA currently intends to publish a proposed rule in 2003 that will propose several potential improvements to the emergency exemption regulations. EPA will consider any available information from this pilot as it proceeds with rulemaking.

DATES: Comments, identified by the Docket ID No. OPP–2002–0231, must be received on or before June 23, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Joseph Hogue, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–9072; fax number: 703–305–5884; e-mail address: *hogue.joe@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a Federal, State, or Territorial government agency that petitions EPA for section 18 use authorization. Regulated categories and entities may include, but are not limited to:

- Federal Government (NAICS Code 9241), *i.e.,* Federal agencies that petition EPA for section 18 use authorization.
- State or Territorial governments (NAICS Code 9241), *i.e.,* States, as defined in FIFRA section 2(aa), that petition EPA for section 18 use authorization.

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 above could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the summary of the applicability provisions as found in Unit III.B. of this Notice. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Copies of this Notice and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OPP–2002–0231. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. This Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is 703–305–5805.

2. *Electronic access.* You may access this **Federal Register** Notice electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA

intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in Docket ID No. OPP–2002–0231. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by electronic mail (e-mail) to *opp-docket@epa.gov*, Attention Docket ID No. OPP–2002–0231. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Mail Code: 7502C, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OPP–2002–0231.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, Attention Docket ID No. OPP–2002–0231. Such deliveries are only accepted during the Docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

II. Purpose of this Notice

This Notice announces the implementation of and seeks public comment on a limited pilot starting with the 2003 growing season. The pilot involves two potential process improvements to the emergency exemption program that are the result of an effort to streamline the emergency exemption process. EPA is taking this action after extensive stakeholder involvement (see Unit IV.). The pilot is limited to exemption applications for which the requested chemical is a pesticide previously identified by EPA as a reduced-risk pesticide. Under the limited pilot, EPA will allow applicants for certain exemptions to re-certify (and incorporate a previous application's information by reference) that the emergency conditions which initially qualified for an exemption continue to exist in the second and third years, and will allow for a new tiered approach to be used for documenting a ''significant economic loss.'' EPA is also seeking

comment on another potential change being considered for the emergency exemption program, *i.e.,* whether to allow exemptions for pest resistance management purposes.

EPA is considering these improvements to the emergency exemption program regulations in 40 CFR part 166 in an effort to reduce the burden to both applicants and EPA, allow for quicker decisions by the Agency, and facilitate pest resistance management, while maintaining health and safety requirements. EPA currently intends to publish a proposed rule in 2003 that will propose several potential improvements to the emergency exemption regulations. EPA will consider any available information from this pilot as it proceeds with rulemaking.

The potential revisions to the emergency exemption process described in this Notice arose from an effort to evaluate the emergency exemption regulations at 40 CFR part 166, begun in 1995. As part of that effort, in November 1996, the Agency hosted a Section 18 Stakeholders Workshop to discuss possible improvements to the Agency's emergency exemption process and receive stakeholder input. The improvements discussed at the workshop, and those included in this Notice, directly affect only applicants for emergency exemptions. States are the primary applicants for emergency exemptions, although Federal agencies may also apply.

Recommendations from the Association of American Pest Control Officials (AAPCO) Section 18 Task Force, representing the States, are the general basis for EPA's plan announced by this Notice. AAPCO originally provided EPA with recommendations following the 1996 workshop and recently submitted a revised, shortened list of three recommendations. This Notice begins to address those three recommendations. EPA has carefully refined each recommendation in an effort to address concerns expressed by other stakeholders. In refining those recommendations, the Agency attempted to maximize the streamlining benefits while making sure it can still carry out its health and safety responsibilities. A discussion of the evaluation process leading up to this Notice, including stakeholder input and recommendations, is in Unit IV.

After receiving comment on this Notice or near the end of the first year under the pilot, EPA plans to again consult the Pesticide Program Dialogue Committee (PPDC) on the potential improvements discussed in this Notice. At that time, the Agency, applicants for emergency exemptions, and many others will be able to share and discuss their experiences concerning the pilot provisions. The diverse group of stakeholders represented at PPDC meetings provides an excellent source of feedback to the Agency. Input from the PPDC will be carefully considered, along with public comments received in response to this Notice, public comments on the proposed rule expected in 2003, and experience from the pilot, when deciding what will be included in the final rule.

The following is a summary of the statutory and regulatory framework of the Emergency Exemption Program, a description of the extensive stakeholder involvement that forms the basis for the limited pilot and this request for comment, a detailed description of the limited pilot, and the Agency's request for comment.

III. Existing Statutory and Regulatory Framework

A. Statutory Provisions--FIFRA Section 18

Section 18 of FIFRA gives the Administrator of EPA broad authority to exempt any Federal or State agency from any provision of FIFRA if the Administrator determines that emergency conditions exist which require such exemption.

B. Regulatory Provisions--40 CFR Part 166

Regulations governing such FIFRA section 18 emergency exemptions are codified in 40 CFR part 166. Generally, these regulations allow a Federal or State agency to apply for an exemption to allow a use of a pesticide that is not registered when such use is necessary to alleviate an emergency condition. A State, as defined by FIFRA section 2(aa), means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands and American Samoa. The regulations set forth information requirements, procedures, and standards for EPA's approval or denial of such exemptions.

Federal and State agencies may apply to EPA for a section 18 emergency exemption from FIFRA due to a public health emergency, a quarantine emergency, or a ''specific'' emergency. Most exemptions from FIFRA requested or granted under section 18 fall under the category of ''specific exemptions.'' Typical justifications for specific exemptions include, but are not limited to, the expansion of the range of a pest; the cancellation or removal from the market of a previously registered and effective pesticide product; and the development of resistance in pests to a registered product, or loss of efficacy of available products for any reason. Additionally, an emergency situation is generally considered to exist when no other viable (chemical or non-chemical) means of control exist, and where the emergency situation will cause significant economic losses to affected individuals if the exemption is not granted.

When a Federal or State agency applies to EPA under section 18, it must submit a request in writing that documents the emergency situation, the pesticide proposed for the use, the target pest, the crop, the rate and number of applications to be made, the geographical region where the pesticide would be applied, and a discussion of risks which may be posed to human health or to the environment as a result of the pesticide use (40 CFR 166.20). EPA conducts an expedited review of the request, verifying the existence of the emergency, assessing risks posed to human health through food, drinking water, and residential exposure, assessing risks posed to farmworkers and other handlers of the pesticide, assessing any adverse effects on non-target organisms (including Federally listed endangered species), and assessing the potential for contamination of ground water and surface water. If an application for the requested use has been made in previous years, EPA does an assessment of the progress toward registration for the use of the requested chemical on the requested crop, and considers this status in the final determination to grant or deny the exemption. If EPA concludes that the situation is an emergency, and that the use of the pesticide under the exemption will be consistent with the standards of the Food Quality Protection Act (FQPA) and 40 CFR part 166, then EPA may authorize the pesticide to be used under section 18.

Section 18 pesticide uses for specific and public health exemptions can be authorized for periods not to exceed 1 year; uses under quarantine exemptions can be authorized for up to 3 years. Since actions taken under section 18 are intended to address a time-specific crisis or emergency need for temporary relief, most section 18 exemptions are specific exemptions which are granted for just one growing season. Such actions should not, therefore, be viewed as an alternative to registering the use(s) needed for longer periods. If the situation addressed with the section 18 exemption persists, or is expected to persist, affected entities must take the proper steps to amend the existing

registration or seek a new registration to address that future need.

IV. Background and Summary of Stakeholder Feedback

A. 1996 Section 18 Workshop to Streamline Emergency Exemption Process

In 1995, as part of an effort to streamline regulations, the Agency began a process to evaluate the emergency exemption regulations at 40 CFR part 166, and to formulate recommended changes to the operating procedures. As part of that effort, in November 1996, the Agency hosted a Section 18 Stakeholders Workshop to discuss possible regulatory changes to the Agency's section 18 process and receive stakeholder input. Participants of that meeting included representatives from State agencies responsible for pesticide oversight, chemical companies, and environmental and public interest groups. Participants voiced their concerns and identified suggestions for improving the emergency exemption process.

Although EPA scheduled the section 18 workshop prior to passage of the FQPA, in August 1996, the workshop was held shortly after the law was enacted. Because FQPA included new requirements affecting emergency exemptions, and was just 3 months old at the time of the workshop, the new law was of great interest to participants. Stakeholders at the workshop were deeply concerned that the new requirements of FQPA would hurt both the Agency's review time and approval rate for exemption requests, as well as increase the burden on applicants (primarily States) for information and documentation. Several of the recommendations raised in the workshop addressed these three concerns.

B. NASDA/AAPCO Initial Recommendations to EPA for Improvements

Subsequent to the November 1996 Section 18 Stakeholders Workshop, the National Association of State Departments of Agriculture (NASDA) and the Association of American Pest Control Officials (AAPCO) jointly sent a letter to EPA to provide recommendations for changes to the emergency exemption process. The letter referred to recommendations contained in a series of NASDA Proposed Resolutions. A copy of that letter and the Proposed Resolutions are available in the public docket for this Notice. The NASDA/AAPCO recommendations, which generally summarized issues raised at the workshop, were:

1. Seek changes to current regulations which will allow EPA the flexibility to base decisions on crop yield as opposed to crop value (or profit loss) in situations where that is a better indicator of pest damage.
2. Provide States general guidance regarding the appropriate documentation of an ''urgent, non-routine situation'' and allow States to certify that the ''urgent, non-routine situation'' exists based on the guidance.
3. Implement a performance audit program to ensure compliance with the guidance and give States justification to resist pressure to certify an ''urgent, non-routine situation'' when it does not exist.
4. Delegate to the States authority to reissue the section 18 exemption for a second or third year, based on the State's confirmation/certification that the basis for an emergency continues to exist.
5. Actively support and coordinate regional section 18 requests.
6. Enter into discussions with the States to establish reasonable monitoring criteria and approaches for wildlife and endangered species.
7. Support specific exemptions for resistance management where there is documented scientific evidence of resistance to currently registered pesticides or where valid research demonstrates that a dynamic process of resistance is developing.
8. Amend 40 CFR 166.2 to include ''reduced risk'' as an acceptable basis for granting a section 18 exemption. The definition of ''reduced risk,'' and the requirements for this request should allow States the ability to request a section 18 to allow for a pesticide use that will result in a lower potential for an adverse impact on human health or any other non-target species, including but not limited to, pest predators, pollinators, endangered species, and other organisms of special concern. Requests should be limited to only those situations where the ''reduced risk'' request will not result in additional risk to any aspect of the environment. Such requests should only be permitted where the proposed use is highly effective so that the potential for an increase in pesticide applications is extremely low.

The NASDA Proposed Resolutions also included recommendations concerning the establishment of time-limited tolerances for residues in food of pesticides used under emergency exemptions. Tolerances for pesticide uses under section 18 have already been addressed separately by EPA, as FQPA required that the Agency publish a regulation to put in place a process for that purpose. Therefore, the NASDA/AAPCO recommendations concerning tolerances are not included in this discussion.

C. The Food Quality Protection Act and Evolution of the Emergency Exemption Program

FQPA included new requirements affecting emergency exemptions, as stated above. FQPA set a new safety standard, and, for the first time required time-limited tolerances for pesticide residues in food resulting from pesticide use under emergency exemptions. As a result of FQPA, each emergency exemption request must be evaluated based on the potential risk to human health and the environment, including the aggregate risk to the public from ingestion of treated food, pesticide residues in drinking water, and exposure to the pesticide in and around the home and other non-occupational settings.

Processing time for emergency exemption requests (days from receipt of request to decision) increased significantly in 1997, the first year after FQPA, as EPA developed methodology to implement section 18 under the new law. Due to the urgent nature of emergency exemption requests, the Agency worked very hard to streamline the process. Average processing time decreased to pre-FQPA rates in 1998, and has decreased each year since then. The average processing time for exemption requests reached an all-time low of 44 days in 2000, for the first time surpassing the Agency's goal of 50 days, and decreased again to 34 days in 2001.

The approval rate for exemption requests is similar to pre-FQPA levels. The number of exemption requests has increased sharply since 1996, as have the number of exemptions granted. EPA believes the burden on applicants to request any individual emergency exemption has not increased since the recommendations were made, and in some cases it has decreased. The Agency has worked hard to be flexible with applicants, to make full use of existing data, and to minimize documentation requirements where appropriate, with particular attention to issues raised in the NASDA/AAPCO recommendations. Although FQPA did not appreciably increase applicant burden in preparing any specific emergency exemption request, the Agency is always interested in improving and streamlining its processes.

D. Stakeholder Feedback and EPA Response Since Workshop and Initial Recommendations

Since the Section 18 Stakeholders Workshop in 1996 and receipt of the NASDA/AAPCO recommendations, EPA has worked closely with stakeholders to develop the best approach to address the recommendations. Adoption of any of the recommendations would primarily affect applicants for emergency exemptions. Because only States, U.S. territories, and Federal agencies can apply for emergency exemptions, EPA has had the rare opportunity to work very closely with a large percentage of the parties affected by a procedural change to gain valuable, ongoing feedback during the effort to develop the potential improvements discussed in this Notice.

After the initial NASDA/AAPCO recommendations were submitted, a workgroup consisting of EPA staff and several representatives of State agencies responsible for pesticide oversight met regularly to develop specific options to address each of the recommendations. During this time and subsequently, the Agency looked for ways to improve the process and further expedite decisions on requests. EPA reviewed the NASDA/AAPCO recommendations, and the options developed by the workgroup, to determine what could be accomplished through non-regulatory internal process improvements. These efforts paid off in repeatedly shortened average review times for emergency exemption requests.

Due to the significant improvements in the emergency exemption process and program during the several years following the original NASDA/AAPCO recommendations, the needs of the States changed. The AAPCO Section 18 Task Force has reviewed the past set of recommendations and recently provided updated, final State recommendations for improving the emergency exemption program (see Unit IV.E.). Each of the original eight recommendations has either been intentionally excluded by AAPCO in their final three recommendations, or is being addressed in this Notice. AAPCO's letter with the final recommendations acknowledged that, based on several years of experience with the section 18 process under FQPA, they no longer suggested that EPA pursue the other initial recommendations. The initial recommendations numbered 1, 4, and 7 (see Unit IV.B.) are addressed in this Notice. The second and third of the initial recommendations were designed to be implemented together, and were essentially another option for the fourth, which AAPCO ultimately favored. EPA does encourage and help to coordinate regional emergency exemption requests involving multiple States, which was the fifth recommendation. Concerning recommendation number six, EPA is continuing to work with States to develop monitoring criteria for wildlife and endangered species in the context of pesticide registration. While the eighth recommendation, to allow exemptions based on reduced risk, has not been adopted, EPA does take reduced risk benefits into account as a factor in decisions.

EPA also solicited public comments on the original NASDA/AAPCO recommendations to improve the emergency exemption process, in the preamble to the proposed rule titled ''Tolerances for Pesticide Emergency Exemptions'' (64 FR 29823, June 3, 1999) (FRL–5750–1). The Agency only received comments on the listed recommendations from four parties. Two of the commenters were State departments of agriculture. Both States generally agreed with all the recommendations, but in particular supported the three revisions addressed in this Notice. One State offered refinements to several of the recommendations.

The other two commenters were public interest groups. Both groups opposed all of the recommendations. However, EPA believes that the operational revisions to the process being piloted have been refined in such a way as to address most of the concerns stated in their comments. One group noted that the current emergency exemption regulations are the result of negotiated rulemaking, a process which included a balanced representation of interests, but that the Section 18 Stakeholders Workshop, which culminated in the NASDA/AAPCO recommendations was not an adequately open process. EPA believes the workshop included participants from a wide array of interests, as representatives from State agencies responsible for pesticide oversight, chemical companies, and environmental and public interest groups attended. Also, the Agency's plan to undertake notice-and-comment rulemaking procedures before adopting any final changes to the section 18 process will again allow all interested parties to participate in the development of the potential changes.

In May 2002, EPA presented its general plan concerning the three revisions to the emergency exemption process included in this Notice to the PPDC. The PPDC provides a forum for a diverse group of stakeholders to provide feedback to EPA on various pesticide regulatory, policy, and program implementation issues. A wide array of stakeholders provided comments at the May meeting, which EPA has considered in refining the pilot and proposed revisions in this Notice. A transcript of the presentation and discussion at the May PPDC meeting is in the public docket for this Notice.

E. Final Recommendations by AAPCO Section 18 Task Force

AAPCO provided EPA with their updated recommendations for improving the emergency exemption process:

1. *Multi-year section 18 exemptions*. EPA should delegate authority to the States to reissue section 18 exemptions for a second or third year, based on the State's confirmation that the basis for an emergency situation continues to exist.

2. *Resistance management*. EPA should support specific exemptions for pest resistance management where there is documented scientific evidence of resistance to currently registered pesticides or where valid research demonstrates that resistance is developing.

3. *Criteria for significant economic loss*. EPA should base decisions on crop yield rather than crop value (or profit loss) in situations where crop yield is a better indicator of pest damage.

These are three of the eight recommendations originally submitted to the Agency in 1997. These updated recommendations were provided to EPA by AAPCO, verbally at the May 2002 PPDC meeting, and again in a letter in September 2002, from the president of AAPCO. A copy of that letter is available in the public docket for this Notice. The three potential revisions discussed in this Notice would essentially address these three recommendations, albeit with modifications based on input from other stakeholders. Each of the initial eight recommendations has either been dropped by AAPCO in their final recommendations, or is being addressed in this Notice.

V. Limited Pilot of Potential Process Improvements Beginning with the 2003 Growing Season

This limited pilot was developed after long and careful consideration of input by stakeholders. EPA believes that the changes being piloted will significantly benefit both applicants for pesticide emergency exemptions and the Agency. These benefits are expected to accrue without any increase in risk to human health or the environment. The pilot

will also provide valuable information that will aid the Agency in developing and completing regulatory revisions related to these process improvements, which the Agency currently expects to propose in 2003.

A. Which Emergency Exemptions will be Included in the Pilot?

The pilot will be limited to emergency exemption applications for which the requested product is a pesticide previously identified by EPA as a reduced-risk pesticide, as discussed below. The pilot will only involve specific exemptions, and does not affect public health or quarantine exemptions. The pilot will begin with emergency exemptions for the 2003 growing season. As such, EPA will consider the two process improvements when it reviews eligible applications for emergency exemption for the 2003 growing season, including those applications that are currently pending final decision on and any applications received after April 16, 2003. The Agency recognizes that those applications currently under review by EPA that are eligible for the pilot, are not likely to include information that addresses the two improvements described in this Notice. In such cases, the Agency intends to work with the applicants to apply the pilot provisions where appropriate and desired by the applicant. It should be noted that at no time during the pilot is any applicant required to use the pilot provisions, even if eligible. Any applicant which chooses to forgo the pilot and use the established application process may do so.

EPA chose to focus the pilot on reduced-risk pesticides, a specific set of pesticide products which includes conventional pesticides which were registered under EPA's Reduced-Risk Pesticide Initiative, plus biological pesticides registered through the Biopesticides and Pollution Prevention Division (BPPD). The goal of the Reduced-Risk Pesticide Initiative and BPPD is to encourage the development, registration, and use of lower-risk pesticide products which would result in reduced risks to human health and the environment when compared to existing alternatives. A detailed description of reduced-risk pesticides may be found in Pesticide Regulation Notice 97-3, which is available in the public docket for this Notice. The reduced-risk determination for conventional pesticides is made by EPA for each use of a pesticide, particularly when compared to existing registered alternatives for that use. However, for use in implementation of the revised practices under the pilot in this Notice, any active ingredient which is contained in at least one product registered under the Reduced-Risk Initiative, plus any biological pesticide, will be considered a reduced-risk active ingredient. Any product containing one or more of these active ingredients and no others will be eligible, while any product containing any other active ingredient will not be eligible for exemption under the pilot.

EPA has prepared a list of all reduced-risk active ingredients, as defined above, so that applicants and others may easily determine which emergency exemption requests may be eligible for consideration under the pilot for the revised approach for documentation of significant economic loss. The new economic loss approach under the pilot may be applied to any exemption request for a reduced-risk pesticide on this list. However, in order for exemptions to be eligible for re-certification of an emergency under the pilot, in addition to the restriction to reduced-risk pesticides, they must also meet the other criteria for candidacy for re-certification set forth in Unit V.B.1. Therefore, the Agency has prepared a second list of existing (*i.e.,* granted for use in 2002) exemptions that are eligible for re-certification. EPA has also prepared a guidance document for implementation of the revised practices under the pilot, which is intended to further aid applicants in preparing applications. The two lists for determining eligibility of exemptions under the pilot are appendices to the guidance document, which will be sent to the States and included in the public docket for this Notice.

B. What Process Improvements are Being Piloted?

Two potential improvements to the emergency exemption program will be tested through this limited pilot.

1. *Re-certification of emergency condition by applicants*—i. *What is our current practice*? EPA authorizes emergency exemptions (except quarantine exemptions) for no longer than 1 year. However, depending on the nature of the non-routine condition which caused the emergency, some exemptions may subsequently be granted again, 1 year at a time. Currently, EPA conducts a full review of an application for the first year of an exemption, to determine whether an emergency condition exists, to ensure the use will not result in unreasonable adverse effects to man or the environment, and, if the use will result in pesticide residues in food or feed, to make a safety finding consistent with section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA). Applicants may submit an application for a subsequent year, in which case the Agency must again confirm the emergency condition and acceptability of the risk. For requests after the first year, the applicant again submits information to support the emergency finding, and EPA reevaluates the situation to determine, relative to the first year, whether: (1) The emergency condition has changed; (2) any alternative products have been newly registered for the use, or other effective pest control techniques are now available; (3) any changes have occurred in the status of the chemical's risk assessment; and (4) the requested use pattern has changed.

ii. *How will re-certification work under the pilot*? The first potential improvement that is part of the pilot will allow applicants for certain exemptions to re-certify in the application that the emergency conditions which initially qualified for an exemption continue to exist in the second and third years. Under the pilot, this re-certification by the applicant will serve as the basis for EPA's determination that an emergency condition continues to exist. An acceptable application which re-certifies the emergency will incorporate by reference all information submitted in a previous application or applications to document the initial emergency condition for which an exemption was granted previously. Eligible applications in years two and three may consist only of applicants' re-certification of the emergency condition, incorporation by reference of supporting materials, and specification of the pesticide application practices that growers would observe. Applicants would not need to submit new documentation that the emergency condition continues or the additional data elements generally required under 40 CFR 166.20.

EPA will apply specific criteria to determine whether an exemption request will be eligible for re-certification of the emergency condition by the applicant. All of the following criteria need to apply in order for EPA to consider an exemption as a candidate for re-certification of an emergency under the pilot:

1. EPA granted the same exemption the previous year, and it is the second or third year of the request by that applicant. The Agency determined that the situation the previous year satisfied requirements for an emergency condition (40 CFR 166.3(d)). A complete application will be required the first year of an exemption for a particular

applicant, in order to establish the existence of the emergency. Re-certifications will not be accepted as the basis for an emergency after 3 years of an exemption to an applicant.

2. The emergency situation can reasonably be expected to continue for longer than 1 year. Examples of these include situations where a registered product relied upon by growers becomes permanently unavailable; expansion of a pest's range; and, documented loss of efficacy of a registered product. Situations which would not be expected to continue would include a temporary supply problem of a registered product; an isolated weather event; and a sporadic pest outbreak.

3. The exemption is not for a new chemical, a first food use, or for a chemical under Special Review. An exemption that is for a product containing an active ingredient which has never been contained in a product registered as a pesticide under section 3 of FIFRA, or has never been registered for a food use, has officially been placed under Special Review by the Agency, or has been the subject of a Notice of Intent to Cancel under FIFRA section 6, would not be considered for candidacy for re-certification of the emergency.

4. The requested pesticide is registered for another use and has been designated as ''reduced-risk'' by EPA for one or more uses. The reduced risk program is explained in PR Notice 97–3. This program offers pesticide manufacturers incentives for developing registration applications for pesticides which are less risky than the alternatives for a given pest problem. A committee of EPA scientists evaluates and selects pesticides and uses which are considered to be reduced risk.

Under the pilot, EPA will accept re-certifications of emergency conditions for exemptions which satisfy the eligibility criteria described above. It may not be clear to applicants whether some exemptions are eligible for re-certification. Since eligibility determinations must be made by the Agency, EPA has developed a list of emergency exemptions granted for use in 2002 that appear to be candidates for re-certification for the 2003 growing season. This list (included in the guidance document available in the public docket) is intended to help avoid an applicant's assumption that an exemption is eligible for re-certification of the emergency, when in fact it is not. EPA will attempt to include all appropriate candidates on this list. However, applicants may contact the Agency to request an eligibility determination for exemptions they believe satisfy the criteria but which are not on the list.

For applications which are eligible and include a proper re-certification of the emergency condition, EPA will continue to assess whether the requested use poses a risk to human health or the environment that exceeds statutory and regulatory standards. If the risks posed by the requested use are determined to be unacceptable, the exemption request will be denied. However, when the emergency condition and requested use in an eligible year are the same as in the initial year of the exemption, EPA will only re-evaluate the situation to determine, relative to the first year, whether: (1) Any alternative products have been newly registered for the use; (2) any changes have occurred in the status of the chemical's risk assessment; and (3) the requested use pattern has changed. If an effective product has been registered for the requested use since the previous exemption was granted, then an emergency condition no longer exists. If the Agency has received new risk information since granting the previous exemption, then the risk will be re-evaluated. Likewise, if the request includes any change in the use pattern which may increase exposure (application rate, number of applications, type of application, pre-harvest interval, re-entry interval, total number of acres, and all other directions for use) then the risk will also be re-evaluated.

For eligible requests with applicant certification of a continuing emergency, if the three remaining review factors (product registrations, risk assessment status, and requested use pattern) have not changed, the Agency's review time is expected to be significantly reduced. In such cases, applicants are expected to benefit by expedited decisions, in addition to the reduced burden due to the certification of the emergency. Applicants will be permitted to modify the use pattern for the emergency program in an application in which they re-certify the emergency. However, EPA will need to determine whether, and how, such changes impact exposure and risk to human health or the environment. Therefore, these changes may undercut the ability of applicants to receive an expedited Agency decision. If the use pattern is the same as in the first year, applicants may include a separate certification that their requested use pattern has not changed in the re-certification year, and incorporate by reference all use pattern specifications submitted in a previous application or applications. This certification of an unchanged use pattern will aid in expediting the Agency's decision.

If the Agency determines that there has been insufficient progress towards registration of the requested chemical on the requested crop, a request could be denied, consistent with current regulations and practice, regardless of eligibility for re-certification. Progress toward registration is determined for a pesticide-crop combination, whereas the year-count (first, second, third, etc.) in the eligibility cycle for re-certification would be determined separately for each applicant, and could often differ among applicants in a given year. Lack of progress towards registration would generally not cause denials during the first 3 years of exemptions for a chemical-crop combination. However, since some applicants may apply for the first time, in a year subsequent to the first request for a chemical-crop combination by another applicant, lack of progress towards registration could potentially interrupt the eligibility cycle for some applicants.

EPA is sensitive to emergency exemption requests being repeated for a number of years and requires that steps be taken to obtain a registration for the emergency use. Under this pilot for re-certifiable emergencies, EPA will not allow re-certification of emergencies for exemptions that have been granted for more than 3 years.

iii. *Why pilot this potential improvement*? Allowing applicants to re-certify the existence of an ongoing emergency condition for certain eligible exemption requests is expected to reduce the burden to both applicants and EPA as well as allow for quicker decisions. When an applicant certifies the continuation of the emergency condition and incorporates previously submitted materials by reference, a complete new application sufficient to characterize the situation in accordance with 40 CFR 166.20 will not be required. This will save applicants time and effort in gathering data and preparing their submissions. The Agency will save time and resources by not having to annually repeat the analyses that support the applicable requests. If no pesticides which can avert the emergency have been newly registered, and nothing has changed to affect the assessment of risk, then re-certification of an emergency will lead to significantly shorter Agency review, saving valuable time for those affected by the emergency.

EPA's experience indicates that emergency situations which continue after the initial year generally cause comparable losses in succeeding years. Therefore, with the certification of a

continuing emergency, the economic data and other supporting information required by 40 CFR part 166 would be unnecessary.

The limited focus of the pilot on reduced-risk pesticides will significantly reduce the number of exemptions potentially affected under the pilot. Nevertheless, the Agency expects the pilot to provide valuable experience. Any available information from the pilot will be considered along with public comments in forming a better proposed rule that EPA currently intends to issue in 2003 and aid in the development of final improvements to the emergency exemption program.

2. *Tiered approach for documentation of ''significant economic loss''*—i. *What is our current practice*? EPA determines whether the loss from an emergency would result in net cash returns (gross revenue less operating expenses) below the historical variation in net cash returns. Applicants are required to submit economic information necessary to make this determination, when available. In addition to information used to estimate the amount of the anticipated yield and profit losses, annual data for 5 years of average yields, prices, and production costs are submitted by applicants and analyzed by EPA to establish profit variability.

ii. *How will the tiered approach to determining significant economic loss be used under the pilot*? A large majority of emergency exemptions are granted because they meet the regulatory criteria for an emergency condition that affected growers will suffer a ''significant economic loss'' due to an urgent, non-routine situation if the requested exemption is not granted. This second potential improvement that is part of the pilot will allow applicants to develop the significant economic loss documentation necessary to support many specific exemption requests through a less burdensome economic methodology.

This tiered approach is based on an analysis of data found in a random selection of past requests for emergency exemptions submitted by States, including requests that were denied. The analysis shows that in many cases significant economic loss can be demonstrated in a more flexible manner without loss of reliability. The analysis of past section 18 requests suggests that the current approach is often unnecessarily burdensome in terms of information requirements. This new approach under the pilot will often reduce the burden to applicants relative to the current approach, while maintaining the level of approvals of current regulations. The tiered approach is intended to require less data from applicants in cases where the same conclusion of a significant economic loss would be made with the additional data and analysis.

Current regulations (40 CFR 166.20(b)) list certain information which must be included, as appropriate, in an application for a specific exemption:

(b) *Information required for a specific exemption*. An application for a specific exemption shall provide all of the following information, as appropriate, concerning the nature of the emergency:

(4) A discussion of the anticipated significant economic loss, together with data and other information supporting the discussion, which addresses all of the following:

(i) Historical net and gross revenues for the site;

(ii) The estimated net and gross revenues for the site without the use of the proposed pesticide; and

(iii) The estimated net and gross revenues for the site with use of the proposed pesticide.

The regulations state that all of the above information must be included ''as appropriate.'' EPA exercises judgement based on experience, in determining when something less, or different, is appropriate. For example, under the current approach the Agency typically considers 5 years of annual data on historical net and gross revenues to be appropriate, although the regulations do not prescribe 5 years. However, in some cases, such as a very minor or new crop for which less data are available, this requirement is not considered appropriate if the applicant substitutes other credible information. Therefore, EPA believes that the pilot approach will allow applicants to focus their applications on the most ''appropriate'' information for determining whether or not a significant economic loss will occur.

Because the analysis of past exemption requests, on which the pilot approach is based, demonstrates that the likelihood of approval of some requests is not significantly changed by the pilot tiered approach, EPA believes that the requirement of those data in those cases is not appropriate. However, even when annual historical data are not required, applicants would generally continue to utilize historical data under the pilot approach, albeit in a different way. Each tier requires a quantitative threshold to be met, which is a certain percentage of a baseline of either crop yield, gross revenues, or net revenues. The best approach to determine the baseline in most cases is to use the average of historical data, including yield and price data.

Whereas the existing method generally requires detailed historical data, with the new approach the analytical burden for determining significant economic loss will be divided into three successive tiers. If the pest situation does not appear likely to result in a significant economic loss based on the first tier analysis, it could qualify based on further analysis in succeeding tiers. Each additional tier would require more data and involve more analysis on how the emergency affects profitability. For a loss to be considered economically significant, it must exceed a threshold. Each tier has a quantitative threshold that will generally apply to all eligible emergency exemption applications. Where conditions do not neatly fit into the tiered approach, for example long-term losses in orchard crops, the Agency may make a finding of significant economic loss based on other criteria, such as changes in the net present value of an orchard, if these losses are demonstrated by the State.

Tier 1--Yield Loss. Tier 1 is based on crop yield loss. If the projected yield loss due to the emergency condition is sufficiently large, EPA will conclude that a significant economic loss will occur, due to the magnitude of the expected revenue loss. The yield loss threshold in Tier 1 will be 20% for all crops. This threshold is set at a sufficiently high level such that a loss which exceeds the threshold will also meet the thresholds in Tiers 2 and 3, if the additional economic data were submitted and analyzed. Therefore, for such large yield losses it will not be appropriate or necessary to separately estimate economic loss, which requires detailed economic data.

Tier 2--Economic Loss as a Percentage of Gross Revenues. A yield loss which does not satisfy the threshold in Tier 1 could also lead to a significant economic loss because yield loss may not capture all economic losses. In addition to yield losses there may be other impacts that affect economic loss, including quality losses and changes in production costs, such as pest control costs and harvesting costs. For situations with yield losses that do not meet the significant economic loss criterion for Tier 1, EPA will evaluate estimates of economic loss as a percent of gross revenue in Tier 2, to determine if the loss meets that threshold for a significant economic loss. The economic loss threshold in Tier 2 will be 20% of gross revenue for all crops. Again, this threshold in Tier 2 is set with the intention that losses exceeding the threshold also meet the threshold in Tier 3, if it were analyzed.

Tier 3--Economic Loss as a Percentage of Net Revenues. Because typical profit margins (net cash revenues as a percentage of gross revenues) vary among crops, EPA will consider impacts on net cash revenues in Tier 3 if neither yield or economic losses are above the required thresholds in Tiers 1 and 2. Specifically, Tier 3 will measure economic loss as a percent of net cash revenues. The loss threshold in Tier 3 will be 50% of net cash revenues for all crops during the pilot. Some emergency conditions which fall short of the thresholds in Tiers 1 and 2 may qualify as a significant economic loss in Tier 3, particularly for crops with narrow profit margins. Even if economic loss seems small in comparison to gross revenues, the situation could still be determined to be a significant economic loss if the profit margin is narrow.

For those emergency exemptions in which significant economic loss is a qualifying factor, applicants will determine which tier their situation is expected to qualify under, specify that tier in their request, and submit the data necessary for analysis under that tier. The three tiers are designed such that when an emergency condition qualifies for significant economic loss under a lower tier, data for higher tiers is not required, and the burden and cost are reduced. Each successive tier builds upon the previous one. That is, the information required for estimating a lower tier is also necessary in estimating each higher tier. This will allow an applicant to collect data, and build a case for significant economic loss, as needed and determined by the conditions.

iii. *Why pilot this potential improvement*? This new methodology for determining a significant economic loss is intended to streamline the data and analytical requirements for emergency exemption requests. In addition, the methodology is designed to be more flexible than the existing procedure for determining a significant economic loss. Specifically, the Agency believes this approach makes a better comparison between the emergency situation and what would exist without the emergency, rather than a comparison with the past. An analysis of past section 18 requests suggests that this new approach will not cause a significant change in the overall likelihood of a significant economic loss finding, although findings may differ in individual cases. Further, it is expected to lead to considerable savings to both applicants and EPA from reduced data and analytical burdens. Under the pilot procedure, applicants may elect to submit the minimum amount of data necessary to demonstrate a significant economic loss in one of three increasingly refined tiers. If the first tier is sufficient, the burden is reduced most significantly. Even in the highest tier, the burden may be reduced relative to the old approach as the analysis focuses on the current year rather than historical data. Like re-certification of emergencies, this will save applicants time and resources in gathering data and preparing submissions. The Agency's burden will be reduced due to streamlined reviews.

As with re-certification of emergencies, the Agency expects the pilot to provide useful experience with the tiered approach for documentation of significant economic loss. That experience will be considered along with public comments to assist in the planned rulemaking process for improving the emergency exemption regulations. The Agency will analyze the selected threshold levels during the pilot period to confirm that they are appropriate, and also use any helpful information supplied in public comments. EPA will also scrutinize the approach of using a uniform threshold level in each tier for all crops, and consider whether different levels for various crop groups would be more appropriate.

VI. Request for Comment

A. Comment Sought on Improvements Being Piloted

The Agency seeks comment on the potential changes included in the limited pilot described in Unit V., and on how those provisions should be implemented through a future rulemaking. EPA currently intends to publish a proposed rule in 2003 that will propose several potential improvements to the emergency exemption regulations. EPA will consider any available information from this pilot as it proceeds with rulemaking.

If the re-certification process is fully implemented through rulemaking, the eligibility criteria established in that rulemaking would become final, and may differ from the criteria under the pilot. The Agency expects that after such a final rule, whenever EPA granted an exemption, and classified it as a candidate for re-certification, it would also include in the approval letter the number of years of candidacy remaining at that time (*i.e.,* 1 or 2 years). This notification in the approval letter of candidacy for the following year will not occur during the pilot, as the criteria under the pilot are not final. Instead, EPA will prepare a list of candidate exemptions (see Unit V.A.) for each year that the pilot is in effect.

The scope of the pilot is purposely limited to reduced-risk pesticides in order to significantly reduce the number of exemptions potentially affected, while still benefiting from the experience of the potential improvements to inform the rulemaking process. However, EPA does not anticipate that the improvements being piloted should be limited to reduced-risk pesticides in a final rule.

B. Comment Sought on Consideration of Resistance Management Exemptions

Although not included in the limited pilot described in this Notice, the Agency is considering another potential improvement to the emergency exemption program, *i.e.,* whether to allow exemptions for pest resistance management purposes. This potential improvement was not included in the pilot due to uncertainty and complexity of issues with respect to the appropriate requirements for scope and degree of resistance development, as well as level and type of documentation. To aid the Agency in developing this potential improvement for inclusion in the proposed rule that is currently expected in 2003, the Agency specifically seeks comment on this additional potential improvement to the emergency exemption program that would allow exemptions for resistance management under specific criteria where pest resistance to registered pesticides is developing or has developed.

1. *What is our current practice*? Exemptions are only authorized for resistance management in cases where documented pest resistance to the registered pesticide has already developed and use of the registered pesticide is expected to result in significant economic losses. Under current regulations, if there is at least one available registered pesticide that is effective enough to prevent significant economic losses, then the situation is generally not found to be an emergency regardless of whether or not the alternative is considered to be vulnerable to the development of resistance by the target pest.

2. *How might resistance management exemptions work*? Some emergencies are the result of the development of pest resistance to a registered pesticide that is essential for the management of a pest which, unchecked, can cause significant economic loss. The optimal time to respond to this emergency would be early enough to prevent or retard the development of widespread resistance. Timely action in granting the emergency use of another pesticide could increase

the useful life of the essential registered pesticide and ultimately limit the need for more emergency exemptions. The potential improvement would take a more preventive approach to resistance management.

Under such an approach, EPA could review applications and look for all four of the following criteria before approving an emergency exemption request for resistance management:

i. Pest resistance is developing or has developed to the registered pesticide product. Claims that a pest is developing or has developed resistance to a pesticide should be documented by scientific evidence. The applicant would submit the best readily available information which supports their case. Because acceptable techniques for verifying resistance vary considerably for the numerous crop-pest-pesticide combinations, EPA determinations on sufficiency of documentation would be made on a case-by-case, weight-of-the-evidence basis. Resistance development would be documented through field studies, references to field studies, or loss of ability to control the pest in the field and confirmed to be due to pest resistance in commercial plantings or other actual use conditions such as in greenhouses.

Typically, documentation of a decrease in susceptibility to a pesticide would involve collections of pest samples from fields suspected of containing high frequencies of resistant pests, and laboratory bioassay would be conducted to estimate the frequency of resistant individuals and the degree of resistance. Field tests would be conducted to assess the degree to which the laboratory resistant bioassay reflects loss of efficacy under typical treatment conditions in the field. Because resistance developed or measured under laboratory or other non-field conditions may not accurately reflect conditions in normal use situations, the applicant would need to demonstrate that the data presented can substitute for field conditions. That is, the laboratory bioassay must have relevance to the field such that individuals shown to be resistant in the laboratory bioassay actually do contribute to a substantial loss of efficacy under the treatment conditions of the field. The data should reflect numerous susceptibility estimates within single locations and multiple locations to confirm resistance and account for within-field variability. The geographic extent of resistant populations should be described.

The applicant could present evidence on previously reported resistance incidences that are substantially similar to the pest situation under consideration, as well as a rationale for why resistance is anticipated. Applicable situations include those where resistance has been documented, either in the U.S. or outside the U.S., for the same pest species or related pest species, similar pesticide use patterns, and comparable climatic conditions. Documentation of comparable situations should also include evidence that the loss of efficacy was not due to misapplication, weather, or other effects not due to resistance. Documented field failures due to pest resistance outside the U.S. and/or laboratory or non-commercial greenhouse experiments could also be included to substantiate resistance in the same or closely related pest species. However, evidence should be presented to justify the use of related pest species, since even closely related pest species may have a different genetic potential to develop resistance.

Information should be provided on the genetic, biological (biotic and behavioral), and operational (chemical and application technology) characteristics that influenced the selection of resistance. Evidence should be provided that indicates the typical number and frequency of pesticide applications, and rate of application used, and host, and why the target pest is likely to develop or has developed resistance at the requested and/or reported site(s), country, county, State, or region. The applicant must also discuss what has been done to manage resistance to the existing registered alternatives and why the requested pesticide is essential to managing pest resistance. This information is important for understanding the basis of resistance and choosing appropriate strategies to manage it.

ii. The registered chemical to which resistance is developing is considered essential for the management of the pest(s) in the particular crop. The pesticide to which resistance is developing should be a registered pesticide which serves as the standard treatment, is critical for obtaining control of the emergency pest, and for which suitable registered alternatives are lacking. If the registered pesticide is used only rarely, the likelihood of resistance developing is generally greatly reduced. Applicants would be asked to document that the pest is one which occurs regularly in the subject crop and State, and is capable of causing a significant economic loss (see Unit V.B.) if no effective control were available. This criterion would ensure that, while addressing resistance proactively by preventing future emergency conditions before they occur, the scope of these exemptions would not include those for which an actual emergency would never occur.

iii. The request is for only one chemical, which is in a different class, or has a different mode of action, from the registered chemical to which resistance is developing. Applicants would be asked to provide evidence to demonstrate that the requested chemical has a different mode/mechanism of action, metabolic effect, behavioral response, target enzyme, or target life stage from the available effective registered pesticides. Evidence should also be presented regarding whether the requested pesticide may result in unintended pesticide exposure in non-target pests, if available. Pesticide Registration Notice 2001–5, available in the public docket for this Notice and on the Internet at http://www.epa.gov/opppmsd1/PR__Notices/pr2001–5.pdf, describes the Agency's voluntary policy toward resistance management based on mode of action. The Appendices of that document provide the mode of action classification of all of the available registered active ingredients for insecticides, miticides, acaricides, fungicides, bactericides, and herbicides for agricultural uses.

iv. The applicant has a credible approach to managing the development of resistance using both the requested chemical and the chemical to which resistance is developing. The applicant would be asked to include various pest management strategies to reduce selection pressure to not only the requested pesticide, but also the registered alternatives that still may have utility. When available, the applicant should also include supplemental control measures for reducing selection pressure, especially those of a non-chemical nature (e.g., biocontrol, scouting, cultural practices, crop rotation, and use of a pest forecasting system). Management tactics might also include biological and ecological factors that influence pest migration, dispersion, or overwintering, for example. Management strategies should consider all useful information on the stability and inheritance of resistance (cross- and multiple resistance) and relevant information on pest ecology, biology, and toxicology.

3. *Why is this potential improvement being considered*? EPA believes that granting emergency exemptions on the basis of resistance management is a proactive approach for addressing the development of resistance in its early stages, thereby preventing significant economic losses before they occur. Availability of an additional pesticide for resistance management may reduce the likelihood of the common scenario

of increasing frequency and rate of application of a single available pesticide with decreasing effectiveness. Therefore, a decrease in risk to man and the environment is expected to accompany the economic benefit to pesticide users.

4. *Are there particular questions to consider in preparing comments*? The Agency is looking for specific comments on the types of data or documentation to demonstrate resistance and the proposed approach for this type of emergency exemption. In order to help focus public comments on the resistance management proposal, the following questions and issues are offered for consideration and comment:

i. There is likely to be some delay in confirming resistance in the field once it is suspected.

Given this circumstance, what level of documentation would be appropriate through laboratory, greenhouse, or field studies either in county, State, region, inside or outside the U.S.?

ii. How should noted resistance in related pest species be used to aid a request?

iii. How many years of field data and how many geographic locations would one need to establish a reasonable case for pest resistance?

iv. Comments are requested on the documentation of cross-resistance potential.

v. Should emergency exemptions for resistance management be limited to requests for chemicals in a different class, or with a different mode of action, than the chemical to which resistance is developing?

vi. What evidence should be provided to demonstrate the likely effectiveness of proposed management strategies to manage resistance?

C. General Considerations for Commenters

As you prepare comments for submission to EPA, you may find the following suggestions helpful:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the Notice or collection activity.
7. Make sure to submit your comments by the deadline in this Notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

List of Subjects

Environmental protection, Pesticides, Emergency exemptions.

Dated: April 16, 2003.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 03–10169 Filed 4–23–03; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011835–001.

Title: CMA CGM/CNAN Space Charter Pooling and Cooperative Working Agreement.

Parties: CMA CGM Societe Nationale de Transports Maritimes-CNAN.

Synopsis: The proposed agreement modification would permit the parties to include in their revenue pool freights received from the carriage of containers on deck.

By Order of the Federal Maritime Commission.

Dated: April 21, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–10174 Filed 4–23–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 19, 2003.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. AIM Bancshares, Inc., Levelland, Texas; to become a bank holding company by acquiring 68.47 percent of the voting shares of The First National Bank of Littlefield, Littlefield, Texas.

Board of Governors of the Federal Reserve System, April 18, 2003.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 03–10077 Filed 4–23–03; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03045]

Sexually Transmitted Disease (STD) Prevention Program Communication Network; Notice of Availability of Funds

Application Deadline: June 23, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 318 of the Public Health Service Act, (42 U.S.C. section 247c) as amended. The Catalog of Federal Domestic Assistance Number is 93.978.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2003 grant funds for a competitive grant program for Sexually Transmitted Disease (STD) Prevention. This program addresses the ''Healthy People 2010'' focus area of STD.

The purpose of this program is to facilitate, coordinate, integrate, and expand state and local efforts to improve overall delivery of national STD prevention services. Specifically, this program will provide a dynamic mechanism for: (1) Creating a flexible communications network among state and local STD Prevention Programs; (2) establishing a STD prevention services provider platform for integrated problem solving; (3) National STD prevention policy analysis by states; (4) decision making among state and local STD Prevention Program leaders; (5) expanding STD prevention partnerships and enhancing STD prevention knowledge, skills, and practice methods across STD project areas and local communities; and (6) providing a National representation and integrated focus of STD prevention concerns, issues, and ideas from state and local levels.

Measurable program performance will be in alignment with one or more of the following performance goals for the National Center for HIV/STD/TB Prevention: Reduce the incidence of primary and secondary syphilis; reduce the incidence of congenital syphilis; and reduce STD rates by providing Chlamydia and gonorrhea screening, treatment, and partner treatment to 50 percent of women in publicly funded family planning and STD clinics nationally.

C. Eligible Applicants

Applications may be submitted by: Public or private national nonprofit organizations with a comprehensive State and local area representation of key officials who are actively engaged in directing STD Prevention Program efforts.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501c(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

D. Funding

Availability of Funds

Approximately $300,000 to $600,000 is available in FY 2003 to fund approximately one award. It is expected that the award will begin on or about September 1, 2003, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

1. Funds may be used to:

a. Support personnel.

b. Purchase equipment, supplies and services directly related to project activities.

2. Funds may not be used to:

a. Supplant funds received by other Federal organizations.

b. Provide direct services.

Recipient Financial Participation

Matching funds are not a requirement for this program.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the following activities:

1. Communications Network: Provide a National communication network to effect positive change in STD Prevention public health practices and services by organizing, establishing, and maintaining liaison activities and rapid communications with and among state and local STD Prevention Programs and their partner organizations across the nation.

2. Sharing of Information, Research, and Best Practices: Provide a mechanism to facilitate the sharing and communication across STD project areas and local communities of: (a) The latest information and technology including information on STD prevention methods (or strategies) that can include abstinence; monogamy, *i.e.*, being faithful to a single sexual partner; or using condoms consistently and correctly. These approaches can avoid risk (abstinence) or effectively reduce risk for STDs (monogamy, condom use); (b) recent translation of research into public health practice; (c) possible training and education opportunities; and (d) best practices within STD Prevention. Also provide monthly information updates (*e.g.*, newsletters, bulletin, *etc.*) to state and local STD Prevention Programs to facilitate the incorporation of STD prevention and control concepts into health promotion and health care planning and delivery systems.

3. External Partnerships: Provide a mechanism by which to coordinate and integrate STD prevention ideas, issues, and concerns from across STD project areas and local communities, and to create, present, and advocate a collective, focused, National perspective of these to CDC and other National level concerns.

4. STD Prevention Skills Assessment and Development: Provide a mechanism by which to assess the STD prevention skills development needs of the public and private health care providers across state and local communities, and identify/facilitate the development of appropriate skills development responses.

5. Annual Meeting: Sponsor and provide leadership for a nationally recognized forum (*i.e.*, an annual meeting) for State and local STD directors across the nation in which to exchange and disseminate epidemiologic and other public health information, respond to emerging issues, develop and foster consistent state and local policy positions, and advise key officials, including CDC, on the prevention of STD.

6. Public Health Practice Enhancement: Identify and propose project activities in response to the findings from items one, two, three, and four; and perform activities either, independently or through third party partnerships, which will enhance communications, staff expertise, and public health program practices within the national STD Prevention Program network.

7. Facilitation of Participation in National Level STD Prevention Activities: Conduct activities (to include marketing and travel funding activities) to facilitate participation of state and local representatives in National STD Prevention forums.

F. Content

Application

The Program Announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 pages, double-spaced, printed on one side, with one-inch margins, and unreduced 12-point font.

The narrative should address the following:

1. Experience: Demonstrate your experience representing program officials who are actively engaged in directing STD Prevention Program efforts, in providing a National network of communications to State and local STD Prevention Programs, and in establishing or expanding National level partnerships which support the development of STD prevention staff and the enhancement of STD Prevention Program efforts.

2. Collaboration and Representation: Document your organizations' affiliation and relationship with State and local STD Prevention Programs.

3. Understanding of the Project: Describe the problems to be addressed with the requested assistance and briefly propose a programmatic plan for each.

4. Objectives: Establish long (5 year) and short-term (1 year) objectives for programmatic plans. Objectives must be specific, measurable, time-phased, and realistic.

5. Operational Plan and Timetable: Describe the operational plan for achieving each objective established. Concisely describe each component or major activity and how it will be carried out. Include a time line for completing each component or major activity.

6. Staff Capacity: Provide position descriptions, qualifications, and past achievements for the positions/personnel proposed to be involved in the administration of this project. Also provide the qualifications and past achievements of the personnel proposed to provide technical program direction.

7. Evaluation Plan: Discuss the plan for monitoring progress toward each of the objectives.

8. Budget: Submit a detailed budget and line-item justification that is consistent with the program purpose and proposed activities.

G. Submission and Deadline

Submit the signed original and two copies of the application PHS Form 5161–1 (OMB Control Number 0920–0428) along with your application narrative. Forms are available at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) at: 770–488–2700. Application forms can be mailed to you.

Submission Date, Time, and Address

The application must be received by 4 p.m. eastern time June 23, 2003. Submit the application to: Technical Information Management-PA# 03045, CDC Procurement and Grants Office, 2920 Brandywine Rd, Room 3000, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgment of Application Receipt

A postcard will be mailed by PGO–TIM, notifying you that CDC has received your application.

Deadline

Applications shall be considered as meeting the deadline if they are received before 4 p.m. eastern time on the deadline date. Any applicant who sends their application by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to: (1) Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Any application that does not meet the above criteria will not be eligible for competition, and will be discarded. The applicant will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Application

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the grant. Measures of effectiveness must relate to the performance goals, which are stated in the purpose section of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation.

An independent review group appointed by CDC will evaluate each application against the following criteria:

1. Experience (15 Points)

The extent to which the applicant documents more than five years of experience in representing program officials who are actively engaged in directing STD Prevention Program efforts, in providing a National network of communications and support to state and local STD Prevention Programs, and in expanding National level partnerships to support the development of STD prevention staff and the enhancement of STD Prevention Program efforts.

2. Collaboration and Representation (15 Points)

The extent to which applicant organizations have representatives with established day-to-day programmatic relationships with state/local STD Prevention programs in every U.S. state and U.S. Territory. The extent to which organization includes representatives of STD Prevention Programs who are actively engaged in directing STD Prevention Program efforts, and who represent State and local STD Prevention program efforts from all parts of the nation.

3. Understanding of the Project (15 points)

Extent to which the applicant understands the requirements, problems, objectives, complexities, and interactions required of this project.

4. Objectives (15 points)

Degree to which the proposed objectives are clearly stated, realistic, time phased, and related to the purpose of this project.

5. Operational Plan and Timetable (15 points)

The extent to which the applicant's plan to carry out the activities proposed is feasible and consistent with the stated objectives in this proposal. The extent to which the timetable incorporates major activities and milestones that is specific, measurable and realistic. Dates, tasks, and persons responsible for accomplishing tasks should be included.

6. Staff Capacity (15 points)

Extent to which the professional personnel proposed to be involved in administering this project and the professional personnel proposed to provide program leadership has the capacity to perform the work proposed. This would include individual qualifications with evidence of past achievements for staff identified.

7. Evaluation Plan (10 points)

The extent to which the evaluation plan appears feasible for monitoring progress toward meeting project objectives. In addition to evaluating outcome-related project objectives, the plan should clearly describe how the

grantee will use performance measures to track internal processes.

8. Budget (not scored)

The budget should be reasonable, clearly justified, and consistent with the intended use of funds.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Interim progress report, no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application and must include the following elements:

a. Current Budget Period Activities Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activity Objectives.

d. Detailed Line-Item Budget and Justification.

e. Additional Requested Information.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of this program announcement as posted on the CDC Web site.

Executive Order 12372 does not apply to this program.

AR–9—Paperwork Reduction Act Requirements
AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 1020
AR–12—Lobbying Restrictions
AR–14—Accounting System Requirements
AR–15—Proof of Non-profit Status

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC Web site, Internet address: *http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements''.

For general questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146. Telephone: 770–488–2700.

For business management and budget assistance contact: Gladys Gissentanna, Contract Specialist, CDC Procurement and Grants Office, 2920 Brandywine Rd., Atlanta, GA 30341–4146. Telephone: 770–488–2753. E-mail address: *gcg4@cdc.gov.*

For program technical assistance, contact: Michael Mitchell, National Center for HIV, STD, and TB Prevention, Division of STD Prevention, 1600 Clifton Road, Mailstop E–02, Atlanta, Georgia. 404–639–8534. *mjm2@cdc.gov.*

Dated: April 17, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–10110 Filed 4–23–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Advisory Committee on Children and Terrorism, Department of Health and Human Services, Centers for Disease Control and Prevention: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Advisory Committee meeting.

Name: National Advisory Committee on Children and Terrorism, HHS, CDC.

Time and Date: 8 a.m.–5 p.m., April 30, 2003.

Place: Emory Conference Center, 1615 Clifton Road, Atlanta, Georgia 30329.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The committee will make recommendations to the Secretary of HHS on matters related to bioterrorism and its impact on children.

Matters to be Discussed: Agenda items will include from the chairperson of the committee an introduction of committee members and discussion of the Secretary priorities with discussions of recommendations regarding, (a) the preparedness of the health care system to respond to bioterrorism as it relates to children; (b) needed changes to the health care and emergency medical service systems and emergency medical services protocols to meet the special needs of children; and (c) changes, if necessary to the National Strategic Stockpile under section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 to meet the emergency health security of children.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Joseph M. Henderson, Executive Secretary, National Advisory Committee on Children and Terrorism, HHS, CDC, 1600 Clifton Road, NE., M/S D–44, Atlanta, Georgia 30333. Telephone 404/639–7405.

As provided under 41 CFR 102–3.150(b), the public health urgency of this agency business requires that the meeting be held prior to the first available date for publication of this notice in the **Federal Register**.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 18, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–10111 Filed 4–23–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Peripheral and Central Nervous System Drugs Advisory Committee; Cancellation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is cancelling the meeting of the Peripheral and Central Nervous System Drugs Advisory Committee scheduled for May 16, 2003. This meeting was announced in the **Federal Register** of April 14, 2003 (68 FR 17958).

FOR FURTHER INFORMATION CONTACT: Karen M. Templeton-Somers, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area) code 12543, or e-mail: *SomersK@cder.fda.gov.*

Dated: April 18, 2003.

Lester M. Crawford,

Deputy Commissioner.

[FR Doc. 03–10150 Filed 4–23–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02P–0009]

Guidance for Industry: Guidance on Bulk Transport of Juice Concentrates and Certain Shelf Stable Juices; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled ''Guidance on Bulk Transport of Juice Concentrates and Certain Shelf Stable Juices.'' The purpose of the guidance is to provide industry with FDA's recommendations for appropriate control measures to use in the bulk transport of juice concentrates and certain shelf stable juices.

DATES: Submit written or electronic comments on the guidance at any time.

ADDRESSES: Submit written requests for single copies of the guidance document to Amy Green, Center for Food Safety and Applied Nutrition (*see* **FOR FURTHER INFORMATION CONTACT**). Send one self-addressed adhesive label to assist that office in processing your requests or include a fax number to which the guidance document may be sent. Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. *See* the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Amy Green, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2025, FAX: 301–436–2651.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of October 7, 2002 (67 FR 62488), FDA announced the availability of a draft guidance document entitled ''Draft Guidance for Industry: Guidance on Bulk Transport of Juice Concentrates and Certain Shelf Stable Juices.'' The purpose of the draft guidance was to provide processors of juice concentrates and certain shelf stable juice products with recommendations for the use of appropriate control measures to ensure that juice concentrates and certain shelf stable juice products do not become contaminated or recontaminated with a microbial pathogen during bulk transport. Interested persons were given until December 6, 2002, to comment on the draft guidance.

In response to the draft guidance document, FDA received one letter from a State agency requesting that FDA require many of the draft guidance's recommended control measures in the guidance document. FDA disagrees with these requests. Under the agency's good guidance practices regulation (GGPs) (21 CFR 10.115), a guidance document is not legally binding on the agency or the public and mandatory words, such as ''shall,'' ''must,'' ''require,'' and ''requirement,'' are not to be used unless they describe or discuss a statutory or regulatory requirement. The purpose of the guidance document is to provide juice processors with recommendations, rather than requirements, pertaining to control measures that may be adequate for ensuring the safety of juice concentrates and certain shelf stable juices during bulk transport. While some juice processors may choose to adopt the State agency's suggested control measures (if such measures are effective), an alternate approach may be used if that approach offers an adequate level of protection from contamination or recontamination with a microbial pathogen during bulk transport. Therefore, FDA is not adopting in the guidance document any of the State agency's comments.

II. Conclusion

The agency is adopting as guidance the recommended control measures as presented in the draft guidance document. After carefully considering the comment from a State agency suggesting that FDA require in this guidance more stringent and prescriptive control measures for bulk transport, the agency has determined that no changes are warranted.

The guidance document is being issued as a level 1 guidance, consistent with FDA's GGPs (21 CFR 10.115). The guidance represents the agency's current thinking on appropriate control measures for bulk transport of juice concentrates and certain shelf stable juices to ensure that contamination or recontamination with a microbial pathogen during bulk transport does not occur. 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 it satisfies the requirements of the applicable statutes and regulations.

III. Comments

Interested persons may submit to the Dockets Management Branch (*see* **ADDRESSES**), written or electronic comments regarding this guidance document at any time. Two copies of any mailed 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. The guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Interested persons also may access the guidance document at *http://www.cfsan.fda.gov/guidance.html*.

Dated: April 15, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–10074 Filed 4–23–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and

clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: 340B Drug Pricing Program Survey—NEW

Section 340B of the Public Health Act provides that a manufacturer that sells outpatient drugs to covered entities must agree to charge a price that will not exceed the amount determined under a statutory formula. The entities eligible to access such drug pricing (*i.e.*, certain HHS grantees, certain disproportionate share hospitals, and other specified categories of entities) total approximately 10,000 sites. Most of these safety net providers serve the economically disadvantaged or medically uninsured.

A customer survey is being developed to collect information by mail on various aspects of the 340B Drug Pricing Program, including whether information on the program is reaching the covered entities, reasons some entities are not participating, satisfaction with the savings realized, and interest in possible modifications to the program. Both participating and nonparticipating entities will be included in the survey. The results will be used to improve the design and management of the program.

The estimated response burden is as follows:

Respondents	Number of respondents	Responses per respondent	Total responses	Minutes per response	Total burden hours
Covered Entities	1,000	1	1,000	.65	650

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–45, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: April 16, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–10075 Filed 4–23–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The 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 Cancer Institute Special Emphasis Panel Cancer Control in Multiethnic Working Class Populations.

Date: June 1–3, 2003.

Time: 6 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: The Inn at Longwood Medical, 342 Longwood Ave., Boston, MA 02115.

Contact Person: Peter J. Wirth, PhD., Scientific Review Administrator, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8131, Bethesda, MD 20892–8328, 301–496–7565, *pw2q@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 17, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10182 Filed 4–23–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, RFP No1–CP–31018–50: U.S. Radiologic Technologist Cohort.

Date: May 1, 2003.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852. (Telephone conference call.)

Contact Person: Kirt Vener, PhD, Branch Chief, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8061, Bethesda, MD 20892, (301) 496–7174, *venerk@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS.)

Dated: April 15, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10189 Filed 4–23–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Human Embryonic Stem Cell Resources.

Date: May 6, 2003.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John F. Connaughton, PhD., Scientific Review Administrator, Review Branch, DEA, Niddk, National Institutes of Health, Room 757, 6707 Democracy Boulevard, Bethesda, MD 20892, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 17, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10179 Filed 4–23–03; 8:45 am]

BILLING CODE 4140–01–M

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 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel SBIR Initiative—RFA No: AA03–006

Date: May 15, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jeffrey I. Toward, PhD, Scientific Review Administrator, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, Extramural Project Review Branch, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, (301) 435–5337.

(Catalogue of Federal Domestic Assistance Progam 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: April 17, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10180 Filed 4–23–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Extended Psychosocial Analysis of Phone Study Data.

Date: April 30, 2003.

Time: 11 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Building, Room 5E01, Bethesda, MD 20892, (301) 435–6911, *hopmannm@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. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 17, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10181 Filed 4–23–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Board on Medical Rehabilitation Research.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such

as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Advisory Board on Medical Rehabilitation Research.

Date: May 1–2, 2003.

Time: 8:30 a.m. to 12 p.m.

Agenda: NICHD Director's Report presentation, Regional Research Networks, and an update on the Rehabilitation Medicine Scientist Training Program.

Place: Holiday Inn Silver Spring, 8777 Georgia Ave., Silver Spring, MD 20910.

Contact Person: Ralph Nitkin, PhD, Director, BSCD, National Center for Medical Rehabilitation Research, National Institute of Child Health and Human Development, NIH, 6100 Building, Room 2A03, Bethesda, MD 20892. (301) 402–4206.

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.

Information is also available on the Institute's/Center's home page: *www.nichd.nih.gov/about/ncmrr.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Payment Program, National Institutes of Health, HHS.)

Dated: April 17, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10183 Filed 4–23–03; 8:45 am]

BILLING CODE 4140–01

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals. the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Dental and Craniofacial Research Council.

Date: June 16, 2003.

Closed: 8:30 a.m. to 10:45 a.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

Open: 10:45 a.m. to 2:30 p.m.

Agenda: Director's report, scientific presentation, and reports.

Place: National Institutes of Health, Building 31, Center Drive, Bethesda, MD 20892.

Contact Person: J. Ricardo Martinez, MD, MPH, Associate Director for Program Development, Office of the Director, National Institute of Dental & Craniofacial Research, 31 Center Drive, Bldg. 31, Rm 5B55, Bethesda, Md 20892. (301) 451–6229.

Information is also available on the Institute's/Center's home page: *www.nidcr.nih.gov/discover/nadrc/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS.)

Dated: April 12, 2003.

Anna Snouffer,

Acting, Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10184 Filed 4–23–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Dental and Craniofacial Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Dental & Craniofacial Research, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Dental and Craniofacial Research Intramural Laboratory Review.

Date: June 1–3, 2003.

Closed: June 1, 2003, 3 p.m. to 7 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Open: June 2, 2003, 8:30 a.m. to 12:10 p.m.

Agenda: PI Presentations.

Place: NIH, Building 30, Room 117, Bethesda, MD 20892.

Closed: June 2, 2003, 12:10 p.m. to 1:30 p.m.

Agenda: To review and evaluate bSC discussion.

Place: NIH, Building 30, Room 117, Bethesda, MD 20892.

Open: June 2, 2003, 1:30 a.m. to 5 p.m.

Agenda: PI Presentations.

Place: NIH, Building 30, Room 117, Bethesda, MD 20892.

Closed: June 2, 2003, 5 p.m. to 7 p.m.

Agenda: To review and evaluate bSC discussion.

Place: NIH, Building 30, Room 117, Bethesda, MD 20892.

Open: June 3, 2003, 8:30 a.m. to 12:10 p.m.

Agenda: PI Presentations.

Place: NIH, Building 30, Room 117, Bethesda, MD 20892.

Closed: June 3, 2003, 12:10 p.m. to 3:15 p.m.

Agenda: To review and evaluate bSC meetings/exit interviews.

Place: NIH, Building 30, Room 117, Bethesda, MD 20892.

Contact Person: J. Ricardo Martinez, MD, MPH, Assoc. Director for Program Development, Office of the Director, National Institute of Dental & Craniofacial Research, 31 Center Drive, Bldg. 31, Rm. 5B55, Bethesda, MD 20892. (301) 451–6229.

Information is also available on the Institute's/Center's home page: *www.nidcr.nih.gov/discover/bscmtgs.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS.)

Dated: April 17, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10185 Filed 4–23–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Review of Research Project Grants.

Date: May 16, 2003.

Time: 11 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Aftab A. Ansari, PHD, Health Scientist Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Plaza, Suite 800, Bethesda, MD 20892, (301) 594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: April 17, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10186 Filed 4–23–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel. Review of Research Project Grants.

Date: May 9, 2003.

Time: 9:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Tracy A. Shahan, PhD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Plaza, Bethesda, MD 20892, (301) 594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: April 17, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10187 Filed 4–23–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Loan Repayment Meeting.

Date: May 8–9, 2003.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hamilton Crowne Plaza, 14th and K Streets, NW., Washington, DC 20005.

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Bldg Rm 5B01, Rockville, MD 20852, (301) 435–6889, *bhatnagg@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitation imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS.)

Dated: April 15, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10188 Filed 4–23–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, D43 Infectious Disease Grant.
Date: May 6–7, 2003.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.
Contact Person: Ping Fan, PhD, Scientific Review Administrator, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm. 5154, MSC 7840, Bethesda, MD 20892, (301) 435–1740, *fanp@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 Emphasis Panel, ZRG1 SB 50R: PAR–03–032 Bioengineering Partnerships.
Date: June 1, 2003.
Time: 5 p.m. to 10 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Teresa Nesbitt, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7854, Bethesda, MD 20892, (301) 435–1172.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group Alcohol and Toxicology Subcommittee 3.
Date: June 2–3, 2003.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Wyndham Washington, DC, 1400 M Street, NW., Washington, DC 20005.
Contact Person: Christine Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7816, Bethesda, MD 20892, (301) 435–1713.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group Surgery and Bioengineering Study Section.
Date: June 2–3, 2003.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Teresa Nesbitt, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, (301) 435–1172, *nesbittt@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group Integrative, Functional and Cognitive Neuroscience 1.
Date: June 3–4, 2003.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.
Contact Person: Gamil C. Debbas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1018.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Imaging Study Section.
Date: June 5–6, 2003.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Imaging Study Section.
Date: June 5–6, 2003.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–BECM–01 Bioanalytical Engineering and Chemistry Panel,
Date: June 5–6, 2003.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Westin Grand, 2350 M Street, NW., Washington, DC 20037.
Contact Person: Noni Byrnes, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7806, Bethesda, MD 20892, (301) 435–1217,*byrnesn@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 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: April 17, 2003.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10178 Filed 4–23–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

SAMHSA/HRSA Collaboration to Link Health Care for the Homeless Programs and Community Mental Health Agencies—(New)—The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS); the Health Resources and Services Administration (HRSA), Bureau of Primary Health Care (BPHC); and the Office of the Assistant Secretary for Planning and Evaluation (ASPE) plan to conduct a longitudinal, multi-site evaluation assessing their initiative to foster collaborations between Health Care for the Homeless programs (HCH) and community mental health agencies (CMHAs). In 12 designated communities, an HCH site and a CMHA site will collaborate to increase the availability of mental health and primary care services for persons with serious mental illness and co-occurring substance use disorders who are homeless. The evaluation of these collaborative efforts will advance knowledge on elements of the implementation process associated with establishment of a successful collaboration, such as partnering mechanisms, success of referral links, intensity of services, the effects of collaboration on client outcomes, and plans for sustain ability.

Data collection will be conducted over a 30-month period. In each community, both a process and an outcome evaluation will be conducted to address the following questions: How is the project being implemented? What are the identified collaboration mechanisms? What are the service/agency level outcomes? What are the system-level outcomes? What are the client-level outcomes? To what extent do the various collaboration strategies predict outcomes?

To reduce burden and increase uniformity across the study sites, a common case study protocol will be

used to guide the evaluation. Information for the service/agency and system level evaluations will be collected by staff from the central Evaluation Center (EC) during annual site visits and through monthly activity logs. Common site visit protocols will dictate what data collection methods will be used. Site visitors will rely on focus groups and interviews to obtain information from project directors, local evaluators, project staff, and clients. Activity logs monitoring each community's efforts to implement collaboration strategies, will be completed by program administrators and submitted to the EC monthly. Key outcomes to be examined at the service/agency level through these data collection methods include increased availability of mental health, substance abuse, specialty care, housing and services; increased access to primary care, mental health, and substance abuse services; more comprehensive assessment of and services for individual needs; increased integrated delivery of services; and increased engagement and retention in services. System-level outcomes to be examined include increased cross-agency activity; increased mental health capacity at Hch sites; less redundancy in data collection; and enhanced screening for multi-dimensional issues.

The estimated response burden for this project is as follows:

Instrument	Number of respondents	Responses/ respondent	Burden/response (hrs.)	Total burden hours
General Session Interviews	84	3	1.5	378
Administrative Interviews	24	3	1.5	72
Evaluator Interviews	12	3	1.0	36
Line Staff Interviews	48	3	2.0	288
Consumer Focus Groups	252	1	1.0	252
Other Key Informants	48	3	1.0	144
Monthly Activity Logs	12	28	0.5	168
Total	564			1,842
3-yr. Annual Average	480			614

A total of approximately 6,500 program participants are expected to be recruited from the 12 sites. Each site will collect GPRA data on these participants using the CMHS GPRA Core Client Outcome measures approved by the Office of Management and Budget under control number 0930–0208, which cover such domains as drug and alcohol use, family and living conditions, education, employment, and income, crime and criminal justice status, and mental and physical health problems and treatment. To obtain information on client-level outcomes the central Evaluation Center will work with each site to develop methods for obtaining relevant material from the GPRA data. The Evaluation Center will provide training and technical assistance to all sites on data submission procedures.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Allison Herron Eydt, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: April 17, 2003.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 03–10114 Filed 4–23–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2003 Funding Opportunity

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability for SAMHSA Dissertation Grants: Support for Analyses in Substance Abuse.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA), Office of Applied Studies, announces the availability of FY 2003 funds for the grant program described below. A synopsis of this funding opportunity, as well as many other Federal government funding opportunities, is also available at the Internet site: *www.fedgrants.gov.*

This notice is not a complete description of the program; potential applicants must obtain a copy of the Request for Applications (RFA), including Dissertation Grants OA–03–003 Programmatic Guidance, and PHS 398 Instructions, Face Page (Form Page 1), Description, Performance Sites, and Key Personnel (Form Page 2), Research Grant Table of Contents (Form Page 3), Checklist, Personal Data form pages and the Modular Budget, Biographical Sketch, and Resources format pages before preparing and submitting an application.

Funding Opportunity Title: SAMHSA Dissertation Grants: Support for Analyses in Substance Abuse—Short Title: Dissertation Grants.

Funding Opportunity Number: OA–03–003.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.243.

Authority: Title V section 501(d) (8) of the Public Health Service Act, as amended and subject to the availability of funds.

Funding Instrument: G.

Funding Opportunity Description: The Substance Abuse and Mental Health Services Administration (SAMHSA), Office of Applied Studies, is accepting applications for Fiscal Year 2003 to support dissertation research involving data analysis on substance abuse service issues. The purpose of the program is to expand the number of researchers who conduct high-quality substance abuse services research, the study of how various factors (social, financial, organizational, and personal) affect the need for and access to substance abuse treatment, the quality and cost of substance abuse treatment and, ultimately, health and well being.

Eligible Applicants: Students registered and in good standing at an accredited academic doctoral degree program (*e.g.,* Ph.D., Sc.D., or Dr.P.H.), which requires a dissertation based on original research, may apply. The student must apply through a public or private nonprofit institution that will administer the grant on his or her behalf. Students in such fields as sociology, psychology, biostatistics, epidemiology, economics, policy,

management, medicine, nursing, public health or health services research are especially encouraged to apply.

Due Date for Applications: July 2, 2003.

Estimated Funding Available/Number of Awards: It is expected that approximately $150,000 will be available for 5 grant (R03) awards in FY 2003. The average annual award will range from $20,000 to $30,000 in total costs (direct and indirect). Actual funding levels will depend on the availability of funds. The amount of funds available will depend on the appropriation. Applications with proposed budgets that exceed total costs of $30,000 per year will be returned without review.

Is Cost Sharing Required: No.

Period of Support: Awards may be requested for a period not to exceed 2 years. The second year of the award will depend on the availability of funds and progress achieved.

How to Get Full Announcement and Application Materials: Complete application kits may be obtained from: Jane Feldman, (301) 443–5628, *jfeldman@samhsa.gov.* The PHS 398 application form and the full text of the funding announcement are also available electronically via SAMHSA's World Wide Web home page: *http://www.samhsa.gov* (click on ''Grant Opportunities'').

When requesting an application kit, the applicant must specify the funding opportunity title and number for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Contact for Additional Information: Sarah Q. Duffy, Ph.D., Office of Applied Studies, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 16–105 Rockville, MD 20857, (301) 443–8565, E-Mail: *Sduffy@samhsa.gov.*

Dated: April 17, 2003.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 03–10076 Filed 4–23–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by May 27, 2003.

ADDRESSES: 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; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

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 above).

Applicant: Zoological Society of San Diego, San Diego, California, PRT–070217.

The applicant requests a permit to export to China one female giant panda (*Aluropoda melanoleuca*), captive born at the San Diego Zoo, and owned by the Government of China. This export is part of the approved loan program for the benefit of the survival of the species through scientific research as outlined in Zoological Society of San Diego's original import permit.

Applicant: Hawthorn Corporation, Grayslake, IL, PRT–068234, 068235, 068236, 068237, 068238, 068239, 068240, 068241, 068242, 068243, 068244.

The applicant requests permits to export, re-export, and re-import captive born tigers (*Panthera tigris*) to worldwide locations for the purpose of enhancement of the species through conservation education. The permit numbers and animals are: 068234—Ashora, 068235—Karma, 068236—Krisma, 068237—Spartacus, 068238—Dimitrios, 068239—Sharm, 068240—Jeeva, 068241—Tilac, 068242—Khan, 068243—Semran, 068244—Chandni. This notification covers activities to be conducted by the applicant over a three-year period and the import of any potential progeny born while overseas.

Applicant: Steve Martin's Working Wildlife, Frazier Park, CA, PRT–069429, 069439, 069443.

The applicant requests permits to export, re-export, and re-import a captive born Bengal tiger (*Panthera tigris tigris*) and two captive born leopards (*Panthera pardus*) to worldwide locations for the purpose of enhancement of the species through conservation education. The permit numbers and animals are: tiger/Sasha—069439, leopards are Ivory (Irving)—069429, and Crystal—069443. This notification covers activities to be conducted by the applicant over a three-year period and the import of any potential progeny born while overseas.

Endangered Marine Mammals and Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered marine mammals and/or marine mammals. The application(s) was/were submitted to satisfy requirements of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*) and/or the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), and the regulations governing endangered species (50 CFR part 17) and/or marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). 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: Iskande L.V. Larkin, University of Florida, Gainesville, FL, PRT–038448.

The applicant requests an amendment and extension to her permit for scientific research to study the reproductive physiology and indicators of stress in Florida manatees (*Trichechus manatus*) by taking behavioral data and urine, fecal, blood, and vaginal smear samples from 10 captive-held females and 5 wild females that will be identified by the USFWS, Jacksonville, FL, Fish and Wildlife Office. This notification covers activities

to be conducted by the applicant until 12/31/2005.

Applicant: U.S. Geological Survey/ Alaska Science Center, Anchorage, AK, PRT–740507.

The applicant requests an amendment of their permit to authorize additional scientific research to study the long-term effects of hydrocarbon exposure on sea otters (*Enhydra lutris kenyoni*) through whisker growth on up to 20 wild animals per year. This notification covers activities to be conducted by the applicant until 07/09/2007.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Applicant: Kenneth Harrison, Salem, OR, PRT–070362.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal use.

Applicant: Raymond Young, Cameron, WV, PRT–070363.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound 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.

Dated: April 11, 2003.

Charles S. Hamilton,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–10118 Filed 4–23–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permit for marine mammals.

SUMMARY: The following permit was issued.

ADDRESSES: Documents and other information submitted for this application is 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; fax (703) 358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone (703) 358–2104.

SUPPLEMENTARY INFORMATION: On January 15, 2003, a notice was published in the **Federal Register** (68 FR 2069), that an application had been filed with the Fish and Wildlife Service by James F. Mitchell for a permit PRT–064772 to import one polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population, Canada, for personal use.

Notice is hereby given that on April 9, 2003, 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 issued the requested permit subject to certain conditions set forth therein.

Dated: April 11, 2003.

Charles S. Hamilton,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–10119 Filed 4–23–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–020–03–1220–MA]

Notice of Limitations of Off Road Vehicles (ORV) Use on Public Lands

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice of Limitations of ORV Use on Public Lands.

SUMMARY: Notice is hereby given that effective immediately, the Bureau of Land Management (BLM), Salt Lake Field Office, revokes the seasonal Notice of Closure of Public Lands published on April 27, 1999 (64 FR 22639 (1999)) and the Notice of Closure of Public Lands published on March 28, 2000 (65 FR 16410 (2000)). Notice is hereby given that effective immediately, ORV use in the following five areas of Box Elder County is limited to designated routes: Devils Playground (9838 acres), Grouse Creek Mountains (52493 acres), Hogup Mountains (51698 acres), Pilot Mountains (62654 acres), and Wildcat Hills (12640 acres). The remaining public lands in Box Elder County will be managed according to the Box Elder Resource Management Plan. This limitation will remain in effect until the considerable adverse effects giving rise to this limitation are eliminated and measures are implemented to prevent recurrence of these adverse effects.

FOR FURTHER INFORMATION CONTACT: Brad Palmer, Assistant Field Office Manager, Salt Lake Field Office, Bureau of Land Management, 2370 South 2300 West, Salt Lake City, Utah, 84119; (801) 977–4300.

SUPPLEMENTARY INFORMATION: BLM is implementing this action on 189,323 acres of public land in Northwest Utah. BLM is limiting ORV use in five areas of Box Elder County to designated routes. BLM's Salt Lake Field Office has observed considerable adverse effects from ORV use in these areas, including proliferation of new ORV routes, damage and destruction of vegetation, increased soil erosion, and a likelihood of damage to cultural resources. Based on this information, the authorized officer determined that ORV use in these five areas is causing, or will cause, considerable adverse effects upon soil, vegetation, wildlife, wildlife habitat, cultural resources, historical resources, and other authorized uses. Consequently, in these five areas ORV use is now limited to designated routes. This does not apply to:

1. Any federal, state or local government law enforcement officer engaged in enforcing this closure notice or member of an organized rescue or fire fighting force while in the performance of an official duty.

2. Any BLM employee, agent, contractor, or cooperator while in the performance of an official duty.

This order shall not be construed as a limitation on BLM's future planning efforts or ORV designations. BLM will periodically monitor resource conditions and trends in each of these five areas and may modify this order or implement additional limitations as necessary. A map showing the areas and designated routes is available at the above address.

The authority for this order is 43 CFR 8341.2.

Dated: April 3, 2003.

Glenn A. Carpenter,

Field Office Manager.

[FR Doc. 03–10221 Filed 4–23–03; 8:45 am]

BILLING CODE 4310–$$–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0091).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the regulations under 30 CFR part 254, ''Oil-Spill Response Requirements for Facilities Located Seaward of the Coast Line.''

DATES: Submit written comments by June 23, 2003.

ADDRESSES: Mail or hand carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. If you wish to e-mail comments, the address is: *rules.comments@mms.gov.* Reference ''Information Collection 1010–0091'' in your e-mail subject line and mark your message for return receipt. Include your name and return address in your message.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Rules Processing Team (703) 787–1600. You may also contact Arlene Bajusz to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 254, Oil-Spill Response Requirements for Facilities Located Seaward of the Coast Line.

OMB Control Number: 1010–0091.

Abstract: The Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990 (OPA), requires that a spill-response plan be submitted for offshore facilities prior to February 18, 1993. The OPA specifies that after that date, an offshore facility may not handle, store, or transport oil unless a plan has been submitted. This authority and responsibility have been delegated to the Minerals Management Service (MMS). Regulations at 30 CFR part 254 establish requirements for spill-response plans for oil-handling facilities seaward of the coast line, including associated pipelines.

The MMS uses the information collected under 30 CFR part 254 to determine compliance with OPA by owners/operators. Specifically, MMS needs the information to:

- Determine effectiveness of the spill-response capability of owners/operators;
- Review plans prepared under the regulations of a State and submitted to MMS to satisfy the requirements of this rule to ensure that they meet minimum requirements of OPA;
- Verify that personnel involved in oil-spill response are properly trained and familiar with the requirements of the spill-response plans and to witness spill-response exercises;
- Assess the sufficiency and availability of contractor equipment and materials;
- Verify that sufficient quantities of equipment are available and in working order;
- Oversee spill-response efforts and maintain official records of pollution events; and
- Assess the efforts of owners/operators to prevent oil spills or prevent substantial threats of such discharges.

No proprietary, confidential, or sensitive information is collected. However, we will protect any information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR parts 250, 251, and 252. Responses are mandatory or required to obtain or retain a benefit.

Frequency: On occasion and annual.

Estimated Number and Description of Respondents: Approximately 193 owners or operators of facilities located in both State and Federal waters seaward of the coast line.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The currently approved annual reporting burden for this collection is 42,233 hours. The following chart details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 254	Reporting and recordkeeping requirement	Hour burden
254.1(a) thru (d); 254.2(a); 254.3 thru 254.5; 254.7; 254.20 thru 254.29; 254.44(b).	Submit spill response plan for OCS facilities and related documents	120
254.1(e)	Request MMS jurisdiction over facility landward of coast line (no recent request received)	0.5
254.2(b)	Submit certification of capability to respond to worst case discharge or substantial threat of such	10
254.2(c); 254.30	Submit revised spill response plan for OCS facilities at least every 2 years	25
254.8	Appeal MMS orders or decisions. (Burden covered under 30 CFR 290 [1010–0121])	0
254.41	Conduct annual training; retain training records for 2 years	40
254.42(a) thru (e)	Conduct triennial response plan exercise; retain exercise records for 3 years	110
254.42(f)	Inform MMS of the date of any exercise (triennial)	1
254.43	Inspect response equipment monthly; retain inspection & maintenance records for 2 years	3
254.46(a)	Notify NRC of all oil spills from owner/operator facility (Burden included in the NRC inventory)	0
254.46(b)	Notify MMS of oil spills of 1 barrel or more from owner/operator facility; submit follow-up report	1
254.46(c)	Notify MMS & responsible party of oil spills from operations at another facility	1
254.50; 254.51	Submit response plan for facility in State waters by modifying existing OCS plan	45
254.50; 254.52	Submit response plan for facility in State waters following format for OCS plan	100
254.50; 254.53	Submit response plan for facility in State waters developed under State requirements	93
254.54	Submit description of oil-spill prevention procedures	5
Part 254	General departure or alternative compliance requests not specifically covered elsewhere in part 254.	2

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have identified no non-hour cost burdens for this collection.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an

agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *''. Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the ''non-hour cost'' burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Policy: 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 record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: April 17, 2003.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 03–10156 Filed 4–23–03; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare an Environmental Impact Statement for the North Shore Road in Great Smoky Mountains National Park

SUMMARY: In accordance with section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), the National, Park Service (NPS) is preparing an Environmental Impact Statement (EIS) to analyze alternatives for resolving issues related to the North Shore Road. The purpose of this action is to discharge and satisfy any obligations on the part of the United States that presently exist as the result of the Memorandum of Agreement of October 8, 1943, between the U.S. Department of Interior, Tennessee Valley Authority, Swain County, North Carolina, and the state of North Carolina. The public scoping process for this EIS has been initiated with issuance of this notice. The purpose of the scoping process is to elicit public comment regarding the full spectrum of public issues and concern, including a suitable range of alternatives, the nature and extent of potential environmental impacts, and appropriate mitigation strategies, which should be addressed in the EIS process.

DATES: Beginning in the spring of 2003, public scoping meetings will be conducted in the vicinity of Great Smoky Mountains National Park. The location, date, and time of the meetings and deadlines for written comments will be announced via local and regional media as follows: The Smoky Mountain Times, Bryson City, NC; The Cherokee One Feather, Cherokee, NC; The Mountaineer, Waynesville, NC; The Sylva Herald, Sylva, NC; Asheville Citizen Times, Asheville, NC; The Smoky News, Waynesville, NC; The Mountain Press, Sevierville, TN; The Knoxville News-Sentinel, Knoxville, TN; The Daily Times, Maryville, TN; and other major newspapers in Alabama, Georgia, Florida, Kentucky, Indiana, Illinois, Mississippi, North Carolina, Ohio, South Carolina and Tennessee. Announcements will also be placed on the following Web sites: *www.nps.gov\grsm* and *www.efl.fhwa.dot.gov.* All interested individuals, organizations, and agencies are invited to attend these meetings to comment orally and/or provide written comments or suggestions during the scoping period.

ADDRESSES: Any comments or requests for information should be addressed to Superintendent, Great Smoky Mountains National Park, 107 Park Headquarters Road, Gatlinburg, TN 37738.

FOR FURTHER INFORMATION CONTACT: North Shore Road EIS, Attn: Superintendent, Great Smoky Mountains National Park, 107 Park Headquarters Road, Gatlinburg, TN 37738, Telephone: 865/436–1207 or Fax: 865/436–1220.

SUPPLEMENTARY INFORMATION: In July, 1943, the Tennessee Valley Authority (TVA), the U.S. Department of Interior (DOI), the state of North Carolina, and Swain County, North Carolina, entered into a Memorandum of Agreement (MOA) that dealt with the creation of Fontana Dam and Reservoir and the flooding of lands and roads within Swain County. As part of that agreement, 44,170 acres of land were ultimately transferred to the DOI and made part of the Great Smoky Mountains National Park (Park). The MOA also contained a provision by which the DOI was to construct a road through the Park, along the north shore of the newly formed Fontana Reservoir, to replace the flooded NC 288. The obligation of the DOI to construct the road was subject to and contingent on the appropriation by Congress of all funds necessary for the road's construction. The United States was at war when the MOA was executed and so no funds could be appropriated for construction. After the war, between 1948 and 1970, the DOI, through the National Park Service (NPS), built 7.2 miles of the proposed road.

(Approximately 30 miles remain to be constructed.) During the early construction projects, it was discovered that the route of the proposed road was through very unstable terrain, resulting in the possibility of landslides, both during and after construction, and requiring more invasive engineering techniques than originally considered. In addition, a particular strata encountered (Anakeesta) will produce acidic drainage when disturbed if not properly handled and contained. Due to these environmental concerns and costs, construction was discontinued in 1972. In the succeeding years, several ideas and proposals were explored to recompense the state and county for the flooded lands and road, but no agreement was ever reached. An appropriation of $16 million was included in the 2001 Department of Transportation budget ''for construction of, and improvements to, North Shore Road in Swain County, North Carolina.'' The DOI is seeking to develop a plan that will discharge and settle any obligations that it is currently under as a result of the circumstances described here, fulfilling its obligations to the Park and public.

Recognizing that the National Environmental Policy Act (NEPA) requires the consideration of a reasonable range of alternatives that will address the purpose and need, the EIS will include a range of alternatives for detailed study. The alternatives will consist of a no-action alternative, as well as a variety of build and no-build alternatives that meet the purpose and need for the action. These alternatives will be developed, screened, and subjected to detailed analysis in the draft EIS based on their ability to address the purpose and need, while attempting to avoid known and sensitive resources.

Letters describing the proposed NEPA study and soliciting input will be sent to the appropriate federal, state and local agencies, which have expressed or are known to have an interest or legal role in this proposal. It is anticipated that a formal scoping meeting will be held as part of the NEPA process to facilitate local, state, and federal agency involvement. Private organizations, citizens, and interest groups will also have an opportunity to provide input into the development of the EIS and identify issues that should be addressed at the public scoping meetings. A comprehensive public participation program will be developed to involve the public throughout the project development process. This will include pubic meetings at key stages during the process, including the review of the draft EIS. The draft EIS will be available for public and agency review and comment prior to the public meetings/hearings. Its availability will be announced by **Federal Register** notice, regional and local media, Web site, and direct mailing to all those on the formal mailing list developed during the NEPA/Public Involvement Process. At this time, the draft North Shore Road EIS is anticipated to be available for public review in late 2004.

To ensure that the full range of issues related to this proposed action are identified and taken into account, comments and suggestions are invited from all interested parties. Comments and questions concerning this notice of proposed action, and when the draft environmental impact statement is available, should be directed to the NPS at the addresses provided under the caption **FOR FURTHER INFORMATION CONTACT**.

The public is advised that individual names and addresses may be included as part of the public record. Names and addresses will be available for public review during regular business hours. There are circumstances in which a person prefers to have their name and other information withheld from the public record. Any person wishing to do this must state this prominently at the beginning of any correspondence or comment, and the request will be honored to the extent allowable by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be placed on the public record and will be made available for public inspection in their entirety.

Dated: December 13, 2002.

Patricia A. Hooks,

Acting Regional Director, National Park Service.

[FR Doc. 03–10024 Filed 4–23–03; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–433 (Preliminary) and 731–TA–1029 (Preliminary)]

Allura Red Coloring From India

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) (the Act), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from India of allura red coloring, provided for in subheading 3204.12.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of India. The Commission also determines, pursuant to section 733(a) of the Act (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of the subject imports from India that are also alleged to be sold in the United States at less than fair value (LTFV).

Background

On March 4, 2003, a petition was filed with the Commission and Commerce by Sensient Technologies Corporation, Milwaukee, WI, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and LTFV imports of allura red coloring from India. Accordingly, effective March 4, 2003, the Commission instituted countervailing duty investigation No. 701–TA–433 (Preliminary) and antidumping duty investigation No. 731–TA–1029 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 11, 2003 (68 FR 11579). The conference was held in Washington, DC, on March 25, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 18, 2003. The views of the Commission are contained in USITC Publication 3595 (April 2003), entitled Allura Red Coloring from India: Investigations Nos. 701–TA–433 (Preliminary) and 731–TA–1029 (Preliminary).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

By order of the Commission.

Issued: April 18, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–10096 Filed 4–23–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Between the United States and Alcoa Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on April 9, 2003, a proposed consent decree (''Consent Decree'') between Alcoa Inc. (''Alcoa'') and the United States, Civil Action No. A03CA222SS was lodged with the United States District Court for the Western District of Texas.

The Consent Decree would resolve claims asserted by the United States against Alcoa pursuant to sections 113(b) and 167 of the Clean Air Act (the ''Act''), 42 U.S.C. 7413(b) and 7477, seeking injunctive relief and the assessment of civil penalties for Alcoa's violations of:

(a) The Prevention of Significant Deterioration (''PSD'') provisions of the Act, 42 U.S.C. 7470 through 7492, and

(b) The Federally-enforceable Texas State Implementation Plan (''SIP''), which has been approved at 40 CFR part 52, subpart SS, sections 52.2270 through 52.2311, and which includes the Prevention of Significant Deterioration requirements at 40 CFR 52.2270(c) and 30 T.A.C. 116.01, 116.160.

The compliant filed by the United States alleges, among other things, that between approximately 1983 and the present, Alcoa modified and thereafter operated certain boilers units at the lignite-fired Sandow Power Plant (Sandow Units 1–3) located in Milam County, Rockdale, Texas without first obtaining a PSD permit authorizing the construction of physical modifications to the units, and without first installing and operating appropriate control technology to reduce emissions of nitrogen oxides, sulfur dioxide, and particular matter, as required by the PSD provisions in sections 160 through 169(B) of the Act, 42, U.S.C. 7470–7492 and 40 CFR 52.21, and the Texas SIP at 40 CFR 52.2770(c) and 30 T.A.C. 116.01, 116.03, 116.3(a) and 116.160. Three other entities—Neighbors for Neighbors, Inc., Environmental Defense, and Public Citizen, Inc.—also asserted similar claims against Alcoa.

The proposed Consent Decree would require Alcoa to either install comprehensive pollution controls or shut down these units between 2006 and 2007. The settlement would also require Alcoa to pay $1.5 million in civil penalties and to undertake $2.5 million in environmental projects to mitigate the harm caused by the alleged violations.

The Department of Justice will receive for a period of 30 days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Alcoa Inc.,* D.J. Ref. No. 90–5–2–1–07723.

The Consent Decree may be examined at the Office of the United States Attorney, Western District of Texas, 816 Congress Avenue, Suite 1000, Austin, Texas 78701, and at U.S. EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202–2733. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open/html.* A copy of the Consent Decree may also be obtained by the mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $17.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Benjamin Fisherow,

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–10081 Filed 4–23–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Under 218 CFR 50.7, notice is hereby given that on April 9, 2003, a proposed Consent Decree in *United States* v. *Archer Daniels Midland Company,* (''ADM''), Civil Action No. 03–2066 was lodged with the United States District Court for the Central District of Illinois. The Consent Decree addresses claims for violations of the Preventions of Significant Deterioration (''PSD'') and New Source Performance Standards (''NSPS'') requirements of the Clean Air Act pursuant to section 113(b) of the Clean Air Act (''Act''), 42 U.S.C. 7413(b) (1983), *amended by,* 42 U.S.C. 7413(b) (Supp. 1991), at 52 plants in 16 states. The Complaint alleges that ADM routinely underestimated its VOC emissions from corn processing and ethanol production units and modified and expanded its oilseed plants without obtaining appropriate pre-construction permits and installing air pollution control equipment.

Under the terms of the Consent Decree, ADM will install state-of-the-art air pollution controls on hundreds of units, shut down older, dirty units and accept restrictive emission limits on others, for a total emission reduction of 63,000 tons per year. In addition ADM will meet NSPS, 40 CFR part 60, Subparts Db, Dc, DD, Kb, and VV for boilers, grain elevators, coal loading operations, and storage tanks. Finally, ADM is obligated to implement a corporate-wide environmental management system and conduct multi-media audits of each of its facilities at least twice over the life of the Decree.

The injunctive relief package is expected to cost ADM $328 million over the ten year period of compliance. ADM will also pay a civil penalty of $4,604,000 ($2,505,600 paid to the United States and $2,098,400 paid to the states) and spend $6,363,000 on environmentally beneficial projects. The states of Arkansas, Indiana, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Carolina, and Texas; the Iowa Counties of Linn and Polk and the Nebraska County of Lancaster have filed Complaints-in-intervention and executed the Consent Decree.

The Department of Justice will receive for a period of 30 days from the date of this publication comments relating to the ADM Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to: *United States* v. *Archer Daniels Midland Company,* D.J. Ref. 90–5–2–1–2035/2.

The Consent Decree may be examined at the Office of the United States Attorney, Central District of Illinois, 201 S. Vine Street, Room 226, Urbana, IL 61802, and at U.S. EPA Region 5, 775 West Jackson 77 Blvd., Chicago, Illinois 60604–3590. During the public comment period the ADM Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd.open.html.* A copy of the ADM Consent Decree, may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department

of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $67.25 (includes attachments), or $28,25, without attachments (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert Maher,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–10084 Filed 4–23–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

Under 28 CFR 50.7, notice is hereby given that on April 2, 2003, a proposed Consent Decree (''Decree'') in the consolidated cases of *United States* v. *CHS Holding Corp.,* Civil Action No. 1994/0126 (STX–F), and *Berlex Laboratories, Inc.* v. *Cooper Holdings, Inc.,* Civil Action No. 1988/194, was lodged with the United States District Court for the District of the Virgin Islands.

In this action, the United States sought reimbursement of response costs incurred by the United States Environmental Protection Agency (''EPA'') in connection with clean up activities at the Island Chemical Superfund Site (''Site'') located in St. Croix, U.S. Virgin Islands. The proposed Decree will resolve the United States' claims under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.,* on behalf of the EPA against settling defendant CHS Holding Corporation (''CHS'') relating to the Site. The settling defendant is alleged to be liable under section 107(a)(2) of CERCLA as the owner of the Site. The Decree provides that the settling defendant shall make all good faith efforts to sell the Site property and shall pay to the United States 100% of the net proceeds from the sale of the Site property.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *CHS Holding Corp.,* D.J. Ref. No. 90–11–2–954.

The Decree may be examined at the Office of the United States Attorney, District of the United States Virgin Islands, 1108 King Street, Suite 201, Christiansted, St. Croix, U.S. Virgin Islands 00820, and at the U.S. Environmental Protection Agency, Region II, 290 Broadway, New York, New York 10007–1866. During the public comment period, the Decree may also be examined on the following Department of Justice Web site, *http://usdoj.gov/enrd/open.html.* A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $7.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ronald Gluck,

Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–10080 Filed 4–23–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation and Liability Act and Chapter 11 of the United States Bankruptcy Code

Notice is hereby given that on April 11, 2003, a proposed Settlement Agreement (''Agreement'') in *In re* Kmart Corp., *et al.*, Case No. 02–02474, was lodged with the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division. The Agreement is between Kmart Corporation and its affiliated debtors and debtors-in-possession (collectively, the ''Debtors'') and the United States, on behalf of the United States Environmental Protection Agency (''EPA''), the United States Department of the Interior, and the National Oceanic and Atmospheric Administration of the United States Department of Commerce. The Agreement relates to liabilities of the Debtors under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*

Under the Agreement, the United States, on behalf of EPA, would receive:

- Allowed secured claims totaling $579,151 for the following five sites: The Beede Waste Oil site (Plaistow, New Hampshire); the Florida Petroleum Reprocessors site (Davie, Florida); the Hows Corner site (Plymouth, Maine); the Jack Goins site (Cleveland, Tennessee); and the Lenz Oil Services site (DuPage County, Illinois);
- Allowed unsecured claims totaling $171,744 for the following five sites: The Arkwright Dump site (Spartanburg, South Carolina); the Bill Johns Waste Oil site (Jacksonville, Florida) (with respect to response costs incurred before November 21, 2001); the Delatte Metals site (Ponchatoula, Louisiana); the Operating Industries, Inc. Landfill site (Monterey Park, California); and the Tulalip Landfill (Marysville, Washington); and
- A right to seek cost recovery in the future in connection with Operable Unit 2 of the Peterson Puritan site (Cumberland, Rhode Island), with up to $506,500 of such cost recovery payable as an allowed secured claim and any amount over that payable as an allowed unsecured claim.

The Agreement further provides as follows:

- For Debtor-owned sites, environmental claims and actions by the United States are not discharged;
- For the following nine sites, environmental claims by the United States are discharged, to the extent the claims arise from the Debtors' conduct before the bankruptcy action: Adkins Branch Tire Dump (Putnam County, West Virginia); the Bufkin Store Lead site (Tabor City, North Carolina); the Chadbourn Battery site (Chadbourn, North Carolina); the Guyton Battery site (Chadbourn, North Carolina); the Jimmy Green Metals site (Nashville, North Carolina); the Odum Bufkin Battery site (Green Sea, South Carolina); the Old Stake Road Lead site (Chadbourn, North Carolina); the Petroleum Conservation, site (a/k/a the U.S. Oil, Two Rivers site) (Two Rivers, Wisconsin); and the Vinegar Hill Battery site (a/k/a the Williams store site) (Tabor City, North Carolina); and
- For all other sites, the United States may not issue or seek environmental orders based on the Debtors' conduct before the bankruptcy action, but may recover response costs and natural resource damages based on such conduct, as if the United States' claims had been allowed unsecured claims under the Debtors' reorganization plan.

For a period of 30 days from the date of this publication, the Department of Justice will receive comments relating to the Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044, and should refer to *In re* Kmart Corp., *et al.*, Case No. 02–02474, D.J. Ref. No. 90–11–2–07845.

The Agreement may be examined at the Office of the United States Attorney, 219 South Dearborn Street, Suite 2001, Chicago, Illinois 60604, and at the United States Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. During the public comment period, the Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $7.00 (25 cents per page reproduction cost) payable to the United States Treasury.

William Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–10085 Filed 4–23–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Under 28 CFR 50.7, notice is hereby given that on April 10, 2003, a proposed Consent Decree in *United States and State of Missouri* v. *Newton County, Missouri,* Civil Action No. 3:03–cv–05038–RED was lodged with the United States District Court for the Western District of Missouri.

In this action the United States asserted a claim under section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9607(a), for recovery of response costs incurred by the United States at the Newton County Superfund Site in Missouri. The State of Missouri also asserted a claim for recovery of response costs under section 107(a) of CERCLA. Defendant Newton County is a current owner of an approximately 30 acre parcel of property contaminated with mine waste near Granby, Missouri within the Site.

Under the terms of the proposed Consent Decree settling the claims asserted in the Complaint, Newton County will allow its parcel of property near Granby to be used for disposal of contaminated materials removed from other portions of the Site. The contaminated materials will be disposed of in a Repository approximately 10 acres in size. The County agrees to finance and perform all Operation and Maintenance activities for the Repository as specified in an appendix to the Decree. The Decree also requires the County to execute and record a restrictive covenant, running with the land, that will prohibit activities that might disturb the cap as well as construction of facilities for which the remedy would be insufficiently protective. In return for the commitments by Newton County, the United States and the State grant Newton County a covenant not to sue under sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), and State law for response costs relating to the Newton County Mine Tailings Superfund Site.

The Department of Justice will receive for a period of 30 days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and State of Missouri* v. *Newton County, Missouri,* D.J. Ref. No. 90–11–2–07088.

The Consent Decree may be examined at the Office of the United States Attorney, Charles E. Whittaker Courthouse, 400 E. 9th Street, 5th Floor, Kansas City, Missouri 64106, and at U.S. EPA Region VII, 901 North Fifth Street, Kansas City, Kansas 66025. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $14.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert Maher,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–10082 Filed 4–23–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'')

Under 28 CFR 50.7, notice is hereby given that on April 15, 2003, a proposed consent decree in *United States* v. *Quemetco Metals Limited, Inc., et al.,* Civil Action No. 3–01CV0924–D has been lodged with the United States District Court for the Northern District of Texas, Dallas Division. The consent decree settles an action brought under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607, for reimbursement of response costs incurred and to be incurred by the United States in responding to releases and threats of releases of hazardous substances from the RSR Corporation Superfund Site located in Dallas, Texas. Under the terms of the Consent Decree, Quemetco Metals Limited, Inc., Quemetco, Inc., and RSR Corporation (''Settling Defendants'') have agreed to perform work at the Site valued at $11.6 million and to reimburse response costs incurred by the United States in the amount of $13.25 million and by the State of Texas in the amount of $870,000.

For a period of 30 days from the date of this publication, the Department of Justice will receive written comments relating to the proposed consent decree from persons who are not parties to the action. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Quemetco Metals Limited, Inc.,* et al., DOJ #90–11–3–1613/3.

The proposed consent decree may be examined at the offices of the United States Attorney for the Northern District of Texas, Dallas Division, 1100 Commerce St., Third Floor, Dallas, Texas 75242, and at the office of the United States Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202 (Attention: Mike

Barra, Assistant Regional Counsel). During the public comment period, the proposed consent decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy exclusive of exhibits, please enclose a check in the amount of $21.50 (25 cents per page reproduction cost without exhibits) payable to the U.S. Treasury.

Catherine McCabe,

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–10079 Filed 4–23–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on April 9, 2003, a proposed Consent Decree in *United States* v. *CF&I Steel, L.P., d/b/a Rocky Mountain Steel Mills,* an action for injunctive relief and civil penalties pursuant to the Clean Air Act, 42 U.S.C. 7401 *et seq.,* was lodged with the United States District Court for the District of Colorado, Case No. 03–M–0608.

In this action, the United States sought injunctive relief and civil penalties against Rocky Mountain Steel Mills for alleged violations of the Prevention of Significant Deterioration (''PSD'') requirements and New Source Performance Standards set forth in the Clean Air Act. The alleged violations occurred when Rocky Mountain Steel Mills undertook a series of modifications at its steelmaking facility located in Pueblo, Colorado. In the proposed Consent Decree, Rocky Mountain Steel Mills agrees to conduct a modernization project at its facility, which will involve the shutdown of its two existing electric arc furnaces and replacement with a new, modernized furnace. The Consent Decree requires that Rocky Mountain Steel Mills meet the New Source Performance Standards set forth at 40 CFR part 60, subpart Aaa, and install the Best Available Control Technologies to minimize emissions from the new furnace. The precise emissions limitations that Rocky Mountain Steel Mills will have to meet will be set forth in a PSD permit to be issued by the State of Colorado and approved by EPA. The estimated costs of these renovations is $25 million. The proposed consent Decree also requires that Rocky Mountain Steel Mills pay a civil penalty of $450,000 and perform several Supplemental Environmental Projects (''SEPs'') and undertake additional relief valued at over $750,000. The SEPs and additional relief will result in reductions of emissions from the facility beyond those required by law and address some of the impacts on the surrounding community that resulted from Rocky Mountain Steel Mills' violations of the Act.

The Department of Justice will receive for a period of 30 days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *CF&I Steel, L.P. d/b/a/ Rocky Mountain Steel Mills,* D.J. Ref. DJ# 90–5–2–1–07496.

The Consent Decree may be examined at U.S. EPA Region 8, 999 18th Street, Suite 500, Denver, Colorado, 80202. During the public comment period, the Settlement Agreement, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Settlement Agreement may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood *(tonia.fleetwood@usdoj.gov),* fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $4.80 for the Consent Decree only and $25.40 for the Consent Decree plus Appendices.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–10083 Filed 4–23–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Shipbuilding Research Program (''NSRP'')

Correction

In the notice document appearing on pages 10033 and 10034 in the issue of Monday, March 3, 2003, make the following correction:

On page 10034, after the word ''Specifically,'' until the end of the paragraph, substitute ''on November 30, 2001, Newport News Shipbuilding and Dry Dock Co., Newport News, VA has been acquired by Northrop Grumman Corporation and shall be referred to as Newport News Shipbuilding and Dry Dock Co., a subsidiary of Northrup Grumman Corporation. Ingalls Shipbuilding, Inc., Pascagoula, MS and Avondale Industries, Inc., Avondale, LA, were wholly-owned subsidiaries of Litton Industries, Inc. On May 30, 2001, Litton Industries, Inc. was acquired by Northrup Grumman Corporation. On May 17, 2002, Ingalls changed its name to Northrop Grumman Ship Systems, Inc. On August 26, 2002, Avondale merged into Northrop Grumman Ship Systems, Inc. and, as successor in merger, has changed its name to Northrop Grumman Ship Systems, Inc. On October 23, 2002, Vision Technologies Systems, Inc. completed its acquisition of Halter Marine, Inc., Gulfport, MS and became VT Halter Marine, Inc., Gulfport, MS, a subsidiary of Vision Technologies Systems, Inc.''

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–10086 Filed 4–23–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Mobile Alliance

Notice is hereby given that, on January 16, 2003, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Open Mobile Alliance (''OMA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions

limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ACL Wireless Limited, New Delhi, India; Anam Wireless Internet Solutions Limited, Dublin, Ireland; Anite Telecoms Ltd., Fleet, Hants, United Kingdom; Antepo, Inc., New York, NY (joined 9/26/2002); AQRIS Software AS, Talinn, Estonia; Atchik, Toulouse, France; ATI Technologies Inc., Thornhill, Ontario, Canada; Autodesk Location Services, San Rafael, CA; Benq Corporation, Hsinchu, Taiwan; Big Tribe Corporation, San Francisco, CA; BlueFactory, Stockholm, Sweden; BlueLabs South AB, Malmo, Sweden; Borland Software Corporation, Scotts Valley, CA; Camelot Group Plc., Watford, Herts, United Kingdom; Casabyte Inc., Renton, WA; CDMA Development Group, Inc., Costa Mesa, CA; CellPoint AB, Kista, Sweden; Cellsoft, Inc, Pleasanton, CA (joined 10/4/2002); Cognizant Technology Solutions UK Ltd., London, United Kingdom; Commtag Limited, Cambridge, United Kingdom; Communology GmbH, Herzogenrath, Germany; Comsys Communications and Signal, Herzelia, Israel; Consilient Technologies Corporation, St. John's, Newfoundland, Canada; Creanor Oy, Helsinki, Finland (joined 9/30/2002); Critical Path, Inc., San Francisco, CA; Cybiko Advanced Technologies, Bloomingdale, IL; Digital Bridges, LTD, Dunfernline, United Kingdom; Digital World Services, New York, NY; dmates as, Oslo, Norway; DMDsecure, Amsterdam, The Netherlands; DoOnGo, Technologies, Inc., Santa Clara, CA; dynamicsoft inc., East Hanover, NJ; Ecrio Inc., Cupertino, CA; Elvior, Talinn, Estonia; Embedded & Mobile Systems, Inc., Delray Beach, FL (joined 10/21/2002); Everlite Technology Co., Ltd., Taipei, Taiwan; EverInTouch, LTD, Old Coulsdon, Surrey, United Kingdom; EWAP Digital Systems Co. LTD, Beijing, People's Republic of China; France Telecom Group, Paris, France; gate5 AG, Berlin, Germany; Genasys II Spain, S.A., Madrid, Spain; Global Locate, San Jose, CA; Hillcast Technologies Inc., Austin, TX; Hotsip AB, Stockholm, Sweden; Icona s.p.a., Milan, Italy; Infocomm Development Authority of Singapore, Singapore, Singapore; InfoSpace, Inc., Bellevue, WA; Institute For Information Industry, Taipei, Taiwan; Invertix Corporation, Alexandria, VA; J-Phone Co., Ltd., Tokyo, Japan; Jabber. Inc., Denver, CO; Jataayu Software Pvt Ltd., Bangalore, India; JP Mobile, Inc., Dallas, TX; July Systems, Inc, Sunnyvale, CA; Kada Systems, Inc., Burlington, MA; Kalador Entertainment Inc., Delta, British Columbia, Canada; Korea Information Security Agency, Seoul, Republic of Korea; KT ICOM, Seoul, Republic of Korea; Larsen & Toubro Infotech LTD, Navi Mumbai, India; Leapstone Systems, Inc., Somerset, NJ; LocatioNet, Netanya, Israel; Locus Portal Corporation, Helsinki, Finland; M.I.M.T. AB, Malmo, Sweden; magic4 Ltd., Warrington, United Kingdom; Malibu Telecom Oy, Espoo, Finland; MediaSolv.com, Inc., San Jose, CA; Mercator Partners, LLC, Concord, MA; Meridea Financial Software Oy, Helsinki, Finland; Mermit Business Applications Oy, Espoo, Finland; MessageVine, Inc., San Francisco, CA; Metrowalker LTD, Hong Kong, Hong Kong-China; Mobeon AB, Stockholm, Sweden; Mobile GIS LTD, Glanmire, Ireland; Mobilespring, New York, NY; Mobilesys Inc., Mountain View, CA; Mobileway, Puteaux, France; Neosteps, Inc., Gyeonggi-do, Republic of Korea; Network Associates, Inc., Santa Clara, CA; Netxcalibur SRL, Florence, Italy; Neumobility, Seattle, WA; NSTL, Inc, Conshohocken, PA (joined 10/4/2002); Oksijen Teknoloji Gelistirme ve Bilisim, Bakirkoy-Istanbul, Turkey; Opera Software ASA, Oslo, Norway; PalmSource Inc., Sunnyvale, CA; PictureIQ Corporation, Seattle, WA; Pinpoint Networks, Cary, NC; Portugal Telecom Inovacao, S.A., Aveiro, Purtugal; Psion Digital, London, United Kingdom; PumaTech, San Jose, CA; Push Messenger, Courbevoie, France; Racal Instruments, Slough, Berkshire, United Kingdom; RedKnee Inc., Mississauga, Ontario, Canada; Research Institute of Telecommunications, Beijing, People's Republic of China; Sasken Communication Technologies Limited, Bangalore, India; SDC Secure Digital Container AG, Basel, Switzerland; Secured By Design Ltd., Milton Keynes, United Kingdom (joined 9/26/2002); Sierra Wireless, Richmond, British Columbia, Canada; Simbit Corporation, Ottawa, Ontario, Canada; Sinpag, Saint Maur des Fosses, France; SiRF Technology, Inc., Los Angeles, CA; Sofor Oy, Kauhava, Finland; Softbank Mobile Corp., Tokyo, Japan; Solid Information Technology, Mountain View, CA; Sonim Technologies, Inc., San Mateo, CA; Sony Corporation, Tokyo, Japan; Spirent Communications, Inc., Eatontown, NJ; Starfish Software, Inc., Scotts Valley, CA; SupportSoft, Inc, Redwood City, CA; Swisscom Mobile Ltd., Bern, Switzerland; Tahoe Networks, San Jose, CA; Taral Networks, Inc., Kanata, Ontario, Canada; TeleMessage Ltd., Petach Tikvah, Israel; Telenity, Inc., Monroe, CT; Telespree Communications, San Francisco, CA; Tricomtek Co., Ltd., Seoul, Republic of Korea; Ukibi, Inc., New York, NY (joined 9/26/2002); Unisys Corporation, Plano, TX; V-Enable Inc., San Diego, CA; Vayusphere, Inc., Mountain View, CA; Verdisoft Corporation, Palo Alto, CA; Vimatix, Inc., Wilmington, DE; Vox Mobili, Paris, France; Voyant Technologies, Inc., Westminster, CO; Watercove Networks, Chelmsford, MA; WaveMarket, Inc., Emeryville, CA; WDC Solutions Pvt Ltd., Bangalore, India; Weblicon Technologies AG, Berlin, Germany; Webmessenger, Inc., Tuunga, CA; whereonearth, London, United Kingdom; Wiral Ltd., Espoo, Finland; Wirelex Soft, Toronto, Ontario, Canada; XandMail, Paris La Courneuve, France; YesMobile Taipei Ltd, Taipei, Taiwan; and Zentek Technology, Inc., Redwood City, CA have been added as parties to this venture. Telia Mobile AB, Nacka Strand, Sweden has acquired Sonera Corporation, Helsinki, Finland. Aspiro, Malmo, Sweden has changed its name to Aspiro AB. StarMedia Networks, Inc., Miami, FL has changed its name to CycleLogic Mobile Solutions. Extended Systems, Inc., Boise, ID has changed its name to Extended Systems. Hutchison Telephone Co. Ltd., Hong Kong, Hong Kong-China has changed its name to Hutchison 3G. Matshushita Communication Industrial Co., Ltd., Yokohama, Japan has changed its name to Panasonic Mobile Communications Co., Ltd. Research Institute of Telecommunications Transmission, MII, Beijing, People's Republic of China has changed its name to Research Institute of Telecommunications Transmission, MII China. Schlumberger Systems, Montrouge, France has changed its name to SchlumbergerSema. VoiceStream Wireless, Bellevue, WA has changed its name to T-Mobile USA. Telia Mobile AB, Nacka Strand, Sweden has changed its name to TeliaSonera AB. TTP Communications Ltd, Melbourn, Royston, Hertfordshire, United Kingdom has changed its name to TIPCOM, Ltd.

The following companies had their memberships cancelled: MobileSpear, Inc., Tel Aviv, Israel; Mobileum, Inc., Pleasanton, CA; Neomar, San Francisco, CA; Seven, Redwood City, CA; Speedware Corporation, St. Laurent, Quebec, Canada; and Ubicco, Paris, France.

The following companies have resigned: Akumiiti Ltd., Helsinki, Finland; Antepo, Inc., New York, NY (resigned 12/31/2002); ArgoGroup, Surrey, West Sussex, United Kingdom; Baltimore Technologies, Dublin, Ireland; Banksys, Brussels, Belgium; Bouygues Telecom, Velizy Cedex, France; Cellsoft, Inc., Pleasanton, CA

(resigned 12/31/2002); Citrix Systems, Inc., Gerrards Cross, Bucks, United Kingdom; CMG Wireless Data Solutions B.V., Nieuwegein, The Netherlands; CoCoNet AG, Erkrath, Germany; Creanor Oy, Helsinki, Finland (resigned 12/31/2002); Embedded & Mobile Systems, Inc., Delray Beach, FL (resigned 12/31/2002); Entrust, Addison, TX; Hitachi, Ltd., Tokyo, Japan; IrisCube SpA, Milano, Italy; Kenwood Corporation, Kanagawa, Japan; Mitsui & Co, Ltd., Tokyo, Japan; Mobile Economy Ltd., Rosh Ha'ayin, Israel; Mobileaware Limited, Dublin, Ireland; mobileID, Inc., Menlo Park, CA; NSTL, Inc., Conshohocken, PA (resigned 12/31/2002); Pioneer Corporation, Saitama-ken, Japan; S.E.S.A. Software und Systeme AG, Eschborn/Ts, Germany; SAS, Cary, NC; Secured By Design Ltd., Milton Keynes, United Kingdom (resigned 12/31/2002); Singtel Optus Pty. Ltd., North Sydney, New South Wales, Australia; Stellent, Inc., Eden Prairie, MN; Sybase, Inc., Waterloo, Ontario, Canada; TrustLink AB, Stockholm, Sweden; Tu-Ka Cellular Tokyo Inc., Tokyo, Japan; UBS AG, Zurich, Switzerland; Ukibi, Inc., New York, NY (resigned 12/31/2002); and Zurich Cantonalbank, Zurich, Switzerland.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Open Mobile Alliance intends to file additional written notification disclosing all changes in membership.

On March 18, 1998, Open Mobile Alliance filed its original notification pursuant ot section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 31, 1998 (63 FR 72333).

The last notification was filed with the Department on May 3, 2002. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 27, 2002 (67 FR 43343).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–10087 Filed 4–23–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employee Benefits Security Administration

121st Full Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 121st open meeting of the full advisory Council on Employee Welfare and Pension Benefit Plans will be held May 9, 2003, in Room S–2508, U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210.

The purpose of the meeting, which will begin at 11:15 a.m. and end at approximately 3:30 p.m., is to consider the items listed below:

I. Welcome, Introduction and Swearing In of New Council Members by Secretary of Labor.

II. Remarks by Secretary.

III. Report from the Assistant Secretary of Labor for the Employee Benefits Security Administration (EBSA).

IV. Introduction of EBSA Senior Staff.

The Advisory Council will reconvene at 1:15 p.m. at which time members will conclude the session with:

V. Summaries of the 2002 Final Reports Made by Advisory Council Working Groups.

VI. Determination of Topics to Be Addressed by Council Working Groups for 2003.

VII. Statements from the General Public.

Members of the public are encouraged to file a written statement pertaining to any topics the Council may consider studying for the year concerning ERISA by submitting 20 copies on or before May 2, 2003, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to 10 minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Sharon Morrissey by May 2 at the address indicated.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before May 2, 2003.

Signed in Washington, DC, this 18th day of April, 2003.

Ann L. Combs,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 03–10126 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of April 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production of such firm or subdivision.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–42,319; Spicer Driveshaft Manufacturing, Inc., a subsidiary of Dana Corp., Atkins, VA

In the following case, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criterion (a)(2)(A) (I.B) (No sales or production decline and (a)(2)(B) (II.B) (No shift in production to a foreign country) have not been met.

TA–W–50,789; The Premcor Refining Group, Inc., Port Arthur, TX

The investigation revealed that criteria (b)(3) has not been met. The workers' firm (or subdivision) is not a supplier or downstream producer to a firm (or subdivision) for trade-affected companies.

TA–W–51,394; B–W Specialty Manufacturing, Seattle, WA
TA–W–51,020; Shalmet Corp., Orwigsburg, PA
TA–W–50,410; Precision Diversified Industries, LLC, Plymouth, MN

The investigation revealed that criterion (a)(2)(A) (I.C.) (Increased imports) and (a) (2)(B) (II.B) (No shift in production to a foreign country) have not been met.

TA–W–50,134; Zierick Manufacturing Corp., Yatesboro, PA
TA–W–50,347; Fishing Vessel (F/V) Libby No. 8, Ketchikan, AK
TA–W–51,211; Commscope, Inc., Claremont, NC
TA–W–50,704; Tarcon, Inc., Pulaski, WI
TA–W–50,901; Holeinthewater Shrimp Co., Fishing Vessel (F/V) Miss Chris, Yankeetown, FL
TA–W–50,283; Advanced Micro Devices (AMD), Lone Star Fab Div., Austin, TX
TA–W–51,059; Fishing Vessel (F/V) Kathy Ann, Dillingham, AK
TA–W–50,179; SMT, Inc., Hanover, MI
TA–W–50,600; State of Alaska Commercial Fisheries Entry Commission Permit #S1SB66420G, Sitka, AK
TA–W–51,240; P.Q. Controls, Dover-Foxcroft, ME
TA–W–51,344; Fishing Vessel (F/V) Randy, Egegik, AK
TA–W–51,120 & A,B; Sun Apparel of Texas, Armour Facility, El Paso, TX, Sun Warehouse Faciltiy, El Paso, TX and Goodyear Distribution, El Paso, TX
TA–W–51,036; Fishing Vessel (F/V) White Eagle, Pilot Point, AK
TA–W–51,058; Fishing Vessel (F/V), Kasandra Faye, Aleknagik, AK
TA–W–51,072; State of Alaska Commercial Fisheries Entry Commission Permit #SO4T60868F, Dillingham, AK
TA–W–51,079; Atlantic Precision Products, Inc., a subsidiary of Allied Devices Corp., Sanford, ME
TA–W–50,930; Land O'Lakes, Inc., Dairy Foods Upper Midwest Industrial Div., Perham, MN
TA–W–50,950; Birds Eye Foods, Inc., Green Bay Plant, Green Bay, WI
TA–W–50,977; Wabash Technologies, Inc., Automotive Business Unit, Huntington, IN
TA–W–50,999; Fishing Vessel (F/V) 7 Z's, Naknek, AK
TA–W–51,017; Fishing Vessel (F/V) Marilyn Marie, New Stuy, AK

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–51,172; Tabuchi Electric Co. of Cordova, Tennessee, Cordova, TN
TA–W–51,282; Gateway Country Stores LLC, Ashville, NC
TA–W–51,381; Hasler, Inc., Meter Repair Department, Shelton, CT
TA–W–50,827; Advanced Micro Devices (AMD), Ultra Pure Water Group, Austin, TX
TA–W–51,266; GE Plastics, a subsidiary of General Electric, Pittsfield, MA
TA–W–51,251; Western Geco, LLC, Houston, TX
TA–W–51,270; American United Life Insurance, Reinsurance Management Services, LLC, Avon, CT
TA–W–51,340; Sprint United Management Co., Rosemont Center, Rosemont, IL
TA–W–51,209; Wellchoice, Inc., New York, NY
TA–W–51,073; 3M Health Information Systems, Wallingford, CT

The investigation revealed that criterion (a)(2)(A) (I.A) (no employment declines) have not been met.

TA–W–51,033; R.D. & J, Pilot Point, AK
TA–W–51,055; State of Alaska Commercial Fisheries Entry Commission Permit #SO3T59688W, Manokotak, AK
TA–W–51,345; State of Alaska Commercial Fisheries Entry Commission Permit #SO3T56513U, Manokotak, AK
TA–W–50,755; Fishing Vessel Centurion, Manokotak, AK
TA–W–51,236; KC Fisheries, Inc., Kokiak, AK
TA–W–51,371; Fishing Vessel (F/V) Christian 'S', Everett, WA
TA–W–51,390; State of Alaska Commercial Fisheries Entry Commission Permit #SO4T58641M, Naknek, AK
TA–W–51,424; Fishing Vessel (F/V) Sunset, Petersburg, AK
TA–W–51,163; State of Alaska Commercial Fisheries Entry Commission Permit #SO3T60844R, Aleknagik, AK

The investigation revealed that criterion (a)(2)(A) (I.B) (sales or production, or both did not decline) and (a)(2)(A) (II.B) (no shift in production to a foreign country) have not been met.

TA–W–50,838; Fishing Vessel (F/V) Windy Sea, Kodiak, AK
TA–W–51,234; HP Pelzer, Thompson, GA

The investigation revealed that criterion (a)(2)(A) (I.C.) (Increased imports) and (a) (2)(B) (No shift in production to a foreign country) have not been met.

TA–W–50,945; Chem-Fab Corp., Hot Springs, AR

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

None

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of Section 222 have been met.

TA–W–50,649; Ultra Tool Co., a Div. of Ultra Tool Group, LP, Baxter, MN: January 18, 2002
TA–W–51,295; Evening Vision Dresses, Ltd, New York, NY: March 20, 2002
TA–W–51,370; Todd Sargent, Marshfield MA: March 28, 2002
TA–W–51,367 & A,B; American Identity, Formerly Doing Business as Dunbrooke Industries, Inc., Marcus, IA, Hawarden, IA and Orange City, IA: May 4, 2003
TA–W–51,104; Johnstown Leather Corp., Johnstown, NY: February 26, 2002
TA–W–51,067; TRW Automotive US, LLC, Greenville Facility, Greenville, NC: March 4, 2002
TA–W–51,227; Corning Cable Systems, Hardware and Equipment Operations, Hickory, NC: March 18, 2002
TA–W–50,834; TSI Graphics, Inc., Effingham, IL: February 5, 2002
TA–W–50,979; C-Cor.net Corp., State College, PA: March 7, 2003
TA–W–51,026; American Tool Companies, Inc., Cumberland, WI February 25, 2002
TA–W–50,801; Johnston Industries Alabama, Inc., Opp and Micolas Mills, Opp, AL: February 4, 2002
TA–W–50,702; Motorola, Inc., RF–1, Phoenix, AZ: January 23, 2002
TA–W–50,686; First Source Furniture Group, Anderson Hickey Div., Halls, TN: December 30, 2001

TA–W–51,262; Spang and Company, Magnetics Div., Canton, NC: March 20, 2002
TA–W–50.194; Allen-Edmonds Shoe Corp., Maine Shoe, Inc., Lewiston, ME: November 18, 2001
TA–W–51,205; Phoenix Gold International, Inc., Portland, OR: March 11, 2002
TA–W–51,138; Drexel Heritage Furniture Industry, Inc., Plant 60, Morganton, NC: March 7, 2002
TA–W–51,013; Data-Ray Corp., Westminster, CO: February 26, 2002
TA–W–50,917; Trout Creek Lumber, Trout Creek, MT: July 22, 2002
TA–W–50,920; Thomson, Inc., Thomson Marion Div., Marion, IN: February 18, 2002
TA–W–50,553; Goodyear Tire and Rubber Co., Union City Plant, Union City, TN: January 9, 2002
TA–W–50,889; Mega Tech of Oregon, Div. of JJM Ltd, Corvallis, OR: February 7, 2002

The following certifications have been issued. The requirement of upstream supplier to trade certified primary firms has been met.

TA–W–50,309; Parkdale Mills, Inc., Plant 14, Belmont, NC: December 10, 2001
TA–W–51,228; M.E.L., Inc., Winchester, MA: February 26, 2002
TA–W–50,991; Milliken, Kingsley Plant, Thomson, GA: February 18, 2002

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of Section 222 have been met.

TA–W–50,466; Makita Corp. of America, Including workers of Chase Staffing and Randstad Staffing, Buford, GA: September 10, 2001
TA–W–51,331; Allen Everitt Knitting Co., Milwaukee, WI: March 18, 2002
TA–W–51,286; Celestica, Inc., Oklahoma City, OK: March 24, 2002
TA–W–50,392; State of Alaska Commercial Fisheries Entry Commission Permit #SO4T57510S, Naknek, AK: March 28, 2002
TA–W–51,391; State of Alaska Commercial Fisheries Entry Commission Permit #SO4T64743O, King Salmon, AK: March 28, 2002
TA–W–51,389; State of Alaska Commercial Fisheries Entry Commission Permit #SO4T59912, Naknek, AK: April 2, 2002
TA–W–51,114; Celestica Corp. Including Leased workers of Adecco, Fort Collins, CO: March 7, 2002
TA–W–51,201; First International Computer of Texas Including Leased workers of Adecco International, Corestaff Services and Express Personnel Services, Austin, TX: March 12, 2002
TA–W–50,963; C.F. Gomma USA, Inc., Columbia City, IN: February 20, 2002
TA–W–50,969; Teradyne, Inc., a Semiconductor Test Div., Global Customer Service, Formerly Known as Genrad, Inc., Westford, MA: February 11, 2002
TA–W–50,424; Wolverine World Wide, Inc., Wolverine Leathers Div., Rockford, MI: December 11, 2001
TA–W–51,381; Vishay Micro-Measurements, Wendell, NC: December 13, 2001
TA–W–50,353; Edinboro Molding, Inc., Edinboro, PA: December 10, 2001
TA–W–51,253; Delta Woodside Industries, Inc., Catawba Plant, Maiden, NC: March 20, 2002
TA–W–51,250; Shugart Corp. (DBA) International Assembly Specialists, Tucson Operations, Tucson, AZ: July 16, 2002
TA–W–50,279; Siemens Energy and Automation, Inc., Measurement Systems Business, Spring House, PA: March 21, 2002
TA–W–51,258; Riley Licensing, Inc., d/b/a Riley Golf, Monterey, CA: March 11, 2002
TA–W–50,984; MTI Technology Corp., Anaheim, CA: January 4, 2002
TA–W–51,255; ICY Waters U.S., Inc., Oakville, WA: March 19, 2002
TA–W–51,050; JJA, Inc., Hampstead, NH: March 3, 2002
TA–W–51,116; Dura Automotive Systems, Inc., Shifter Operations, including leased workers of Westaff, Inc., Livonia, MI: February 21, 2002
TA–W–51,170; Siemens Energy and Automation, Residential Infrastructure Div., including leased workers of Randstad North America, CDI Corp., Peak Technical Services, Miami, FL: March 14, 2002
TA–W–51,097; The Triax Co., d/b/a Webb-Triax Co., Chardon, OH: February 20, 2002
TA–W–50,964; Oetiker, Inc., a subsidiary of Hans Oetiker AG, Marlette, MI: February 13, 2002
TA–W–50,667; JDS Uniphase Corp., Commercial Laser Div., Manteca, CA: January 9, 2002

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), subchaper D, chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of April 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

None

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

None

Affirmative Determinations NAFTA–TAA

None

I hereby certify that the aforementioned determinations were issued during the month of April 2003. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: April 14, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–10140 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,248]

Agilent Technologies, Rohnert Park, CA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 21, 2003 in response to a worker petition filed by a company official on behalf of workers at Agilent Technologies, Rohnert Park, California.

The petitioning worker group is included in a petition filed on March 13, 2003 (TA–W–51,247) that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would serve no purpose and the investigation has been terminated.

Signed at Washington, DC, this 8th day of April, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–10145 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,643]

Aran Mold & Die Company, Incorporated, Elmwood Park, NJ; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of April 2, 2003, a petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The denial notice was signed on February 12, 2003, and published in the **Federal Register** on March 26, 2003 (68 FR 14708).

The Department reviewed the request for reconsideration and has determined that the subject firm workers did produce a product (plastic injection molds). Therefore, the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 15th day of April, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–10139 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,497]

C-Cor.Net, Philips Broadband Networks, Manlius, NY, Including Employees of C-Cor.Net Located in the States of Minnesota, Washington, Texas, Ohio and Colorado; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 5, 2003, applicable to workers of C-Cor.Net, Manlius, New York. The notice was published in the **Federal Register** on March 19, 2003 (68 FR 13332).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of broadband communication products.

New information shows that C-Cor.Net purchased Philips Broadband Networks on September 16, 2002 and that workers separated from employment at the subject firm between January, 2002 and September 16, 2002 had their wages reported under a separate unemployment insurance (UI) tax account for Philips Broadband Networks. Information also shows that worker separations occurred involving employees of the Manlius, New York facility of the subject firm located in Minnesota, Washington, Texas, Ohio and Colorado. These employees provided sales function services for the production of broadband communication products at the Manlius, New York location of the subject firm.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of C-Cor.Net, Manlius, New York who were adversely affected by increased imports.

The amended notice applicable to TA–W–50,497 is hereby issued as follows:

All workers of C-Cor.Net, Philips Broadband Networks, Manlius, New York, including employees of C-Cor.Net, Manlius, New York, located in Minnesota, Washington, Texas, Ohio and Colorado, who became totally or partially separated from employment on or after January 2, 2002, through March 5, 2005, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 10th day of April, 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–10138 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,204]

Corbin, LTD, Ashland, KY; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 18, 2003, in response to a worker petition that was filed on behalf of workers at Corbin, LTD, Ashland, Kentucky.

All workers at the subject firm were certified on December 31, 2002 (TA–W–41,840 and NAFTA 6438). The certification expires two years from date of certification.

Consequently, further investigation would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 9th day of April, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–10144 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,486]

Electronic Data Systems Corporation, I Solutions Center, Fairborn, OH; Notice of Negative Determination Regarding Application for Reconsideration

By application dated March 4, 2003, petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of Electronic Data Systems (EDS) Corporation, I Solutions Center, Fairborn, Ohio was signed on January 15, 2003, and published in the **Federal Register** on February 6, 2003 (68 FR 6211).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition was filed on behalf of workers at Electronic Data Systems Corporation, Fairborn, Ohio engaged in activities related to information technology services. The petition was denied because the petitioning workers did not produce an article within the meaning of Section 222 of the Act.

The petitioners resubmitted an attachment to the original petition listing the ''articles'' produced, including computer programs, job control language, databases and various types of documentation.

A petitioner was contacted and asked as to the nature of the computer programs produced. He clarified that the subject firm created a custom-designed program for the customer's financial department.

Petitioning workers do not produce an ''article'' within the meaning of the Trade Act of 1974. The functions performed at the subject firm relate to information technology services. These services are thus not tangible commodities, that is, marketable products, and are not listed on the Harmonized Tariff Schedule of the United States (HTS), which describes all articles imported to the United States.

Further, the Trade Adjustment Assistance (TAA) program was established to help workers who produce articles and who lose their jobs as a result of increases of like or directly competitive imports of such articles contributing importantly to the layoff. Throughout the Trade Act an article is often referenced as something that can be subject to a duty. To be subject to a duty on a tariff schedule an article will have a value that makes it marketable, fungible and interchangeable for commercial purposes. But, although a wide variety of tangible products are described as articles and characterized as dutiable in the HTS, informational support that could historically be sent in letter form and that can currently be electronically transmitted, are not listed in the HTS.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 15th day of April, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–10137 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,280]

Emerson Appliance Controls, Frankfort, IN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 24, 2003 in response to a worker petition filed on behalf of workers at Emerson Appliance Controls, Frankfort, Indiana.

The petitioning group of workers is covered by an earlier petition filed on March 5, 2003 (TA–W–51,122) that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC this 4th day of April 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–10147 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,606]

Emerson Tool Company, Paris, TN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 13, 2003 in response to a worker petition filed jointly by the company and the International Association of Machinists, Local 1193, on behalf of workers of Emerson Tool Company, Paris, Tennessee.

The petitioning group of workers is covered by an active certification issued on January 13, 2003, and which remains in effect (TA–W–50,546). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 8th day of April, 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–10141 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,296]

Federal Mogul Ignition Group, Lighting Division, Hampton, VA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 25, 2003, in response to a worker petition dated March 19, 2003 filed by a company official on behalf of workers at Federal Mogul Ignition Group, Lighting Division, Hampton, Virginia.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC this 9th day of April 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–10148 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,252]

Filtex Incorporated, Guntersville, AL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 21, 2003 in response to a worker petition filed by the company on behalf of workers at Filtex Incorporated, Guntersville, Alabama.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 4th day of April, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–10146 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,752]

Fishing Vessel (F/V) Todd Andrew Togiak, AK; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 30, 2003 in response to a worker petition filed by the company on behalf of workers at Fishing Vessel (F/V) Todd Andrew, Togiak, Alaska.

The Department has been unable to locate the petitioner to obtain the information necessary to issue a determination. Consequently, further investigation would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 9th day of April, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–10142 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,820]

General Cable Corp., Biccgeneral Cable Industries, Inc., Outside Voice and Data Telecommunications Div., Bonham, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 21, 2002, applicable to workers of General Cable Corp., Outside Voice and Data Telecommunications Div., Bonham, Texas. The notice was published in the **Federal Register** on November 5, 2002 (67 FR 67420).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of copper telephone cable.

New information shows that for approximately six months, General Cable Corp., Outside Voice and Data Telecommunications Div. was operating under the name of Biccgeneral Cable Industries, Inc. and that workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Biccgeneral Cable Industries, Inc.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of General Cable Corp., Outside Voice and Data Telecommunications Div., Bonham, Texas who were adversely affected by increased imports.

The amended notice applicable to TA–W–41,820 is hereby issued as follows:

All workers of General Cable Corp., Biccgeneral Cable Industries, Inc., Outside Voice and Data Telecommunications Div., Bonham, Texas, who became totally or partially separated from employment on or after June 24, 2001, through October 21, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 9th day of April 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–10132 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,312]

Intertape Polymer Group, Menasha Division, Menasha, WI; Notice of Revised Determination on Reconsideration

By application of February 20, 2003, the company and the Paper, Allied-Industrial, Chemical and Energy Workers International Union (PACE) Local 7–0727 requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on October 11, 2002, based on the finding that imports of water activated sealing tape did not contribute importantly to worker separations at the subject firm plant. The denial notice was published in the **Federal Register** on February 6, 2003 (68 FR 6210).

To support the request for reconsideration, the company supplied additional information to supplement that which was gathered during the initial investigation. Upon further review, it was revealed that the company produced several types of ''carton sealing tape,'' including water activated tape. Increased reliance on company imports of pressure sensitive tape, a type of carton sealing tape, was originally revealed in an investigation of a subject firm affiliate: specifically, Intertape Polymer Group, Central Products Company, Richmond, Kentucky (TA–W–40,783). As a result of this discovery, the Department has determined that the company's increased reliance on imports of pressure sensitive tape (''like or directly competitive'' with what the subject plant produced) may be established as replacing subject firm production, thus contributing to the layoffs at the subject plant.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Intertape Polymer Group, Menasha Division, Menasha, Wisconsin, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In

accordance with the provisions of the Act, I make the following certification:

All workers of Intertape Polymer Group, Menasha Division, Menasha, Wisconsin, who became totally or partially separated from employment on or after December 9, 2001 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 14th day of April 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–10136 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,888 and TA–W–41,888A]

Jasper Cabinet Company, Jasper, IN, Jasper Cabinet Company, Ferdinand, IN; Notice of Negative Determination Regarding Application for Reconsideration

By application of January 31, 2003, the United Steelworkers of America, Sub District #3, Local Union No. 331–U, requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on December 23, 2002 and published in the **Federal Register** on January 15, 2003 (68 FR 2074).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Jasper Cabinet Company, Jasper, Indiana (TA–W–41,888) and Jasper Cabinet Company, Ferdinand, Indiana (TA-W–41,888A) engaged in the production of furniture and wood furniture parts, was denied because the ''contributed importantly'' group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's customers. The Department conducted a survey of the subject firm's major customers regarding their purchases of competitive products in 2000 through October 2002. The respondents reported no increased imports. The subject firm did not increase its reliance on imports of furniture and wood furniture parts during the relevant period.

The union alleges that a major customer imported competitive products.

Two officials from this customer were contacted in regard to this allegation. Results from ensuing conversations with these contacts revealed that the items previously purchased from the subject firm were predominately curio cabinets; as the customer ceased selling curio cabinets directly following their cessation of business with the subject firm, there are no like or directly competitive imports at issue in regard to this customer.

The petitioner also alleges that the Department did not make mention of known company imports in its initial investigation.

In fact, the initial investigation did include an examination of company imports. However, these imports did not represent a significant portion of the plants' sales or production declines in the relevant period, and therefore do not provide the necessary evidence for import impact.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 15th day of April, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–10133 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,182]

The JPM Company Now Known as Sanmina-SCI, Lewisburg, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 27, 2001, applicable to workers of The JPM Company, Lewisburg, Pennsylvania. The notice was published in the **Federal Register** on July 11, 2001 (66 FR 36329).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of cable and wire harnesses assemblies. New information shows that Sanmina-SCI purchased The JPM Company in June, 2002 and is now known as Sanmina-SCI.

The Department is amending the certification determination to correctly identify the new title name to read Sanmina-SCI (formerly known as The JPM Company), Lewisburg, Pennsylvania.

The amended notice applicable to TA–W–39,182 is hereby issued as follows:

''All workers of Sanmina-SCI (formerly known as The JPM Company), Lewisburg, Pennsylvania, who became totally or partially separated from employment on or after April 12, 2000, through June 27, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 15th day of April, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–10130 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–U

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,716]

Motorola, Inc., Global Telecom Solutions Sector (GTSS), Cellular Infrastructure Group, Including Temporary Workers of Adecco, North American, LLC, Fort Worth, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 30, 2002, applicable to workers of Motorola, Inc., Global Telecom Solutions Sector (GTSS), Cellular Infrastructure Group, Fort Worth, Texas. The notice was published in the **Federal Register** on October 22, 2002 (67 FR 64923).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. Information provided by the company shows that temporary workers of Adecco, North American, LLC worked at Motorola, Inc., Global Telecom Solutions Sector (GTSS), Cellular Infrastructure Group to produce base stations at the Fort Worth, Texas location of the subject firm.

Based on these findings, the Department is amending this certification to include temporary workers of Adecco, North American, LLC working at Motorola, Inc., Global Telecom Solutions Sector (GTSS), Cellular Infrastructure Group, Fort Worth, Texas.

The intent of the Department's certification is to include all workers of Motorola, Inc., Global Telecom Solutions Sector (GTSS), Cellular Infrastructure Group who were adversely affected by increased imports.

The amended notice applicable to TA–W–41,716 is hereby issued as follows:

''All workers of Motorola, Inc., Global Telecom Solutions Sector, Cellular Infrastructure Group, Fort Worth, Texas, engaged in employment related to the production of base stations, and temporary workers of Adecco, North American, LLC, Fort Worth, Texas, producing base stations at Motorola, Inc., Global Telecom Solutions Sector, Cellular Infrastructure Group, Fort Worth, Texas, who became totally or partially separated from employment on or after May 21, 2001, through September 30, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 9th day of April 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–10131 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,332]

National Refractories and Minerals Corporation, Mexico, Missouri; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 27, 2003 in response to a worker petition filed by a company official on behalf of workers at National Refractories and Minerals Corporation, Mexico, Missouri.

The petitioning worker group is included in an ongoing investigation for which a determination has not yet been issued. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 4th day of April, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–10149 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,023, TA–W–51,023A, TA–W–51,023B, TA–W–51,023C, TA–W–51,023D, TA–W–51,023E, TA–W–51,023F, TA–W–51,023G, TA–W–51,023H, and TA–W–51,023I]

National Steel Corporation, Mishawaka, IN; Granite City Division, Granite City, IL; Great Lakes Division, Ecorse, MI; Midwest Division, Portage, MI; ProCoil, Canton, MI; Techinical Research Center, Trenton, MI; National Steel Pellet Company, Keewatin, MI; NSL, Inc., Portage, IN; TMH, Portage, IN; Delray Connecting Railroad, Detroit, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 28, 2003 in response to a worker petition dated February 26, 2003 filed by a company official on behalf of workers at ten facilities of National Steel Corporation: Headquarters, Mishawaka, Indiana; Granite City Division, Granite City, Illinois; Great lakes Division, Ecorse, Michigan; Midwest Division, Portage, Michigan; ProCoil, Canton, Michigan; Technical Research Center, Trenton, Michigan; National Steel Pellet Company, Keewatin, Minnesota; NSL, Inc., Portage, Indiana; TMH, Portage, Indiana; and Delray Connecting Railroad, Detroit, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 9th day of April 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–10143 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,239]

Nestle Purina Petcare, St. Joseph, Missouri; Notice of Negative Determination Regarding Application for Reconsideration

By application February 19, 2003 the Retail, Wholesale and Department Store Union (RWDSU), Local 125 requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on January 21, 2003, and published in the **Federal Register** on February 24, 2003 (68 FR 8622).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Nestle Purina Petcare, St. Joseph, Missouri, was denied because the ''contributed importantly'' group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not

met. The investigation revealed that the declines in employment are related to a merger of Nestle and Purina companies. Sales at the subject firm increased in 2001 compared with 2000, and also increased during January through December 2002 compared to 2001. The investigation revealed that company did not import cat or dog food in the relevant period, nor did it shift production to a foreign facility.

The union alleges that the subject firm shifted production from the subject facility to two foreign facilities for the purpose of producing like or directly competitive products. The union further alleged that the subject firm trained employees from a foreign facility at the subject firm for the purpose of producing like or directly competitive products.

A company official was contacted in regard to these allegations. The official stated that no production equipment had been shipped from the subject facility to the foreign facilities, and that, although foreign workers had been trained at the subject facility, none of their foreign facilities produced like or directly competitive products. The official further clarified that the company had experienced no declines in sales and production, but had transferred all production to U.S. facilities.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 15th day of April, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–10135 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,031]

Saunders Brothers, Inc., Including Temporary Workers of Express Personnel Services and Rock Coast Personnel, Westbrook, Maine; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 3, 2002, applicable to workers of Saunders Brothers, Inc., Westbrook, Maine. The notice was published in the **Federal Register** on December 23, 2002 (67 FR 78256).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. Information provided by the company shows that temporary workers of Express Personnel Services and Rock Coast Personnel worked at Saunders Brothers, Inc., to produce hardwood dowels, dowel pins, turnings, artist brush handles, and other miscellaneous wood products at the Westbrook, Maine, location of the subject firm.

Based on these findings, the Department is amending this certification to include temporary workers of Express Personnel Services and Rock Coast Personnel working at Saunders Brothers, Inc., Westbrook, Maine.

The intent of the Department's certification is to include all workers of Saunders Brothers, Inc., who were adversely affected by increased imports.

The amended notice applicable to TA–W–50,031 is hereby issued as follows:

All workers of Saunders Brothers, Inc., Westbrook, Maine, and temporary workers of Express Personnel Services and Rock Coast Personnel, engaged in producing hardwood dowels, dowel pins, turnings, artist brush handles, and other miscellaneous wood products at Saunders Brothers, Inc., Westbrook, Maine, who became totally or partially separated from employment on or after November 7, 2001, through December 3, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 10th day of April 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–10134 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 15, 2003.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 5, 2003.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed in Washington, DC this 31st day of March, 2003.

Edward A. Tomchick,

Trade Adjustment Assistance.

APPENDIX

[Petitions instituted between 03/26/2003 and 03/31/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
51,314	Tyco Healthcare (Comp)	Irvine, CA	03/26/2003	03/14/2003
51,315	Cela Fabrics, Inc. (Comp)	New York, NY	03/26/2003	03/19/2003
51,316	Medsep Corporation (Wkrs)	Covina, CA	03/26/2003	03/19/2003
51,317	Tetley USA, Inc. (Comp)	Williamsport, PA	03/26/2003	03/25/2003
51,318	Ametek Specialty Motors (Comp)	Chambersburg, PA	03/26/2003	03/25/2003
51,319	Gem Island Enterprises (Comp)	Morganton, NC	03/26/2003	03/18/2003
51,320	Heath Electronic Manufacturing Corp. (Comp)	Glenns Ferry, ID	03/26/2003	03/18/2003
51,321	Rome Cable Corporation (NY)	Rome, NY	03/26/2003	03/18/2003
51,322	Alburg Door and Window, Ltd. (Wkrs)	Alburg, VT	03/26/2003	03/24/2003
51,323	Michael Anthony Jewelers (Wkrs)	Mt. Vernon, NY	03/26/2003	02/28/2003
51,324	Ponderosa Moulding (Wkrs)	Redmond, OR	03/26/2003	03/19/2003
51,325	Powerwave (Wkrs)	Santa Ana, CA	03/26/2003	03/13/2003
51,326	Ross Mould, Inc. (AFGW)	Washington, PA	03/26/2003	03/20/2003
51,327	Akzo Nobel (NJ)	Somerset, NJ	03/26/2003	03/25/2003
51,328	Fluor Daniel Services (Wkrs)	Wilmington, NC	03/26/2003	01/06/2003
51,329	Dana Corporation (UAW)	Richmond, IN	03/26/2003	03/26/2003
51,330	Zilog, Inc. (Comp)	Nampa, ID	03/27/2003	02/26/2003
51,331	Allen Everitt Knitting Company (Wkrs)	Milwaukee, WI	03/27/2003	03/18/2003
51,332	National Refractories and Minerals (Comp)	Mexico, MO	03/27/2003	12/20/2002
51,333	Standard Precision (Wkrs)	Meadville, PA	03/27/2003	03/25/2003
51,334	Chicago Firebrick, Inc. (Comp)	Chicago, IL	03/27/2003	12/20/2002
51,335	General Electric Industrial System (Wkrs)	Salem, VA	03/27/2003	03/26/2003
51,336	Manufacturers Pattern and Foundry Corp. (MA)	Springfield, MA	03/27/2003	03/26/2003
51,337	National Refractories and Mineral (Comp)	Columbiana, OH	03/27/2003	12/20/2002
51,338	National Refractories and Mineral (Comp)	Livermore, CA	03/27/2003	12/20/2002
51,339	Wellsville Firebrick Company (Comp)	Wellsville, MO	03/27/2003	12/20/2002
51,340	Sprint Long Distance (Wkrs)	Rosemont, IL	03/27/2003	03/24/2003
51,341	Washington Group International, Inc. (Wkrs)	Niagara Falls, NY	03/27/2003	03/26/2003
51,342	Hytek Finishes (Wkrs)	Everett, WA	03/27/2003	03/23/2003
51,343	Q Media Services (MA)	Westborough, MA	03/27/2003	03/26/2003
51,344	F/V Randy (Comp)	Egegik, AK	03/27/2003	03/25/2003
51,345	State of Alaska Commercial Fisheries (Comp)	Manokotak, AK	03/27/2003	03/24/2003
51,346	Set-Netter (Comp)	Dillingham, AK	03/27/2003	03/24/2003
51,347	Fishing Vessel (F/V) Libby No. 8 (Comp)	Ketchikan, AK	03/27/2003	03/24/2003
51,348	Fields and Sons, Inc. (Comp)	Kodiak, AK	03/27/2003	03/25/2003
51,349	Alpharma, Inc (Comp)	Palmyra, MO	03/28/2003	03/27/2003
51,350	Torque-Traction Tech, Inc./Dana (Wkrs)	Whitsett, NC	03/28/2003	03/21/2003
51,351	Trade Wind Apparel, Inc. (Wkrs)	Commerce, GA	03/28/2003	03/26/2003
51,352	Friedman Bag Company, Inc. (Wkrs)	Portland, OR	03/28/2003	03/27/2003
51,353	Interlake Material Handling, Inc. (Comp)	Lodi, CA	03/28/2003	03/20/2003
51,354	Connor Manufacturing Services (Comp)	Corona, CA	03/28/2003	03/25/2003
51,355	Rossville Chromatex (Wkrs)	Chattanooga, TN	03/28/2003	03/27/2003
51,356	Howden Buffalo, Inc. (UAW)	Springfield, IL	03/28/2003	03/28/2003
51,357	Forest City Tool (Comp)	Hickory, NC	03/28/2003	03/20/2003
51,358	Dollar Financial Group, Inc. (Comp)	Berwyn, PA	03/28/2003	03/25/2003
51,359	F/V Kiavak (Comp)	Kodiak, AK	03/28/2003	03/18/2003
51,360	F/V Lonny A. (Comp)	Ekwok, AK	03/28/2003	03/19/2003
51,361	Sisiutl Fisheries (Comp)	Kodiak, AK	03/28/2003	03/21/2003
51,362	Client Logic (Comp)	Buffalo, NY	03/31/2003	03/28/2003
51,363	Willamette Industries\Weyerhaeuser (Wkrs)	Lebanon, Or	03/31/2003	03/27/2003
51,364	Raytheon Aircraft (IAM)	Wichita, KS	03/31/2003	03/28/2003
51,365	Dirigo Stitching, Inc. (Comp)	Skowhegan, ME	03/31/2003	06/26/2003
51,366	Georgia Pacific (PACE)	Old Town, ME	03/31/2003	03/27/2003
51,367	American Identity (IA)	Marcus, IA	03/31/2003	03/28/2003
51,368	Mellon (Wkrs)	Pittsburgh, PA	03/31/2003	01/21/2003
51,369	Bombardier Learjet (IAM)	Wichita, KS	03/31/2003	03/28/2003
51,370	Todd Sargent (MA)	Marshfield, MA	03/31/2003	03/28/2003
51,371	F/V Christian ''S'' (Comp)	Everett, AK	03/31/2003	03/29/2003
51,372	Enfield Industries (Wkrs)	Conway, NH	03/31/2003	03/29/2003
51,373	Buckbee-Mears (Wkrs)	Cortland, NY	03/31/2003	03/31/2003
51,374	Independent Tool (Comp)	Meadville, PA	03/31/2003	03/31/2003

[FR Doc. 03–10127 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''International Price Program—U.S. Import Product Information.'' A copy of the proposed information collection

request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before June 23, 2003.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Import Price Indexes, produced continuously by the Bureau of Labor Statistics' International Price Program (IPP) since 1971, measure price change over time for all categories of imported products, as well as many services. The Office of Management and Budget has listed the Import Price Indexes as a Principal Federal Economic Indicator since 1982. The indexes are widely used in both the public and private sectors. The primary public sector use is the deflation of the U.S. Trade Statistics and the Gross Domestic Product; the indexes also are used in formulating U.S. trade policy and in trade negotiations with other countries. In the private sector, uses of the Import Price Indexes include market analysis, inflation forecasting, contract escalation, and replacement cost accounting.

The IPP indexes are closely followed statistics, and are viewed as a sensitive indicator of the economic environment. The U.S. Department of Commerce uses the monthly statistics to produce monthly and quarterly estimates of inflation-adjusted trade flows. Without continuation of data collection, it would be extremely difficult to construct accurate estimates of the U.S. Gross Domestic Product. In addition, Federal policymakers in the Department of Treasury, the Council of Economic Advisers, and the Federal Reserve Board utilize these statistics on a regular basis to improve these agencies' formulation and evaluation of monetary and fiscal policy and evaluation of the general business environment.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Action

The IPP continues to modernize data collection and processing to permit more timely release of its indexes, and to reduce reporter burden. Recently, for example, the IPP has attempted to cut back the number of months during any given year an individual respondent would need to supply data. Respondents are only asked for data in those months that they indicated that they might normally have changes in their prices. The IPP is also looking into less frequent sampling of more stable item areas, use of broader item areas in certain cases, and retention of items initiated in previous samples that reporters still trade. In order to reduce the time required for processing new items, direct entry of initiation data from the field was recently implemented. The IPP is continuing to test the feasibility of using fax transmissions to directly collect and enter data into the BLS reporters' repricing database. In Fiscal Year 2003 the IPP is also developing a web-based data collection system designed to permit respondents to enter data directly into the IPP's monthly database.

Type of Review: Revision.

Agency: Bureau of Labor Statistics.

Title: International Price Program/U.S. Import Product Information.

OMB Number: 1220–0026.

Affected Public: Business or other for-profit.

Form	Total respondents	Frequency	Total responses	Average time per response (hours)	Estimated total burden (hours)
Initiation Visit (includes form 3008)	2,000	Annually	2,000	1.0	2,000
Form 3007D	3,400	Monthly	21,420	.63	13,495
Total	5,400		23,420		15,495

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 15th day of April, 2003.

Jesús Salinas,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 03–10128 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–24–U

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed

and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''International Price Program—U.S. Export Price Indexes.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before June 23, 2003.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Export Price Indexes, produced continuously by the Bureau of Labor Statistics' International Price Program (IPP) since 1971, measure price change over time for all categories of exported products, as well as many services. The Office of Management and Budget has listed the Export Price Indexes as a Principal Federal Economic Indicator since 1982. The indexes are widely used in both the public and private sectors. The primary public sector use is the deflation of the U.S. Trade Statistics and the Gross Domestic Product; the indexes also are used in formulating U.S. trade policy and in trade negotiations with other countries. In the private sector, uses of the Export Price Indexes include market analysis, inflation forecasting, contract escalation, and replacement cost accounting.

The IPP indexes are closely followed statistics and are viewed as a sensitive indicator of the economic environment. The U.S. Department of Commerce uses the monthly statistics to produce monthly and quarterly estimates of inflation-adjusted trade flows. Without continuation of data collection, it would be extremely difficult to construct accurate estimates of the U.S. Gross Domestic Product. In addition, Federal policymakers in the Department of Treasury, the Council of Economic Advisers, and the Federal Reserve Board utilize these statistics on a regular basis to improve these agencies' formulation and evaluation of monetary and fiscal policy and evaluation of the general business environment.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Action

The IPP continues to modernize data collection and processing to permit more timely release of its indexes, and to reduce reporter burden. Recently, for example, the IPP has attempted to cut back the number of months during any given year an individual respondent would need to supply data. Respondents are only asked for data in those months that they indicated that they might normally have changes in their prices. The IPP is also looking into less frequent sampling of more stable item areas, use of broader item areas in certain cases, and retention of items initiated in previous samples that reporters still trade. In order to reduce the time required for processing new items, direct entry of initiation data from the field was recently implemented. The IPP is continuing to test the feasibility of using fax transmissions to directly collect and enter data into the BLS reporters' repricing database. In Fiscal Year 2003 the IPP is also developing a web-based data collection system designed to permit respondents to enter data directly into the IPP's monthly database.

Type of Review: Revision.

Agency: Bureau of Labor Statistics.

Title: International Price Program/U.S. Export Price Indexes.

OMB Number: 1220–0025.

Affected Public: Business or other for-profit.

Form	Total respondents	Frequency	Total responses	Average time per response (hours)	Estimated total burden (hours)
Initiation visit (includes form 3008)	1,400	Annually	1,400	1.0	1,400
Form 3007D	2,950	Monthly	19,175	.5847	11,213
Totals	4,350		20,575		12,613

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 15th day of April, 2003.

Jesús Salinas,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 03–10129 Filed 4–23–03; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL COUNCIL ON DISABILITY

International Watch Advisory Committee Meetings (Conference Calls); Correction

ACTION: Notice; correction.

SUMMARY: The National Council on Disability published a document in the **Federal Register** on December 2, 2002, concerning meeting dates for its International Watch Advisory Committee. The document contained one incorrect date.

FOR FURTHER INFORMATION CONTACT: Joan M. Durocher, Attorney Advisor and Designated Federal Official, National Council on Disability, 1331 F Street NW., Suite 850, Washington, DC 20004; (202) 272–2004 (voice), (202) 272–2074 (TTY), (202) 272–2022 (fax), *jdurocher@ncd.gov* (e-mail).

Correction

In the **Federal Register** of December 2, 2002, in FR Doc. 02–30401, on page 71595, correct the ''Time and Dates for 2003'' caption to read:

Time and Dates for 2003: 12 noon, Eastern Time, January 9, March 13, May 20, July 3, September 4, November 6.

Dated: April 21, 2003.

Ethel D. Briggs,

Executive Director.

[FR Doc. 03–10198 Filed 4–23–03; 8:45 am]

BILLING CODE 6820–MA–P

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act; Meeting

TIMES AND DATES: 1 p.m., Monday, May 5, 2003; 8 a.m., Tuesday, May 6, 2003.

PLACE: Chicago, Illinois, at the Sofitel Hotel, 20 East Chestnut Street, in the Grand/Chicago Ballroom.

STATUS: May 5—1 p.m. (Closed); May 6—8 a.m. (Open).

MATTERS TO BE CONSIDERED:

Monday, May 5—1 p.m. (Closed)

1. Strategic Planning.
2. Financial Performance.
3. Filing with the Postal Rate Commission for Parcel Returns Experiment.
4. Postal Rate Commission Opinion and Recommended Decision in Docket No. MC2002–2, Experimental Rate and Service Changes to Implement Negotiated Service Agreement with Capital One Services, Inc.
5. Capital Investment—Additional Funding Request for Biohazard Detection Systems (BDS).
6. Unresolved Audit Recommendation.
7. Personnel Matters and Compensation Issues.

Tuesday, May 6—8 a.m. (Open)

1. Minutes of the Previous Meeting, March 31–April 1, 2003.
2. Remarks of the Postmaster General and CEO.
3. Charters of Board Committees.
4. Capital Investments.

a. Mail Processing Infrastructure—Phase 1.

b. 6,240 Carrier Vehicles.

5. Great Lakes Area and Chicago District Report.
6. Tentative Agenda for the June 2, 2003, meeting in Washington, DC.

CONTACT PERSON FOR MORE INFORMATION: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

William T. Johnstone,

Secretary.

[FR Doc. 03–10276 Filed 4–22–03; 2:20 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, NW., Washington, DC 20549.

Extension

Form 2–E, Rule 609, SEC File No. 270–222, OMB Control No. 3235–0233

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• Form 2–E under the Securities Act of 1933, Report of Sales pursuant to Rule 609 of Regulation E. Rule 609 under the Securities Act of 1933, Report of Sales.

Form 2–E [17 CFR 239.201] is used by small business investment companies or business development companies engaged in limited offerings of securities to report semi-annually the progress of the offering, including the number of shares sold. The form solicits information such as the dates an offering has commenced and has been completed, the number of shares sold and still being offered, amounts received in the offering, and expenses and underwriting discounts incurred in the offering. This information assists the staff in determining whether the issuer has stayed within the limits of an offering exemption.

Form 2–E must be filed semi-annually during an offering and as a final report at the completion of the offering. Less frequent filing would not allow the Commission to monitor the progress of the limited offering in order to ensure that the issuer was not attempting to avoid the normal registration provisions of the securities laws.

During the calendar year 2002, there were four filings of Form 2–E by two respondents. The Commission estimates, based on its experience with disclosure documents generally and Form 2–E in particular, and based on informal contacts with the investment company industry, that the total annual burden associated with information collection, Form 2–E preparation, and submission is four hours per filing or 16 hours for all respondents.

The estimates of average burden hours are made solely for the purposes of the Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: April 23, 2003.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–10154 Filed 4–23–03; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension

Rule 17Ac2–2 and Form TA–2 SEC File No. 270–298 OMB Control No. 3235–0337

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

- Rule 17Ac2–2 and Form TA–2 (OMB Control No. 3235–0337; SEC File No. 270–298).

Rule 17Ac2–2, 17 CFR 240.17Ac2–2, and Form TA–2 under the Securities Exchange Act of 1934 require transfer agents to file an annual report of their business activities with the Commission. The amount of time needed to comply with the requirements of Rule 17Ac2–2 and Form TA–2 varies. From the total 1,210 registered transfer agents, approximately 300 registrants would be required to complete only Questions 1 through 4 and the signature section of amended Form TA–2, which we estimate would take each registrant about 30 minutes, for a total burden of 150 hours (300 × .5 hours). Approximately 410 registrants would be required to answer Questions 1 through 5, 10, and 11 and the signature section, which we estimate would take about 1 hour and 30 minutes, for a total of 615 hours (410 × 1.5 hours). The remaining registrants, approximately 500, would be required to complete the entire Form TA–2, which we estimate would take about 6 hours, for a total of 3000 hours (500 × 6 hours). We estimate that the total burden would be 3,765 hours (150 hours + 615 hours + 3000 hours).

We estimate that the total cost of reviewing and entering the information reported on the Forms TA–2 for respondents is $31.50 per hour. The Commission estimates that the total cost would be $118,597.50 annually ($31.50 × 3,765).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: April 18, 2003.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–10155 Filed 4–23–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [68 FR 19240, April 18, 2003]

STATUS: Open Meeting.

PLACE: 450 Fifth Street, NW., Room 6600, Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, April 24, 2003 at 10 a.m.

CHANGE IN THE MEETING: Time Change.

The Open Meeting scheduled for Thursday, April 24, 2003 at 10 a.m. has been changed to Thursday, April 24, 2003 at 1 p.m.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942–7070.

Dated: April 22, 2003.

Jonathan G. Katz,

Secretary.

[FR Doc. 03–10311 Filed 4–22–03; 3:52 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47693; File No. SR–NASD–2003–50]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify Fees for Computer-to-Computer Interface Lines Used by NASD Members and Non-Members To Provide Service Bureau Functionality

April 17, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 24, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Nasdaq has prepared. On March 28, 2003, the NASD submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change, as amended.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to establish a service bureau distributor fee for bandwidth enhancements of Computer-to-Computer Interface (''CTCI'') lines that are used to provide service bureau functionality.[3] If the Commission approves the proposal, Nasdaq proposes to implement the rule change retroactively as of April 1, 2003. The text of the proposed rule change is below. Proposed new language is in italics.[4]

7000. CHARGES FOR SERVICES AND EQUIPMENT

Rule 7010. System Services

(a)–(e) No change.

(f) Nasdaq Workstation™ Service

(1) No change.

(2) The following charges shall apply for each CTCI subscriber:

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed rule change is applicable to both NASD member and non-members.

[4] The text is marked to show changes from the language of the rule as amended by SR–NASD–2003–43 (March 19, 2003) and SR–NASD–2003–46 (March 19, 2003).

Options	Price
Option 1: Dual 56kb lines (one for redundancy) and single hub and router.	$1275/month
Option 2: Dual 56kb lines (one for redundancy), dual hubs (one for redundancy), and dual routers (one for redundancy).	$1600/month
Option 3: Dual T1 lines (one for redundancy), dual hubs (one for redundancy), and dual routers (one for redundancy). Includes base bandwidth of 128kb.	$8000/month
Option 1, 2, or 3 with Message Queue software enhancement	Fee for Option 1, 2, or 3 (including any Bandwidth Enhancement Fee *and Service Bureau Distributor Fee)* plus 20%
Disaster Recovery Option: Single 56kb line with single hub and router. (For remote disaster recovery sites only.).	$975/month
Bandwidth Enhancement Fee (for T1 subscribers only)	$600/month per 64kb increase above 128kb T1 base
Service Bureau Distributor Fee (for T1 subscribers only)	*$3,400/month per 64kb increase above 128kb T1 base for lines used for service bureau functions*
Installation Fee	$2000 per site for dual hubs and routers $1000 per site for single hub and router
Relocation Fee (for the movement of TCP/IP– $1700 per relocation capable lines within a single location).	

(g)(s) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq's CTCI network is a point-to-point dedicated circuit connection from the premises of brokerages and service providers to Nasdaq's Trumbull, Connecticut processing facilities. Through CTCI, firms are able to enter trade reports into Nasdaq's Automated Confirmation Transaction Service (''ACT''), orders into Nasdaq's transaction execution systems, and mutual fund pricing data into Nasdaq's Mutual Fund Quotation Service. The CTCI network operates over the Enterprise Wide Network II (''EWN II'') and provides connectivity over powerful 56kb and T1 data lines. In addition, the CTCI network uses the industry-standard Transmission Control Protocol/Internet Protocol (''TCP/IP''), a transmission protocol that Nasdaq describes as robust, efficient, and well known among the technical community.

Separately, Nasdaq has submitted filings to reduce the fee for CTCI bandwidth enhancements [5] from $4,000 to $600 per month for each 64 kilobit (''kb'') increment of additional bandwidth provided over a T1 CTCI line (above the base level of 128 kb).[6] Nasdaq believes, however, that this price reduction should not be applied to T1 lines that are used to provide service bureau functionality. A service bureau is a firm (which may or may not be an NASD member) that connects to the systems of Nasdaq and other market centers and then offers its customers the ability to route orders to those market centers, in addition to providing the customers various order management, risk management, and regulatory compliance services. It is Nasdaq's understanding that service bureaus generally pass on the costs of connecting to Nasdaq and other market centers to their own customers. Nasdaq believes that, because a service bureau may use a single T1 line pair to provide market access to numerous customers, a service bureau is able to spread the costs of access across its entire customer base. In Nasdaq's view, the service bureau in effect acts as a distributor of access services. Accordingly, Nasdaq believes that an NASD member that accesses the Nasdaq market through a service bureau has generally paid a much lower price for connectivity than a member that connects directly to Nasdaq through T1 circuits.[7] To help address this disparity, Nasdaq is proposing to establish a service bureau distributor fee, which would be applicable to additional bandwidth provided over T1 lines that are used for service bureau functionality. The proposed fee would be $3,400 for each 64 kb increase in bandwidth above the 128 kb base, and would be in addition to the bandwidth enhancement fee of $600 for each 64 kb increase.[8] Accordingly, lines used for service bureau functionality would continue to be charged fees that are equivalent to those charged under the price schedule that has been in effect since 2001.[9] The fee would be assessed

[5] The term ''bandwidth'' refers to the amount of data that can be transmitted over a CTCI line in one second. Accordingly, bandwidth enhancements allow a CTCI subscriber to send and receive a greater volume of data over a line.

[6] *See* SR–NASD–2003–43 (March 19, 2003) (NASD members) and SR–NASD–2003–46 (March 19, 2003) (non-members).

[7] For example, prior to the merger of Nasdaq Tools Inc. into Nasdaq, Nasdaq charged Nasdaq Tools Inc. for the use of CTCI lines in accordance with the pricing schedule contained in NASD Rule 7010(f), yet by spreading these costs among its customers, Nasdaq Tools Inc. was able to charge a pass-through fee of $265 per subscriber per month to users of its Tools Plus service bureau product. Following the merger of Nasdaq Tools Inc. into Nasdaq, Nasdaq continues to charge Tools Plus users this same price. Securities Exchange Act Release No. 46973 (December 9, 2002), 67 FR 77305 (December 17, 2002) (SR–NASD–2002–164). Nasdaq believes that other service bureaus pass on CTCI costs to their subscribers in a similar manner. Nasdaq also notes that because the cost of lines used for service bureau functionality will not change, a change in Tools Plus CTCI pricing is not warranted at this time. *See id.* at 77308–09.

[8] Nasdaq believes that its proposal to charge a distributor fee is analogous to the proposed rule change that the Commission approved in Securities Exchange Act Release No. 45102 (November 26, 2001), 66 FR 59830 (November 30, 2001) (SR–NASD–2001–59), in which Nasdaq adopted a fee schedule for firms acting as distributors of historical market data that was higher than the fee schedule for persons purchasing the data without a license to redistribute it.

[9] Securities Exchange Act Release No. 43821 (January 8, 2001), 66 FR 3627 (January 16, 2001) (SR–NASD–00–80); Securities Exchange Act

on a line-by-line basis. Thus, a firm that used some lines to provide service bureau functionality while using other lines for its own use would identify its service bureau lines and would pay the fee only with respect to those lines.

Even after the implementation of this proposed rule change, it is likely that service bureau customers would pay less for connectivity to Nasdaq than firms that connect directly. Accordingly, Nasdaq will closely monitor connectivity costs and may make additional pricing modifications in the near future.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[10] particularly subsection 15A(b)(5),[11] because it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that the NASD operates or controls. Nasdaq believes that the proposed rule change would help to address an existing disparity between the charges paid by market participants for direct CTCI connections to Nasdaq and the much lower charges paid by market participants for access through service bureaus.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Nasdaq neither solicited nor received written comments with respect to the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. In particular, the Commission requests comment on Nasdaq's proposal to implement the proposed rule change retroactively as of April 1, 2003. The Commission notes that the retroactive implementation of the proposed fee change would enable Nasdaq to charge for services that it has already rendered.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2003–50 and should be submitted by May 15, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–10097 Filed 4–23–03; 8:45 am]

BILLING CODE 8010–01–P

Release No. 44144 (April 2, 2001), 66 FR 18332 (April 6, 2001) (SR–NASD–00–81).

[10] 15 U.S.C. 78o–3.

[11] 15 U.S.C. 78o–3(b)(5).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47697; File No. SR–NASD–2003–68]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Amend Its Restrictions on Non-Cash Compensation in Connection With Corporate Financing and Direct Participation Programs

April 18, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and rule 19b–4 thereunder,[2] notice is hereby given that on April 7, 2003, the National Association of Securities Dealers, Inc. (''NASD''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I, II, and III below, which items have been prepared by the NASD. The NASD has designated the proposed rule change as one that constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule pursuant to rule 19b–4(f)(1) under the Act,[3] which renders it effective upon receipt of the filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing a proposed rule change to codify in NASD rules 2710 (Corporate Financing rule) and 2810 (Direct Participation Programs or ''DPP'' rule) its stated policies, practices, and interpretations regarding members' receipt of non-cash compensation in connection with the sale and distribution of securities. The express prohibitions on the receipt of non-cash compensation currently in the Corporate Financing rule and the DPP rule generally limit the receipt of such items to $100 per person annually and do not include certain detailed exceptions under NASD rules 2820 (Variable Contracts rule) and 2830 (Investment Company rule) for members selling mutual fund shares and variable annuities. The proposed rule change would codify exceptions in the Variable Contracts and Investment Company rules for members selling debt, equity,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(1).

DPP, and real estate investment trust (''REIT'') securities—while maintaining the current non-cash compensation prohibitions on the receipt of gifts with more than a *de minimus* value, payments and reimbursements preconditioned on the achievement of a sales target, and payments and reimbursements for travel and meetings that are not *bona fide* due diligence meetings or training and education meetings. In addition, the proposed rule change will codify the NASD's policy and practice of applying Interpretive Material issued by NASD staff relating to the non-cash compensation provisions uniformly and consistently to the Corporate Financing rule, the DPP rule, the Investment Company rule, and the Variable Contracts rule. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

2710.Corporate Financing Rule—Underwriting Terms and Arrangements

(a)–(b) No Change

(c) Underwriting Compensation and Arrangements

(1)–(5) No Change

(6) Unreasonable Terms and Arrangements

(A) No Change

(B) Without limiting the foregoing, the following terms and arrangements, when proposed in connection with the distribution of a public offering of securities, shall be unfair and unreasonable:

(i)–(xii) No Change

(xiii) [for a member or person associated with a member to accept, directly or indirectly, any non-cash sales incentive item including, but not limited to, travel bonuses, prizes and awards, from an issuer or an affiliate thereof in excess of $100 per person per issuer annually. Notwithstanding the foregoing, a member may provide non-cash sales incentive items to its associated persons provided that no issuer, or an affiliate thereof, including specifically an affiliate of the member, directly or indirectly participates in or contributes to providing such non-cash sales incentive; or].

(xiv)–(xv) Renumbered (xiii)–(xiv).

(7)–(8) No Change

(d) Non-Cash Compensation

(1) Definitions

The terms ''compensation,'' ''non-cash compensation'' and ''offeror'' as used in this Section (d) of this Rule shall have the following meanings:

(A) ''Compensation'' shall mean cash compensation and non-cash compensation.

(B) ''Non-cash compensation'' shall mean any form of compensation received in connection with the sale and distribution of securities that is not cash compensation, including but not limited to merchandise, gifts and prizes, travel expenses, meals and lodging.

(C) ''Offeror'' shall mean an issuer, an adviser to an issuer, an underwriter and any affiliated person of such entities.

(2) Restrictions on Non-Cash Compensation

In connection with the sale and distribution of a public offering of securities, no member or person associated with a member shall directly or indirectly accept or make payments or offers of payments of any non-cash compensation, except as provided in this provision. Non-cash compensation arrangements are limited to the following:

(A) Gifts that do not exceed an annual amount per person fixed periodically by the Board of Governors [1] and are not preconditioned on achievement of a sales target.

(B) An occasional meal, a ticket to a sporting event or the theater, or comparable entertainment which is neither so frequent nor so extensive as to raise any question of propriety and is not preconditioned on achievement of a sales target.

(C) Payment or reimbursement by offerors in connection with meetings held by an offeror or by a member for the purpose of training or education of associated persons of a member, provided that:

(i) associated persons obtain the member's prior approval to attend the meeting and attendance by a member's associated persons is not conditioned by the member on the achievement of a sales target or any other incentives pursuant to a non-cash compensation arrangement permitted by subparagraph (d)(2)(D);

(ii) the location is appropriate to the purpose of the meeting, which shall mean an office of the issuer or affiliate thereof, the office of the member, or a facility located in the vicinity of such office, or a regional location with respect to regional meetings;

(iii) the payment or reimbursement is not applied to the expenses of guests of the associated person; and

(iv) the payment or reimbursement by the issuer or affiliate of the issuer is not conditioned by the issuer or an affiliate of the issuer on the achievement of a sales target or any other non-cash compensation arrangement permitted by subparagraph (d)(2)(D).

(D) Non-cash compensation arrangements between a member and its associated persons or a company that controls a member company and the member's associated persons, provided that no unaffiliated non-member company or other unaffiliated member directly or indirectly participates in the member's or non-member's organization of a permissible non-cash compensation arrangement; and

(E) Contributions by a non-member company or other member to a non-cash compensation arrangement between a member and its associated persons, provided that the arrangement meets the criteria in subparagraph (d)(2)(D).

A member shall maintain records of all non-cash compensation received by the member or its associated persons in arrangements permitted by subparagraphs (d)(2)(C)–(E). The records shall include: The names of the offerors, non-members or other members making the non-cash compensation contributions; the names of the associated persons participating in the arrangements; the nature and value of non-cash compensation received; the location of training and education meetings; and any other information that proves compliance by the member and its associated persons with subparagraph (d)(2)(C)–(E).

(d) Renumbered as (e).

* * * * *

2810. Direct Participation Programs

(a) No Change

(b) Requirements

(1)–(3) No Change

(4) Organization and Offering Expenses

(A)–(D) No Change

(E) [No member or person associated with a member shall directly or indirectly accept any non-cash compensation or sales incentive item including, but not limited to, travel bonuses, prizes, and awards offered or provided to such member or its associated persons by any sponsor, affiliate of a sponsor or program. Notwithstanding the foregoing, a member may provide non-cash compensation or sales incentive items to its associated persons provided that no sponsor, affiliate of a sponsor or program, including specifically an affiliate of the member, directly or indirectly participates in or contributes to providing such non-cash compensation. Further, this subparagraph shall not prohibit a person associated with a member from accepting any non-cash sales incentive item offered directly to that person by a sponsor, affiliate of a sponsor or program where:

(i) the aggregate value of all such items paid by any sponsor or affiliate of

[1] *The current annual amount fixed by the Board of Governors is $100.*

a sponsor to each associated person during any year does not exceed $100.00;

(ii) the value of all such items to be made available in connection with an offering is included as compensation to be received in connection with the offering for purposes of subparagraph (B); and

(iii) the proposed payment or transfer of all such items is disclosed in the prospectus or similar offering document,]

(F) Renumbered to (E).

(5)–(6) No Change

(c) Non-Cash Compensation

(1) Definitions

The terms ''compensation,'' ''non-cash compensation'' and ''offeror'' as used in this section (c) of this rule shall have the following meanings:

(A) ''Compensation'' shall mean cash compensation and non-cash compensation.

(B) ''Non-cash compensation'' shall mean any form of compensation received in connection with the sale and distribution of direct participation securities that is not cash compensation, including but not limited to merchandise, gifts and prizes, travel expenses, meals and lodging.

(C) ''Offeror'' shall mean an issuer, sponsor, an adviser to an issuer or sponsor, an underwriter and any affiliated person of such entities.

(2) Restriction on Non-Cash Compensation

In connection with the sale and distribution of direct participation securities, no member or person associated with a member shall directly or indirectly accept or make payments or offers of payments of any non-cash compensation, except as provided in this provision. Non-cash compensation arrangements are limited to the following:

(A) Gifts that do not exceed an annual amount per person fixed periodically by the Board of Governors [1] and are not conditioned on achievement of a sales target.

(B) An occasional meal, a ticket to a sporting event or the theater, or comparable entertainment which is neither so frequent nor so extensive as to raise any question of propriety and is not preconditioned on achievement of a sales target.

(C) Payment or reimbursement by offerors in connection with meetings held by an offeror or by a member for the purpose of training or education of associated persons of a member, provided that:

(i) associated persons obtain the member's prior approval to attend the meeting and attendance by a member's associated persons is not conditioned by the member on the achievement of a sales target or any other incentives pursuant to a non-cash compensation arrangement permitted by subparagraph (c)(2)(D);

(ii) the location is appropriate to the purpose of the meeting, which shall mean an office of the offeror or the member, or a facility located in the vicinity of such office, or a regional location with respect to regional meetings;

(iii) the payment or reimbursement is not applied to the expenses of guests of the associated person; and

(iv) the payment or reimbursement by the offeror is not conditioned by the offeror on the achievement of a sales target or any other non-cash compensation arrangement permitted by subparagraph (c)(2)(D).

(D) Non-cash compensation arrangements between a member and its associated persons or a company that controls a member company and the member's associated persons, provided that no unaffiliated non-member company or other unaffiliated member directly or indirectly participates in the member's or non-member's organization of a permissible non-cash compensation arrangement; and

(E) Contributions by a non-member company or other member to a non-cash compensation arrangement between a member and its associated persons, provided that the arrangement meets the criteria in subparagraph (c)(2)(D).

A member shall maintain records of all non-cash compensation received by the member or its associated persons in arrangements permitted by subparagraphs (c)(2)(C)–(E). The records shall include: the names of the offerors, non-members or other members making the non-cash compensation contributions; the names of the associated persons participating in the arrangements; the nature and value of non-cash compensation received; the location of training and education meetings; and any other information that proves compliance by the member and its associated persons with subparagraph (c)(2)(C)–(E).

(c) Renumbered as (d).

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NASD is proposing to codify a stated policy, practice, and interpretation that the more detailed non-cash compensation provisions in the Variable Contracts rule and Investment Company rule apply to the sale and distribution of public offerings of securities and direct participation securities as governed by the Corporate Financing rule and DPP rule, respectively. The NASD is proposing to conform the language in the Corporate Financing rule and the DPP rule to be consistent with the more detailed language contained in the Variable Contracts rule and the Investment Company rule. NASD staff has consistently applied the more detailed provisions in Variable Contracts rule and the Investment Company rule to the sale and distribution of public offerings of securities and DPP securities.

Since 1994, the Commission, the NASD, and the securities industry have raised concerns about actual and potential conflicts of interest in the retail brokerage business created by a broad range of compensation practices whereby program sponsors or issuers provide incentives or rewards to individual broker-dealers and their registered representatives for selling the issuer's products. NASD staff believes that the use of non-cash compensation can create significant point-of-sale incentives that may compromise suitability determinations and heighten the potential for loss of supervisory control over sales practices. In addition, NASD staff believes that the use of non-cash compensation incentives may result in the loss of investor confidence by increasing the perception of inappropriate practices.

Responding to these concerns, the NASD in January 1999 amended the Variable Contracts rule and the Investment Company rule to establish comprehensive restrictions on the use of non-cash compensation in connection with the sale and distribution of investment company securities and

[1] *The current annual amount fixed by the Board of Governors is $100.*

variable contracts.[4] These amendments generally limited the manner in which members can pay for or accept non-cash compensation and detail the types of non-cash compensation that are permissible. The amendments also provided limited exceptions to the non-cash compensation restrictions for payments or reimbursements that are in connection with training and education meetings. The 1999 amendments also defined certain key terms, such as ''compensation'' and ''non-cash compensation.''

Current provisions of the Corporate Financing rule and the DPP rule limit the receipt of non-cash compensation by member firms and associated persons in connection with the sale and distribution of DPP securities, REIT programs, and corporate debt and equity offerings. These types of non-cash compensation, adopted in 1988, are not as comprehensive as the restrictions that were later adopted in the Variable Contracts rule and the Investment Company rule in 1999.

Generally, consistent with the current non-cash compensation requirements in NASD rules 2820 and 2830, the proposed rule change will conform the text of NASD rules 2710 and 2810 to rules 2820 and 2830: (1) Adopt definitions of the terms ''compensation,'' ''non-cash compensation,'' and ''offeror;'' (2) provide express exceptions from the non-cash compensation limitations for *bona fide* training and education meetings; and (3) prohibit, with certain exceptions, members or persons associated with members from directly or indirectly accepting or paying any non-cash compensation in connection with public offerings of debt or equity securities or transactions in direct participation programs.

Consistent with NASD rules 2820 and 2830, the proposed rule change will provide express exceptions from the non-cash compensation provisions that would permit: (1) Gifts of up to $100 per associated person annually; (2) an occasional meal, ticket to a sporting event or theater, or comparable entertainment; (3) payment or reimbursement for training and education meetings held by broker-dealers or issuers/sponsors for the purpose of educating associated persons of broker-dealers, so long as certain conditions are met; (4) in-house sales incentive programs of broker-dealers for their own associated persons; and (5) contributions by any non-member company or other member to a broker-dealer's permissible in-house sales incentive program, provided there is compliance with certain criteria.

NASD staff has consistently been concerned about the use of sales incentives in connection with the sale of any type of securities to a member's customers, including transactions in DPP securities, REIT programs, and corporate debt and equity offerings. For example, these incentive programs may offer registered representatives exotic trips or expensive merchandise if they sell a specific dealer's product. The NASD believes that the potential conflicts of interest that arise from the receipt of non-cash compensation in connection with the sale of variable products and mutual fund securities also exist in connection with the sale of these types of securities.

Since January 1999, through interpretive advice, responses to exemptive requests, and in the course of the filing review process under the DPP and Corporate Financing rules, NASD staff has consistently applied the non-cash compensation prohibitions in NASD rules 2820 and 2830 to sales of variable annuities, mutual funds, DPP securities, REIT programs, and corporate debt and equity offerings. Accordingly, although training and education meetings are not specifically permitted under the DPP and Corporate Financing rule, the NASD has recognized that *bona fide* training and education meetings that meet the strict requirements set out in the Variable Contracts rule and Investment Company rule can be held consistent with the non-cash compensation prohibitions.

DPP Rule. Paragraph (b)(4)(E) of the DPP rule currently prohibits a member or associated person from accepting, directly or indirectly, non-cash compensation or sales incentive items from any sponsor or affiliate of a sponsor, unless the following requirements are satisfied: (1) The aggregate value of all such items received annually does not exceed $100; (2) the value of all such items is included as compensation received in connection with the offering; and (3) the proposed payment of such items is disclosed in the prospectus.

The DPP rule currently does not contain an exception for training and education meetings. Through interpretive advice, the NASD has approved members' receipt of non-cash compensation in connection with *bona fide* training and education meetings. The NASD considers such a meeting to be one that educates registered representatives and assists them in making a suitability determination regarding a DPP product for their customers and that is otherwise in compliance with the training and education provisions of NASD rules 2820 and 2830. In Notice to Members 85–29 (April 1985), the NASD announced that reimbursement for training and education meetings is permitted under the DPP rule if the expenses are recognized as underwriting compensation, disclosed in the prospectus, and come within the 10% limit on underwriting compensation permitted under the rule. NASD staff has consistently applied the 10% compensation limit and training and education policies in the DPP rule set forth in Notice to Members 85–29 to REIT offerings that are filed with the Corporate Financing Department under the Corporate Financing rule.

Corporate Financing Rule. Although the rule language of the non-cash compensation provision in the Corporate Financing rule is different from the language of the non-cash compensation provision in the DPP rule, paragraph (c)(6)(B)(xiii) of the Corporate Financing rule currently contains a provision that prohibits a member or associated person from accepting, directly or indirectly, non-cash compensation or sales incentive items in excess of $100 per person per issuer annually from any issuer or affiliate thereof. The rule does not contain an exception for training and education meetings.

Training and Education Meetings. Currently, both the Variable Contracts rule and the Investment Company rule contain an express exception to the non-cash compensation provisions for training and education meetings that the industry believes are necessary to educate representatives about their products. The rules, however, contain conditions that must be satisfied before the exception can be used. Specifically, they require prior approval of attendance by the associated person from his or her member firm, satisfaction of the recordkeeping requirements, that attendance at the meeting not be preconditioned on the achievement of a sales target, that the location of the meeting be an office of the offeror or facility in the vicinity of the office, and that no reimbursement be provided for expenses of a guest.

Since the adoption of these provisions, the NASD has issued strict guidelines on the appropriate use of the training and education exception through Regulatory & Compliance Alerts, interpretive letters, and other correspondence with members. This guidance has stated that a sponsor is not permitted to pay for certain expenses in

[4] *See* Securities Exchange Act Release No. 40214 (July 15, 1998), 63 FR 39614 (July 23, 1998) (SR–NASD–97–35).

connection with a training and education meeting, including, but not limited to, golf outings, cruises, tours, and other entertainment. The NASD believes that amending the non-cash compensation provisions of the DPP and Corporate Financing rules will codify stated policy, practice, and interpretive advice and make these rules generally consistent with those governing variable annuities and mutual funds. The NASD believes, in addition, that these amendments will allow this body of interpretive guidance to be applied consistently with respect to training and education meetings relating to any of the relevant products.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[5] which requires, among other things, that the NASD's rules must be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; and, in general, to protect investors and the public interest. The NASD believes the proposed rule change will make the non-cash compensation provisions of the Corporate Financing rule and the DPP rule comparable to the more detailed non-cash compensation provisions that are currently in the Variable Contracts rule and the Investment Company rule. The proposed rule change also will provide expressly that NASD Interpretive Materials will apply to all four rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD has represented that the proposed rule change is effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act[6] and rule 19b–4(f)(1) thereunder,[7] in that it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2003–68 and should be submitted by May 15, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–10099 Filed 4–23–03; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78o–3(b)(6).

[6] 15 U.S.C. S78s(b)(3)(A)(ii).

[7] 17 CFR S240.19b–4(f)(1).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47686; File No. SR–NASD–2003–59]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to Fees for Nasdaq's InterMarket

April 16, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 2003, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''). The proposed rule change is described in items I, II and III below, which items have been prepared by Nasdaq. Nasdaq has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Association under section 19(b)(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify the existing execution fees for Nasdaq InterMarket trades executed through the InterMarket Trading System (''ITS'') and Nasdaq's Computer Assisted Execution System (''CAES''). The text of the proposed rule change is set forth below. Proposed new language is in *italics;* proposed deletions are in [brackets].

* * * * *

7010. System Services

(a)–(c) No change.

(d) Computer Assisted Execution Service.

The charges to be paid by members receiving the Computer Assisted Execution Service (CAES) shall consist of a fixed service charge and a per *share* transaction charge plus equipment-related charges.

(1) Service Charges

$100 per month for each market maker terminal receiving CAES.

(2) Transaction Charges

(A) $0.003 per share executed up to a maximum of $75 per execution shall be paid by an order entry firm or CAES market maker that enters an order into CAES that is executed in whole or in part, and [$0.002] *$0.0015* per share executed up to a maximum of $50 per execution shall be credited to the CAES market maker that executes such an order.

(B) $0.002 per share executed up to a maximum of $75 per execution shall be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

paid by any member that sends a commitment through the ITS/CAES linkage to buy or sell a listed security that is executed in whole or in part, and $0.001*5* per share executed up to a maximum of $37.50 per execution shall be credited to a member that executes such an order.

(e)–(r) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. Nasdaq has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq's InterMarket is a quotation, communication, and execution system that allows NASD members to trade stocks listed on the New York Stock Exchange (''NYSE'') and the American Stock Exchange (''Amex'').[4] The InterMarket competes with regional exchanges like the Chicago Stock Exchange (''CHX'') and the Cincinnati Stock Exchange (''CSE'') for retail order flow in stocks listed on the NYSE and the Amex. InterMarket comprises CAES, a system that facilitates the execution of trades in listed securities between NASD members that participate in InterMarket, and ITS, a system that permits trades between NASD members and specialists on the floors of national securities exchanges that trade listed securities.[5]

Nasdaq is proposing to modify the InterMarket fees to encourage market participants to provide additional liquidity to support executions through InterMarket and thereby enhance its competitiveness. Specifically, Nasdaq will retain the current CAES execution fee of $0.003 per share, and will credit $0.0015 per share, rather than $0.002 per share to a member whenever it provides the liquidity to support an execution through CAES (*i.e.,* sells in response to a buy order or buys in response to a sell order). The maximum fee will still be capped at $75 per execution and the maximum credit will still be capped at $50 per execution.

The current ITS per share execution fee of $0.002 will remain the same, and the credit earned by a member that provides liquidity to support an ITS execution will increase from $0.001 per share to $0.0015 per share. The maximum fee of $75 per execution and the maximum credit of $37.50 per execution will remain unchanged.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the Act, including section 15A(b)(5) of the Act,[6] which requires that the rules of the NASD provide for the equitable allocation of reasonable fees, dues, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls, and section 15A(b)(6) of the Act,[7] which requires rules that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The transaction execution fees and credits to be implemented by this filing will be imposed equally on members that use InterMarket to place orders or to enhance the quality of executions of InterMarket by providing liquidity to support executions. Nasdaq believes that the level of the fees and credits are reasonable, moreover, because its revenues from a given level of transaction activity under the new fee structure will be lower than its revenues from the same level of transaction activity under the prior fee structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[8] and subparagraph (f)(2) of rule 19b–4 thereunder,[9] because it establishes or changes a due, fee, or other charge imposed by the Association. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2003–59 and should be submitted by May 15, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–10100 Filed 4–23–03; 8:45 am]

BILLING CODE 8010–01–P

[4] Nasdaq's InterMarket formerly was referred to as Nasdaq's Third Market. *See* Securities Exchange Act Release No. 42907 (June 7, 2000); 65 FR 37445 (June 14, 2000) (SR–NASD–00–32).

[5] *See* CAES/ITS User Guide, p. 5, at *www.intermarket.nasdaqtrader.com.*

[6] 15 U.S.C. 78*o*–3(b)(5).

[7] 15 U.S.C. 78*o*–3(b)(6).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47692; File No. SR–NASD–2003–66]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. to Rebate Certain Past Primex Auction System Logon Charges for Certain Participants

April 17, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and rule 19b–4 thereunder,[2] notice is hereby given that on April 2, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I, II, and III below, which Nasdaq has prepared. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify NASD rule 7010(r) to enable Nasdaq to waive all Primex Auction System (''Primex'') logon charges for the period of August 2002 through November 2002 for those Primex participants that, in connection with their participation in Primex during that period, were customers of the Brass Service Bureau and Order Management System (''Brass''). Nasdaq will implement the proposed rule change as soon as practicable after the Commission approves it.

The text of the proposed rule change is below. Proposed new text is *italicized.*

* * * * *

Rule 7010(r). Nasdaq Application of the Primex Auction System™

(1) No change.

(2) No change.

(3) Waiver of Logon Fees

All monthly logon fees for the period of August 2002 through November 2002 are waived for those Primex Auction System participants that, in connection with their participation in the Primex Auction System during such period, were customers of the Brass Service Bureau and Order Management System.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Certain Primex participants are also users of Brass. The Brass system is integrated with such participants' internal order management system, and these participants rely on Brass for routing their respective orders to Primex. Due to Brass' delay in completing the needed interfaces, participants that expected to use Brass for routing their Primex orders were unable to do so, yet they were being charged the Primex logon fees. The proposed rule change would waive the logon fees during the period August 2002 through November 2002 for the affected participants.

The proposed waiver would apply to all logon charges, including each participant's logons for access via Brass as well as such a participant's logons for direct access not involving Brass. Generally, participants that intend to route their Primex orders through Brass also maintain separate Primex logons for direct access via the Primex Workstation, which can be used in conjunction with the Brass service in order to view transactions in Primex. Such Primex Workstation logons were of limited utility to those participants that intended, but were unable to, access Primex through Brass during the August 2002 through November 2002 period. Consequently, Nasdaq believes that waiving all logon charges for the affected participants would be fair and equitable. However, the waiver would not apply to network charges, because such charges arose from Nasdaq's obligations to third party network providers, which Nasdaq incurred specifically for the benefit of the participants.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[3] in general and with section 15A(b)(5) of the Act,[4] in particular, which requires that the rules of the NASD provide for equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. The proposed waiver of certain Primex logon charges ensures that the Primex charges are allocated reasonably and equitably.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NASD consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78*o*–3.

[4] 15 U.S.C. 78*o*–3(b)(5).

public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2003–66 and should be submitted by May 15, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–10101 Filed 4–23–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47685; File No. SR–NASD–2003–73]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend the Pilot Period for the Regulatory Fee and the Trading Activity Fee

April 16, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on April 14, 2003, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I and II below, which Items have been prepared by the NASD. The NASD filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD proposes to extend the pilot period for the Trading Activity Fee (''TAF'') through June 1, 2003. The TAF (as originally proposed in SR–NASD–2002–98) is in effect, and is set to expire on April 15, 2003.[6] The NASD is requesting the Commission approve SR–NASD–2002–148, granting permanent approval of the TAF, before the expiration of the TAF pilot on June 1, 2003.[7] If the Commission does not approve SR–NASD–2002–148 before the expiration of the TAF pilot on June 1, 2003, the trading fee component of the member regulatory pricing structure will revert to Section 8 of Schedule A to the NASD By-Laws, as amended.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in item IV below. The NASD has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 24, 2002, the NASD filed SR–NASD–2002–98, which proposed a new member regulatory pricing structure, including the TAF, to replace the existing trading fee contained in Section 8 of Schedule A to the NASD By-Laws.[8] SR–NASD–2002–98 is currently in effect. Assessments under the TAF were effective as of October 1, 2002, payable January 15, 2003.[9] On October 18, 2002, the NASD established a sunset provision whereby the TAF established by SR–NASD–2002–98 would cease to exist after December 31, 2002.[10] Upon expiration of SR-NASD–2002–98, the member regulatory pricing structure was to revert to Section 8 of Schedule A to the NASD By-Laws, as amended.

On December 24, 2002, the NASD extended the TAF pilot through March 1, 2003. On February 28, 2002, the NASD again extended the TAF pilot through April 1, 2003. On March 31, 2003, the NASD again extended the TAF pilot program through April 15, 2003. With the instant proposed rule change, the NASD is extending the TAF pilot through June 1, 2003, to allow the Commission additional time to review issues presented by the proposal to make the TAF permanent (SR–NASD–2002–148). The NASD requests that the Commission approve SR–NASD–2002–148 before the expiration of the TAF pilot on June 1, 2003.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with the Act, including Section 15A(b)(5),[11] which requires, among other things, that the NASD's rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on this proposed rule change were neither solicited nor received. Written comments, however, have been solicited by publication in the **Federal Register** of SR–NASD–2002–98, SR–NASD–2002–147, SR–NASD–2002–148, SR–NASD–2002–182, and SR–NASD–2003–26.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

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[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Commission waived the five-day pre-filing notice requirement. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii). The NASD also asked the Commission to waive the 30-day operative delay.

[6] *See* Securities Exchange Act Release No. 46416 (August 23, 2002), 67 FR 55901 (August 30, 2002) (SR–NASD–2002–98). *See also* Securities Exchange Act Release Nos. 47112 (December 31, 2002), 68 FR 824 (January 7, 2003) (SR–NASD–2002–182), 47436 (March 4, 2003), 68 FR 11422 (March 10, 2003) (SR–NASD–2003–26), and 47623 (April 3, 2003), 68 FR 17712 (April 10, 2003) (SR–NASD–2003–65).

[7] *See* Securities Exchange Act Release No. 46817 (November 12, 2002), 67 FR 69785 (November 19, 2002) (SR–NASD–2002–148).

[8] Securities Exchange Act Release No. 46416 (August 23, 2002), 67 FR 55901 (August 30, 2002) (SR–NASD–2002–98). *See also* Securities Exchange Act Release No. 46417 (August 23, 2002), 67 FR 55893 (August 30, 2002) (SR–NASD–2002–99). The NASD also published three *Notices to Members* describing the proposed changes and addressing interpretive questions posed by NASD members. *See Notices to Members 02–41* (July 2002), *02–63* (September 2002), and *02–75* (November 2002).

[9] Member firms were required to pay the TAF in accordance with the pilot program (for the first quarter starting October 1, 2002) by no later than January 15, 2003, and thereafter, on a monthly basis.

[10] At the same time, the NASD filed a new proposed rule change (SR–NASD–2002–148), substantially similar to SR–NASD–2002–98, but filed under Section 19(b)(1) of the Act, to allow for additional comment.

[11] 15 U.S.C. 7o–3(b)(5).

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[12] and rule 19b–4(f)(6) thereunder.[13] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The NASD has requested that the Commission waive the 30-day operative delay. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the TAF pilot to operate without interruption through June 1, 2003. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[14]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2003–73 and should be submitted by May 15, 2003.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–10102 Filed 4–23–03; 8:45 am]

BILLING CODE 8010–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47688; File No. SR–NASD–2003–52]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Establish a Fee for Receipt of Mutual Fund Quotation Service Data by Distributors

April 17, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 24, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to establish a $1,000 per month distributor fee for receipt of Nasdaq mutual fund information. The fee would be assessed on all distributors, as defined in proposed Rule 7090(e)—*i.e.*, those firms that receive the data and distribute it to third parties. Nasdaq will make the proposed rule change effective immediately upon Commission approval.

The text of the proposed rule change is below. Proposed new language is in *italics.*

Rule 7090. Mutual Fund Distributor Fee

(a)–(d) No change.

(e) *Distributors receiving MFQS shall pay a monthly fee of $1,000. For the purposes of this subsection only, the term ''distributor'' shall refer to any firm that receives the MFQS data feed and distributes it to third parties. All such firms must execute a Nasdaq Distributor Agreement.*

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Nasdaq Mutual Fund Quotation Service (MFQS) collects daily Net Asset Value information from approximately 18,000 mutual funds. This data is distributed via the Nasdaq Level 1 data feed. Currently, Nasdaq does not charge for the receipt or distribution of mutual fund data.

Nasdaq states that it creates value for distributors and their subscribers by collecting and processing the mutual fund data, producing the data feed, and providing data quality services. The mutual fund data product is an important component of integrated financial information services that are provided by major market data vendors, financial web sites, and online brokerage services. Nasdaq represents that the $1,000 per month fee will compensate it for these value-added services without discouraging wide distribution of the data.

Nasdaq is not charging recipients of the data feed who do not distribute the data to third parties. Unlike other data feeds which can be used for order routing, the MFQS data is only useful for display purposes. Those firms that only distribute it internally obtain no additional commercial advantage from resale of the data, and accordingly Nasdaq is not charging them. Thus, while the term ''distributor'' is used elsewhere in the NASD's rules to include a firm that receives a data feed and distributes it internally, [3] in

[3] *See, e.g.*, Rule 7010(q) footnote 8. Telephone conversation between Eleni Constantine, Office General Counsel, Nasdaq and Gordon Fuller, Counsel to the Assistant Director, Division of Market Regulation, Commission, on April 14, 2003.

proposed Rule 7090(e) Nasdaq is only using the term to refer to firms that distribute the MFQS data to third parties.

The Market Data Distribution Department will identify the firms that distribute the mutual fund data to third parties. These firms will be required to confirm their usage and distribution of the data and execute the appropriate amendment to the Nasdaq Distributor Agreement.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[4] in general and with section 15A(b)(5)[5] of the Act, in particular, in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. The proposed fee will be assessed on all firms that receive the MFQS data and distribute it to third parties, thus gaining a commercial advantage.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

[4] 15 U.S.C. 78o–3

[5] 15 U.S.C. 78o–3(b)(5).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2003–52 should be submitted by May 15, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–10103 Filed 4–23–03; 8:45 am]

BILLING CODE 8010–01–P

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47689; File No. SR–NYSE–99–51]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Order Tracking

April 17, 2003.

I. Introduction

On December 27, 1999, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to require the recording of details of orders in Exchange listed securities by its members and member organizations. On May 24, 2000, the Exchange filed Amendment No. 1 to the proposal.[3] On August 14, 2001, the Exchange filed Amendment No. 2 to the proposal.[4] On January 17, 2002, the Exchange filed Amendment No. 3 to the proposal.[5] The proposed rule change, as amended, was published for comment in the **Federal Register** on January 30, 2002.[6]

On February 28, 2002, the Exchange filed Amendment No. 4 to the proposal.[7] The proposed rule change, as amended, was again published for comment in the **Federal Register** on March 15, 2002.[8]

The Commission received one comment on the proposal.[9] This order approves the proposed rule change, as amended.

II. Background

The proposed rule change is intended to fulfill certain of the undertakings contained in the order issued by the Commission relating to the settlement of an enforcement action against the NYSE for failure to enforce compliance with section 11(a) and Rule 11a–1 of the Act and NYSE Rules 90, 95, and 111.[10] The SEC Order found that the NYSE's floor broker regulatory program suffered from two major deficiencies: (1) The NYSE failed to take appropriate action to police for profit-sharing or other performance-based compensation of independent floor brokers; and (2) the NYSE suspended its routine independent floor broker surveillance for extensive periods of time. As part of the SEC Order, the NYSE agreed and was ordered to comply with a variety of undertakings. Among other things, it agreed to, and was ordered to, continue the development and implementation of an electronic floor system (''Phase I

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Jennifer Colihan, Attorney, Division of Market Regulation, Commission, dated May 22, 2000 (''Amendment No. 1'').

[4] *See* Letter from Darla C. Stuckey, Assistant Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated August 14, 2001 (''Amendment No. 2'').

[5] *See* Letter from Darla C. Stuckey, Assistant Secretary, NYSE to Belinda Blaine, Associate Director, Division, Commission, dated January 17, 2002 (''Amendment No. 3'').

[6] *See* Securities Exchange Act Release No. 45326 (January 23, 2002), 67 FR 4479.

[7] *See* Letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy Sanow, Assistant Director, Division, Commission, dated February 28, 2002 (''Amendment No. 4'').

[8] *See* Securities Exchange Act Release No. 45521 (March 8, 2002), 67 FR 11735.

[9] *See* Letter from Stuart J. Kaswell, Senior Vice President and General Counsel, Securities Industry Association (''SIA''), to Jonathan Katz, Secretary, Commission, dated April 26, 2002.

[10] *See* In the Matter of New York Stock Exchange, Inc., SEC Release No. 34–41574, June 29, 1999; Administrative Proceeding File No. 3–9925 (''SEC Order'').

Floor Audit Trail'') that will be used to enter details related to orders before these orders can be represented on the trading floor. To accomplish this undertaking, the NYSE was ordered to submit a proposed rule change setting forth the complete details and specifications of the Phase I Floor Audit Trail and to implement fully the Phase I Floor Audit Trail nine months after Commission approval of the proposal. The Exchange complied with this aspect of the SEC Order.[11]

In addition, as part of the SEC Order, the Exchange undertook and was ordered ''to design and implement'' ''an audit trail sufficient to enable the NYSE to reconstruct its market promptly, to effectively surveil the NYSE, and to facilitate the effective enforcement of the federal securities laws and NYSE rules.'' In connection with this undertaking, at a minimum, the Exchange was required to provide: (a) an accurate, time-sequenced record of orders, quotations and transactions, beginning with the receipt of an order by any NYSE member firm and further documenting the life of the order through the process of execution or cancellation of that order; and (b) for synchronization of clocks used in connection with the audit trail (''Phase II Floor Audit Trail''). This proposed rule change addresses that undertaking.

III. Description of Proposal

The Exchange has proposed the adoption of four new rules which would require members and member organizations (herein referred to collectively as ''members'') to record and retain order information, to synchronize their time keeping equipment with a time source designated by the Exchange, and to provide the Exchange with information on orders upon request. Specifically, the Exchange has adopted requirements for the electronic capture of orders at the point of sale (front end systemic capture, or ''FESC'')[12] and at the point of receipt (order tracking system, or ''OTS''). The purpose of the requirements is to create a complete systemic record of orders handled by members and member organizations. The proposed rules and amendments are described below.

i. NYSE Rule 123(f)

Proposed NYSE Rule 123(f) requires that order execution reports be entered into FESC and that any member organization proprietary system used to record the details of an order must also be capable of transmitting a report of the order's execution to FESC. The proposed rule further requires that the details of each execution report required to be recorded must include the following data elements: (1) Order identifier that uniquely identifies the order as required by paragraph 123(e); (2) symbol; (3) number of shares or quantity of security; (4) transaction price; (5) time the trade was executed; (6) executing broker badge number, or alpha symbol as may be used from time to time, in regard to its side of the contract; (7) executing broker badge number, or alpha symbol as may be used from time to time, of the contra side to the contract; (8) clearing firm number, or alpha symbol as may be used from time to time, in regard to its side of the contract; (9) clearing firm number, or alpha symbol as may be used from time to time, in regard to the contra side of the contract; (10) whether the account for which the order was executed was that of a member or member organization or of a non-member or non-member organization; (11) identification of member or member organization which recorded order details as required by paragraph (e); (12) date the order was entered into an Exchange system; (13) indication as to whether this is a modification to a previously submitted report; (14) settlement instructions (*e.g.,* cash, next day, or seller's option); (15) Special Trade Indication, if applicable; (16) Online Comparison System (OCS) Control Number; and (17) such other information as the Exchange may from time to time require.

ii. NYSE Rule 132A

Proposed NYSE Rule 132A requires members to synchronize the business clocks used to record the date and time of any event that the Exchange requires to be recorded. The Exchange will require that the date and time of orders in securities listed on the Exchange be so recorded. The proposed Rule also requires that members maintain the synchronization of this equipment in conformity with procedures prescribed by the Exchange. The Exchange intends to coordinate time synchronization with the National Association of Securities Dealers Inc.'s (''NASD'') identical requirements.[13]

iii. NYSE Rule 132B

Proposed NYSE Rule 132B prescribes requirements and procedures with respect to orders in any security listed on the Exchange received or originated by a member. Paragraph (a) of the proposed rule requires immediate recordation of the data elements described in paragraph (b). If an order is transmitted to another member or is transmitted to another department of the same member, information detailed in paragraph (c) must be recorded. If an order is modified or cancelled, information required by paragraph (d) must be recorded. The various data elements and information required by the proposed rule must be recorded in an electronic format prescribed by the Exchange. Time records must be expressed in hours, minutes and seconds. The Rule makes clear that the records required therein must be preserved pursuant to Rule 17a–4(b) under the Act and that these records may be produced or reproduced on ''micrographic media'' as contemplated under Rule 17a–4(f) under the Act.

Paragraph (b) of the proposed rule contains the sixteen data elements to be recorded for an order. These include: (1) An order identifier; (2) stock symbol; (3) identification of the member; (4) department identification of the member or terminal identification number for orders received via a SuperDOT terminal; (5) department of the member which originated the order; (6) number of shares; (7) buy or sell order designation; (8) whether the order is a short sale order; (9) whether the order is a market, limit, stop or stop limit order (which terms are defined in Rule 13 of the Exchange); (10) any limit price, stop price or stop limit price prescribed in the order; (11) the date, if any, that an order expires or, if the order is in force for less than a day, the time when it expires; (12) the time limit the order is in force; (13) any request by the customer that the order not be displayed pursuant to Rule 11Ac1–4 under the Act; (14) any special handling requests (such as fill or kill, market-on-close, limit-on-close, not held, etc); (15) date and time of origination or receipt of the order;[14] and (16) the type of account for which the order is entered. Each of these data elements are commonly understood and used by members.

Paragraph (e) of the proposed rule explains that the order identifier is the order identifier required by NYSE Rule 123(e). This is the identifier assigned to an order in connection with the

[11] *See* Securities Exchange Release No. 43689 (December 7, 2000), 65 FR 79145 (December 18, 2000) (''Phase I Floor Audit Trail Approval Order'').

[12] *See id.*

[13] *See* NASD Rule 6953.

[14] For purposes of NYSE Rule 132B(b)(15), for electronic orders, order origination and time of receipt of an order is the time the order is captured by a member organization's electronic order-routing or execution system. For manual orders, order origination and time of receipt of an order is the time the order is first received by the member organization from the customer.

Exchange's FESC initiative. Under NYSE Rule 123(e), before an order is represented or executed on the Floor of the Exchange, a member must assign a unique identifier to it. This identifier will stay with the order throughout its processing life, through cancellation or execution.

Paragraph (c) of proposed NYSE Rule 132B requires that certain information be recorded when an order is transmitted to another department within the member, to another member, or to a non-member. When transmitted to another department, the following must be recorded: the order identifier, identification of the member, the date of receipt or origination of the order, the identification of the department to which the order was transmitted and the date and time the order was received by the department.

Paragraph (c)(2) contains requirements for both receiving and transmitting members when an order is transmitted from one member to another. The transmitting member must record whether the order was transmitted manually or electronically, the order identifier, market participant symbol for both receiver and transmitter, date of origination or receipt by the transmitting member, the date and time the order was transmitted, the number of shares so transmitted and, if the order is included in a bunched order, the bunched order route indicator assigned by the member. A bunched order is any aggregation of two or more orders. The receiving member must record whether the transmitted order was received manually or electronically, the order identifier, and the identifier of the member transmitting the order.

Exceptions to the requirement for recording information for both the transmitting and receiving member are contained in proposed NYSE Rules 132B(c)(2)(C) and 132(c)(2)(D). These exceptions are for orders transmitted to the Floor via SuperDOT, the Exchange's automated order routing system, and orders transmitted to another member on the Floor of the Exchange, where the order was entered into an Exchange data base pursuant to NYSE Rule 123(e), the Exchange's front-end systemic order capture requirements. In light of the objective of being able to identify an order from start to finish, both the receiving and transmitting members must record the order identifier and the identity of the member transmitting and receiving the order.

For orders transmitted to a non-member, the member must record that fact as well as the order identifier, member's identity, date of receipt or origination of the order, date and time of the order, number of shares, and, if applicable, any bunched order route indicator.

If an order is modified, proposed NYSE Rule 132B(d) requires that the order identifier (and any new order identifier, if applicable), date and time of modification and date the original order was received or originated be recorded. If an order is cancelled, (d)(2) requires the date and time of cancellation, whether the customer or the member cancelled the order, and the number of shares cancelled if there is a partial execution. This is in addition to the basic requirements to record the order identifier, identity of the member and the date and time when the order was first received or originated.

The same exceptions with respect to SuperDOT orders and orders on the Floor entered into a database under NYSE Rule 123(e) will apply to modifications and cancellations. Modification and cancellation will be elements captured in these systems and will not need to be captured by the member on the Floor.

Paragraph (f) of proposed NYSE Rule 132B provides an exception to the Rule for proprietary transactions of specialists, Registered Competitive Market Makers, and Competitive Traders. The transactions these members effected for their own accounts are not orders as contemplated by the Rule. Information with respect to these transactions is recorded and maintained by these members pursuant to the recordkeeping requirements of Exchange [15] and Commission Rules.[16]

iv. NYSE Rule 132C

Proposed NYSE Rule 132C requires members, upon request, to transmit order tracking data to the Exchange. This parallels the approach used under NYSE Rule 410A (Automated Submission of Trading Data) for submission of transaction information. The Exchange will make requests for order tracking information on an as-needed basis in order to carry out its surveillance and regulatory functions.[17] The NYSE has represented that this data will be used for regulatory purposes only and will not be used by the Exchange to gain an unfair competitive advantage over other market participants.

Members will be required to submit the data in an automated format. It is the Exchange's experience that submission of data by request has proven to be effective and efficient from both the Exchange's and its members' viewpoint.

Integration with Existing Exchange Requirements

With the implementation of NYSE Rule 132B, Exchange rules will provide a complete audit trail of orders from receipt through execution. As mentioned above, NYSE Rule 123(e) provides for the systemic capture of orders before they are represented or executed on the Floor. This includes the assignment of the unique identifier to each order. In addition, the Exchange will require that all orders be systemically delivered to its Floor, thus providing an electronic capture of order data from receipt or origination of an order. The audit trail requirements of proposed NYSE Rule 132B require information on the execution and clearance of transactions, the so-called ''back end'' of orders. With the addition of NYSE Rule 123(f), which requires recordation of the unique order identifier as part of the execution report, the Exchange represents that an order could be tracked throughout the life of the order. The unique order identifier would link the execution report to the original order.

Violation of Order Tracking Requirements

If, upon investigation, the Exchange determines that a violation of the Rule proposed to be amended or adopted herein has occurred, the Exchange will take appropriate action under the procedures of its disciplinary rules, including NYSE Rule 476. If a particular violation is deemed minor in nature, this could include issuance of a cautionary letter.[18]

Effective Date

The provisions of the rules and amendments proposed herein will become effective 15 months after the date of this order, except that the requirement in NYSE Rule 123 that copies of execution reports be entered into an Exchange database will become effective six months after the date of this order.[19]

[15] *See* NYSE Rules 123 and 410.

[16] *See* CFR 240.17a–3.

[17] The Exchange does not believe that it is cost-effective to store all order tracking data collected from members on a daily basis, and that members should be required to submit data to the NYSE on an ''as requested'' basis rather than daily as a matter of routine.

[18] In the future, the Exchange may consider seeking Commission approval to add these rules to the list of rules contained in NYSE Rule 476A, which provides for the imposition of fines for minor violations of rules.

[19] *See* note 7, *supra,* Amendment No. 4.

IV. Summary of Comments

The Commission received one comment letter on the proposal.[20] In its letter, the commenter raised concerns with respect to four subjects: the proposed rule's application to manual orders, how the order identifier would be used, the proposed rule's requirement to record Online Comparison System (''OCS'') control numbers, and the proposed rule's requirement to include a Bunched Order Route Indicator.

A. Manual Orders

The commenter objected to both the proposal's general requirement that firms be required to record information, including time of receipt, regarding manual orders and in particular the requirement that they assign manual orders an order identification number. The commenter explained that at many small firms, recordation of order information is still done primarily by order ticket. According to the commenter, in these cases, the order information is not electronically captured and cannot be linked to other data for the purpose of creating a complete systemic record of the order. The commenter contends that in order to comply with the NYSE's proposed rule to capture order information relating to manual orders, there would be costs in addition to the cost of new technology needed for compliance by members. The commenter believes that there would be a ''huge cost'' to investors because, the commenter argues, sales-traders would need to divert their attention from handling customer orders in order to collect and electronically all the data elements required by the proposed rule. The commenter believes that a ''legion of sales-traders performing clerical duties rather than monitoring markets for execution opportunities will make the markets riskier, less efficient and less accessible to investors.''

B. Order Identifier

The commenter also explained that because manual orders are typically written down and are not entered into the receiving firm's system, no systemic order identifier is generated. The commenter believes that assigning a trader the responsibility of generating and appending an order identifier to manual orders could result in inefficient handling of orders. The commenter further believes that the risk of confusion, duplication, and bad data will be exacerbated as the order identifier is then orally relayed and recorded. Lastly, the commenter argues that because the NYSE rules contain an exception from the order tracking requirements for orders transmitted to the NYSE floor via SuperDot, market centers that are not already hard-wired to a member firm would be at a competitive disadvantage.

C. Online OCS Control Number

Pursuant to proposed NYSE Rule 123(f), members would be required to record an Online OCS Control Number as part of the order execution report entered into FESC. This identifier would allow members to check on settlement problems that may occur between a member and the Exchange. The commenter contends that the proposed rule's requirement to record an OCS Control Number is not reasonable, and the cost to build a feed to incorporate this information would be significant. The commenter also argues that this information should not be required as part of the audit trail, but instead should be maintained by members in a manner that they find efficient for use by regulators upon request.

D. Bunched Order Route Indicator

The commenter argues that compliance with the NYSE's requirement to include a ''Bunched Order Route Indicator'' may be impossible because a firm typically does not know at the time an order is received whether the order will ultimately be part of a bunched order. The commenter contends that this provision could only be complied with by retroactively attaching an indicator where necessary after personnel search for and locate the appropriate part of the order to which they must attach the indicator. The commenter believes that the amount of time that this process would take makes the rule unworkable.

The NYSE addressed these concerns in letters to the Commission dated August 15, 2002 and April 4, 2003.[21] The Exchange noted that the proposed rule was undertaken pursuant to the SEC Order that requires the Exchange to design and implement a comprehensive audit trail for all orders. The order audit trail must, among other matters, encompass ''an accurate, time-sequenced record of orders, quotations and transactions, beginning with the receipt of an order by any NYSE member firm, and documenting the life of the order through the process of execution or cancellation of that order. * * *''[22] Thus, the Exchange addressed the SIA comment letter by indicating that the components of a complete audit trail require all of the components specified in their OTS rule. The Exchange acknowledged that ''interpretative questions may surface during the practical implementation of the OTS system, and [it] is committed to working with the SIA to provide appropriate guidance to its members and member organizations as particular issues are identified.''[23]

Further, the Exchange specifically addressed issues raised regarding the OCS Control Number and the Bunched Order Route Indicator.[24] With respect to the OCS Control Number, the Exchange represented that it did not believe, contrary to the assertion of the commenter, that inclusion of this identifier would be unduly burdensome, particularly in light of its value. The Exchange stressed the importance of the OCS Control Number as ''a critical component in establishing a complete order audit trail from order entry through execution.'' The Exchange explained that the OCS Control Number would allow the Exchange to link the entry of an order, the execution report, and any modification to such report, thus providing a complete trail for each order.

The Exchange also addressed the commenter's concerns regarding the Bunched Order Route Indicator. The Exchange noted that this indicator would likely be used infrequently as in many instances, a firm receiving additional trading interest from a customer would choose to modify an existing order rather than create an additional order which might then have to be bunched with a prior order. The Exchange also explained that in the event a Bunched Order Route Indicator was needed, the OCS Control Number could be utilized to locate and link together any parts of an order to which a Bunched Order Route Indicator might need to be appended.

V. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national

[20] *See* note 9, *supra,* SIA Letter.

[21] *See* Letters from Mary Yeager, Assistant Secretary, NYSE, to Jonathan G. Katz, Secretary, Commission, dated August 15, 2002; and Darla Stuckey, Corporate Secretary, NYSE, Commission, dated April 3, 2003.

[22] *See* Letter from Mary Yeager, Assistant Secretary, NYSE, to Jonathan G. Katz, Secretary, Commission, dated August 15, 2002, quoting Securities Exchange Act Release No. 41574 (June 29, 1999).

[23] *Id.*

[24] *See* Letter from Darla Stuckey, Corporate Secretary, NYSE, Commission, dated April 3, 2003.

securities exchange.[25] In particular, the Commission believes that the proposal is consistent with section 6(b)(5) of the Act,[26] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.

The Commission also finds that the Exchange, through the proposed rule change, satisfies an undertaking set forth in the SEC Order. Specifically, the SEC Order directed the Exchange to ''design and implement * * * an audit trail sufficient to enable the NYSE to reconstruct its market promptly, to effectively surveil the NYSE and to facilitate the effective enforcement of the federal securities laws and NYSE rules.'' At a minimum, the SEC Order called for the NYSE to provide ''an accurate, time-sequenced record of orders * * *'' throughout an order's life, from receipt through execution or cancellation and for synchronization of clocks used in connection with the audit trail of orders.

The proposed rule change will implement: (1) NYSE Rule 123(f) to require that order execution reports containing certain data elements be entered into FESC and that any member organization proprietary system used to record the details of an order must also be capable of transmitting a report of the order's execution to FESC; (2) NYSE Rule 132C to require members, upon request, to transmit order tracking data to the Exchange; and (3) NYSE Rule 132B to prescribe requirements and procedures with respect to orders in any security listed on the Exchange received or originated by a member. The Commission believes that the implementation of this proposed rule change will establish a complete and comprehensive audit trail which will provide the NYSE with an effective means to track and surveil an order from receipt through execution (or cancellation).

The Commission finds that the proposed rule change was designed to comply with, and fulfills an undertaking contained in the SEC Order relating to the Exchange's regulatory responsibilities to establish the Phase II Order Audit Trail. As specified in the SEC Order, this proposed rule change establishes an audit trail that will enable the Exchange to fulfill its regulatory responsibilities to effectively surveil its market and facilitate the effective enforcement of the Exchange Act and NYSE rules.

As described above, the sole commenter to the proposed rule change expressed concerns regarding the proposal's requirement that firms record information, including the time of receipt, for manual orders. The commenter also expressed dissatisfaction with the requirement that members must assign manual orders an order identification number. While the Commission appreciates these concerns, it notes that manual orders often are large or block-sized orders, therefore such orders have great potential to significantly impact the market and are particularly susceptible to manipulation. In the Commission's view, it is therefore essential to the creation of a complete and effective systemic order audit trail that the life of manual orders is captured to guard against, and aid surveillance for, potential manipulation.

The commenter also argued the proposal's requirement that members record an OCS Control Number is not reasonable because it would require members to build a feed to incorporate this information into the audit trail and the cost would be significant. Again, the Commission appreciates the concerns regarding potential costs associated with providing the Exchange with an OCS Control Number. However, in light of the vital regulatory purpose that will be achieved by the creation of an effective and complete systemic order audit trail, the Commission believes that the anticipated development costs are not undue or unwarranted. In the Commission's view, the OCS Control Number, or its equivalent, is an important part of the audit trail. The OCS Control Number will permit the Exchange to establish a complete order audit trail from order receipt through execution, thus permitting the Exchange to comply with its obligations under the SEC Order. Specifically, the Commission notes that the OCS Control Number will allow the Exchange to link the entry of an order, the execution report, and any modification to such report, thus providing a complete, systemic trail for each order.

Finally, the commenter expressed concern that compliance with the NYSE's requirement to include a ''Bunched Order Route Indicator'' may be impossible because a firm typically does not know at the time an order is received whether the order will ultimately be part of a bunched order. The Commission notes, however, that in order to comply with this provision, a member can make use to the OCS Control Number to locate and link together any parts of an order to which a Bunched Order Route Indicator might need to be appended. Further, the Commission notes that while this process may be somewhat time consuming, it does not expect that orders will be bunched on a regular basis; thus the process will be utilized only on rare occasions.

In approving this proposed rule change, the Commission emphasizes that the Exchange has committed to the following:

> The Exchange believes it should not have access to data generated by members and member organizations pursuant to these requirements for the purpose of gaining an unfair advantage over other market participants. In this vein, the Exchange commits that it will not use data received from its members and member organizations pursuant to these requirements to gain a competitive advantage over another self-regulatory organization or broker-dealer (market maker or electronic communications network).[27]

The Commission would be concerned if the information gained pursuant to OTS were used for any purpose other than regulatory surveillance.

In sum, the Commission recognizes that OTS will require some degree of system changes by NYSE members that will vary depending upon the business mix of the particular firm. These changes will entail costs for all NYSE members. Nevertheless, the Commission believes any costs are far outweighed by the substantial benefit to NYSE surveillance and enforcement that will be derived from OTS. The Commission expects that during the process of implementing and reviewing OTS, the Commission, the NYSE and NYSE members may identify ways in which to improve OTS to make it more efficient and effective from a technological or cost perspective. The Commission encourages a cooperative effort between the NYSE and its members to develop proposals that could achieve such efficiency while satisfying the requirements of the Exchange Act and the SEC Order for the NYSE audit trail.[28]

[25] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[26] 15 U.S.C. 78f(b)(5).

[27] See Letter from Darla C. Stuckey, Assistant Secretary, NYSE to Belinda Blaine, Associate Director, Division, Commission, dated January 17, 2002 (''Amendment No. 3'').

[28] The Exchange states it is committed to a cooperative effort between the NYSE and its members and member organizations in implementing OTS. See Letter from Mary Yeager, Assistant Secretary, NYSE, to Jonathan G. Katz, Secretary, Commission, dated August 15, 2002.

VI. Conclusion

The Commission believes that the proposal, as amended, should significantly assist the NYSE's efforts in fulfilling its regulatory responsibilities. The Commission further believes that the proposed rules meet the minimum requirements for an order audit trail system imposed by the Commission in the SEC Order, which required a time-sequenced record of orders and market-wide synchronization of all member firms' business clocks. In addition, OTS should provide a useful surveillance tool that will allow earlier detection of fraudulent activity for the benefit of investors and the public. Therefore, the Commission believes the approval of the proposed OTS, as amended, is appropriate and consistent with the requirements of the Act applicable to a national securities exchange, and in particular, with the requirements of section 6(b)(5) of the Act,[29] and the rules and regulations thereunder.

It is therefore Ordered, pursuant to section 19(b)(2) of the Act,[30] that the proposed rule change, as amended, (NYSE–99–51) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–10098 Filed 4–23–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47690; File No. SR–NYSE–2003–07]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Extend the Pilot Program Relating to the Allocation Policy for Trading of Exchange-Traded Funds on an Unlisted Trading Privileges Basis

April 17, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 2003, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The proposed rule change has been filed by the NYSE as a ''non-controversial'' rule change under Rule 19b–4(f)(6) of the Act.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE seeks to extend the pilot program relating to the allocation policy for trading certain Exchange-Traded Funds (''ETFs''), for an additional year. The current pilot program is set to expire on May 8, 2003. For purposes of the allocation policy, ETFs include both Investment Company Units (as defined in paragraph 703.16 of the Listed Company Manual) and Trust Issued Receipts (as defined in Rule 1200), which trade on an Unlisted Trading Privileges (''UTP'') basis. The text of the proposed rule change is available at the Office of the Secretary, NYSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This proposed rule change was originally filed as a one-year pilot in SR–NYSE–2001–07[4] and Amendment No. 1 thereto, and subsequently amended by SR–NYSE–2001–10[5] and SR–NYSE–2002–07.[6] The pilot was subsequently extended for another year and is due to expire on May 8, 2003.[7] Therefore, the Exchange seeks to extend the pilot relating to the allocation policy for trading certain Exchange-Traded Funds, for an additional year.

Since the inception of the Allocation Policy, the Exchange states that 36 different ETFs have been allocated. This includes 17 Merrill Lynch Holding Company Depositary Receipts (HOLDRs), a type of Trust Issued Receipt, 9 different types of Select Sector SPDRs, 1 MidCap SPDR, 5 different types of iShares, 1 VIPER, the Nasdaq-100 Index Tracking Stock (symbol QQQ), the Standard & Poor's Depositary Receipts (symbol SPY), and The Dow Industrials DIAMONDS (symbol DIA).

Allocation Policy for ETFs Trading Under UTP

The Exchange states that the intent of the Exchange's Allocation Policy and Procedures (the ''Policy'') is: (1) To ensure that the allocation process is based on fairness and consistency and that all specialist units have a fair opportunity for allocations based on established criteria and procedures; (2) to provide an incentive for ongoing enhancement of performance by specialist units; (3) to provide the best possible match between specialist unit and security; and (4) to contribute to the strength of the specialist system.

The Allocation Committee has sole responsibility for the allocation of securities to specialist units under this policy pursuant to authority delegated by the Board of Directors and is overseen by the Quality of Markets Committee of the Board (''QOMC''). The Allocation Committee renders decisions based on the allocation criteria specified in this policy.[8]

The Exchange believes that it would be appropriate to extend the pilot that modifies the conventional allocation process to provide that ETFs traded on a UTP basis be allocated by a special committee, consisting of the Chairman of the Allocation Committee, the three most senior Floor broker members of the Allocation Committee, and four members of the Exchange's senior management as designated by the Chairman of the Exchange. This will permit Exchange management, acting with key members of the Allocation Committee, to oversee directly the introduction of the UTP concept to the NYSE. For purposes of the Allocation Policy, ETFs collectively include Investment Company Units (as defined in paragraph 703.16 of the Listed Company Manual) and Trust Issued

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[29] 15 U.S.C. 78f(b)(5).

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 44272 (May 7, 2001), 66 FR 26898 (May 15, 2001) (SR–NYSE–2001–07).

[5] *See* Securities Exchange Act Release No. 44306 (May 15, 2001), 66 FR 28008 (May 21, 2001) (SR–NYSE–2001–10).

[6] *See* Securities Exchange Act Release No. 45729 (April 10, 2002), 67 FR 18970 (April 17, 2002) (SR–NYSE–2002–07).

[7] *See* Securities Exchange Act Release No. 45884 (May 6, 2002), 67 FR 32073 (May 13, 2002) (SR–NYSE–2002–17).

[8] *See* Securities Exchange Act Release No. 42746 (May 2, 2000), 65 FR 30171 (May 10, 2000) (SR–NYSE–99–34).

Receipts (as defined in Exchange Rule 1200).

Allocation applications would be solicited by the Exchange, and this special committee would review the same performance and disciplinary material as is reviewed by the Allocation Committee.[9] In addition, specialist unit applicants would be required to demonstrate:

(a) An understanding of the trading characteristics of ETFs;

(b) expertise in the trading of derivatively-priced instruments;

(c) ability and willingness to engage in hedging activity as appropriate;

(d) knowledge of other markets in which the ETF which is to be allocated trades; and

(e) willingness to provide financial and other support to relevant Exchange publicity and educational initiatives.

The special committee would review specialist unit applications and reach its allocation decision by majority vote. Any tie vote would be decided by the Chairman of the Exchange. The Exchange has determined that due to the unique aspects of certain ETF products, it may be helpful for the special committee to meet with and interview specialist units before making an allocation decision.

A specialist organization cannot be both the specialist in the ETF and the specialist in any security which is a component of the ETF. This restriction is necessary to avoid the possibility of ''wash sales'' in a situation where the specialist in the ETF needs to hedge by buying or selling component stocks of the ETF, and could inadvertently be trading with a proprietary bid or offer made by a specialist in the same member organization who is making a market in the component security.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[10] in general, and furthers the objectives of section 6(b)(5),[11] in particular, that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been filed by the Exchange as a ''non-controversial'' rule change pursuant to section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest, (2) does not impose any significant burden on competition, and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6)[15] thereunder.

The Exchange has requested that the Commission waive the five-day pre-notice requirement and the 30-day operative delay requirement, to permit the Exchange to implement the proposal immediately. Under Rule 19b–4(f)(6)(iii), a proposed ''non-controversial'' rule change does not become operative for 30 days after the date of filing, unless the Commission designates a shorter time.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow for the continued operation of the Exchange's Allocation Policy for ETFs trading on a UTP basis as a pilot program without interruption.[16] The Commission notes that it has not received any comments on previous proposed rule changes filed by the NYSE for this pilot. For this reason, the Commission designates the proposed rule change to be effective and operative upon its filing with the Commission. The Commission also waives the five-business day pre-filing requirement. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to the File No. SR–NYSE–2003–07 and should be submitted by May 15, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–10104 Filed 4–23–03; 8:45 am]

BILLING CODE 8010–01–P

[9] *See* Section IV (''Allocation Criteria'') of the Allocation Policy and Procedures approved in Securities Exchange Act Release No. 42746 (May 2, 2000), 65 FR 30171 (May 10, 2000) (SR–NYSE–99–34) for details of the performance and disciplinary material available to the Allocation Committee.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rules impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47691; File No. SR–OCC–2002–10]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Market-Maker Account Agreements

April 17, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 21, 2002, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') and on October 18, 2002, amended the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will amend OCC's By-Laws and Rules to eliminate the requirement that a clearing member must obtain a specified form of account agreement from each market-maker for whom it carries an account and submit the agreement to OCC for approval. The proposed rule change will also add two new interpretive statements to Article VI, Section 3 of OCC's By-Laws to clarify the application of certain amendments to Article 8 and Article 9 of the Uniform Commercial Code to OCC clearing accounts and to clarify the application of OCC's lien on clearing member account positions and clearing member obligations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend Article VI, Section 3 of OCC's By-Laws and Chapter XI, Rule 1105 of OCC's Rules to eliminate the requirement that a clearing member must obtain and must submit to OCC for approval a specified form of account agreement from each market-maker for whom it carries an account. OCC believes that such submissions are no longer necessary to perfect its security interest in clearing members' market-maker accounts under the Uniform Commercial Code (''UCC'') and are administratively burdensome for OCC and its clearing members. In order to incorporate the changes to Article IV, Section 3 into its rules, OCC proposes to make conforming changes to Rule 1105.

The proposed rule change also includes two interpretive statements. The first interpretative statement is intended to clarify the application to OCC clearing accounts of certain UCC amendments to Article 8 and to Article 9, which were adopted in 1994 and 1995. The other is intended to clarify that OCC's lien on positions in clearing member accounts extends to short security futures positions, as well as all other assets, and that OCC's lien secures clearing member obligations on long security futures positions, as well as all other obligations arising from the applicable account or accounts.

1. Background

Article VI, Section 3, of OCC's By-Laws specifies the types of clearing accounts that a clearing member may have at OCC, including accounts (referred to collectively herein as ''market-maker accounts'') in which a clearing member may carry positions of market professionals such as options market-makers, JBO participants,[3] and stock specialists (referred to collectively herein as ''market-makers''). Clearing members that maintain market-maker accounts at OCC must, according to the current provisions of Section 3, obtain and submit to OCC for approval certain agreements from each market-maker whose funds and positions are included in such market-maker accounts.

The principal reason for requiring the filing of these agreements was to ensure that OCC's security interest in and setoff rights against long option positions and assets deposited as margin in market-maker Accounts would be protected under the UCC as it existed prior to the UCC amendments in the event of a clearing member insolvency. The contents of the required agreements vary depending upon the type of market-maker Account. In all cases, however, the agreements provide that OCC has: (a) A lien on positions and margin in the account as security for obligations of the clearing member to OCC arising in the account; (b) the right to net writing and purchase transactions in the account (*i.e.,* to carry positions ''net''); and (c) the right to close out positions and apply proceeds without notice. In addition, market-makers whose assets are carried at OCC in combined accounts with other market-makers are required to consent to the commingling of their positions with the positions of other market-makers. Because OCC's lien on all assets in a combined market-makers' Account covers any obligation arising from the commingled account, assets attributable to one market-maker may be used by OCC to offset obligations of the clearing member that are attributable to the activity of a different market-maker.

OCC currently requires that a clearing member file with OCC a specified form of account agreement, executed by the clearing member and each market-maker included in the account, containing the required consents for the applicable type of market-maker account. OCC reviews the agreement and executes the agreement under the caption ''Approved.'' The procedure is cumbersome and imposes administrative burdens on both clearing members and OCC staff. Moreover, OCC believes that there may be potential for confusion in the legal relationships established through these documents. Although the agreements are not intended to create contractual privity between OCC and the market-maker, OCC believes it might be possible to misinterpret the agreements as doing so.

2. Proposed Changes

As a result of the UCC amendments, OCC believes it is no longer necessary to require clearing members to file market-maker account agreements with OCC in order to protect OCC's security interest in and setoff rights against funds and positions in market-maker

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] Under Article I, Section 1 of OCC's By-Laws, a ''JBO participant'' is a registered broker-dealer that ''(i) maintains a joint back office arrangement with a clearing member pursuant to the requirements of Regulation T promulgated by the Board of Governors of the Federal Reserve System; (ii) meets the requirements applicable to JBO participants as specified in exchange rules; and (iii) consents to having his exchange transactions cleared and positions carried in a JBO participants account.'' Unless the context requires otherwise, a JBO Participant is a Market-Maker for purposes of OCC's By-Laws and all of OCC's Rules except for Chapter IV.

accounts.[4] The UCC amendments established new rules specifically tailored to govern the ''indirect holding system'' for securities and certain other investment property. Under these rules, OCC may obtain an automatically perfected, first-priority security interest in assets in market-maker accounts through provisions in OCC's By-Laws or Rules. No grant of a security interest from the market-maker to OCC is required.

Under the UCC amendments, OCC and its clearing members are ''securities intermediaries,'' [5] and an OCC-issued option is a ''financial asset.'' [6] A person acquires a ''security entitlement'' [7] and becomes an ''entitlement holder'' [8] when a securities intermediary credits a financial asset to that person's account.[9] Thus, OCC's clearing members acquire security entitlements against OCC when OCC credits positions to the clearing members' accounts. Similarly, the clearing members' customers (including market-makers) acquire security entitlements against the clearing member with respect to positions carried for the accounts of those customers on the books of the clearing member. In the first case, the clearing member is the entitlement holder, and OCC is the securities intermediary. In the second case, the customer (or market-maker) is the entitlement holder, and the clearing member is the securities intermediary. In this instance, the customers' security entitlement against the clearing member is a different item of property from the clearing member's security entitlement against OCC.[10]

In order for OCC to acquire a perfected security interest in clearing members' security entitlements, OCC must obtain ''control'' over the entitlements or the ''securities account'' in which they are held.[11] UCC 8–106(e) provides that the securities intermediary has control ''[i]f an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary.'' As proposed, the revised rule would state that the clearing member (*i.e.*, the entitlement holder) agrees, and represents that it has obtained the agreement of each market-maker whose positions and transactions are included in the account and that OCC (*i.e.*, the securities intermediary) has a lien on long positions and margin in each market-maker account. Consequently, OCC will have a security interest perfected by control in the security entitlements in each market-maker account whether or not it has obtained a signed agreement from each market-maker.

Furthermore, OCC's security interest has priority over any competing interests. ''A security interest in a security entitlement or a securities account [12] granted to the debtor's own securities intermediary has priority over any security interest granted by the debtor to another secured party.'' [13]

Because it remains the case that as between a clearing member and its customers (including a market-maker), the clearing member has a duty to obtain the customer's consent before subjecting the customer's securities to a security interest or taking certain other actions potentially affecting the customer's interests,[14] the proposed rule continues to require clearing members to contain specified agreements from market-maker and also to require them to represent to OCC that such agreements have in fact been obtained. Those clearing members that choose to continue to use an existing form of market-maker account agreement will be permitted to do so, but OCC will also permit the agreement required under Section 3 of Article VI of its By-Laws to be incorporated into a clearing member's own forms of account agreements to the extent that the clearing member chooses to do so.

OCC also proposes to add two new items to the Interpretations and Policies to Article VI, Section 3 of its By-Laws. The first sentence of proposed Interpretation .02 sets forth a representation and warranty that the clearing member has obtained the agreement of each person for whom a transaction is effected in any account of the clearing member at OCC pursuant to provisions of Section 3, including the security interest in the account that is granted by the clearing member to OCC, and that the inclusion of the person's transactions and positions in that type of account is otherwise permitted by applicable law. This representation would apply not only to market-maker accounts and JBO participant accounts [15] but also to the firm account, pledge accounts, securities customer accounts, cross-margining accounts, and segregated futures accounts that are provided for under paragraphs (a) and (d) through (g) of Section 3, respectively. OCC has never required that a specified form of agreements be obtained by clearing members from persons whose transactions are included in these other types of accounts. Nevertheless, Rule 15c3–3 and the Commission's hypothecation rules, Rule 8c–1 and Rule 15c2–1, as well as certain state laws require that certain consents and agreements be obtained, such as consent to the commingling of a customer's securities with the securities of another customer. These comments are included in the account documentation normally obtained by brokers from their customers and are the responsibility of the broker.

The final sentence of Interpretation .02 is intended to make clear that the rights of OCC, including its security interest, in any account of the clearing member with OCC are enforceable in

[4] OCC did not propose to eliminate the requirement that clearing members file market-maker account agreements with OCC immediately after the adoption of the UCC amendments because that requirement was not inconsistent with the UCC amendments and because the UCC amendments were not immediately adopted in all U.S. jurisdictions. Because OCC is expecting an increase in Market-Maker account openings as a result of security futures trading, it is now a business priority for OCC to eliminate the requirement in order to relieve administrative burdens for both OCC and its clearing members.

[5] UCC 8–102(a)(14).

[6] UCC 8–102(a)(9)(ii) and 8–103(e).

[7] UCC 8–102(a)(17).

[8] UCC 8–102(a)(7).

[9] UCC 8–501(b)(1).

[10] Prefatory Note to UCC Article 8, Section III.C. states, ''For purposes of Article 8 analysis, the customer's security entitlement against the broker or bank custodian is a different item of property from the security entitlement of the broker or bank custodian against the clearing corporation.''

[11] UCC 9–314(a) and 9–106(a).

[12] UCC 8–501(a) defines ''securities account'' to mean ''an account to which a financial asset is or may be credited in accordance with an agreement under which the person maintaining the account undertakes to treat the person for whom the account is maintained as entitled to exercise the rights that comprise the financial asset.'' UCC 9–102(a)(14) defines ''commodity account'' as an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.'' Accounts established under Section 3 of OCC's By-Laws would ordinarily be ''securities accounts,'' but certain accounts might be construed as commodity accounts or as both securities accounts and commodity account given that OCC may clear commodity contracts and security futures as well as security options. In any case, the Article 9 rules governing perfection and priority of security interests in commodity accounts and assets contained therein are substantively identical to those governing securities accounts and assets therein because all are included in the UCC 9–102(a)(49) definition of ''investment property'' to which those rules apply. To the extent that an account if a ''commodity account,'' OCC will fail within the definition of a ''commodity intermediary'' under UCC 9–102(a)(17).

[13] UCC 9–328(3).

[14] See UCC 8–504(b), which states that a securities intermediary may not grant any security interests in a financial asset is it obligated to maintain on behalf of an entitlement holder except as otherwise agreed by the entitlement holder.

[15] Under Article I, Section 1, of OCC's By-Laws a ''JBO participant account'' means an account established by a clearing member which is confined to exchange transactions cleared and positions carried by the clearing member on behalf of JBO participants for whom the clearing member has filed a JBO participant account agreement with OCC.

accordance with their terms even if the clearing member fails in its obligations to obtain required consents or agreements from customers. This is consistent with the provision of UCC 8-503(e), which provides that an action based on an entitlement holder's property interest with respect to a financial asset held for its account by a securities intermediary, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against any purchaser of the financial asset or an interest therein (which would include lien holders) who gives value, obtains control, and does not act in collusion with the securities intermediary in violating the securities intermediary's obligations to maintain the property for the entitlement holder. OCC's security interest is protected under this provision. [16]

The first sentence of proposed Interpretation .03 is intended to clarify that OCC's lien extends to all assets in the market-maker accounts and JBO participant accounts. Article VI, Sections 3(b), (c), and (h) of OCC's By-Laws governs such accounts and uses the same language to describe OCC's lien's over those assets.[17] This language has always been intended and understood to describe the scope of OCC's lien as extending to all assets in the accounts. ''Long positions'' were specifically referred to in Section 3 because in the case of options only long positions have asset value. Short option positions represent only a liability. However, as OCC begins clearing security futures, it seems prudent to clarify that OCC's lien extends to all positions that represent an asset in the account, including short futures positions, which may have asset value if the market has moved in their favor since the most recent mark-to-market payment. Thus, the first sentence of proposed Interpretation .03 clarifies that the ''long positions, securities, margin and other funds'' over which OCC's lien extends includes any ''investment property,'' as defined in Article 9 of the UCC,[18] including long and short positions in security futures as well as any other asset.

The second sentence of proposed Interpretation .03 is also motivated by security futures, although it more broadly clarifies that OCC's lien acts as security for all obligations of the clearing member to OCC with respect to separate or combined market-maker accounts, customer accounts, or segregated futures accounts. OCC uses similar language in Sections 3(b), (c), (e), and (f) of Article VI of OCC's By-laws, which governs such accounts, to indicate that OCC has a lien on all long positions, margins, and other funds in the market-maker account with OCC as security for the clearing member's obligations to OCC in respect of all exchange transactions effected through such an account, short positions maintained in such an account, and exercise notices assigned to such an account. When OCC begins clearing security futures, its lien will also secure the clearing member's obligations with respect to long security futures positions in the account, which unlike long options which are always an asset may be a liability if the market has moved against those positions since the last mark-to-market payment. In order to avoid any confusion caused by reference to short positions but not to long positions, the proposed Interpretation .03 clarifies that obligations to OCC with respect to all exchange transactions should be read broadly to encompass, where applicable, obligations arising from long or short positions, obligations to make payments or delivery under cleared contracts, and obligations with respect to fees and charges associated with such transactions.

OCC has determined to clarify the language in Section 3 through the addition of Interpretation .03 rather than through an amendment to the text of Section 3 because OCC wants to avoid any possible inference that it is making a substantive change from the language that is Section 3, which language is currently used in outstanding market-maker account agreements.

Changes to Rule 1105(b) are intended merely to conform to the changes in Article VI, Section 3. Rather than refer to the market-maker account agreement, the rule would now refer directly to the applicable provisions in Article VI, Section 3, of the By-Laws which are required to be incorporated into an agreement between the clearing member and the market-maker.

OCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act [19] and the rules and regulations thereunder applicable to OCC because it will promote the prompt and accurate clearance and settlement of securities transactions, fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-coments@sec.gov.* All comment letters should refer to File No. SR–OCC–2002–10. This file number should be included on the subject line if e-mail is used. Copies of the

[16] *See also* UCC 8–511(b), which provides that a claim of a creditor (OCC) of a securities intermediary (the failed clearing member) that is perfected by control has priority over the claims of the securities intermediary's entitlement holders.

[17] Article VI, Sections 3(b), (c), and (h) contain language to indicate that OCC has a lien on all long positions, securities, margin, and other funds in such accounts.

[18] UCC 9–102(a)(49) defines ''investment property'' to mean a ''security, whether certified or uncertified, security entitlement, securities account, commodity contract, or commodity account.''

[19] 15 U.S.C. 78q–1.

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–2002–10 and should be submitted by May 15, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–10153 Filed 4–23–03; 8:45 am]

BILLING CODE 8010–01–M

[20] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 4342]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: International Sports Programming Initiative

SUMMARY: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces an open competition for an ''International Sports Programming Initiative.'' Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to discuss approaches designed to enhance and improve the infrastructure of youth sports programs in the following countries: Jordan, Morocco, Saudi Arabia, and Turkey. To be eligible for consideration under this competition, proposals *must* provide a minimum of 50 percent cost sharing of the amount of grant funds sought from ECA, although proposals with higher cost sharing levels are welcome. The Office expects to make approximately three (3) full grants of no more than $135,000 each under this competition, covering all thematic areas outlined below.

Announcement Name and Number: All correspondence with the Bureau concerning this RFGP should reference the ''Open Competition for International Sports Programming Initiative'' and reference number: ECA/PE/C/WHAEAP–03–49. Please refer to title and number in all correspondence or telephone calls to the Office of Citizen Exchanges.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions may contact the Office of Citizen Exchanges, room 216, SA–44, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, telephone number 202/260–5491, fax number 202/260–0440, or *rharvey@pd.state.gov* to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer, Raymond H. Harvey, on all other inquiries and correspondence.

To Download a Solicitation Package Via Internet: The entire Solicitation Package also may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/RFGPs*. Please read all information before downloading.

Program Information

Overview: The Office of Citizen Exchanges welcomes proposals that directly respond to the following thematic areas. Given budgetary limitations, projects for other themes and other countries will not be eligible for consideration under the FY–2003 International Sports Program Initiative.

Training Sports Coaches: The World Summit on Physical Education (Berlin, 1999) stated that a ''quality physical education helps children to develop the patterns of interest in physical activity, which are essential for healthy development and which lay the foundation for healthy, adult lifestyles.'' Coaches are critical to the accomplishment of this goal. A coach not only needs to be qualified to provide the technical assistance required by young athletes to improve, but must also understand how to aid a young person to discover how success in athletics can be translated into achievement in the development of life skills and in the classroom.

Projects submitted in response to this theme would be aimed at aiding youth, secondary school and university coaches in the target countries in the development and implementation of appropriate training methodologies, through seminars and outreach. The goal is to ensure the optimal technical proficiency among the coaches participating in the program while also emphasizing the role sports can play in the long-term economic well being of youth.

Youth Sports Management Exchange: Exchanges funded under this theme would help American and foreign youth sport coaches, adult sponsors, and sports and civic organization officials share their experience in managing and organizing youth sports activities, particularly in financially challenging circumstances, and would contribute to better understanding of the role of sports as a significant factor in educational success. Program should be designed to convey to the foreign counterparts the importance of linking success in sports to educational and leadership achievement and how these factors can contribute to short-term and long-term economic prospects.

Youth with Disability: Exchanges supported by this theme are designed to promote and sponsor sports, recreation, fitness and leisure events for children and adults with physical disabilities. Project goals include improving the quality of life for people with disabilities by providing affordable inclusive sports and recreational experiences that build self-esteem and confidence, enhancing active participation in community life and making a significant contribution to the physical and psychological health of people with disabilities. Programs should be structured to ensure that physically and developmentally challenged individuals be fully included in the sports and recreation opportunities in their communities.

Sports and Health: Projects funded under this category will focus on effective and practical ways to use sport personalities and sports health professionals to increase awareness among young people of the importance of following a healthy life style to reduce illness, prevent injuries and speed the rehabilitation and recovery. Emphasis will be on the responsibility of the broader community to support healthy behavior. The project goals are to promote and integrate scientific research, education, and practical applications of sports medicine and exercise science to maintain and enhance physical performance, fitness, health, and quality of life. (Actual medical training and dispensing of medications are outside the purview of this theme.)

Guidelines: The Office seeks proposals that provide professional experience and exposure to American life and culture through internships, workshops and other learning-sharing experiences hosted by local institutions. The experiences also will provide Americans the opportunity to learn

about other cultures and the social and economic challenges young athletes elsewhere face today. Travel under these grants should provide for a two-way exchange. Projects should not simply focus on athletic training; they should be designed to provide practical, hands-on experience in U.S. public/private sector settings that may be adapted to an individual's institution upon return home. Proposals may combine elements of professional enrichment, job shadowing and internships appropriate to the language ability and interests of the participants.

General Program Guidelines

Applicants must identify the local organizations and individuals in the counterpart country with whom they are proposing to collaborate and describe in detail previous cooperative programming and/or contacts. Specific information about the counterpart organizations' activities and accomplishments is required and must be included in the section on Institutional Capacity. All proposals must contain letters of support tailored to the project being proposed from all foreign-country partner organizations.

Exchanges and training programs supported by institutional grants from the Bureau should operate at two levels: They should enhance institutional partnerships, and they should offer practical information and experience to individuals and groups to assist them with their professional responsibilities. Strong proposals usually have the following characteristics:

- A proven track record of working in the proposed issue area;
- An experienced staff with language facility and a commitment by the staff to monitor projects locally to improve accountability;
- A clear, convincing plan showing how permanent results will be accomplished as a result of the activity funded by the grant; and
- A follow-on plan beyond the scope of the Bureau grant.

Proposal narratives *must:*

- Demonstrate an organization's willingness to consult closely with the Public Affairs Section and other officers at the U.S. Embassy.
- Confirm that all materials developed for the project and with support from a grant provided under this competition will acknowledge USG funding for the program.
- Confirm a commitment to invite representatives of the Embassy and/or Consulate to participate in various program sessions/site visits. Please note that this will be a formal requirement in all final grant awards.

Suggested Program Designs

Bureau-supported exchanges may include internships; study tours; short-term, non-technical experiential learning, extended and intensive workshops and seminars taking place in the United States or overseas. Examples of possible program activities include:

1. A U.S.-based program that includes: Orientation to program purposes and to U.S. society; study tour/site visits; professional internships/placements; interaction and dialogue; hands-on training; professional development; and action plan development.
2. Capacity-building/training-of-trainer (TOT) workshops to help participants to identify priorities, create work plans, strengthen professional and volunteer skills, share their experience to committed people within each country, and become active in a practical and valuable way.
3. Seed/small grants to indigenous non-profit organizations to support community-based educational projects that build upon exchange activities and that address issues of local concern. Proposals may include a component for a Seed/Small Grants Competition (often referred to as ''sub-grants'' or ''secondary grants''). This requires a detailed plan for recruitment and advertising; description of the proposal review and award mechanism; a plan for how the grantee would monitor and evaluate small grant activity; and a proposed amount for an average grant. The small grants should be directly linked to exchange activities. Small/seed grants may not be used for micro-credit or re-loaning purposes. Small/seed grants may not exceed 10% of the total value of the grant funds sought from ECA.
4. Site visits by U.S. facilitators/experts to monitor projects in the region and to provide additional training and consultations as needed.
5. Content-based Internet training/cyber-training to encourage citizen participation in workshops, fora, chats, and/or discussions via the Internet that will stimulate communication and information sharing among key opinion leaders on priority topics as a form of cost sharing. Proposals that include Internet utilization must reflect knowledge of the opportunities and obstacles that exist for use of information technologies in the target country or countries, and, if needed, provide hardware, software and servers, preferably as a form of cost sharing. Federal standards are under review and their adoption may impact on the implementation of these programs.

Selection of Participants

All grant proposals should clearly describe the type of persons who will participate in the program as well as the process by which participants will be selected. It is recommended that programs in support of U.S. internships include letters tentatively committing host institutions to support the internships. In the selection of foreign participants, the Bureau and U.S. Embassies abroad retain the right to review all participant nominations and to accept or deny participants recommended by grantee institutions. The U.S. Embassy in the host country of the exchange must approve all exchange program foreign visitors. However, grantee institutions should describe in detail the recruitment and selection process they recommend. The grantee institution will also provide the names of American participants and brief (two pages) biographical data on each American participant to the Office of Citizen Exchanges for information purposes. Priority will be given to foreign participants who have not previously traveled to the United States.

Adherence to All Regulations Governing the J Visa

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status.

Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the

administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et. seq.,* including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from:

United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 401–9810, FAX: (202) 401–9809.

Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau of Educational and Cultural Affairs as required. As a minimum, the data must include the following: name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

Budget Guidelines

The Bureau has an overall budget of $400,000 for this competition. Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. The Bureau has set a ceiling of $135,000 for proposals funded under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding from private sources in support of its programs.

Applicants must submit a comprehensive budget for the entire program. Grant awards may not exceed $135,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

Since Bureau grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of financial and in-kind support. To be eligible for consideration under this competition, proposals *must* provide a minimum of 50 percent cost sharing of the amount of grant funds sought from ECA, although proposals with higher cost sharing levels are welcome.

Example: A proposal requests $125,000 in grant funds from ECA, for a project with a total budget of $500,000. The required *minimum* allowable cost sharing offered must amount to at least $62,500. In this case, the cost sharing far exceeds the minimum, since actual cost sharing is $375,000.

When cost sharing is offered, it is understood and agreed that the applicant must provide the minimum amount of cost sharing as stipulated in this RFGP and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all allowable costs, which are claimed as being your contribution to cost participation, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced proportionately to the contribution.

The following project costs are eligible for consideration for funding:

1. *Travel costs.* International and domestic airfares; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J–1 visas for participants in Bureau sponsored programs. Please note that Tibetan participants may not travel to the U.S. primarily for English language instruction.

2. *Per Diem.* For the U.S. program, organizations have the option of using a flat $160/day for program participants or the published U.S. Federal per diem rates for individual American cities. For activities outside the U.S., the published Federal per diem rates must be used.

Note: U.S. escorting staff must use the published Federal per diem rates, not the flat rate. Per diem rates may be accessed at *http://www.policyworks.gov/.*

3. *Interpreters:* If needed, interpreters for the U.S. program are available through the U.S. Department of State Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors who need interpretation. Bureau grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat $160/day per diem for each Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget. Locally arranged interpreters with adequate skills and experience may be used by the grantee in lieu of State Department interpreters, with the same 1:4 interpreter to participant ratio. Costs associated with using their services may not exceed rates for U.S. Department of State interpreters.

4. *Book and cultural allowance:* Foreign participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a participant book allowance of $50. U.S. program staff members are not eligible to receive these benefits.

5. *Consultants.* Consultants may be used to provide specialized expertise, design or manage development projects or to make presentations. Honoraria generally do not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal. Subcontracts should be itemized in the budget.

6. *Room rental.* Room rental may not exceed $250 per day.

7. *Materials development.* Proposals may contain costs to purchase, develop, and translate materials for participants.

8. *Equipment.* Proposals may contain limited costs to purchase equipment crucial to the success of the program, such as computers, fax machines and copy machines. However, equipment costs must be kept to a minimum, and costs for furniture are not allowed.

9. *Working Meal.* The grant budget may provide for only one working meal during the program. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. Interpreters must be included as participants.

10. *Return travel allowance.* A return travel allowance of $70 for each foreign participant may be included in the budget. This may be used for incidental

expenses incurred during international travel.

11. *Health Insurance.* Foreign participants will be covered under the terms of a U.S. Department of State-sponsored health insurance policy. The premium is paid by the U.S. Department of State directly to the insurance company. Applicants are permitted to included costs for travel insurance for U.S. participants in the budget.

12. *Administrative Costs.* Costs necessary for the effective administration of the program may include salaries for grant organization employees, benefits, and other direct or indirect costs per detailed instructions in the Solicitation Package.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on Friday, May 30, 2003. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and ten copies of the application should be sent to:

U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/WHAEAP–03–49, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5″ diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to the Public Affairs section at the U.S. Embassy for its review, with the goal of reducing the time it takes to get embassy comments for the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. The Program Office and the Public Diplomacy section overseas will review all eligible proposals. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Program planning to achieve program objectives:* Proposals should clearly demonstrate how the institution plans to achieve the program's objectives. Objectives should be reasonable, feasible, and flexible. The proposal should contain a detailed agenda and relevant work plan that demonstrates substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

2. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. For technical projects, foreign experts and their local partners will be required to have the necessary education, training and experience for the work to be undertaken, in addition to language skills where applicable.

3. *Institutional Record/Ability:* Proposals should demonstrate an institutional record of successful development or exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Many successful applicants will have a multiyear track record of successful work in the selected country or within the region.

4. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. *Follow-on Activities:* Proposals should identify other types of exchanges or linkages that might be undertaken after completion of the Bureau supported activity.

7. *Monitoring and Project Evaluation Plan:* Proposals should provide a detailed plan for monitoring and evaluating the program. The evaluation plan should identify anticipated outcomes and performance requirements clearly related to program objectives and activities and include procedures for ongoing monitoring and corrective action when necessary. The identification of best practices relating to project administration is also encouraged, as is the discussion of unforeseen difficulties.

8. *Cost-effectiveness/Cost-sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals must provide 30% cost sharing (of the amount of grant funds requested from ECA) through other

private sector support as well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: April 16, 2003.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–10177 Filed 4–23–03; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 4341]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: English as a Foreign Language (EFL) Institutes for Teachers and Administrators From Jordan and Morocco

SUMMARY: The Fulbright Teacher Exchange Branch, Office of Global Educational Programs of the Bureau of Educational and Cultural Affairs (ECA) announces an open competition for an assistance award program to support the development of two single-country teacher-training institutes. Accredited, post-secondary educational institutions meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to develop two English-as-a-Foreign Language (EFL) Institutes for teachers and administrators from Jordan and Morocco. Each Institute will provide an intensive five-week academic and one-week site visit program for 8–10 qualified English teachers and administrators from one of the respective countries.

Program Information

Overview

The Bureau asks for detailed proposals from U.S. institutions of higher education, which have expertise in the field of EFL. Proposals should demonstrate deep understanding of the local educational systems in Jordan and Morocco as well as the issues confronting English language education. Special expertise in handling cross-cultural programs is highly desired. Proposals should also outline practical and feasible follow-on activities that build on the achievements of the Institute while promoting the continued exchanges of ideas between the participants and the U.S. institution receiving the grant.

Project Objectives

The proposal should reflect three overall goals: First, to produce a highly focused seminar setting or ''Institute'' that updates participants in best practices in EFL at the primary through secondary levels; second, to provide participants with train-the-trainer skills that will enable them to conduct workshops on institute topics in their home countries in the future; and third, to provide participants with opportunities to interact with Americans, thereby allowing them to gain awareness and understanding of U.S. culture and society.

Guidelines

Project Planning and Implementation

Grant Inception and Duration

Pending availability of FY 2003 funds, the Institute should begin—and in-country follow-on workshops be conducted—as soon as local and international conditions allow.

Planning

With the concurrence of the Jordanian and Moroccan Ministries of Education, participants will be recruited and selected in-country by the Public Affairs Section of the U.S. Embassy, the Department of State's Regional English Language Officers (RELOs), and the Fulbright Commissions. U.S. embassy officials will work with the Ministries to facilitate follow-on training activities.

After the participants have been selected but prior to their arrival in the U.S., the grantee institution will be responsible for conducting an initial planning visit to both countries to consult with representatives from the U.S. Embassy, Fulbright Commissions, RELOs and local educators. During these meetings and in coordination with the local Fulbright Commission, the grantee institution will conduct a three-day pre-departure orientation workshop for the participants. For information on contacting the Fulbright Commissions please refer to the POGI. This workshop should provide information about the Institute, its goals, and expectations of participants. It should also offer a framework for integrating the Institute and its objectives into participants' previous training, and promote team-building strategies. At the workshops, organizers should seek input about the needs of local teachers, review comparative teaching practices, and address issues about participants' stay in the U.S.

In planning for the Institute, the U.S. grantee organization will identify and select specific training and instructional materials (up to a value of approximately $800–$1,000 per set) in consultation with the State Department, RELOs and local experts. Costs for the purchase of the materials and for their shipment will be paid through a separate contract. The grantee organization should not budget for these sets of materials. The materials will support the five-week academic program of the Institute as well as the in-country follow-on workshops. Numerous sets of these materials will be sent to both Jordan and Morocco and distributed to local teachers and schools participating in the follow-on workshops.

U.S. Based Training

Following the pre-departure orientation, participants will spend approximately six weeks in the U.S. immersed in the EFL Institute organized by the U.S. grantee. The Institutes should meet the needs of the Jordanian and Moroccan participants through activities designed by U.S. education specialists with appropriate expertise in EFL instruction, curriculum development and training. The Institutes should have two components: A five-week intensive academic program and a one-week cultural and educational program in Washington, DC. The five-week academic program should address innovative EFL teaching methodologies and approaches and their implementation in Jordan and Morocco. Significant time should also be allotted for the inclusion of related professional activities outside the classroom which will introduce participants to U.S. education specialists, such as visits to schools, consultations with U.S. teachers, in-school mentoring, and attendance at professional meetings. At a minimum, a one-week experiential component should be included in the five-week academic program in which participants observe best practices in EFL instruction and training in a U.S. school. Among the topics to be addressed during the Institutes are: Computer literacy skills for EFL instruction, critical thinking, communication, conflict resolution, analytical and evaluation skills, and student development and motivation.

Few participants will have visited the United States previously. In view of this, an initial orientation to the host institution, its community, and an introduction to U.S. society and its system of education should be an integral part of the Institute shortly after arrival on the U.S. campus. The five-week study program should also include cultural activities that facilitate interaction among the participants, American students, faculty, and administrators and the local community to promote mutual understanding between the people of the United States and the people of Jordan and Morocco countries.

The next component of the Institute is the one-week site visit to Washington, DC. The site visit should complement and reinforce the five-week academic program. Visits will include a meeting at the Bureau of Educational and Cultural Affairs and other meetings as advised by the Fulbright Teacher Exchange Branch.

Administration and management of the academic program and the week in Washington, DC will be the responsibility of the U.S. grantee organization. The U.S. institution is responsible for arrangements for domestic and international travel, lodging, food, and allowances for participants while at the host institution and in Washington.

In-Country Workshops

The final stage of this program will consist of a series of follow-on workshops in each country for a total of an additional 80–100 in-country participants. However, the U.S. grantee institution will be responsible for only facilitating the first of these workshops, which will bring together the U.S. trained participants with 12–15 of their fellow countrymen in each country. Assistance will be provided from the RELOs, and when possible, with a resident English Language Fellow—an experienced U.S. teacher trainer with expertise in TEFL/TESL supported by the Department of State to assist with the improvement of English teaching capacity in host country educational institutions. Institute participants will coordinate the additional workshops with assistance from the RELOs and Fellow. The Fulbright Commissions will provide administrative support and work with the Ministry of Education to encourage continued communication among all participants. At these workshops, Institute participants will showcase the teaching strategies they developed in the U.S., and practice the teacher training skills acquired during the program.

Budget Guidelines

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may submit separate sub-budgets for each program component, phase, location, or activity to provide clarification. The grant cost to the Bureau for the two Institutes and follow-on activity may not exceed $430,000. Subject to availability of funds, one grant will be awarded to conduct the EFL Institutes and follow-on for the two countries.

Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000. Therefore, organizations with less than four years of experience in conducting international exchanges are ineligible to apply under this competition.

Allowable costs for the program include the following:

(1) Instructional costs, including salaries and benefits of grantee organization, honoraria for outside speakers, educational materials;

(2) Travel, lodging, meals, and incidentals for participants;

(3) Expenses associated with cultural activities planned for the two groups of participants (for example, tickets, transportation);

(4) Administrative costs as necessary.

Proposals should maximize cost-sharing through private sector support as well as institutional direct funding contributions.

Please refer to the POGI for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/S/X–03–04.

FOR FURTHER INFORMATION CONTACT: The Fulbright Teacher Exchange Branch, Office of Global Educational Programs, ECA/A/S/X, Room 349, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 260–5322, fax: (202) 401–1433 or e-mail: *fchery@pd.state.gov* to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Farah Chery on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's website at *http://exchanges.state.gov/education/rfgps.* Please read all information before downloading.

Deadline for Proposals: All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on Friday, May 30, 2003. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and seven (7) copies of the application should be sent to: U.S.

Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/S/X–03–04, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5'' diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Adherence to All Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 6Z, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The grantee will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 401–9810, FAX: (202) 401–9809.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of program idea and planning:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission. Proposals should demonstrate substantive expertise in EFL education, curriculum development and teacher training. Proposals should also illustrate effective use of community and regional resources to enhance the cultural and educational experiences of participants. Teaching objectives should be reasonable, feasible, and flexible. In addition, proposal should provide a detailed calendar and relevant work plan and demonstrate how the institution will meet the program's objectives.

2. *Multiplier effect/impact:* Proposed program should contribute to long-term, mutual understanding and sharing of information about the culture of Jordan and Morocco among Americans, as well as to the understanding of and knowledge of the U.S. among the Jordanian and Moroccan participants.

3. *Support of Diversity:* Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity. Achievable and relevant features should be cited in both program administration (Institute staff and host community, program venue and program evaluation) and program content (orientation, program meetings, resource materials and follow-up activities). The proposal should demonstrate an understanding of the diversity needs in both countries and strategies for addressing these needs in terms of the project goals.

4. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve a substantive academic program and effective cross-cultural communication with Jordanian or Moroccan participants. Proposal should show evidence of strong on-site administrative capabilities with specific discussion of how logistical arrangements will be undertaken. Proposals that demonstrate institutional experience in Jordan and Morocco, knowledge of the educational systems in both countries, as well as an institutional record of successful implementation of exchange programs will receive preference.

5. *Project Evaluation:* Proposals should include a plan to evaluate the Institute's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives are recommended. Successful applicants will be expected to submit quarterly or intermediate reports after each project component is concluded, whichever is less frequent.

6. *Follow-on Activities:* Proposals should provide a detailed plan outlining the follow-on workshop that the U.S. grantee organization is responsible for conducting in each country. Workshops should enable Institute participants to provide training to local teachers on the skills and teaching strategies acquired in the five-week program. As with the Institute, the workshop should integrate the collection of pre-selected instructional materials into the training

and draft a syllabus for the training of local teachers during follow-on activities. In addition to these workshops, proposals should also include a plan for other follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

7. *Cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: April 17, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 03–10176 Filed 4–23–03; 8:45 am]

BILLING CODE 4710–05–U

DEPARTMENT OF STATE

[Public Notice 4340]

Bureau of Educational and Cultural Affairs Request for Grant Proposals (RFGPs): Tibet Development, Professional, Educational and Cultural Exchange Projects

SUMMARY: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces an open competition for the Tibet Development, Professional, Educational and Cultural Exchange Projects. U.S.-based public and private non-profit organizations meeting the provisions described in Internal Revenue code section 26 U.S.C. 501(c)(3) may submit proposals that promote understanding between the people of the United States and the people of the Tibetan ethnic group living in China, through professional, educational and cultural projects.

To be eligible for consideration under this competition, proposals *must* provide a minimum of 30 percent cost sharing of the amount of grant funds sought from ECA, although proposals with higher cost sharing levels are welcome.

Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the Office of Citizen Exchanges or submitting their proposals. Once the RFGP deadline has passed, the Office of Citizen Exchanges may not discuss this competition in any way with applicants until after the Bureau program and project review process has been completed.

Announcement Name and Number: All correspondence with the Bureau concerning this RFGP should reference the ''Open Competition for Tibet Development, Professional, Educational and Cultural Exchange Projects'' and reference number: ECA/PE/C/WHAEAP–03–48. Please refer to title and number in all correspondence or telephone calls to the Office of Citizen Exchanges.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions mmay contact the Office of Citizen Exchanges, room 216, SA–44, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, telephone number 202/260–5491, fax number 202/260–0440, or *rharvey@pd.state.gov* to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer, Raymond H. Harvey, on all other inquiries and correspondence.

To Download a Solicitation Package Via Internet: The entire Solicitation Package also may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

Program Information

Overview: The Office of Citizen Exchanges welcomes proposals that directly respond to the thematic areas listed below. Projects for other themes will not be eligible for consideration under the FY–2003 Tibet Development, Professional, Educational and Cultural Exchange Project announcement.

Approximately $1.7 million is expected to be available to support projects under this competition. Approximately $500,000 is being provided from the Bureau's FY–2003 Appropriation for a project or projects focusing on the themes of Vocational Education and Cultural Preservation. It is anticipated that the balance of funding will be provided to the Bureau via an Economic Support Fund (ESF) transfer to support a project or projects focusing on Public Health Management, Sustainable Development and Eco-Tourism and Entrepreneurship Development. Please note: The award of ESF funded grants is subject to transfer of valid funding authority to the Bureau.

Public Health Management

Projects submitted in response to this theme would be aimed at engaging public health leaders to combat the debilitating health problems ethnic Tibetans face in China, from malnutrition to fatal pneumonia, tuberculosis and diarrhea. The program would focus on developing and implementing appropriate public health policies, through seminars, training programs (especially in the areas of inoculations, child nutrition, midwifery, cataract surgery, or cleft palate repair) and outreach to public and private health planners and practitioners, to ensure the optimal welfare and economic viability of ethnic Tibetan communities. (Formal medical education and dispensing of medications are outside the purview of this theme and will not be accepted activities for funding based on exchange guidelines.)

Sustainable Development and Eco-tourism

Exchanges and development activities funded under this theme would help American and ethnic Tibetan conservationists, tourism planners, and

economic development officials share their experience in managing tourism resources and development projects, particularly in ecologically fragile areas, and would contribute to better understanding of conservation and concepts essential to responsible economic development. Local community development projects are invited in such areas as renewable energy, eco-tourism, micro-credit, or poverty alleviation projects, including farm technology, animal husbandry, or agricultural marketing. Americans are in a good position to convey to their Tibetan counterparts the importance of sustainable forestry practices and sustainable harvesting of plant resources to short-term and long-term economic prospects.

Vocational Education

Proposals are sought which emphasize vocational training or administration and development of vocational schools targeted towards the practical needs of ethnic Tibetan communities. Successful projects would help influence thinking among those responsible for economic planning in rural and urban areas where Tibetans live. Discussion of how to integrate education planning with economic development initiatives, how to diversify revenue sources, and how to recruit, train and retain strong faculty would all contribute towards dialogue on vocational education, an issue important to both ethnic Tibetans and Americans in a modern and changing economy.

Vocational education may include practical training of entrepreneurs; development of Tibetan-language educational materials (such as Tibetan-English teaching guides or Tibetan-language public health education materials; or development of distance-learning technology solutions for remote rural schools. English-language training projects should focus on in situ training. (Projects seeking funding to support the travel of ethnic Tibetans to the U.S. for English language instruction are outside the purview of this theme and will not be accepted activities for funding under this competition.)

Developing Enterpreneurship

Projects under this theme may focus on the skills ethnic Tibetans, many of whom come from rural backgrounds with rudimentary economies, need to function effectively in a modern economy (*e.g.* finance, accounting, and language skills). Projects that explore ways that both the government and the private sector can help promote entrepreneurship in sustainable ways, including access to credit, ecologically conscious tourism policies and investment, or English language training for trade or tourism purposes will be favored. Programs that train budding entrepreneurs and develop micro finance programs for them are welcome.

Cultural Presevation

Projects under this theme are aimed to assist ethnic Tibetans in preserving their cultural heritage through programs designed to reduce the threat of pillage of irreplaceable cultural heritage, and to create opportunities to develop long-term strategies for preserving cultural property through training and conservation, museum development, and public education.

Projects might include supporting the preservation of cultural sites; objects in a site, museum or similar institution; or forms of traditional cultural expression. The proposals may encompass topics such as museum needs, historic buildings, collections, archaeological sites, rare manuscripts, traditional music and language.

Guidelines

The Office seeks proposals that provide professional experience and exposure to American life and culture through internships, workshops and other learning-sharing experiences hosted by local institutions. The experiences also will provide Americans the opportunity to learn about Tibetan culture and the social and economic challenges Tibetans face today. While a portion of this funding will be available for travel under these grants to support two-way exchanges, the key aim is to train and assist ethnic Tibetans living in China. Proposals only seeking funding for one-way travel, either Tibetans to travel to the United States or U.S. project personnel to travel to China must provide a clear explanation detailing the rationale for a one-way exchange. Projects in the U.S. should not simply be academic in nature; they should be designed to provide practical, hands-on experience in U.S. public/private sector settings that may be adapted to an individual's institution upon return home. Proposals may combine elements of professional enrichment, job shadowing and internships appropriate to the language ability and interests of the participants.

General Program Guidelines

Applicants must identify the local organizations and individuals in the counterpart country with whom they are proposing to collaborate and describe in detail previous cooperative programming and/or contacts. Specific information about the counterpart organizations' activities and accomplishments is required and must be included in the section on Institutional Capacity. All proposals must contain letters of support tailored to the project being proposed from all foreign-country partner organizations.

Exchanges and training programs supported by institutional grants from the Bureau should operate at two levels: they should enhance institutional partnerships, and they should offer practical information and experience to individuals and groups to assist them with their professional responsibilities. Strong proposals usually have the following characteristics:

- A proven track record of working in the proposed issue area;
- An experienced staff with language facility and a commitment by the staff to monitor projects locally to improve accountability;
- A clear, convincing plan showing how permanent results will be accomplished as a result of the activity funded by the grant; and
- A follow-on plan beyond the scope of the Bureau grant.

Proposal narratives must demonstrate an organization's willingness to consult closely with the Public Affairs Section and other officers at the U.S. Embassy and at the U.S. Consulate in Chengdu. Proposal narratives must confirm that all materials developed for the project will acknowledge USG funding for the program as well as a commitment to invite representatives of the Embassy and/or Consulate to participate in various program sessions/site visits. Please note that this will be a formal requirement in all final grant awards.

Suggested Program Designs

Bureau-supported exchanges may include internships; study tours; short-term, non-technical experiential learning, extended and intensive workshops and seminars taking place in the United States or overseas. Examples of possible program activities include:

1. A U.S.-based program that includes: orientation to program purposes and to U.S. society; study tour/site visits; professional internships/placements; interaction and dialogue; hands-on training; professional development; and action plan development.

2. Capacity-building/training-of-trainer (TOT) workshops to help participants to identify priorities, create work plans, strengthen professional and volunteer skills, share their experience to committed people within each country, and become active in a practical and valuable way.

3. Seed/small grants to indigenous non-profit organizations to support community-based educational projects that build upon exchange activities and that address issues of local concern. Proposals may include a component for a Seed/Small Grants Competition (often referred to as ''sub-grants'' or ''secondary grants''). This requires a detailed plan for recruitment and advertising; description of the proposal review and award mechanism; a plan for how the grantee would monitor and evaluate small grant activity; and a proposed amount for an average grant. The small grants should be directly linked to exchange activities. Small/seed grants may not be used for micro-credit or re-loaning purposes. Small/seed grants may not exceed 10% of the total value of the grant funds sought from ECA.

4. Site visits by U.S. facilitators/experts to monitor projects in the region and to provide additional training and consultations as needed.

5. Content-based Internet training/cyber-training to encourage citizen participation in workshops, fora, chats, and/or discussions via the Internet that will stimulate communication and information sharing among key opinion leaders on priority topics as a form of cost sharing. Proposals that include Internet utilization must reflect knowledge of the opportunities and obstacles that exist for use of information technologies in the target country or countries, and, if needed, provide hardware, software and servers, preferably as a form of cost sharing. Federal standards are under review and their adoption may impact on the implementation of these programs.

Selection of Participants

All grant proposals should clearly describe the type of persons who will participate in the program as well as the process by which participants will be selected. It is recommended that for programs including U.S. internships, grant applicants submit letters tentatively committing host institutions to support the internships. In the selection of Tibetan participants, the Department, the U.S. Embassy in Beijing and the U.S. Consulate in Chengdu retain the right to review all participant nominations and to accept or refuse participants recommended by grantee institutions. The grantee institution will also provide the names of American participants and brief (two pages) biographical data on each American participant to the Office of Citizen Exchanges for information purposes. Priority in two-way exchange proposals will be given to foreign participants who have not previously traveled to the United States.

Adherence to All Regulations Governing the J Visa

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.*, including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 401–9810, FAX: (202) 401–9809.

Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau of Educational and Cultural Affairs as required. As a minimum, the data must include the following: Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

Budget Guidelines

Grants awarded to eligible organizations with less than four years experience in conducting international exchange programs will be limited to $60,000. Applicants must submit a comprehensive budget for the entire program. It is anticipated that grant awards will range from $175,000 to $250,0000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location or activity. Pending the availability and the transfer of funds to the Bureau, it is anticipated that approximately $1.7 million will be available to support projects under this competition. Approximately $500,000 is being provided from the Bureau's FY–2003 Appropriation. It is anticipated that the balance of funding will be provided to the Bureau via an Economic Support Fund (ESF) transfer. Please note: The Bureau cannot guarantee funding for ESF supported projects. These grants are subject to the transfer of valid funding authority to the Bureau.

Since Bureau grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of financial and in-kind support. To be eligible for consideration under this competition, proposals *must* provide a minimum of 30 percent cost sharing of the amount of grant funds sought from ECA, although proposals with higher cost-sharing levels are welcome.

Example: A proposal requests $125,000 in grant funds from ECA, for a project with a total budget of $500,000. The required minimum allowable cost sharing offered must amount to at least $37,500. In this case, the cost sharing far exceeds the minimum, since actual cost sharing is $375,000.

When cost sharing is offered, it is understood and agreed that the applicant must provide the minimum

amount of cost sharing as stipulated in this RFGP and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all allowable costs, which are claimed as being your contribution to cost participation, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced proportionately to the contribution.

The following project costs are eligible for consideration for funding:

1. *Travel costs.* International and domestic airfares; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J1 visas for participants in Bureau sponsored programs. Please note that Tibetan participants may not travel to the U.S. primarily for English language instruction.

2. *Per diem.* For the U.S. program, organizations have the option of using a flat $160/day for program participants or the published U.S. Federal per diem rates for individual American cities. For activities outside the U.S., the published Federal per diem rates must be used. NOTE: U.S. escorting staff must use the published Federal per diem rates, not the flat rate. Per diem rates may be accessed at *http://www.policyworks.gov/.*

3. *Interpreters.* If needed, interpreters for the U.S. program are available through the U.S. Department of State Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors who need interpretation. Bureau grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat $160/day per diem for each Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget. Locally arranged interpreters with adequate skills and experience may be used by the grantee in lieu of State Department interpreters, with the same 1:4 interpreter to participant ratio. Costs associated with using their services may not exceed rates for U.S. Department of State interpreters.

4. *Book and cultural allowance.* Foreign participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a participant book allowance of $50. U.S. program staff members are not eligible to receive these benefits.

5. *Consultants.* Consultants may be used to provide specialized expertise, design or manage development projects or to make presentations. Honoraria generally do not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal. Subcontracts should be itemized in the budget.

6. *Room rental.* Room rental may not exceed $250 per day.

7. *Materials development.* Proposals may contain costs to purchase, develop, and translate materials for participants.

8. *Equipment.* Proposals may contain limited costs to purchase equipment crucial to the success of the program, such as computers, fax machines and copy machines. However, equipment costs must be kept to a minimum, and costs for furniture are not allowed.

9. *Working meal.* The grant budget may provide for only one working meal during the program. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. Interpreters must be included as participants.

10. *Return travel allowance.* A return travel allowance of $70 for each foreign participant may be included in the budget. This may be used for incidental expenses incurred during international travel.

11. *Health insurance.* Foreign participants will be covered under the terms of a U.S. Department of State-sponsored health insurance policy. The premium is paid by the U.S. Department of State directly to the insurance company. Applicants are permitted to included costs for travel insurance for U.S. participants in the budget.

12. *Administrative costs.* Costs necessary for the effective administration of the program may include salaries for grant organization employees, benefits, and other direct or indirect costs per detailed instructions in the Solicitation Package.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on Friday, May 30, 2003. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and 12 copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/WHAEAP–03–48, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5″ diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to the Public Affairs section at the U.S. Embassy for its review, with the goal of reducing the time it takes to get embassy comments for the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described

above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. The program office, the Public Diplomacy section and other elements at the U.S. Embassy in Beijing, and officials at the U.S. Consulate in Chengdu, will review all eligible proposals. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for grants resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Program planning to achieve program objectives:* Proposals should clearly demonstrate how the institution plans to achieve the program's objectives. Objectives should be reasonable, feasible, and flexible. The proposal should contain a detailed agenda and relevant work plan that demonstrates substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

2. *Institutional Capacity/Record/Ability:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. For technical projects, foreign experts and their local partners will be required to have the necessary education, training and experience for the work to be undertaken, in addition to language skills where applicable. Proposals should demonstrate an institutional record of successful development or exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Applicants should have a multiyear track record of successful work in Tibetan regions of China or other remote parts of Asia.

3. *Multiplier Effect/Impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

4. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

5. *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

6. *Monitoring and Project Evaluation Plan:* Proposals should provide a detailed plan for monitoring and evaluating the program. The evaluation plan should identify anticipated outcomes and performance requirements clearly related to program objectives and activities and include procedures for ongoing monitoring and corrective action when necessary. The identification of best practices relating to project administration is also encouraged, as is the discussion of unforeseen difficulties.

7. *Cost-effectiveness/Cost-sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals must provide 30% cost sharing (of the amount of grant funds requested from ECA) through other private sector support as well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: April 16, 2003.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–10175 Filed 4–23–03; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34328]

Pennsylvania Southwestern Railroad, Inc.—Lease and Operation Exemption—J&L Specialty Steel, LLC

Pennsylvania Southwestern Railroad, Inc. (PSWR), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to lease and operate approximately 10.5 miles of rail line currently owned by J&L Specialty Steel, LLC (J&L) [1] located within J&L's steel plant in Midland, PA.[2] PSWR certifies that its projected annual revenues will not exceed those that would qualify it as a Class III rail carrier. Also, PSWR certifies that its projected annual revenue will not exceed $5 million.

The transaction was due to be consummated on or after April 1, 2003,

[1] J&L's subsidiary, The Midland Terminal Company, currently operates the line.

[2] This proceeding is related to *Watco Companies, Inc.—Continuance in Control Exemption—Pennsylvania Southwestern Railroad, Inc.*, STB Finance Docket No. 34329, wherein Watco Companies, Inc., a noncarrier, has concurrently filed a notice of exemption to continue in control of PSWR upon PSWR's becoming a carrier.

the effective date of the exemption (7 days after the exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34328, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Karl Morrell, Of Counsel, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: April 16, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–10035 Filed 4–23–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34329]

Watco Companies, Inc.—Continuance in Control Exemption—Pennsylvania Southwestern Railroad, Inc.

Watco Companies, Inc. (Watco), a noncarrier, has filed a verified notice of exemption to continue in control of Pennsylvania Southwestern Railroad, Inc. (PSWR), upon PSWR's becoming a Class III railroad.

The transaction was expected to be consummated on or after April 1, 2003, the effective date of the exemption (7 days after the notice was filed).

This transaction is related to the concurrently filed verified notice of exemption in STB Finance Docket No. 34328, *Pennsylvania Southwestern Railroad, Inc.—Lease and Operation Exemption—Steel, LLC,* wherein PSWR seeks to lease and operate approximately 10.5 miles of rail line currently owned by J&L Specialty Steel, LLC.

At the time it filed this notice, Watco controlled six Class III railroads: the South Kansas and Oklahoma Railroad Company; Palouse River & Coulee City Railroad, Inc.; the Timber Rock Railroad, Inc.; the Stillwater Central Railroad; the Eastern Idaho Railroad, Inc.; and the Kansas & Oklahoma Railroad, Inc., operating in the states of Colorado, Idaho, Kansas, Louisiana, Missouri, Oklahoma, Oregon, Texas and Washington.

Applicants state that: (1) The railroads do not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the seven railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2). The purpose of the transaction is to enable Watco to reduce overhead expenses; coordinate billing, maintenance, mechanical and personnel policies and practices of its rail carrier subsidiaries; and improve the overall efficiency of rail service provided by the seven railroads.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324–25 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502 (d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34329, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on: Karl Morrell, Of Counsel, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: April 16, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–10034 Filed 4–23–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0227]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

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

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0227.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0227'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Titles:

a. Prosthetics Care and Service, VA Form 10–0142b.

b. Experiences of Patients Recently Discharged Inpatient, VA Form 10–1465–1.

c. Experiences of Patients Ambulatory Care, VA Form 10–1465–3.

d. Nutritional and Food Service, VA Form 10–5387.

OMB Control Number: 2900–0227.

Type of Review: Revision of a currently approved collection.

Abstract: Executive Order 12862, Setting Customer Service Standards, requires Federal agencies and Departments to identify and survey its customers to determine the kind and quality of services they want and their level of satisfaction with existing service. VHA uses customer satisfaction surveys to gauge customer perceptions

of VA services as well as customer expectations and desires. Each collection of information will consist of the minimum amount of information necessary to determine customer needs and to evaluate VHA's performance.

The areas of concern to VHA and its customer may change over time, and it is important to have the ability to evaluate customer concerns quickly. Participation in the surveys will be voluntary and the generic clearance will not be used to collect information required to obtain or maintain eligibility for a VA program or benefit. The results of these information collections lead to improvements in the quality of VHA service delivery by helping to shape the direction and focus of specific programs and services.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 19, 2003 at pages 8083–8084.

Estimated Annual Burden: 207,287 hours.

a. Prosthetics Care and Service, VA Form 10–0142b—7,200.

b. Experiences of Patients Recently Discharged Inpatient, VA Form 10–1465–1—35,000.

c. Experiences of Patients Ambulatory Care, VA Form 10–1465–3—160,500.

d. Nutritional and Food Service, VA Form 10–5387—4,587.

Estimated Average Burden Per Respondent: 23 minutes.

a. Prosthetics Care and Service, VA Form 10–0142b—24 minutes.

b. Experiences of Patients Recently Discharged Inpatient, VA Form 10–1465–1—30 minutes.

c. Experiences of Patients Ambulatory Care, VA Form 10–1465–3—30 minutes.

d. Nutritional and Food Service, VA Form 10–5387—2 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 546,600.

a. Prosthetics Care and Service, VA Form 10–0142b—18,000.

b. Experiences of Patients Recently Discharged Inpatient, VA Form 10–1465–1—70,000.

c. Experiences of Patients Ambulatory Care, VA Form 10–1465–3—321,000.

d. Nutritional and Food Service, VA Form 10–5387—137,600.

Dated: April 9, 2003.

By direction of the Secretary.

Martin L. Hill,

Acting Director, Records Management Service.

[FR Doc. 03–10123 Filed 4–23–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Minority Veterans will be held from Tuesday, May 13, 2003, through Thursday, May 15, 2003, from 8:30 a.m. until 5 p.m. each day, at the Courtyard Marriott, 1725 West Filmore Avenue, Harlingen, Texas.

The purpose of the Committee is to advise the Secretary on the administration of VA benefits and services to minority veterans, to assess the needs of minority veterans and to evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities.

On May 12, the Committee will hold panel discussions with key staff members from VA Heart of Texas Health Care Network (VISN 17), San Antonio VA Medical Center and Houston Regional Office on services and benefits delivery challenges and concerns for the south Texas veterans. During the afternoon, the Committee will hold panel discussions with various Veteran Service Organizations and Congressman Solomon Ortiz's staff on their concerns and observations of south Texas veterans' needs.

On May 13, the Committee will hold town hall meetings with veterans from the south Texas area in Brownsville as well as tour the Brownsville Community Based Outpatient Clinic. Committee members will also tour the McAllen Community Based Outpatient Clinic.

On May 14, the Committee will tour the University of Harlingen Medical Center and receive a briefing on the medical center's capabilities. In the afternoon, the Committee will begin drafting the 2003 annual report documenting their findings during the current trip.

These sessions will be open to the public. The Committee will accept written comments from interested parties on issues outlined in the meeting agenda, as well as other issues affecting minority veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 29420.

For additional information about the meeting, you may call Ms. Elizabeth Olmo at (202) 273–6708.

Dated: April 18, 2003.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 03–10122 Filed 4–23–03; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease Development of Property at the Department of Veterans Affairs Maryland Health Care System, Fort Howard, MD

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent to designate.

SUMMARY: The Secretary of the Department of Veterans Affairs (VA) is designating the Department of Veterans Affairs Maryland Health Care System, Fort Howard, Maryland, for an enhanced-use lease development. The Department intends to enter a 75-year lease of 94.6 acres of real property with a competitively selected lessee/developer who will finance, design, develop, maintain and manage facilities, including some or all of the components of a continuing care retirement community, all at no cost to VA.

FOR FURTHER INFORMATION CONTACT: Jake Gallun, Office of Asset Enterprise Management (004B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8862.

SUPPLEMENTARY INFORMATION: 38 U.S.C. section 8161 *et seq.* specifically provides that the Secretary may enter into an enhanced-use lease if he determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department; the lease will not be inconsistent with and will not adversely affect the mission of the Department; and the lease will enhance the property or result in improved services to veterans. This project meets these requirements.

Approved: April 17, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 03–10124 Filed 4–23–03; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 68, No. 79

Thursday, April 24, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning Monoclonal Antibody Against Ricin A Chain

Correction

In notice document 03–9470 beginning on page 18972 in the issue of Thursday, April 17, 2003, make the following corrections:

1. On page 18972, in the third column, in the second line from the bottom, ''100 μg/mL'', should read ''100 ηg/mL''.

2. On page 18973, in the first column, in the second line, ''1000 μg/mL'', should read ''1000 ηg/mL''.

[FR Doc. C3–9470 Filed 4–23–03; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[IB Docket No. 98–172, FCC 02–317]

Redesignation of the 17.7–19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7–20.2 GHz and 27.5–30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3–17.8 GHz and 24.75–25.25 GHz Frequency Bands for Broadcast Satellite-Service Use

Correction

In rule document 03–7322 beginning on page 16962 in the issue of Tuesday, April 8, 2003, make the following corrections:

§ 74.551 [Corrected]

1. On page 16967, in the first column, in § 74.551, in amendatory instruction 13, in the second line, ''(d)'' should read ''(b)''.

2. On the same page, in the second column, also in §74.551, paragraph heading ''(d)'' should read ''(b)''.

[FR Doc. C3–7322 Filed 4–23–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Paperless Drawback Prototype: Delay of Commencement of Test and Reopening of Application Period

Correction

In notice document 03–9405 beginning on page 18994 in the issue of Thursday, April 17, 2003, make the following correction:

On page 18995, in the first column, under the heading **DATES**, in the sixth line, ''May 19, 2003'' should read, ''June 18, 2003''.

[FR Doc. C3–9405 Filed 4–23–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 012–2003]

Privacy Act of 1974; Implementation

Correction

In rule document 03–9324 beginning on page 19148 in the issue of April 18, 2003, make the following correction:

On page 19149, in the second column, under **List of Subjects in 28 CFR Part 16**, in the second paragraph, in the fourth line ''3003'' should read ''2003''.

[FR Doc. C3–9324 Filed 4–23–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 579

[Docket No. NHTSA 2001–8677; Notice 4]

RIN 2127–AI92

Reporting of Information and Documents About Potential Defects; Defect and Noncompliance Reports

Correction

In rule document 03–9199 beginning on page 18136 in the issue of Tuesday, April 15, 2003, make the following correction:

§ 579.28 [Corrected]

On page 18143, in the second column, in §579.28, in paragraph (c), in the second line, ''No'' should read ''(1) No''.

[FR Doc. C3–9199 Filed 4–23–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
April 24, 2003

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Coastal California Gnatcatcher (*Polioptila californica californica*) and Determination of Distinct Vertebrate Population Segment for the California Gnatcatcher (*Polioptila californica*); Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI72

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Coastal California Gnatcatcher (*Polioptila californica californica*) and Determination of Distinct Vertebrate Population Segment for the California Gnatcatcher (*Polioptila californica*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U. S. Fish and Wildlife Service (Service), propose designation of critical habitat for the coastal California gnatcatcher *(Polioptila californica californica)* pursuant to the Endangered Species Act of 1973, as amended (Act). A total of approximately 200,595 hectares (ha) (495,795 acres (ac)) of gnatcatcher habitat in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura counties, California are within the boundaries of proposed critical habitat.

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 4 of the Act requires us to consider economic and other relevant impacts when specifying any particular area as critical habitat.

We are also considering revising the table of endangered and threatened wildlife published under 50 CFR 17.11 with respect to the coastal California gnatcatcher. We originally identified the coastal California gnatcatcher as a subspecies of the California gnatcatcher. However, new genetic information raises questions about the distinctiveness of the subspecies. Accordingly, we are considering whether and how the listing of the coastal California gnatcatcher should be amended.

We are soliciting data and comments from the public on all aspects of this proposal, including data on economic and other impacts of the designation. We may revise this proposal prior to final designation to incorporate or address new information received during the comment period.

DATES: We will accept comments until June 23, 2003. Public hearing requests must be received by June 9, 2003.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

(1) You may submit written comments and information to the Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, California 92009.

(2) You may also send comments by electronic mail (e-mail) to *fw1cfwocagn@r1.fws.gov. See* the ''Public Comments Solicited'' section below for file format and other information about electronic submission of comments.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Field Supervisor, Carlsbad Fish and Wildlife Office, at the above address (e-mail: *fw1cfwocagn@r1.fws.gov;* telephone: 760/431–9440; facsimile 760/431–9618). For information about Ventura and western Los Angeles counties, contact the Field Supervisor, Ventura Fish and Wildlife Office, U. S. Fish and Wildlife Service, 2493 Portola Road Suite B, Ventura, California 93003 (telephone: 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

It is our intent that any final action resulting from this proposal will be as accurate 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. Based on public comment, the final rule could find areas not essential, appropriate for exclusion under either 3(5)(A) or 4(b)(2), or not appropriate for exclusion, in which case, they would be made part of the designation. We particularly seek comments concerning:

(1) The reasons why any particular habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(2) Specific information on the amount and distribution of coastal California gnatcatchers and what habitat is essential to the conservation of the species and why;

(3) Whether habitat currently preserved in various conservation areas within the coastal California gnatcatcher range is sufficient for the conservation of the species;

(4) Land use practices and current or planned activities in the subject areas and the possible impacts of the proposed critical habitat;

(5) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or businesses;

(6) We have considered, but have not proposed the following areas as critical habitat: mission-essential training areas on Camp Pendleton and lands on Marine Corps Air Station Miramar (MCAS, Miramar); reserve lands in the San Diego Multiple Species Conservation Program (MSCP) and the Orange County Central-Coastal Natural Communities Conservation Program (NCCP), and tribal lands of the Pala Band of Mission Indians because we believe that: (1) Their value for conservation has been addressed by existing protective actions, or (2) they are appropriate for exclusion pursuant to the ''other relevant impact'' provisions of section 4(b)(2). We specifically solicit comment, however, on the inclusion or exclusion of such areas and: (a) Whether these areas are essential; (b) whether these areas warrant exclusion; and (c) the basis for not designating these areas as critical habitat (section 3(5)(A) or section 4(b)(2)).

(7) Any economic or other impacts associated with designating critical habitat on reserve, preserve, or other conservation lands within the boundaries of approved HCPs that have been developed through cooperative, voluntary partnerships.

(8) The benefits of including or excluding military lands covered by an adequate Integrated Natural Resource Management Plan and tribal lands, NCCP lands, HCP lands, or any other lands covered by an adequate management plan.

(9) With respect to our consideration of listing of the coastal California gnatcatcher subspecies as a distinct vertebrate population segment (DPS) rather than a subspecies on the endangered species list, we are particularly soliciting comments on the following:

(a) Do the recent genetic findings referenced in this report justify a review of the taxonomy of the subspecies of the coastal California gnatcatcher?

(b) Is there any other new information that the Service should consider in this context?

(10) In its consideration of the U.S. population of the California gnatcatcher as a DPS, the Service has presented a proposed five factor analysis of the status of the U.S. population. With respect to this analysis, the Service is

particularly soliciting information on the following:

(a) Existing populations of the coastal California gnatcatcher within its range in the United States;

(b) Existing populations of the California gnatcatcher in Mexico;

(c) Information on the regulatory authorities available for the protection of the California gnatcatcher in Mexico;

(d) Information on the adequacy of regulatory authorities available to protect coastal California gnatcatcher habitat in California absent the application of the Act;

(e) Ways in which the coastal California gnatcatcher exists in an ecological setting that is unusual or unique compared to the California gnatcatcher generally;

(f) Any other information that the Service should consider in its review of the taxonomy.

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 addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Background

The coastal California gnatcatcher (Polioptila californica californica) is a small (length 11 centimeters (cm) (4.5 inches (in)), weight 6 grams (g) (0.2 ounces (oz)), long-tailed member of the old-world warbler and gnatcatcher family Sylviidae (American Ornithologist Union 1998). The bird's plumage is dark blue-gray above and grayish-white below. The tail is mostly black above and below. The male has a distinctive black cap, which is absent during the winter. Both sexes have a distinctive white eye-ring. As its common name implies, the gnatcatcher preys upon arthropods, including insects such as leafhoppers and planthoppers (Homoptera), and spiders (Burger *et al.* 1999).

The United States population of the coastal California gnatcatcher is restricted to coastal southern California from Ventura and San Bernardino counties, California south to the Mexican border (American Ornithologists' Union 1957; Atwood 1991; Banks and Gardner 1992; Garrett and Dunn 1981). An evaluation of the historic range of the coastal California gnatcatcher indicates that about 41 percent of its latitudinal distribution is within the United States and 59 percent is within Baja California, Mexico (Atwood 1990). An analysis based on elevational limits associated with gnatcatcher locality records reveals that a significant portion (65 to 70 percent) of the coastal California gnatcatcher's historic range may have been located in southern California rather than Baja California (Atwood 1992). The analysis suggested that the species occurs below about 912 meters (m) (3,000 feet (ft)) in elevation.

The coastal California gnatcatcher was considered locally common in the mid-1940s, although a decline in the extent of its habitat was noted (Grinnell and Miller 1944). By the 1960s, this species had apparently experienced a significant population decline in the United States that has been attributed to widespread destruction of its habitat (Pyle and Small 1961). Pyle and Small (1961) reported that ''the California subspecies is very rare, and lack of recent records of this race compared with older records may indicate a drastic reduction in population.'' Atwood (1980) estimated that no more than 1,000 to 1,500 pairs remained in the United States. Atwood (1980) also noted that remnant portions of its habitat were highly fragmented, with nearly all being bordered on at least one side by rapidly expanding urban centers. Subsequent reviews of coastal California gnatcatcher status by Garrett and Dunn (1981) and Unitt (1984) paralleled the findings of Atwood (1980). The subspecies was listed as threatened on March 30, 1993, because of habitat loss and fragmentation resulting from urban and agricultural development and the synergistic effects of cowbird parasitism and predation (58 FR 16742). Subsequent studies showed that gnatcatcher populations undergo wide variations in numbers, depending on annual rainfall and climatic conditions, but that habitat loss in southern California has continued to restrict gnatcatcher populations in the United States (Erickson and Miner 1998; Preston *et al.* 1998; Atwood 2001).

The coastal California gnatcatcher typically occurs in or near sage scrub habitat, which is a broad category of vegetation that includes the following plant communities: Venturan coastal sage scrub, Diegan coastal sage scrub, maritime succulent scrub, Riversidean sage scrub, Riversidean alluvial fan (areas created when sediments from the stream are deposited) scrub, southern coastal bluff scrub, and coastal sage-chaparral scrub (Holland 1986; Kirkpatrick and Hutchinson 1977; Westman 1983). Based upon dominant species, these communities have been further divided into series such as black sage, brittlebush, California buckwheat, California buckwheat-white sage, California encelia, California sagebrush, California sagebrush-black sage, California sagebrush-California buckwheat, coast prickly-pear, mixed sage, purple sage, scalebroom, and white sage (Sawyer and Keeler-Wolf 1995).

The majority of plant species found in sage scrub habitat are low-growing, drought-deciduous shrubs and sub-shrubs. Generally speaking, most types of sage scrub are dominated by one or more of the following: *Artemisia californica* (California sagebrush), *Eriogonum fasciculatum* and *E. cinereum* (buckwheat), *Encelia californica* (coast sunflower), *Encelia farinosa* (brittlebush), *Salvia mellifera, S. apiana,* and *S. leucophylla* (sage). Sage scrub often occurs in a patchy, or mosaic, distribution pattern throughout the range of the gnatcatcher.

Coastal California gnatcatchers also use chaparral (shrubby plants adapted to dry summers and moist winters), grassland, and riparian (areas near a source of water) habitats where they occur in proximity to sage scrub. These non-sage scrub habitats are used for dispersal and foraging (Atwood *et al.* 1998; Campbell *et al.* 1998). Availability of these non-sage scrub areas is essential during certain times of the year, particularly during drought conditions, for dispersal, foraging, or nesting. Several studies have also suggested that gnatcatchers avoid nesting on very steep slopes (greater than 40 percent) (Bontrager 1991, Mock and Bolger 1992, Ogden 1992). However, steep slopes may still be suitable for foraging and dispersal.

Several comprehensive overviews of the life history and ecology of the coastal California gnatcatcher have been prepared and are the basis for much of the discussion presented below (*e.g.*, Atwood 1990; Atwood and Bontrager 2000; Western Birds 29(4) 1998). The coastal California gnatcatcher is nonmigratory and defends breeding territories ranging in size from 1 to 6 ha (2 to 14 ac). Reported home ranges vary in size from 5 to 15 ha (13 to 39 ac) for this species (Mock and Jones 1990). The breeding season of the coastal California

gnatcatcher extends from late February through July, with the peak of nest initiations (startups) occurring from mid-March through mid-May. Nests are composed of grasses, bark strips, small leaves, spider webs, down, and other materials and are often located in California sagebrush about 1 m (3 ft) above the ground. Nests are constructed over a 4 to 10 day period. Clutch size averages four eggs. The incubation and nestling periods encompass about 14 and 16 days, respectively. Both sexes participate in all phases of the nesting cycle. Although the coastal California gnatcatcher may occasionally produce two broods in one nesting season, the frequency of this behavior is not known. Juveniles are dependent upon, or remain closely associated with, their parents for up to several months following departure from the nest and dispersal from their natal (place of birth) territory.

Dispersal of juveniles generally requires a corridor of native vegetation providing certain foraging and shelter requisites to link larger patches of appropriate sage scrub vegetation (Soulé 1991). These dispersal corridors facilitate the exchange of genetic material and provide a path for recolonization of areas from which the species has been extirpated (Soulé 1991 and Galvin 1998). Galvin (1998) concluded that, ''natal dispersal [through corridors] is therefore an important aspect of the biology of [a] * * * nonmigratory, territorial bird * * * [such as] the California gnatcatcher * * *'' While juvenile coastal California gnatcatchers are capable of dispersing long distances (up to 22 kilometers (km) (14 miles (mi)) as modeled by Bailey and Mock 1998) across fragmented and highly disturbed sage scrub habitat, such as found along highway and utility corridors or remnant mosaics of habitat adjacent to developed lands, generally the species disperses short distances through contiguous undisturbed habitat (Bailey and Mock 1998, Famolaro and Newman 1998, and Galvin 1998). Moreover, it is likely that populations will experience increased juvenile mortality in fragmented habitats where dispersal distances are greater than average (Atwood *et al.* 1998). This would be particularly likely if dispersal was across non- or suboptimal habitats (Soulé 1991).

California Gnatcatcher Taxonomy

The following discussion of the taxonomy of the California gnatcatcher expands upon the discussion presented in the Notice of Determination to Retain the Threatened Status for the Coastal California Gnatcatcher (60 FR 15693, March 27, 1995). The California gnatcatcher (*Polioptila californica*) was first described in 1881 based on specimens from Riverside and Ventura counties (Brewster 1881). Grinnell (1926) then reduced it to a subspecies of the black-tailed gnatcatcher (*Polioptila melanura*). Subsequently, on the basis of differences in morphology, ecology, and behavior, Atwood (1988) concluded that *P. californica* was specifically distinct from *P. melanura.* Atwood's finding has been recognized by the American Ornithologists' Union Committee on Classification and Nomenclature (American Ornithologists' Union 1998).

The California gnatcatcher consists of up to five subspecies (from north to south): *californica* (Brewster), *atwoodi* (Mellink), *pontilis* (van Rossem), *margaritae* (Ridgway), and *abbreviata* (Grinnell). None of the taxonomic treatments recognizing segregate taxa called into question the distinctiveness or identity of subspecies *californica.* Although various authors have proposed different nomenclatures, several consistencies are evident in the subspecific treatments. Several characters, including body plumage color, tail length, and amount of white on the retrices (tail feathers), show an abrupt change or step at approximately 30° N latitude, near El Rosario, Baja California, Mexico (Grinnell 1926; van Rossem 1931; Philips 1991; Atwood 1991; Mellink and Rea 1994). This is the traditional boundary between subspecies *californica* and *pontilis.* Mellink and Rea (1994) also recognized this boundary, but described a new subspecies *atwoodi* between 30° N latitude and the international border (approximately 32°33′ N). A second step is evident in body plumage and tail length at 28° N latitude, near Guerrero Negro, Baja California Sur, Mexico (van Rossem 1931; Philips 1991; Atwood 1991; Mellink and Rea 1994). This step represents the traditional boundary between subspecies *pontilis* and *margaritae.* Some investigators include a third step at approximately 24° N, near La Paz, Baja California Sur, Mexico, on the basis of tail length, bill width and depth, amount of white on the retrices, and wing length (Grinnell 1926, Atwood 1991). South of this latitude subspecies *abbreviata* has been described (Grinnell 1926).

A recent scientific paper (Zink *et al.* 2000) presents results of genetic research on the California gnatcatcher and calls into question the status of the coastal California gnatcatcher as a distinct subspecies. This paper presents a contradictory view to all previously published taxonomic reviews of the species (*e.g.*, Atwood 1988, 1991; Grinnell 1926; Mellink and Rea 1994; Philips 1991; van Rossem 1931; summarized in 60 FR 15693). Zink *et al.* (2000) analyzed the genetic structure of California gnatcatcher populations throughout the range by looking for variation in the mitochondrial DNA (mtDNA) control region and three mtDNA genes. Their analysis failed to reveal genetic structuring consistent with geographically distinct subspecies. Patterns of nucleotide diversity showed a step at approximately 28° N latitude. The authors interpreted these and other data as evidence that the species has expanded its range from a Pleistocene era refugium south of 28° N. The authors argue that morphological variation previously described in taxonomic treatments were not genetically based, and therefore, subspecific divisions of the species are not supported.

Zink *et al.* (2000) present important new information concerning genetic variability within the California gnatcatcher. Given the uncertainty regarding California gnatcatcher taxonomy that this paper introduces, we consider it appropriate to propose a DPS. In light of this study, we have initiated an evaluation to determine whether the California gnatcatcher *(Polioptila californica)* species in the United States meets the definition of a DPS pursuant to our 1996 joint U.S. Fish and Wildlife Service and National Marine Fisheries Service Policy Regarding the Recognition of Distinct Vertebrate Populations (61 FR 4722; DPS). We are considering whether the California gnatcatcher meets the definition of a DPS based on the analysis summarized below. If our analysis confirms that the requirements for a DPS are met, we propose to list the U.S. population of the California gnatcatcher as a DPS and reevaluate the status of the remaining California gnatcatcher population in Mexico. This reevaluation could result in delisting the species in Mexico or listing one or more separate DPSs in Mexico.

Distinct Vertebrate Population Segment

We evaluated the U.S. population of the California gnatcatcher according to the February 7, 1996, joint U.S. Fish and Wildlife Service and National Marine Fisheries Service Policy Regarding the Recognition of Distinct Vertebrate Populations (61 FR 4722; DPS). Three elements are considered in a decision regarding the status of a possible DPS as endangered or threatened under the Act. These are applied similarly for additions to the list of endangered and

threatened wildlife and plants, reclassification, and removal from the list. They are: (1) Discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing.

Discreteness refers to the isolation of a population from other members of the species and is based on two criteria: (1) Marked separation from other populations of the same taxon resulting from physical, physiological, ecological, or behavioral factors, including genetic discontinuity; or (2) populations delimited by international boundaries.

We determine significance by using the available scientific evidence to determine the DPS's importance to the taxon to which it belongs. Our policy lists four examples of factors that may be used to determine significance: (1) Persistence of the DPS in an ecological setting unusual or unique for the taxon; (2) evidence that loss of the DPS would result in a significant gap in the range of the taxon; (3) evidence that the DPS represents the only surviving natural occurrence of the taxon that may be more abundant elsewhere as an introduced population outside its historic range; and (4) evidence that the DPS differs markedly from other populations of the taxon in its genetic characteristics.

If we determine that a population segment is discrete and significant, we evaluate it for endangered or threatened status based on the Act's standards. Endangered means the species is in danger of extinction throughout all or a significant portion of its range. Threatened means the species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range.

Discreteness: In accordance with our DPS policy, we may determine a population to be discrete at an international border where there are significant differences in (1) the control of exploitation; (2) management of habitat; (3) conservation status, or (4) regulatory mechanisms (61 FR 4722).

In the case of the California gnatcatcher, significant differences exist between the United States and Mexico with regard to management of habitat and conservation regulatory mechanisms. As previously discussed, the species' distribution ranges from Ventura County in the United States south to the tip of the Baja California peninsula in Mexico (Atwood 1988). Past surveys within northern Baja California, Mexico, have failed to reveal California gnatcatchers within approximately 25 km (15.5 miles) south of the border, despite apparently suitable habitat (RECON 1991, Mellink and Rea 1994). The closest individual birds have been documented at Valle de las Palmas, an inland locality 25 km (15.5 miles) south of the border; Plaza de Santa Maria, 43 km (26.7 miles) south of the border along the coast; and several locations around Ensenada, 85 km (52.8 miles) south, including Cerro El Vigia, and Punta Banda (Mellink and Rea 1994). Further, Mellink and Rea (1994) found consistent morphological discontinuity between populations north and south of the border, suggesting reduced gene flow across this area.

The populations north and south of the international border are treated under very different regulatory regimes. In Mexico, the California gnatcatcher is not considered rare, threatened, or endangered by the Mexican Government (Diario Official 2000). As such, take of individuals or the loss and degradation of their habitat are not regulated. Several reports have commented on the destruction of natural habitats in northwestern Mexico (*e.g.*, Mellink and Rea 1994, Oberbauer 1992; RECON 1991). Habitat loss and degradation due to housing construction, agriculture, grazing, burning, and off-road recreational vehicles is ongoing (Mellink and Rea 1994, Oberbauer 1992). Within the remaining undisturbed patches of vegetation, gnatcatchers do not appear to be uniformly distributed even in what appears to be appropriate habitat (Mellink and Rea 1994). The already discontinuous gnatcatcher populations in the region may therefore be particularly susceptible to increased isolation and fragmentation due to ongoing unregulated habitat destruction.

Based upon the above discussion, the U.S. population segment of the California gnatcatcher is discrete from populations in Mexico based upon differences in the management of habitat and regulatory mechanisms (*see also* 56 FR 47053).

Significance: Populations of the California gnatcatcher in the United States are unusual in the ecological setting or habitat that they occupy. Throughout the majority of the species' range, California gnatcatchers inhabit desert scrub habitats, usually in the thicker vegetation found in washes (Atwood 1988). At the southern end of the range, this species also occurs in dense thorn scrub (Atwood 1988). North of 30° N latitude, near El Rosario, Baja California Norte, however, the species enters the California floristic province in what is referred to as maritime succulent scrub (Holland 1986, Mooney 1988, Oberbauer 1992, Westman 1983). This vegetation type is characterized by abundant cacti and other succulents, including Shaw's agave (*Agave shawii*), golden-spined cereus (*Bergerocactus emoryii*), live forever (*Dudleya* spp.), cholla and prickly pear (*Opuntia* spp.), and pitaya cactus (*Machaerocereus gummosus*), as well as shrubs such as Parry buckeye (*Aesculus parryi*), chaparral ash (*Fraxinus trifoliata*), cliff spurge (*Euphorbia misera*), boxthorn (*Lycium californicum*), California sagebrush (*Artemisia californica*), and coast sunflower (*Encelia californica*) (Holland 1986, Mellink and Rea 1994, Mooney 1988, Oberbauer 1992, Westman 1983). Maritime succulent scrub extends only a few miles into the United States into southern San Diego County (Holland 1986, Mooney 1988).

Vegetation types within the range of the species in the United States are characterized as (from south to north) Diegan coastal sage scrub, Riversidean sage scrub, and Venturan coastal sage scrub (coastal scrub series) (Kirkpatrick and Hutchinson 1977, Sawyer and Keeler-Wolf 1995). These habitats typically have a relatively low percent cover of succulents and are dominated by drought deciduous (malacophylous) subshrubs such as California sagebrush (*Artemisia californica*), flat-topped buckwheat (*Eriogonum fasciculatum*), black sage (*Salvia mellifera*), white sage (*Salvia apiana*), coast sunflower (*Encelia californica*), brittlebush (*Encelia farinosa*), and deerweed (Lotus scoparius) (Kirkpatrick and Hutchinson 1977, Sawyer and Keeler-Wolf 1995). The ecological setting inhabited by the species north of the border is therefore unique within its range. The species' ability to exist under these conditions suggests unique behavioral and/or physiological adaptations (Mellink and Rea 1994).

The extinction of the population segment of the California gnatcatcher in the United States would also be significant in that it would substantially reduce the overall range of the species. The northern 209 km (130 miles) of the latitudinal range of the species (approximately 20 percent of its total range) occurs within the United States. Extirpation of the species in the northern one-fifth of its latitudinal range would (1) preclude future range expansion into currently unoccupied habitats farther to the north in the United States (*e.g.*, Ventura County), and (2) prevent natural shifts in range in response to future changes in climate and vegetation composition and structure. Current evidence already

suggests that vegetation in southern California has undergone substantial shifts in composition and distribution through time (Axelrod 1978; *see* discussion under Factor E).

Past morphometric studies (studies examining morphological or physical characters) have shown that populations of California gnatcatchers north of 30° N latitude have browner backs and flanks, have white in the retrices, and are longer tailed than birds in the rest of the range (Grinnell 1926, van Rossem 1931, Philips 1991, Atwood 1991, Mellink and Rea 1994). Though recent genetic work (Zink *et al.* 2000) failed to show significant genetic structuring consistent with evolutionarily discrete units, these morphological differences may reveal different selective regimes operating in the northern portion of the species' range. As the coastal sage scrub community inhabited by the California gnatcatchers within the United States is relatively young (less than 4,000 to 8,000 years old; Axelrod 1978), the different selective regimes may not have had sufficient time to reveal distinctiveness evident in mitochondrial DNA studies.

As discussed above, the U.S. population segment of the California gnatcatcher is significant in that it exists in a unique ecological setting, and that the loss of this segment would result in a significant gap in the range of the species.

Conservation Status: Based on our determination that the California population of the California gnatcatcher meets the first two criteria, discreteness and significance, for a distinct vertebrate population segment in accordance with our policy, we are required to evaluate its conservation status and make a determination relative to the Act's standard for listing as endangered or threatened. The proposed rule to list the coastal California gnatcatcher published on September 17, 1991 (56 FR 47053) and final rule published on March 30, 1993 (58 FR 16741) discuss the status of the coastal California gnatcatcher in relation to the Act's standards for listing as threatened. The following discussion summarizes those analyses and adds new information that has become available.

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

As stated in the previous proposed and final listing rules, the habitat and range of the California gnatcatcher in the United States has been significantly reduced. The majority of historical locations in Los Angeles, Ventura, and San Bernardino counties have been completely developed and no longer support known populations (*e.g.*, San Fernando Valley, Pasadena, Santa Anita Wash, Rubio Wash, Eaton Canyon Wash, San Gabriel Wash, Ballona Creek, Redondo Beach, Monrovia, Arcadia, Fairmont Reservoir, Colton, Saticoy; Los Angeles County Museum of Natural History and Field Museum collections). Within the remainder of the range, Orange, Riverside, and San Diego counties have experienced a 50, 59, and 60 to 65 percent reduction in coastal sage scrub, respectively, between 1945 and 1990 (based on comparison of Wieslander and Jensen 1946 vegetation maps, and 1990 county estimates; *see* 58 FR 16741). Much of the remaining coastal sage scrub is at higher elevations and away from the coast, where California gnatcatcher populations are at lower densities (Atwood and Bolsinger 1992, MBA 1991). Atwood and Bolsinger (1992) and MBA (1991) both reported that greater than 90 percent of gnatcatcher records occur at or below 250 m (820 ft). This relationship may reflect energetic constraints in the California gnatcatcher associated with winter precipitation levels and January mean minimum temperature (Mock 1998). Adult mortality rates above these elevations may be insufficient to support populations through time (Mock 1998).

Much of the remnant coastal sage scrub below 250 m (820 ft) is now fragmented, isolating populations of gnatcatchers (*e.g.*, Palos Verdes peninsula, San Joaquin Hills, Carlsbad-San Marcos, Poway-Santee, and Sweetwater River-Otay Lake populations). Given that this species exhibits extreme fluctuations in abundance (Erickson and Miner 1998, Atwood *et al.* 1998), isolated populations may be more susceptible to extirpation.

For further discussion of the destruction and curtailment of the species habitat and range, *see* 58 FR 16741.

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

These factors are not currently known to affect the species.

C. Disease or Predation

Disease is not currently known to be a factor affecting the species, however, the effects of disease may need to be reassessed after the pending arrival of West Nile Virus to California. Also, the entire U.S. range of the California gnatcatcher is under federal quarantine due to an outbreak of Exotic Newcastle Disease. This disease affects a wide range of wild and domestic bird species, but it is not known how California gnatcatchers may be affected.

Predation is the most common cause of nest failure, accounting for as many as 30 to 60 percent of nest failures in some areas (Braden *et al.* 1997, Grishaver *et al.* 1998). Most of this predation occurs during egg laying and incubation. Several species have been reported as potential predators of coastal California gnatcatcher eggs or nestlings (Atwood 1990). These include the scrub jay (*Aphelocoma coerulescens*), common crow (*Corvus brachyrhynchos*), common raven (*Corvus corax*), opossum (*Didelphis marsupialis*), raccoon (*Procyon lotor*), gray fox (*Urocyon cinereoargenteus*), coachwhip (*Masticophis flagellum*), striped racer (*Masticophis lateralis*), gopher snake (*Pituophis melanoleucus*), rosy boa (*Lichanura trivirgata*), common kingsnake (*Lampropeltis getulus*), southern alligator lizard (*Gerrhonotus multicarinatus*), domestic or feral cat (*Felis domestica*), wood rat (*Neotoma spp.*), deer mouse (*Peromyscus maniculatus*), house mouse (*Mus musculus*), and black rat (*Rattus rattus*). Brood parasitism by the brown-headed cowbird (*Molothrus ater*) has significantly decreased gnatcatcher productivity (Braden *et al.* 1997). Thirty-one percent of gnatcatcher nests monitored in Riverside County during the 1992–1995 breeding seasons were parasitized by cowbirds (Braden *et al.* 1997).

D. The Inadequacy of Existing Regulatory Mechanisms

In 1991, the state of California initiated the Natural Communities Conservation Program (NCCP) to protect coastal sage scrub habitats and rare species in southern California. To date, two regional NCCP/Habitat Conservation Plans (HCP) have been approved for portions of southern San Diego County (Multiple Species Conservation Program) and central Orange County (Central/Coastal NCCP/HCP). Within the range of the California gnatcatcher, several other regional plans are still being developed for northern San Diego County, western Riverside County, southern Orange County, and the Palos Verdes peninsula. Whether these regional plans will be finally approved for these areas, which represent the majority of gnatcatcher populations in southern California, is unknown. Furthermore, at this point, no regional conservation planning effort is underway in the remainder of Los Angeles County or in San Bernardino or Ventura counties. Essential populations are found in each of these counties and

represent the northernmost populations within the range of the species.

For a discussion of California gnatcatcher habitat destruction prior to its listing in 1993, refer to 58 FR 16741.

E. Other Natural or Man-Made Factors Affecting its Continued Existence

Throughout southern California, but especially in western Riverside and San Bernardino counties, coastal sage scrub vegetation is being type-converted to non-native grassland and other ruderal (weedy) habitats (Allen *et al.* 2000, Allen *et al.* 1996, Minnich and Dezzani 1998). Minnich and Dezzani (1998) resampled Vegetation Type Map plots surveyed 60 years earlier. They found that only 40.1 percent of the coastal sage scrub originally mapped was still extant, while 41.9 percent of this mapped plant community was now open coastal sage scrub mixed with a continuous layer of exotic annual grasses. The remaining 18 percent of plots were entirely converted to exotic annual grassland. This conversion from shrublands to grasslands was due to a combination of factors including invasion of European annual grasses, increased fire frequency, and possibly nitrogen deposition due to air pollution (Minnich and Dezzani 1998). Thus, even in reserve areas not threatened by habitat destruction due to development, a continuous loss of suitable habitat available to the California gnatcatcher is ongoing.

Please refer to the final listing rule (58 FR 16741) for a more detailed discussion of the California gnatcatcher in relation to the five factors.

Previous Federal Action

On March 30, 1993, we published a determination of threatened status for the coastal California gnatcatcher (58 FR 16742). At the time of the listing, we concluded that designation of critical habitat for the species was not prudent because such designation would not benefit the coastal California gnatcatcher and would make the species more vulnerable to activities prohibited under section 9 of the Act. We were aware of several instances of apparently intentional habitat destruction that had occurred during the listing process. In addition, most land occupied by the gnatcatcher was in private ownership and we did not believe a designation of critical habitat to be of benefit because of a lack of a Federal nexus.

On May 21, 1997, the U.S. Court of Appeals for the Ninth Circuit (Circuit Court) issued an opinion in *Natural Resources Defense Council* v. *U.S. Dept. of the Interior* (No. 95–56075; D.C. No. CV–93–999) (*NRDC* v. *USDOI*) that required us to reevaluate our prudency determination and issue a new decision regarding the prudency of determining critical habitat for the gnatcatcher.

On February 8, 1999, we published a notice of determination in the **Federal Register** (64 FR 5957) in which we concluded that designation of critical habitat for the gnatcatcher was prudent.

On February 7, 2000, we published a proposed rule to designate critical habitat for the coastal California gnatcatcher (65 FR 5946) on approximately 323,726 ha (799,916 ac) within Los Angeles, Orange, Riverside, San Bernardino, and San Diego counties, California. On October 24, 2000, we published a final rule designating approximately 207,890 ha (513,650 ac) of land as critical habitat for the coastal California gnatcatcher in Los Angeles, Orange, Riverside, San Bernardino, and San Diego counties, California (65 FR 63680).

Following the designation of critical habitat for the coastal California gnatcatcher, NRDC filed an amended complaint on December 20, 2000, challenging the Service's exclusion of some lands from the designation of critical habitat (*NRDC* v. *USDOI*, CV 99–5246, (C.D.Cal)). Also in December 2000, Rancho Mission Viejo L.L.C. filed a lawsuit in the U.S. District Court for the District of Columbia, challenging the methodology used by the Service in the economic analysis of the designation of critical habitat (*Rancho Mission Viejo, LLC.* v. *Babbitt,* CV–01–8412). In January 2001, the Building Industry Association of Southern California and several other groups filed a separate lawsuit in the U.S. District Court for the District of Columbia which also challenged the designation of critical habitat for the coastal California gnatcatcher (*Building Industry Association of Southern California et al* v. *Norton et al.*, CV 01–7028) (*BIA* v. *Norton*). On July 3, 2001, the D.C. District Court transferred the BIA and Rancho Mission Viejo suits to the U.S. District Court for the Central District of California.

On June 11, 2002, the U.S. District Court for the Central District of California granted the Service's request for a remand of the coastal California gnatcatcher critical habitat designation so that we may reconsider the economic impact associated with designating any particular area as critical habitat. The Court ordered us to complete a new proposed rule by April 11, 2003. In a subsequent order the Court held that the critical habitat designated for the should remain in place until such time as a new, final regulation becomes effective.

Critical Habitat

Section 3 defines critical habitat as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat.

To be included in a critical habitat designation, habitat must be either a specific area within the geographic area occupied by the species on which are found those physical or geographical features essential to the conservation of the species (primary constituent elements, as defined at 50 CFR 424.12(b)) and which require special management considerations or protection, or be specific areas outside of the geographic area occupied by the species which are determined to be essential for the conservation of the species. Habitat areas that support only a subset of the primary constituent elements are included only when they still perform the functions that make them essential to the conservation of the species. Section 3(5)(c) of the Act states that not all areas that can be occupied by a species should be designated as critical habitat unless the Secretary determines that all such areas are essential to the conservation of the species. Our regulations (50 CFR 424.12(e)) also state that ''The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.'' Accordingly, we do not designate critical habitat in areas outside the geographic area occupied by the species

unless the best available scientific and commercial data demonstrate that unoccupied areas are essential for the conservation of the species.

Private lands previously designated were re-evaluated based on new survey information, and the results of a habitat modeling exercise. Refer to the Criteria Used to Identify Critical Habitat section for further discussion.

Application of Section 3(5)(A) and Exclusions Under Section 4(b)(2) of the Act

Section 3(5)(A) of the Act defines critical habitat as the specific areas within the geographic area occupied by the species on which are found those physical and biological features (I) essential to the conservation of the species and (II) which may require special management considerations and protection. As such, for an area to be designated as critical habitat for a species it must meet both provisions of the definition. In those cases where an area does not provide those physical and biological features essential to the conservation of the species, it has been our policy to not include these specific areas in designated critical habitat. Likewise, if we believe, based on an analysis, that an area determined to be biologically essential has an adequate management plan that covers the species, then special management and protection are already being provided, and those areas do not meet the second provision of the definition and are also not proposed as critical habitat.

We consider a current plan to provide adequate management or protection if it meets three criteria: (1) The plan is complete and 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 conservation management strategies and actions will be implemented (*i.e.*, those responsible for implementing the plan are capable of accomplishing the objectives, and have an implementation schedule or adequate funding for implementing the management plan); and (3) the plan provides assurances the conservation strategies and measures 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).

Further, section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data available after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. An area may be excluded from critical habitat if it is determined that the benefits of such exclusion outweigh the benefits of specifying a particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species. Consequently, we may exclude an area from critical habitat based on economic impacts, or other relevant impacts such as preservation of conservation partnerships or military readiness considerations, if we determine that the benefits of excluding an area from critical habitat outweigh the benefits of including the area in critical habitat, provided that exclusion will not result in the extinction of the species.

In summary, we use both the definition in section 3(5)(A) and the provisions of section 4(b)(2) of the Act to evaluate those specific areas that are proposed for designation as critical habitat as well as for those areas that are subsequently finalized (*i.e.*, designated as critical habitat). On that basis, it has been our policy to not include in proposed critical habitat, or exclude from designated critical habitat, those areas: (1) Not biologically essential to the conservation of a species, (2) covered by a legally operative individual (project-specific) or regional HCP that covers the subject species, (3) covered by a complete and approved INRMP for specific DoD installations, or (4) covered by an adequate management plan or agreement that protects the primary constituent elements of the habitat.

As discussed further below, for this proposal of critical habitat for the gnatcatcher, we have considered, but have not proposed as critical habitat the mission-essential training areas on Marine Corps Base, Camp Pendleton (Camp Pendleton); MCAS, Miramar; reserve lands in the San Diego Multiple Species Conservation Program and the Orange County Central-Coastal NCCP/HCP; Tribal lands of the Pala Band of Mission Indians; and lands covered by individual completed and approved HCPs that cover the gnatcatcher. Some lands managed by the DoD, including nontraining areas Camp Pendleton and Naval Weapons Station Seal Beach, Detachment Fallbrook (Fallbrook Naval Weapons Station), have been proposed as critical habitat for the gnatcatcher.

Relationship to HCPs

Individual HCPs

In general, we believe that individual HCPs in which the reserves have been established that protect the primary constituent elements of critical habitat of the subject species, establish areas that may be biologically essential to the covered species, but which do not require special management and protections because their value for conservation has been established and perpetuated by the existing protective measures and actions from the provisions of the HCP. Consequently, reserve areas defined in these individual HCPs do not meet the definition of critical habitat and are therefore are not being proposed as critical habitat. Further, to the extent that these areas do meet the definition of critical habitat as defined in 3(5)(A)(i)(II), it is additionally appropriate to exclude these areas from critical habitat pursuant to the ''other relevant impacts'' provisions of section 4(b)(2).

Numerous individual HCPs that provide incidental take coverage for the coastal California gnatcatcher have been approved and implemented in Los Angeles, Orange, San Diego, and Riverside Counties. Completed individual HCPs include: Bennett Property, Meadowlark Estates, Fieldstone, and Poway Subarea Plan in San Diego County; Coyote Hills East and Shell Oil in Orange County; Ocean Trails in Los Angeles County; and Lake Mathews, North Peak, Railroad Canyon, and Rancho Bella Vista in Riverside County. Collectively, these HCPs have resulted in the protection of 3,935 ha (9,725 ac) of habitat for the coastal California gnatcatcher.

Regional HCPs

We have considered, but have not proposed as critical habitat preserve, reserve or other conservation lands and lands targeted for conservation within the boundaries of approved HCP based on the Secretary of the Interior's authority under section 4(b)(2) of the Act as we believe the benefits of excluding these lands outweigh the benefits of including them.

Development of an HCP is a prerequisite for the issuance of an incidental take permit pursuant to section 10(a)(1)(B) of the Act. HCPs vary in size and may provide for incidental take coverage and conservation management for one or many federally listed species. Additionally, more than one applicant may participate in the development and implementation of an HCP. In the case of the coastal California gnatcatcher, the HCPs are very complex,

address multiple species, and are very important to a large area and to many participating permittees.

Large regional HCPs expand upon the basic requirements set forth in section 10(a)(1)(B) of the Act because they reflect a voluntary, cooperative approach to large-scale habitat and species conservation planning. Many of the large regional HCPs in southern California have been, or are being, developed to provide for the conservation of numerous federally listed species and unlisted sensitive species and the habitats that provide for their biological needs. These HCPs are designed to proactively implement conservation actions to address future projects that are anticipated to occur within the planning area of the HCP; however, given the broad scope of these regional HCPs, not all projects envisioned to potentially occur may actually take place.

In the case of approved regional HCPs (*e.g.*, those sponsored by cities, counties or other local jurisdictions) that provide for incidental take coverage for the coastal California gnatcatcher, a primary goal of these regional plans is to provide for the protection and management of habitat essential for the conservation of the species while directing development to other areas. The regional HCP development process provides an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by coastal California gnatcatchers. 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 system of interlinked habitat blocks that provide for the biological needs of the species.

Completed HCPs and their accompanying implementation agreements contain management measures and protections for identified preserve areas that protect, restore, and enhance the value of these lands as habitat for the coastal California gnatcatcher. These measures, which include explicit standards to minimize any impacts to the covered species and its habitat, are designed to ensure that the value of the conservation lands as suitable habitat for the coastal California gnatcatcher habitat is maintained, expanded and improved.

In approving these HCPs the Service has provided assurances to permit holders that once the protection and management required under the plans are in place and for as long as the permit holders are fulfilling their obligations under the plans, no additional mitigation in the form of land or financial compensation will be required of the permit holders and in some cases, specified third parties. Similar assurances will be extended to future permit holders in accordance with the Service's HCP Assurance (''No Surprises'') rule codified at 50 CFR 17.22(b)(5) and (6) and 17.32(b)(5) and (6).

Because of the similarities between the purposes of regional HCPs and designation of critical habitat, and in light of the intensive investigation and analysis undertaken in conjunction with regional HCP planning processes, regional HCPs currently under development will identify, protect and provide appropriate adaptive management for those specific lands within the boundaries of the plans that are essential for the long-term conservation of the species. The analyses of these HCPs and proposed permits under section 7 show that activities covered under such permits will not result in the destruction or adverse modification of critical habitat proposed within the boundaries of the plans when the covered activities are carried out in accordance with the provisions of the HCP.

As discussed earlier, we have considered, but have not proposed as critical habitat lands within approved HCPs that include the coastal California gnatcatcher as a covered species. It is also our intention to exclude currently proposed HCPs that cover the gnatcatcher if, prior to publication of a final designation of critical habitat, the plans are completed, approved, and legally operative. We will evaluate the exclusion of these lands based on the best scientific data available and after taking into consideration economic and any other relevant impact of designating critical habitat. Following is our preliminary analysis of the benefits of including lands within approved HCPs versus excluding such lands from critical habitat designation.

(1) Benefits of Inclusion

Under Section 7 critical habitat designation will provide little additional benefit to the coastal California gnatcatcher habitat within the boundaries of approved HCPs. The primary benefit of any critical habitat is with regard to activities with a Federal nexus that require consultation pursuant to Section 7 of the Act to ensure that the activity will not destroy or modify designated critical habitat. Currently approved and permitted HCPs are designed to ensure the conservation of covered species within the plan area. HCPs, particularly large regional HCPs, address land use within the plan boundaries, and habitat issues within these plan boundaries will have been thoroughly addressed in the HCP itself and through the Section 7 consultation on the HCP.

Furthermore, HCPs typically provide greater conservation benefits to covered species than independent project-by-project section 7 consultations, because HCPs assure the long-term protection and management of a covered species and its habitat, and funding for such management and protection through the standards found in the 5-Point Policy for HCPs (65 FR 35242) and the HCP No Surprises regulation (63 FR 8859). These types of assurances are typically not provided by section 7 consultations because such consultations do not always commit the project proponent to long-term special management or protections. Thus, a consultation is not likely to accord the lands it covers the extensive benefits an HCP provides.

Development and implementation of HCPs provide other important conservation benefits, including the development of area wide biological information to guide conservation efforts and assist in species' recovery and the creation of innovative solutions to conserve species while allowing for continued economic development. Particularly in the case of large regional HCPs, one species benefit from landscape planning outweighs the fragmented approach that is the result of individual permitting on only those projects with a Federal nexus even when critical habitat is designated.

The educational benefits of critical habitat, including informing the public of areas that are important to the conservation of listed species, are actually less than what occurs in the HCP process. Since the HCP process is voluntary, public participation through multiple public notices and comment periods, as well as direct involvement by local governments, the environmental community, and the regulated community is ensured prior to their approval. For these reasons, we believe that designation of critical habitat typically provides no additional benefit in areas covered by approved HCPs.

(2) Benefits of Exclusion

We have determined that the benefits of excluding lands within approved HCPs from critical habitat designation are typically more substantial than including them. The benefits of excluding lands within HCPs from critical habitat designation include relieving landowners, communities, and Counties of any additional regulatory burden that may result solely from such

designation. Many HCPs, particularly large, regional HCPs, take many years to develop and, upon completion, become regional conservation plans that are consistent with the recovery objectives for listed species that are covered within the plan area. Additionally, many of these HCPs provide conservation benefits to unlisted, sensitive species. Imposing an additional regulatory review after an HCP is completed solely as a result of the designation of critical habitat may undermine conservation efforts and partnerships in many areas, and in fact, could result in the loss of species benefits as participants in the voluntary HCPs abandon them in the face of additional regulations requiring more of them than other parties who have not voluntarily participated in species conservation. Designation of critical habitat within the boundaries of approved HCPs could also be viewed as a disincentive to those entities currently developing HCPs or contemplating developing them in the future.

A related benefit of excluding lands within HCPs from critical habitat designation is the continued ability to seek new partnerships with future HCP participants, including States, Counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. If lands within HCP plan areas are designated as critical habitat, it would likely have a chilling effect on our ability to establish new partnerships to develop HCPs, particularly large, regional HCPs that involve numerous participants and address landscape-level conservation of species and habitats. By excluding these lands, we preserve our current partnerships and encourage additional conservation actions in the future.

In addition to the conservation benefits HCPs provide to covered species within the plan areas, many of these HCPs, particularly large regional HCPs, also address landscape-level conservation of native habitats. In California, the NCCP Act of 1991 provides a framework for conserving listed and other sensitive species at a regional or ecosystem scale. The pilot program of the NCCP focuses on conservation of native coastal sage scrub communities throughout a 6,000 square mile area in southern California that includes parts of Los Angeles, Orange, San Diego, Riverside, and San Bernardino Counties. The NCCP program complements the objectives of regional HCP planning efforts. In southern California, several regional conservation planning efforts that incorporate the dual objectives of NCCP/HCP have already been approved.

In southwestern San Diego County, the MSCP effort encompasses more than 236,000 ha (582,000 ac) and reflects the potential participation of several local jurisdictions. The MSCP provides for the establishment over the permit term of approximately 69,573 ha (171,000 ac) of preserve areas to provide conservation benefits for 85 Federally listed and sensitive species. An estimated 28,844 ha (71,274 ac) of these preserve lands contain coastal sage scrub, the primary nesting and foraging habitat for the coastal California gnatcatcher. This represents 62 percent of the remaining habitat for the coastal California gnatcatcher in southern San Diego County. These lands are to be permanently maintained and managed for the benefit of the gnatcatcher and other covered species.

The Central-Coastal NCCP/HCP in Orange County was developed in cooperation with numerous local and State jurisdictions and agencies and participating landowners, including the cities of Anaheim, Irvine, Orange, Lake Forest, Laguna Woods, Mission Viejo, Southern California Edison, Transportation Corridor Agencies, The Irvine Company, California Department of Parks and Recreation, Southern California Edison, Metropolitan Water District of Southern California, Irvine Ranch Water District, Transportation Corridor Agency, The Regents of the University of California, and the County of Orange. Approved in 1996, the Central-Coastal NCCP/HCP provides for the establishment of approximately 15,677 ha (38,738 ac) of reserve lands for 39 Federal or State listed, unlisted, and sensitive species. These reserve areas include about 7,621 ha (18,831 ac) of coastal sage scrub habitat. The design of the reserve system for the Central-Coastal NCCP/HCP encompasses approximately 72 percent of the remaining coastal sage scrub habitat within the planning area. These lands are also required to be maintained and managed for the benefit of the gnatcatcher and other covered species.

Additional HCPs within the range of the gnatcatcher, such as the San Diego Gas and Electric Subregional Natural Community Conservation Plan/Habitat Conservation Plan, have also been completed and provide incidental take authorization for the gnatcatcher.

There are currently several regional NCCP/HCP efforts underway in southern California that have not yet been completed but which, upon approval, will provide conservation benefits to the coastal California gnatcatcher.

The MHCP in northwestern San Diego County encompasses approximately 453 square km (175 square mi) within the study area, including about 160 to 200 ha (400–500 ac) of coastal sage scrub habitat. Currently, seven cities are participating in the development of the MHCP.

The proposed Southern Subregion NCCP/HCP in Orange County encompasses approximately 515 square km (200 square mi) or 51,800 ha (128,000 ac) in its planning area, including about 10,412 ha (25,729 ac) of coastal sage scrub habitat for the coastal California gnatcatcher. Jurisdictions and private landowners within the study area include the cities of Rancho Santa Margarita, Mission Viejo, San Juan Capistrano, San Clemente, and Rancho Mission Viejo, and the County of Orange.

Additionally, the proposed Western Riverside MSHCP is being developed in cooperation with the County of Riverside, 12 cities, the Riverside County Flood Control and Water Conservation Agency, Riverside County Transportation Commission, Riverside County Parks and Open Space District, Riverside County Waste Department, California Department of Parks and Recreation, and California Department of Transportation. The proposed MSHCP encompasses approximately 530,000 ha (1.3 million ac) of land. Proposed reserves could potentially conserve up to 60 percent of the remaining habitat for coastal California gnatcatchers within the plan area.

In general, we find that the benefits of critical habitat designation on lands within approved HCPs that cover those species are small while the benefits of excluding such lands from designation of critical habitat are substantial. After weighing the small benefits of including these lands against the much greater benefits derived from exclusion, including encouraging the pursuit of additional conservation partnerships, we have considered but have not proposed as critical habitat, lands within approved and legally operative HCPs that include the coastal California gnatcatcher as a covered species.

In the event that future HCPs covering the coastal California gnatcatcher are developed within the boundaries of designated critical habitat, we will work with applicants to ensure that the HCPs provide for protection and management of habitat areas essential for the conservation of the species. We will provide technical assistance and work closely with applicants throughout the development of future HCPs to identify lands essential for the long-term conservation of the gnatcatcher and

appropriate management for those lands. The take minimization and mitigation measures provided under these HCPs will be designed to protect the essential lands that are proposed as critical habitat in this rule. If an HCP that covers the coastal California gnatcatcher is ultimately approved, the Service can reassess the critical habitat boundaries in light of the HCP. The Service intends to undertake this review when the HCP is approved. However, funding constraints may influence the timing of such a review.

Tribal Lands and Exclusions Under 4(b)(2) of the Act

We have considered, but have not proposed as critical habitat Tribal lands of the Pala Band of Mission Indians. Secretarial Order 3206, ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities and the Endangered Species Act'' (June 5, 1997), provides that critical habitat shall not be designated in an area that may impact Tribal trust resources unless it is determined essential to conserve a listed species.

Tribal lands we considered, but have not proposed as critical habitat for the coastal California gnatcatcher have been determined to be essential to the conservation of the species. No management plans are currently in place on these Tribal lands to address the conservation needs of the coastal California gnatcatcher. However, projects on Tribal lands with a Federal nexus (*e.g.*, funded, authorized, or carried out by Federal agencies such as the Bureau of Indian Affairs) will trigger a consultation under section 7 of the Act if the action may affect the coastal California gnatcatcher. Through section 7 consultation, we would ensure that actions undertaken, authorized, or permitted by a Federal agency will not jeopardize the continued existence of the species.

(1) Benefits of Inclusion

The primary benefit of any critical habitat with regard to activities that require consultation pursuant to section 7 of the Act is to ensure that the activity will not destroy or adversely modify designated critical habitat. The educational benefits of critical habitat include informing Tribes of areas that are important to the conservation of listed species.

(2) Benefits of Exclusion

The benefits of excluding Tribal lands from critical habitat designation include relieving Tribes of any additional regulatory burden that may result solely from such designation. Designation of critical habitat may undermine future conservation efforts and partnerships and discourage Tribes from developing species and habitat management plans. Designation of critical habitat could also be viewed as a disincentive to Tribes contemplating developing HCPs in the future. By excluding these lands, we preserve our current partnerships and set the stage for additional conservation actions in the future.

After weighing the benefits of critical habitat designation on these lands against the benefits of excluding them, we find the benefits of excluding the Pala Band of Mission Indians' lands from the designation of critical habitat outweigh the benefits of including those areas as critical habitat. We also find that the exclusion of these lands will not lead to the extinction of the gnatcatcher.

Relationship to Lands Managed by DoD Under Section 3(5)(A) Definition

Marine Corps Air Station, Miramar

The Sikes Act requires each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an Integrated Natural Resources Management Plan (INRMP). An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. Each INRMP includes an assessment of the ecological needs on the installation, including needs to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan. We consult with the military on the development and implementation of INRMPs for installations with listed species. We believe that bases that have completed and approved INRMPs that address the needs of the species generally do not meet the definition of critical habitat discussed above, as the lands do not require special management. Therefore, we do not include these areas in critical habitat designations if they meet the following three criteria: (1) A current INRMP is complete and provide a conservation benefit to the species; (2) the plan provides assurances that the conservation management strategies will be implemented; and (3) the plan provides assurances that the conservation management strategies will be effective, by providing for periodic monitoring and revisions (adaptive management) as necessary. If all of these criteria are met, then the lands covered under the plan would not meet the second provision of the definition of critical habitat pursuant to section 3(5)(A)(i)(II) and consequently not proposed as critical habitat for the covered species.

MCAS, Miramar has completed a final INRMP that provides for adequate conservation management and protection for the gnatcatcher. We have reviewed this plan and have determined that it addresses and meets the three criteria discussed above. Therefore, lands on MCAS, Miramar that are biologically essential to the gnatcatcher do not meet the second provision of the definition of critical habitat pursuant to section 3(5)(A)(i)(II) as they do not require special management and protection. Consequently, these lands essential to the gnatcatcher have not been included in the proposed designation of critical habitat for the species. Further, to the extent that the areas biologically essential to the gnatcatcher on MCAS, Miramar may meet the definition of critical habitat as defined in 3(5)(A)(i)(II), it is additionally appropriate to exclude these areas from critical habitat pursuant to the ''other relevant impacts'' provisions of section 4(b)(2).

The primary benefit of proposing critical habitat is to identify lands essential to the conservation of the species which, if critical habitat was designated, would require consultation with us to ensure activities would not adversely modify critical habitat or jeopardize the continued existence of the species. As previously discussed MCAS, Miramar has completed a final INRMP that provides for sufficient conservation management and protection for the coastal California gnatcatcher. Therefore, we do not believe that designation of areas on MCAS, Miramar as critical habitat will appreciably benefit the coastal California gnatcatcher beyond the protection already afforded the species under the Act and the completed INRMP. Exclusion of these lands would not result in the extinction of the species.

However, even if the lands on MCAS, Miramar did require special management and meet the definition of critical habitat, there would be appreciable benefits to excluding these areas from critical habitat pursuant to section 4(b)(2). If critical habitat were to be designated, this facility would be compelled to consult under section 7 of the Act on any activity that may affect designated critical habitat. Given the INRMP, the additional burden of consulting could impair its ability to

conduct activities. Similarly, including these areas in the proposed critical habitat rule would require this facility to conference with us on any activities that might adversely modify or destroy proposed critical habitat. This could result in unnecessary delays and disruption of base's activities and potentially impair our Nation's military readiness. In light of our country's national security interest, we have considered, but have not proposed critical habitat on MCAS, Miramar.

Relationship to Lands Managed by DoD and Exclusions Under 4(b)(2) of the Act

Marine Corps Base, Camp Pendleton

As we indicated previously, we have considered, but have not proposed mission-essential training areas on Camp Pendleton as critical habitat for the coastal California gnatcatcher under section 4(b)(2) of the Act.

Camp Pendleton operates an amphibious training base that promotes the combat readiness of military forces. The camp is the only West Coast Marine Corps facility where amphibious operations can be combined with air, sea, and ground assault training activities year-round. Currently, the Marine Corps has no alternative installation available for the types of training that occur on Camp Pendleton.

The Marine Corps consults with us under section 7 of the Act for activities that may affect Federally listed species on Camp Pendleton. On March 30, 2000, at the request of the Marine Corps, we initiated a formal consultation regarding Marine Corps activities on upland areas of Camp Pendleton. The consultation covers approximately 50,500 ha (125,000 ac) of land and addresses numerous activities that currently are expected to occur within the upland areas of Camp Pendleton, including combat readiness operations, air operations, vehicle operations, facility maintenance and operations, fire management, recreation activities, and housing. The upland consultation for the gnatcatcher and other species is not yet completed. We are currently working cooperatively with Camp Pendleton to facilitate the completion of this upland consultation.

In order to continue its critical training mission pending completion of the consultation, the Marine Corps has implemented measures which will avoid jeopardy to the coastal California gnatcatcher and other listed species within the uplands area and comply with section 7(d) of the Act. In particular, the Marine Corps is implementing a set of ''programmatic instructions'' to avoid adverse effects to the coastal California gnatcatcher.

The primary benefit of proposing critical habitat is to identify lands essential to the conservation of the species which, if critical habitat were designated, would require consultation with us to ensure that activities would not adversely modify critical habitat or jeopardize the continued existence of the species. We are already in consultation with the Marine Corps regarding their upland activities to ensure current and proposed actions will not jeopardize the species' continued existence. That consultation already takes into account the essential habitat requirements of the species. Therefore, we do not believe that designation of mission critical training areas on Camp Pendleton as critical habitat will appreciably benefit the gnatcatcher beyond the protection already afforded the species under the Act.

In contrast to the absence of an appreciable benefit resulting from designation of Camp Pendleton training areas as critical habitat, there are substantial benefits to excluding these areas from critical habitat. If critical habitat were to be designated within the training areas, the Marine Corps would be compelled to consult under section 7 of the Act on any activity that may affect designated critical habitat. The additional burden of requirements to avoid the adverse modification of habitat within mission critical training areas could significantly delay and impair the ability of the Marine Corps to conduct effective training activities, thus, severely limiting Camp Pendleton's utility as a military training installation. Similarly, including these areas in the proposed critical habitat rule would require the Marine Corps to conference with us on any activities that might adversely modify or destroy proposed critical habitat. This could result in similar delays and disruption of base's military training mission and impairment of our Nation's military readiness.

In light of our country's national security interests and the Marine Corps' need for the ability to maintain a high level of readiness and fighting capabilities and the disruption to the Marine Corps' training mission that could result from proposing critical habitat on lands identified as mission-essential training areas, we have considered, but have not proposed those areas. We also find that the exclusion of these lands will not lead to the extinction of the gnatcatcher.

We are soliciting public review and comment on our decision to consider, but not propose critical habitat for the coastal California gnatcatcher on mission-essential training areas on Camp Pendleton, reserve and targeted reserve lands in the San Diego MSCP and the Orange County Central-Coastal NCCP and Tribal lands of the Pala Band of Mission Indians based on section 4(b)(2) of the Act. Maps of habitat areas essential to the conservation of the coastal California gnatcatcher that occur within training areas on Camp Pendleton, reserve and targeted reserve lands in the San Diego MSCP and the Orange County Central-Coastal NCCP and Tribal lands of the Pala Band of Mission Indians are available for public review at the Carlsbad Fish and Wildlife Office (*see* **ADDRESSES** section) or on the Internet at *http://carlsbad.fws.gov.* Additionally, maps showing lands essential to the conservation of the gnatcatcher, but not included in the proposed critical habitat based on adequate management and the provisions of section 3(5)(A)(i)(II), are available for viewing at the Carlsbad Fish and Wildlife Office (*see* **ADDRESSES**). We will review this issue in light of all public comments received during the public review period and may reconsider our position in the final rule.

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 use the best scientific and commercial data available and, whenever possible, 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 is often 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, biological assessments, or other unpublished materials that meet the standards required by the Act.

Section 4 of the Act requires that we designate critical habitat based on what we know at the time of designation. 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, critical

habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas that support newly discovered populations in the future, but are outside the critical habitat designation, will continue to be subject to section 7 and the prohibitions of section 9(a)(1) of the Act. 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 necessarily control the direction and substance of future recovery plans, HCPs, or other species conservation planning efforts.

Methods

In determining areas that are essential to conserve the gnatcatcher, we used the best scientific and commercial data available. This included data from research and survey observations published in peer reviewed articles; regional (GIS) coverages; habitat evaluation models for the San Diego County MSCP, the MHCP, and the North County Subarea of the MSCP for unincorporated San Diego County; approved HCPs; and data collected from reports submitted by biologists holding section 10(a)(1)(A) recovery permits. Following the listing of the species, a concerted effort was undertaken to survey significant portions of the species' range in San Diego and Orange counties for the purpose of developing and implementing regional HCPs, and more recently, surveys of varying intensity have been conducted in Los Angeles, Riverside, San Bernardino, and Ventura counties. As part of an intensive effort to gather range and abundance information, the Service sampled a large number of random points for gnatcatchers within coastal sage scrub vegetation in Orange and San Diego Counties. A habitat model was also developed that helped us refine essential breeding habitat in Orange, Riverside, and San Diego counties (*see* discussion below under Criteria Used To Identify Critical Habitat).

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 are required to base critical habitat determinations on the best scientific data available and to consider those physical and biological features that are essential to the conservation of the species and that may require special management considerations and protection. Such requirements include but are not limited to: Space for individual and population growth, and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, rearing of offspring; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

We are proposing to designate as critical habitat areas that provide those habitat components essential for the conservation of the gnatcatcher.

The primary constituent elements for the coastal California gnatcatcher are those habitat components that provide for foraging, nesting, rearing of young, intraspecific communication, roosting, dispersal, genetic exchange, or sheltering (Atwood 1990). Primary constituent elements are provided in undeveloped areas that support, through natural successional processes (*e.g.*, post-fire recovery), various types of sage scrub or chaparral, grassland, and riparian habitats where they may be utilized for biological needs such as breeding, foraging, or dispersal (Atwood *et al.* 1998; Campbell *et al.* 1998). Primary constituent elements associated with the biological needs of dispersal are also found in undeveloped areas that provide connectivity or linkage between larger core areas, including open space and ruderal (weedy areas that contain introduced plant species) disturbed areas that may receive only periodic use. Probable dispersing individuals have been documented in vegetation dominated by such species as *Brassica* spp. (wild mustard), annual grasses, *Salsola tragus* (Russian thistle), *Baccharis salicifolia* (mule fat), *Salix* spp. (willow), and *Tamarix* spp. (salt cedar) (Campbell *et al.* 1998). Some of these species may also be used seasonally by territorial birds as coastal sage scrub dessicates during the summer drought (Campbell *et al.* 1998).

Primary constituent elements include, but are not limited to, the following plant communities: Venturan coastal sage scrub, Diegan coastal sage scrub, maritime succulent scrub, Riversidean sage scrub, Riversidean alluvial fan scrub, southern coastal bluff scrub, and coastal sage-chaparral scrub (Holland 1986; Kirkpatrick and Hutchinson 1977; Westman 1983). Based upon dominant species, these communities have been further divided into series such as black sage, brittlebush, California buckwheat, California buckwheat-white sage, California encelia, California sagebrush, California sagebrush-black sage, California sagebrush-California buckwheat, coast prickly-pear, mixed sage, purple sage, scalebroom, and white sage (Sawyer and Keeler-Wolf 1995). Dominant species within these plant communities include *Artemisia californica, Eriogonum fasciculatum, Encelia californica, Salvia mellifera, S. apiana,* and *S. leucophylla.* Other commonly occurring plants include *Isocoma menziesii* (coast goldenbush), *Viguiera laciniata* (San Diego sunflower), *Baccharis pilularis* (coyote brush), *Baccharis sarothroides* (broom baccharis), *Mimulus aurantiacus* (bush monkeyflower), *Sambucus mexicana* (Mexican elderberry), *Isomeris arborea* (bladderpod), *Lotus scoparius, Malosma laurina* (laurel sumac), *Rhus integrifolia* (lemonadeberry), and *Rhus ovata* (sugarbush). Species such as *Lycium* spp. (boxthorn), *Euphorbia misera* (cliff spurge), *Simmondsia chinensis* (jojoba), and *Opuntia littoralis* (prickly pear), *O. prolifera* (cholla), and *Ferocactus viridescens* (coast barrel cactus), and *Dudleya* spp. (live-forever) are represented in maritime succulent scrub, coast prickly-pear scrub, and southern coastal bluff scrubs. In areas of coastal influence, chamise chaparral has also been documented to support breeding pairs (Campbell *et al.* 1998). Mesic sites dominated by *Baccharis salicifolia* and other Baccharis species such as *Baccharis pilularis* and *Baccharis sarathroides* may also support breeding pairs (Campbell *et al.* 1998).

Criteria Used To Identify Critical Habitat

We considered several qualitative criteria in the selection and proposal of specific areas or units for gnatcatcher critical habitat. Such criteria focused on designating units: (1) Throughout the geographical and elevational range of the species; (2) within various occupied plant communities, such as Venturan coastal sage scrub, Diegan coastal sage scrub, maritime succulent scrub, Riversidean sage scrub, Riversidean alluvial fan scrub, southern coastal bluff scrub, and coastal sage-chaparral scrub; and (3) in documented areas of large, contiguous blocks of occupied habitat (*i.e.*, core population areas); and/or in areas that link core populations areas (*i.e.*, linkage areas). These criteria are similar to criteria used to identify reserve/preserve lands in approved regional HCPs covering the gnatcatcher.

To help predict gnatcatcher occurrences throughout the range of the species, especially in areas with limited survey information, we commissioned a spatial habitat evaluation model incorporating habitat parameters used by the gnatcatcher during the breeding

season. We began with a Geographic Information System (GIS) layer identifying California sagebrush habitats (*e.g.*, Diegan sage scrub, Riversidean sage scrub). We recognize that other habitats are used by coastal California gnatcatchers at various points in their life history, such as riparian and chaparral habitats during foraging or dispersal. However, few breeding territories have been documented in habitats devoid of California sagebrush. Once the vegetation layer was created, ''core'' patches of sagebrush were selected using a minimum patch size of 10 ha (25 ac) in a coastal climate zone, and 20 ha (50 ac) in an inland climate zone (coastal climate zone is defined as having an average January minimum temperature above 5° Celsius (C) (41° Fahrenheit (F)), whereas an inland climate zone is defined as having an average January minimum temperature below 5° C (41° F)). For gnatcatcher habitat within the Maritime and Coastal Climate Zones, a patch size equal to or greater than 25 acres was considered suitable gnatcatcher habitat. For gnatcatcher habitat east of the Maritime and Coastal Climate Zones, a patch size of equal to or greater than 50 acres was used because the density of gnatcatchers generally is lower farther from the coast. Research on home range and territory size indicates that territory size increases with distance from the coast (ERCE 1991, Preston *et al.* 1998); therefore, the model reflects this patch size difference between climate zones. Then, ''satellite'' patches less than 10 ha (25 ac) within 488 m (1600 feet) of ''core'' areas were identified. The 488 m (1600 ft) distance is the distance a bird would have to travel across the landscape to reach a ''core'' area while avoiding developed areas (as established by Mock 1992). The vegetation was then expanded beyond the 488 m (1600 ft) search distance by including sagebrush habitat contiguous to the ''satellite.'' A layer called ''high quality habitat'' was then created by combining ''core'' and ''satellite'' areas. This ''high quality habitat'' was then given a value of 1, while all other areas were given a value of 0.

The second step used a digital elevation model to separate sagebrush by slope. As discussed in the Background section, many studies have suggested that gnatcatchers avoid nesting on very steep slopes (greater than 40 percent). Approximately 93 percent of the documented gnatcatcher sightings in the MSCP/MHCP study areas occur on slopes less than 40 percent (AMEC 2001). Consequently, sagebrush areas with slopes above 40 percent received a value of 0, while areas with slopes less than 40 percent received a value of 1.

Finally, the sagebrush was overlaid with a climate coverage to delimit areas above and below a mean minimum January temperature of 5° C (41° F), and an average rainfall of 33.66 cm (13.25 in). Five degrees C (41° F) was determined to be the threshold where the effects of temperature had an impact on gnatcatcher energetics (Mock 1998). The threshold for precipitation was determined by identifying the precipitation contour that captured 95 percent of the known occurrences. Sagebrush areas that are cold (*i.e.*, below 5° C (41° F)) and wet (*i.e.*, above 33.66 cm rainfall) received a value of 0. Areas that are warm and wet, or cold and dry, received a value of 1. Areas that are warm and dry received a value of 2.

To create the final model, the values for each area are totaled, with possible scores from 0 to 4. Areas with a value of 0 or 1 are considered to be of low quality, areas with a value of 2 of moderate quality, areas with a a value of 3 of high quality, and areas with a value of 4 of very high quality.

This model was run using the vegetation coverage data available from the three southern California Counties that have digital vegetation maps: San Diego, Orange, and Riverside Counties.

After generating the model across the three Counties, we tested it to see if it accurately predicted coastal California gnatcatcher occurrences. We used an independently derived data set of coastal California gnatcatcher occurrences across Orange and San Diego counties (USFWS unpublished). This data set was collected in the summer of 2002 using systematic point counts with a random start, incorporating distance sampling. Over a GIS data layer depicting vegetation types in the two counties, points were randomly placed over all habitats incorporating coastal sagebrush, including coastal sage scrub vegetation types and coastal sage scrub/chaparral ecotone. The sampling protocol included recording weather, vegetation, and coastal California gnatcatcher observations at each point. Coastal California gnatcatcher observations were recorded for a 10 minute data collection period followed by a 2.5 minute period during which a taped call was played twice. A total of 436 points were surveyed during this effort, each between 1 and 4 times.

To test the predictive power of the model, we compared the independent data set of coastal California gnatcatcher points with the model to see what percentage of gnatcatcher points were found to be occupied in each of the four different zones of habitat quality. The test found that 48 percent of the points located in habitat modeled as very high quality were occupied, 28 percent of the points in high quality were occupied, 8 percent of the points in medium quality were occupied, and essentially 0 percent of the points in low quality were occupied. The model was also tested and accepted under the Akaike's Information Criterion (AIC). This statistic is widely used as a measure for comparing the predictive power of constructed models (Burnham and Anderson 1998). Our independent study only sampled gnatcatcher abundance in San Diego and Orange counties, so we could not test the predictive power of the model in Riverside County. Therefore, the model was used as a guide for determining critical habitat only in San Diego and Orange counties.

In all counties within the range of the subspecies, including the counties that we modeled, we first examined those lands identified for conservation under approved regional HCPs covering the coastal California gnatcatcher. These planning efforts utilized habitat evaluation models, coastal California gnatcatcher occurrence data, and reserve design criteria to identify reserve systems of core gnatcatcher populations and linkage areas that are essential for the conservation of the species. Lands within existing designated reserves, preserves, or other conservation lands were determined by us at the time we issued the permits to be essential to the conservation of the species. We have reevaluated those areas and we adhere to our earlier determination that such lands are essential to the conservation of the gnatcatcher.

Those conservation lands considered for critical habitat designation include: (1) Designated reserve system lands within the Orange County NCCP for the Central-Coastal Subregions; (2) designated preserve lands within the County of San Diego Subarea within the San Diego MSCP; (3) designated preserve lands within the City of San Diego Subarea within the San Diego MSCP; and (4) designated preserve lands within the Poway Subarea within the San Diego MSCP. In addition, we considered conservation lands established through other approved HCPs covering the gnatcatcher (*e.g.*, East Coyote Hills HCP, Shell/Metropolitan Water District HCP, Lake Mathews MSHCP and NCCP, Sycamore Canyon HCP, and the HCP for the Southeast Quadrant of the City of Carlsbad (Villages of La Costa)). The boundaries of these existing reserves, preserves, and other conservation lands are mapped

following the most current approved boundaries. Lands outside of existing designated reserves, preserves, or other lands where incidental take has been authorized for the gnatcatcher under section 10(a)(1)(B) of the Act are not proposed as critical habitat. We concluded these lands were not essential to the conservation of the species at the time the permits were issued. We have reviewed those conclusions in developing this revised proposed rule and determined that these conclusions are still valid, and that such lands are not essential to the conservation of the species.

We then evaluated those areas where ongoing regional habitat conservation planning efforts have resulted in the preparation of biological analyses that identify habitat important for the conservation of the gnatcatcher. These include: the Western Riverside County MSHCP, the Rancho Palos Verdes MSHCP, the MHCP, the North County Subarea of the MSCP for unincorporated San Diego County, and the Southern Subregion of Orange County's NCCP. We utilized those biological analyses in concert with data regarding current coastal California gnatcatcher occurrences, sage scrub vegetation, elevation, and connectivity to identify those lands that are essential for the conservation of the coastal California gnatcatcher within the respective planning area boundaries.

Finally, we evaluated other lands for their conservation value for the coastal California gnatcatcher. We delimited a study area by selecting geographic boundaries based on the following: (1) California gnatcatcher occurrences, (2) sage scrub vegetation, (3) elevation, and (4) connectivity to other coastal California gnatcatcher occurrences. We determined conservation value based on the presence of, or proximity to, significant core populations and/or sage scrub, sage scrub habitat quality, parcel or habitat patch size, surrounding land-uses, and potential to support resident coastal California gnatcatchers and/or facilitate movement of birds between known habitat areas.

After determining those specific areas that are biologically essential to the gnatcatcher, we evaluated the areas relative to approved and legally operative individual and regional HCPs, completed and approved INRMPs for DoD lands, and other adequate conservation management plans or agreements. This comparison was conducted to ascertain the extent to which these conservation measures precluded the need to designate critical habitat on those lands based on the management provisions and protections afforded the gnatcatcher and its habitat. As previously discussed, we are not proposing as critical habitat pursuant to sections 3(5)(a) and/or 4(b)(2) lands covered by: (1) Legally operative individual or regional HCPs that cover the coastal California gnatcatcher, (2) a completed and approved INRMP that adequately address the Coastal California gnatcatcher and its habitat, and (3) other appropriate conservation management plans or agreements. Consequently, lands within the boundaries of the Central-Coastal NCCP/HCP, San Diego MSCP, mission-essential training areas on Camp Pendleton; MCAS, Miramar; and Tribal lands of the Pala Band of Mission Indians are not proposed as critical habitat for the gnatcatcher. Maps showing the essential areas considered, but not proposed, are available for public review and comment at the Carlsbad Fish and Wildlife Office (*see* **ADDRESSES** section) or on the Internet at *http://carlsbad.fws.gov.* These maps are provided to allow the public to adequately comment on these exclusions.

Proposed Critical Habitat Units are defined by specific map units. We did not map critical habitat in sufficient detail to exclude all individual developed areas (*e.g.*, structures, roads), other lands unlikely to contain primary constituent elements essential for coastal California gnatcatcher conservation, or lands where incidental take for the gnatcatcher has been authorized under a section 7 biological opinion. Within the delineated critical habitat unit boundaries, only lands containing the primary constituent elements described above, including those lands where primary constituent elements occur through natural successional processes, are considered critical habitat. Existing features and structures within proposed areas, such as buildings, roads, aqueducts, railroads, and other features, do not contain the primary constituent elements. Federal actions limited to these areas, therefore, would not trigger consultation relative to critical habitat under section 7 of the Act unless they affect the species, or affect primary constituent elements in adjacent habitat.

Proposed Critical Habitat Designation

The approximate area of proposed critical habitat by county and land ownership is shown in Table 1. Proposed critical habitat includes gnatcatcher habitat throughout the species' range in the United States (*i.e.*, Los Angeles, Orange, Riverside, San Bernardino, San Diego and Ventura counties, California). Lands proposed are under private, state, and Federal ownership, with Federal lands including lands managed by the Bureau of Land Management (BLM), DoD, Service, and Forest Service. Lands proposed for critical habitat include primary constituent elements for the coastal California gnatcatcher that provide for foraging, nesting, rearing of young, intra-specific communication, roosting, dispersal, genetic exchange, or sheltering (Atwood 1990). Lands proposed include populations throughout the U.S. range of the species in a variety of climatic zones and vegetation types in order to preserve the genetic and behavioral diversity that currently exist within the species. Known movement corridors are also included to allow for demographic and genetic interchange between populations. Lands proposed as critical habitat have been divided into 13 Critical Habitat Units. A brief description of each unit and reasons for proposing it as critical habitat are presented below.

TABLE 1.—APPROXIMATE PROPOSED CRITICAL HABITAT AREA (HA (AC)) BY COUNTY AND LAND OWNERSHIP

[Estimates reflect the total area within critical habitat unit boundaries]

County	Federal *	Local/State	Private	Total
Los Angeles	2,760 ha (6,825 ac)	810 ha (2,010 ac)	27,875 ha (68,900 ac)	31,445 ha (77,735 ac).
Orange	420 ha (1,045 ac)	1,835 ha (4,535 ac)	19,655 ha (48,580 ac)	21,910 ha (54,160 ac).
Riverside	4,345 ha (10,740 ac)	3,535 ha (8,740 ac)	60,890 ha (150,465 ac)	68,770 ha (169,945 ac).
San Bernardino	335 ha (830 ac)	645 ha (1,590 ac)	8,450 ha (20,890 ac)	9,430 ha (23,310 ac).
San Diego	10,490 ha (25,940 ac)	705 ha (1,755 ac)	39,295 ha (97,110 ac)	50,490 ha (124,805 ac).
Ventura	0	0	18,550 ha (45,840 ac)	18,550 ha (45,840 ac).

TABLE 1.—APPROXIMATE PROPOSED CRITICAL HABITAT AREA (HA (AC)) BY COUNTY AND LAND OWNERSHIP—Continued

[Estimates reflect the total area within critical habitat unit boundaries]

County	Federal *	Local/State	Private	Total
Total	18,350 ha (45,380 ac)	7,530 ha (18,630 ac)	174,715 ha (431,785 ac)	200,595 ha (495,795 ac).

* Federal lands include Bureau of Land Management, DoD, National Forest, Tribal, and Fish and Wildlife Service lands.

TABLE 2.—APPROXIMATE PROPOSED CRITICAL HABITAT AREA (HA (AC)), ESSENTIAL AREA, AND EXCLUDED AREA

Area considered essential	307,545 ha (760,075 ac).
Area not included because of special management or protection (MCAS, Miramar)*	2,725 ha (6,740 ac).
Area excluded under 4(b)(2) (Camp Pendleton, preserve lands under the San Diego MSCP and the Orange County Central-Coastal NCCP, and Tribal lands of the Pala Band of Mission Indians).	104,225 ha (257,540 ac).
Proposed Critical Habitat	200,595 ha (495,795 ac).

* Data for individual HCPs are not available.

TABLE 3.—HCPS AND NCCP AREAS WITHIN THE GENERAL AREA CONTAINING THE PROPOSED CRITICAL HABITAT

NCCP/HCP	Planning area	Preserve area
San Diego MSCP	236,000 ha (582,000 ac)	69,573 ha (171,000 ac).
Central-Coastal Orange County NCCP/HCP	84,463 ha (208,713 ac)	15,677 ha (38,738 ac).
Proposed Northwestern San Diego MHCP	453 square kilometers, 175 square miles (111,908 ac).	8,064 ha (19,928 ac).
Proposed Southern Subregion NCCP/HCP Orange County (pending).	51,800 ha (128,000 ac)	5,666 ha (14,000 ac).
Proposed Western Riverside MSHCP	530,000 ha (1.3 million ac)	61,919 ha (153,000 ac).

Unit 1: South San Diego County

Unit 1 encompasses approximately 10,155 ha (25,100 ac) within the MSCP planning area. Lands essential to the conservation of the gnatcatcher within the cities of Chula Vista, El Cajon, and Santee; major amendment areas within the San Diego County Subarea Plan; the Otay-Sweetwater Unit of the San Diego National Wildlife Refuge Complex; and water district lands owned by Sweetwater Authority, Helix Water District, and Otay Water District are included. Lands proposed contain core populations of the species, sage scrub and areas providing connectivity between core populations and sage scrub. Populations in this unit occur in high quality coastal sage scrub and persist in high densities. Lands in the eastern section of this unit are also some of the least fragmented within this portion of the range in the United States and therefore less subject to edge effects which negatively influence habitat quality. Lands in this unit are also located adjacent to the U.S./Mexico border, and populations located there may serve to promote demographic and genetic interchange with populations in Mexico. We have considered, but have not proposed lands within the MSCP, MHPA, and preapproved mitigation areas in the City of San Diego, County of San Diego, La Mesa, and Poway and essential lands on MCAS, Miramar.

Unit 2: Upper San Diego River and El Capitan Linkage

Unit 2 encompasses approximately 6,490 ha (16,075 ac) in the upper San Diego River drainage. This unit includes a core population of coastal California gnatcatchers on the Cleveland National Forest south of State Route 78 near the upper reaches of the San Diego River, as well as canyons and corridors that provide linkages to MHPA lands adjacent to this unit. This population is the easternmost and one of the highest in elevation known. Individuals within this population likely contain unique genetic or behavioral adaptations that allow them to persist, which is likely to be important to the species as environmental conditions change through time. Also included within this unit is City of San Diego lands adjacent to El Capitan Reservoir, which serves as a corridor connecting the adjacent core population on Cleveland National Forest lands to populations located at lower elevations to the west (in Unit 1).

Unit 3: North San Diego County Multiple Habitat Conservation Plan (MHCP)

Unit 3 encompasses approximately 13,140 ha (32,465 ac) within the MHCP planning area in northwestern San Diego County. Included are lands within the cities of Carlsbad, Encinitas, Escondido, Oceanside, San Marcos, Solana Beach, and Vista. Lands proposed contain the last significant coastal California gnatcatcher populations remaining south of Camp Pendleton abutting the coast. Coastal populations have been found to be more dense than inland locales (Preston *et al* 1998). These coastal populations are therefore essential for supporting more inland locales through emigration (*i.e.*, Unit 5). This unit also provides connectivity between core populations at Camp Pendleton (Unit 6), MSCP reserve areas (Unit 1), and populations in northern San Diego County (Unit 5).

Unit 4: Fallbrook Naval Weapons Station

Unit 4 encompasses approximately 3,515 ha (8,690 ac) on Fallbrook Naval Weapons Station in northern San Diego County. This unit contains high quality habitat and a core gnatcatcher population that supports adjacent populations on Camp Pendleton (Unit 6), northern San Diego County (Unit 5), and in southwestern Riverside County (Unit 10). The Santa Margarita River, on the northern boundary of this unit, also functions as an essential linkage connecting coastal populations of coastal California gnatcatchers with inland populations in San Diego and Riverside counties.

Unit 5: North County Subarea of the MSCP for Unincorporated San Diego County

Unit 5 encompasses approximately 14,045 ha (34,705 ac) within the planning area for the North County Subarea of the MSCP for San Diego County. Lands proposed within this unit contain several core coastal California gnatcatcher populations and intervening linkage areas of sage scrub. This unit constitutes the primary inland linkage along the I–15 corridor between San Diego populations and those in southwestern Riverside County (Unit 10). We have considered, but have not proposed occupied high quality habitat on the Pala Indian Reservation. Recent surveys have revealed the existence of a core population on the Pala Indian Reservation. Habitat quality in this area was also depicted as high to very high by the habitat model. This population is located adjacent to a north-south corridor connecting Riverside and San Diego counties, and will likely provide a significant number of dispersing juveniles into this corridor.

Unit 6: Southern NCCP Subregion of Orange County and Marine Corps Base Camp Pendleton

Unit 6 encompasses approximately 17,940 ha (44,340 ac) within the planning area for the Southern NCCP Subregion of Orange County. This unit contains some of the largest, most robust populations known (*e.g.*, Chiquita ridge), as well as essential regional populations (*e.g.*, Prima Deshecha Ca'ada, Talega Canyon) and linkages in Cristianitos Canyon, Arroyo Trabuco, and Saddle Creek/Live Oak Canyon. This unit also provides the primary linkage for core populations in North San Diego MHCP (Unit 3), and the Fallbrook Naval Weapons Station (Unit 4) to those further north in Orange County (Unit 7).

Camp Pendleton contains a coastal corridor of gnatcatcher-occupied sage scrub that provides the primary linkage between San Diego populations and those in southern Orange County. Another corridor of gnatcatcher-occupied sage scrub occurs along the Santa Margarita River valley that branches inland, connecting with habitat in the Fallbrook Naval Weapons Station (Unit 4) and further north into southwestern Riverside County (Unit 10). We are proposing critical habitat in Camp Pendleton on lands determined to be essential, but that are outside of training area boundaries. These areas include lands within the Wire Mountain housing area, De Luz housing area, and State Park lease lands (*e.g,.* San Onofre State Beach).

Unit 7: Central-Coastal NCCP Subregions of Orange County (Central-Coastal NCCP)

Unit 7 encompasses approximately 2,340 ha (5,775 ac) within the Orange County Central-Coastal NCCP planning area. It includes core gnatcatcher populations and sage scrub habitat within select Existing Use Areas, portions of the Irvine Ranch Land Reserve, and the designated reserve (panhandle portion) of the El Toro Reuse Area. These areas contain high quality habitat and dense populations of gnatcatchers that link populations located in southern Orange County (Unit 6) with those in northern Orange and Riverside counties (Units 9 and 10).

Unit 8: Palos Verdes Peninsula Subregion, Los Angeles County

Unit 8 encompasses approximately 2,895 ha (7,160 ac) within and adjacent to the subregional planning area for the Palos Verdes Peninsula in Los Angeles County, including the City of Rancho Palos Verdes MSHCP area. This unit includes a core population of coastal California gnatcatchers and high quality sage scrub habitat in Portuguese Bend, Agua Amarga Canyon, Defense Fuel Support Point, San Pedro, and adjacent canyons, as well as connecting linkages. The former landfill adjacent to the South Coast Botanic Garden does not currently contain habitat and is not proposed as critical habitat, yet it will continue to be evaluated as it represents a significant potential restoration area for the recovery of this population.

Unit 9 : East Los Angeles County-Matrix NCCP Subregion of Orange County

Unit 9 encompasses approximately 9,140 ha (22,595 ac) within the Montebello Hills, Puente-Chino Hills, and East and West Coyote Hills areas. Core populations are known from the Montebello Hills, south slopes of the Puente-Chino Hills from Whittier east to Yorba Linda, and the East and West Coyote Hills. The Brea Canyon Landfill is not proposed as critical habitat, but it represents a significant potential restoration area to support these remaining populations. The unit also provides the primary connectivity between core gnatcatcher populations and sage scrub habitat within the Central-Coastal Subregions of the Orange County NCCP (Unit 7), the Western Riverside County MSHCP (Unit 10), and the Bonelli Regional Park core population within the East Los Angeles (Unit 12).

Unit 10: Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP)

Unit 10 encompasses approximately 71,505 ha (176,720 ac) within the proposed planning area for the Western Riverside County MSHCP. Lands proposed include important linkages from San Diego County core populations along the Santa Margarita River and Warm Springs Creek, and core populations within the Lake Skinner/Diamond Valley region and the Lake Elsinore/Lake Mathews region. Also proposed are core populations that occur along the I–15 corridor, in the Lake Perris area, in the Alessandro Heights area, in the Box Spring Mountains, and along the foothills of the Santa Ana Mountains connecting into the Chino-Puente Hills. These areas also provide connectivity among core populations within Riverside County and to populations in San Diego, San Bernardino, Orange, and Los Angeles counties. Unit 10 encompasses some of the Core Reserves established under the Stephens' Kangaroo Rat HCP. The Lake Mathews/Estelle Mountain, Steele Peak, Lake Perris/San Jacinto Core Reserves, the Potrero Area of Critical Environmental Concern, and the Southwestern Riverside County Multi-Species Reserve provide high quality habitat for the coastal California gnatcatcher. Lands proposed as critical habitat within Unit 10 are generally encompassed by the Criteria Area (from which the future preserve area will be delineated) designated as part of the MSHCP. Areas proposed outside of the Criteria Area are consistent with those designated in the previous final designation of critical habitat (65 FR 63680). Lands designated outside of Criteria Areas include the Alessandro Heights, which is essential for maintaining linkages with populations in southern San Bernardino County, and the eastern slope of the Santa Ana Mountains, which is an essential linkage to the Puente-Chino Hills and central Orange County (Units 7 and 9). This unit incorporates habitat in the vicinity of Aguanga that is one of three locations in the range of the species, and the only location in the United States, where the California gnatcatcher co-occurs with its sister species, the Black-tailed gnatcatcher (*Polioptila melanura*; Weaver 1998; Atwood 1988). Maintaining these areas of sympatry (overlapping occupation) are important for reinforcing reproductive isolating mechanisms such as habitat preferences and vocalizations that prevent hybridization between the two species (Weaver 1998, Atwood 1988). This unit

also incorporates high-quality coastal sage scrub south and east of Diamond Valley Reservoir that has been shown to be resistant to type conversion to non-native grassland, probably due to the prevalence of gabbro-basalt soils in this area (Minnich and Dezzani 1998). The coastal sage scrub in this region therefore has the highest probability of resisting type conversion in the future, and therefore has the greatest potential to maintain diverse, high quality coastal sage scrub vegetation through time. This unit also encompasses contiguous habitats in southern San Bernardino County, including core populations in the Jurupa Hills, and the Blue Mountain/Reche Canyon region. The Santa Ana River appears to be an important movement corridor in this area, connecting the Jurupa and La Loma Hills to populations in the Box Springs Mountains, as well as to the few pairs known from the Pedley Hills and Norco Hills. Though a few coastal California gnatcatchers have been observed from the upper Santa Ana River wash in the vicinity of Highland, we do not yet have evidence that this area constitutes a core population.

Unit 11: San Bernardino Valley MSHCP, San Bernardino County

Unit 11 encompasses approximately 6,065 ha (14,990 ac) along the foothills of the San Gabriel Mountains in the Etiwanda Fan and Lytle and Cajon Washes. The core populations in these alluvial fans utilize a unique habitat type at the northern extent of their inland range. The vegetation mosaic of the Etiwanda fan is complex and consists of Riversidian alluvial fan sage scrub in the active floodplains of the major washes, and Riversidian sage scrub on the alluvial fan between major washes. These habitats are interspersed with stands of *Quercus dumosa* (scrub oak), *Ceanothus leucodermis* (white buckthorn), *Cercocarpus betuloides* (mountain mahogany), *Garrya* ssp. (silktassel), *Rhamnus* spp. (buckthorn), and *Rhus ovata* (sugarbush). The species' persistence in these unique habitat types may be due to unique genetic or behavioral adaptations that may be important to the species as environmental conditions change through time (Lesica and Allendorf 1995). Linkages from these populations to more southerly portions of the range may include the foothills of the San Gabriel Mountains to the west and the San Bernardino Mountains to the east, however these linkages have yet to be confirmed.

Unit 12: East Los Angeles County

Unit 12 encompasses approximately 1,570 ha (3,890 ac) in eastern Los Angeles County in Bonelli Regional Park and along the San Jose Hills to the west. This unit functions as an archipelago of persistent populations toward the northern end of the range of the species, and is a likely source population for the pairs that are reported from the foothills of the San Gabriel mountains north of the Los Angeles basin. Disturbed and vacant areas within Bonelli Regional Park and the BKK landfill at the western end of the San Jose Hills represent the last available vacant land for restoration of habitat to recover the species in this unit. Isolated habitat patches between this unit and the East Los Angeles County-Matrix NCCP Subregion of Orange County (Unit 9), are not included, but may serve to maintain connectivity. This unit does not include a potential movement corridor along the foothills of the San Gabriel Mountains towards the Etiwanda Fan (Unit 11) as we do not currently have evidence of movement through this area.

Unit 13: Western Los Angeles and Ventura Counties

Unit 13 encompasses approximately 41,795 ha (103,290 ac) in eastern Ventura and western Los Angeles counties along the southern and eastern slopes of the Santa Susana Mountains and a portion of the interior foothills of the San Gabriel Mountains. It includes the only known breeding population of coastal California gnatcatchers in Ventura County and incorporates high quality coastal sage scrub in the Placerita, Box Springs Canyon, Plum Canyon, and Moorpark areas. Its primary function is as a regional source population for the species and as the east-west linkage of sage scrub habitat between the core population in Ventura county and the pairs documented in the foothills of the San Gabriel Mountains. This unit encompasses the northern and western distributional extreme of the coastal California gnatcatcher's current range, and as such would act as a source population for any future recovery of gnatcatcher populations to the north and west. Peripheral populations are also important in that they may contain unique genetic or behavioral adaptations that may be important to the species as environmental conditions change through time (Lesica and Allendorf 1995).

Effects of Critical Habitat Designation

Section 7 Consultation

Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. 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. 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) of the Act requires Federal agencies to ensure that actions 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 (action agency) must enter into consultation with us. Through this consultation we would ensure that the permitted actions do not adversely modify critical habitat.

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid 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. 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.

Activities on Federal lands that may affect the coastal California gnatcatcher or its critical habitat will require section 7 consultation. Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the U. S. Army Corps of Engineers (Army Corps) under section 404 of the Clean Water Act, or some other Federal action, including funding (*e.g.*, Federal Highway Administration, Federal Aviation Authority, or Federal Emergency Management Agency) will also continue to 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.

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) of the Act and to the regulatory protections afforded by the jeopardy standard in section 7(a)(2) of the Act and the prohibitions of section 9 of the Act. 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, HCPs, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Section 4(b)(8) of the Act requires us to evaluate briefly 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, when carried out, funded, or authorized by a Federal agency, may directly or indirectly destroy or adversely modify critical habitat of the coastal California gnatcatcher include, but are not limited to the following:

(1) Removing, thinning, or destroying gnatcatcher habitat (as defined in the primary constituent elements discussion), whether by burning or mechanical, chemical, or other means (*e.g.*, woodcutting, grubbing, grading, overgrazing, construction, road building, mining, herbicide application, etc.); and

(2) Activities that cause indirect effects that appreciably decrease habitat value or quality (*e.g.*, activities that create or foster noise, edge effects, invasion of exotic plants or animals, or fragmentation such that it appreciably decreases habitat value or quality).

Designation of critical habitat could affect the following agencies and/or actions: development on private lands requiring permits from Federal agencies, such as authorization from the Corps, pursuant to section 404 of the Clean Water Act, or a section 10(a)(1)(B) permit from the Service, or some other Federal action that includes Federal funding that will subject the action to the section 7 consultation process (*e.g.*, from the Federal Highway Administration, Federal Emergency Management Agency, or the Department of Housing and Urban Development); military activities of the DoD on its lands or lands under its jurisdiction; the release or authorization of release of biological control agents by the U.S. Department of Agriculture; regulation of activities affecting point source pollution discharges into waters of the United States by the Environmental Protection Agency under section 402 of the Clean Water Act; construction of communication sites licensed by the Federal Communications Commission; and authorization of Federal grants or loans. Where Federally listed wildlife species occur on private lands proposed for development, any HCPs submitted by the applicant to secure an incidental take permit pursuant to section 10(a)(1)(B) of the Act would be subject to the section 7 consultation process, a process that would consider all Federally-listed species affected by the HCP, including plants.

If you have questions regarding whether specific activities will likely constitute adverse modification of critical habitat, contact the Field Supervisor, Carlsbad Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT** 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, Portland Regional Office, 911 NE. 11th Avenue, Portland, OR 97232–4181 (503/231–6131, FAX 503/231–6243).

Relationship to the 4(d) Special Rule for the Gnatcatcher

On December 10, 1993, a final special rule concerning take of the coastal California gnatcatcher was published pursuant to section 4(d) of the Act (58 FR 63088). Under the 4(d) special rule, incidental take of the species is not considered to be a violation of section 9 of the Act if: (1) Take results from activities conducted pursuant to the NCCP and in accordance with an approved NCCP plan for the protection of coastal sage scrub, prepared consistent with the State of California's Conservation and Process Guidelines (Guidelines) dated November 1993; and (2) the Service issues written concurrence that the plan meets the standards for issuance of an incidental take permit under 50 CFR 17.32(b)(2). Within enrolled subregions actively engaged in the preparation of an NCCP plan, the take of gnatcatchers will not be a violation of section 9 of the Act if such take results from activities conducted in accordance with the Guidelines. The Guidelines limit habitat loss during the interim planning period to no more than 5 percent of coastal sage scrub with lower long-term conservation potential in existence at the time of adoption of the 4(d) special rule.

The Guidelines specify criteria to evaluate the long-term conservation potential of sage scrub that is proposed for loss during the period that NCCP plans are being developed to assist participating jurisdictions in providing interim protection for areas that support habitat that is likely to be important to conservation of the gnatcatcher. These jurisdictions are: the Southern and Matrix subregions of Orange County; the cities of Rancho Palos Verdes and San Dimas in Los Angeles County; MSCP subareas in the cities of Santee, El Cajon, Chula Vista, and Coronado; the MHCP Subregion of northwestern San Diego County; the North County Subarea of San Diego's MSCP; San

Diego County's MHCOSP; and six water districts in San Diego County.

We intend that participating jurisdictions will be able to continue to apply the 4(d) special rule within designated critical habitat and to issue Habitat Loss Permits, with the joint concurrence of us and the California Department of Fish and Game (CDFG), provided the jurisdictions are actively working to complete their subarea plans and adhere to the Guidelines. To be consistent with the Guidelines, the jurisdictions must find, and we and CDFG must concur, that:

(1) The proposed habitat loss is consistent with the interim loss criteria in the Guidelines and with any subregional process if established by the subregion:

(a) the habitat loss does not cumulatively exceed the 5 percent guideline;

(b) the habitat loss will not preclude connectivity between areas of high habitat values;

(c) the habitat loss will not preclude or prevent the preparation of the subregional NCCP; and

(d) the habitat loss has been minimized and mitigated to the maximum extent practicable in accordance with section 4.3 of the Guidelines.

(2) The habitat loss will not appreciably reduce the likelihood of the survival and recovery of listed species in the wild.

(3) The habitat loss is incidental to otherwise lawful activities.

Because, in addition to avoiding jeopardy to the coastal California gnatcatcher, the Guidelines restrict interim habitat loss allowed under the 4(d) rule to areas with low long-term conservation potential that will not preclude development of adequate NCCP plans and that will not adversely impact connectivity between areas of high habitat value, we believe that allowing a small percentage of habitat loss that could potentially occur within designated critical habitat pursuant to the 4(d) rule is not likely to adversely modify or destroy critical habitat by appreciably reducing its value for both the survival and recovery of the species. When we make a final critical habitat determination, we will prepare a new biological opinion on the 4(d) rule to formally evaluate the effects of the rule on designated critical habitat.

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, Division of Endangered Species, 911 NE. 11th Ave., Portland, OR 97232 (telephone 503–231–2063, facsimile 503–231–6143).

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 complete an economic analysis for this proposal prior to a final determination. When completed, we will announce the availability of the draft economic analysis with a notice in the **Federal Register**, and we will open a 30-day comment period at that time.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will solicit the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure listing decisions are based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the 60-day comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final determination may differ from this proposal.

Public Hearings

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. Such requests must be made in writing and be addressed to the Field Supervisor (see **ADDRESSES** section). We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of the 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? (5) What else could we do to make this proposed rule easier to understand?

Send a copy of any comments that concern how we could make this notice easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to this address: *Exsec@ios.doi.gov.*

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule and was reviewed by the Office of Management and Budget (OMB). The Service is preparing a draft economic analysis of this proposed action. The Service will use this analysis to meet the requirement of section 4(b)(2) of the Act to determine the economic consequences of designating the specific areas as critical habitat and excluding any area from critical habitat if it is determined that the benefits of such exclusion outweigh the benefits of inclusion, unless failure to designate such area as critical habitat will lead to the extinction of the coastal California gnatcatcher. This analysis will be available for public comment before finalizing this designation. The availability of the draft economic analysis will be announced in the **Federal Register**.

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

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small

entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic effect on a substantial number of small entities. SBREFA also amended the RFA to require a certification statement. In the final rule, we anticipate being able to certify that the critical habitat designation for the coastal California gnatcatcher will not have a significant economic impact on a substantial number of small entities. The following discussion explains our rationale.

Small entities include small organizations, such as independent nonprofit organizations and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule, as well as the types of project modifications that may result.

SBREFA does not explicitly define either ''substantial number'' or ''significant economic impact.'' Consequently, to assess whether a ''substantial number'' of small entities is affected by this designation, this analysis considers the relative number of small entities likely to be impacted in the area. Similarly, the analysis considers the relative cost of compliance on the revenues/profit margins of small entities in determining whether or not entities incur a ''significant economic impact.'' Only small entities that are expected to be directly affected by the designation are considered in this portion of the analysis. This approach is consistent with several judicial opinions related to the scope of the RFA. (*Mid-Tex Electric Co-Op, Inc.* v. *F.E.R.C.* and *American Trucking Associations, Inc.* v. *EPA*).

To determine if a rule would affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (*e.g.*, housing development, grazing, oil and gas production, timber harvesting, etc.). We apply the ''substantial number'' test individually to determine if certification is appropriate. In some circumstances, especially with proposed critical habitat designations of very limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation.

In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement. Designation of critical habitat has the potential to affect activities conducted, funded, or permitted by Federal agencies. In areas where the species is present, Federal agencies are already required to consult with us under section 7 of the Act on activities that they fund, permit, or implement that may affect the coastal California gnatcatcher. Federal agencies must also consult with us if their activities may affect designated critical habitat. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation.

As required under section 4(b)(2) of the Act, we are preparing a draft analysis of the potential economic impacts of this proposed critical habitat designation. An early version of our draft analysis provides an estimate of the number of small entities potentially affected by the proposed designation of critical habitat for the coastal California gnatcatcher. The analysis conservatively examines total estimated section 7 costs by including both coextensive costs and those solely attributable to critical habitat designation. According to the draft analysis, section 7 implementation for the coastal California gnatcatcher is likely to affect small businesses in the land development and real estate industry and small governments. Approximately 12 small businesses in the land development and real estate industry are affected annually, which represents less than one percent of the total number of small businesses in the industry for the study area. These small businesses are likely to experience impacts equivalent to about 4 percent of their per-business annual gross revenue. For the small governments in the study area, less than one agency is likely to be affected annually, which represents about two percent of the total number of small governments in the study area. Affected small governments are likely to experience impacts equivalent to less than one percent of the median revenue of small governments in the study area.

In summary, we have concluded that this proposed rule would not result in a significant economic effect on a substantial number of small entities. Therefore, we are certifying that the proposed designation of critical habitat for the coastal California gnatcatcher will not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required.

This discussion is based upon the information regarding potential economic impact that is available to us at this time. This assessment of economic effect may be modified prior to final rulemaking based upon development and review of the draft economic analysis prepared pursuant to section 4(b)(2) of the Act and E.O. 12866.

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

A preliminary version of our draft economic analysis indicates that designation of critical habitat will cause an effect on the economy of approximately $124 million per year. It does not indicate that this designation will cause: (a) Any increases in costs or prices for consumers; individual industries; Federal, State, 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.

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 only be affected to the extent that any Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat. However, these actions are currently subject to equivalent restrictions through the listing protections of the species, and no further restrictions are anticipated.

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

Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of proposing to designate approximately 289,850 ha (716,345 ac) of lands in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties, California, as critical habitat for the coastal California gnatcatcher in a takings implications assessment. This assessment concludes that this proposed rule does not pose significant takings implications.

The proposed designation of critical habitat affects only Federal action agencies. The rule will not increase or decrease the current restrictions on private property concerning take of the gnatcatcher. Because of current public knowledge of the species protection, the prohibition against take of the species both within and outside of the designated areas, and the fact that critical habitat provides no incremental restrictions, 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, resulting from the perception that critical habitat designation may impose additional regulatory burdens on land use, we expect any such impacts to be short term. Additionally, critical habitat designation does not preclude development of HCPs and issuance of incidental take permits. Landowners in areas that are included in the designated critical habitat will continue to have the opportunity to utilize their property in ways consistent with the survival of the gnatcatcher.

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 within the geographic range occupied by the gnatcatcher 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 this definition and identification does not alter where and what Federally sponsored activities may occur, it may assist these local governments in long range planning (rather than waiting for case by case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We designate critical habitat in accordance with the provisions of the Endangered Species Act. The determination 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 gnatcatcher.

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.

National Environmental Policy Act

We have determined that an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining our reason for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244). This final determination does not constitute a major Federal action significantly affecting the quality of the human environment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) 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 Tribal lands essential for the conservation of the gnatcatcher because they do support core gnatcatcher populations and provide high quality habitat for this species. We will be coordinating with the Pala Band of Mission Indians.

References Cited

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

Author. The primary author of this notice is the Carlsbad Fish and Wildlife Office (see **ADDRESSES** section)

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, 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. In § 17.95, revise the entry for the coastal California gnatcatcher (*Polioptila californica californica*) under paragraph (b) as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(b) Birds.

* * * * *

Coastal California gnatcatcher (*Polioptila californica californica*)

(1) Critical Habitat Units are depicted for Los Angeles, Orange, Riverside, San Bernardino, and San Diego counties, California, on the maps below.

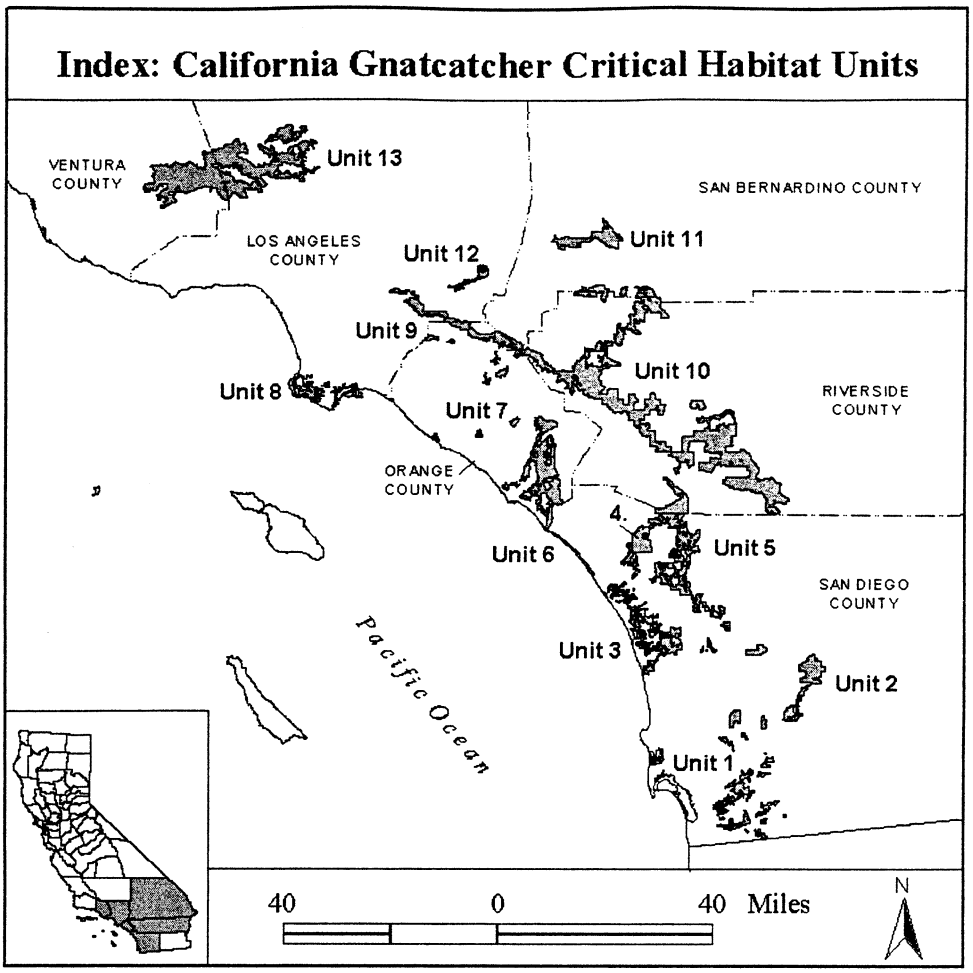
(2) The primary constituent elements for the coastal California gnatcatcher are those habitat components that are

essential for the primary biological needs of foraging, nesting, rearing of young, intra-specific communication, roosting, dispersal, genetic exchange, or sheltering (Atwood 1990). Primary constituent elements are provided in undeveloped areas, which support or have the potential to support, through natural successional processes (*e.g.*, post-fire recovery), various types of sage scrub or chaparral, grassland, and riparian habitats where they may be utilized for biological needs such as breeding, foraging, or dispersal (Atwood *et al.* 1998, Campbell *et al.* 1998). Primary constituent elements associated with the biological needs of dispersal are also found in undeveloped areas that provide or could provide connectivity or linkage between larger core areas, including open space and ruderal (weedy areas that contain introduced plant species) disturbed areas that may receive only periodic use. Probable dispersing individuals have been documented in vegetation dominated by such species as *Brassica* spp. (wild mustard), annual grasses, *Salsola tragus* (russian thistle), *Baccharis salicifolia* (mule fat), *Salix* spp. (willow), and *Tamarix* spp. (salt cedar) (Campbell *et al.* 1998). Some of these species may also be used seasonally by territorial birds because coastal sage scrub dessicates during the summer drought (Campbell *et al.* 1998).

Primary constituent elements include, but are not limited to, the following plant communities: Venturan coastal sage scrub, Diegan coastal sage scrub, maritime succulent scrub, Riversidean sage scrub, Riversidean alluvial fan scrub, southern coastal bluff scrub, and coastal sage-chaparral scrub (Holland 1986, Kirkpatrick and Hutchinson 1977, Westman 1983). Based upon dominant species, these communities have been further divided into series such as black sage, brittlebush, California buckwheat, California buckwheat-white sage, California encelia, California sagebrush, California sagebrush-black sage, California sagebrush-California buckwheat, coast prickly-pear, mixed sage, purple sage, scalebroom, and white sage (Sawyer and Keeler-Wolf 1995). Dominant species within these plant communities include *Artemisia californica, Eriogonum fasciculatum, Encelia californica, Salvia mellifera, S. apiana,* and *S. leucophylla.* Other commonly occurring plants include *Isocoma menziesii* (coast goldenbush), *Viguiera laciniata* (San Diego sunflower), *Baccharis pilularis* (coyote brush), *Baccharis sarothroides* (broom baccharis), *Mimulus aurantiacus* (bush monkeyflower), *Sambucus mexicana* (Mexican elderberry), *Isomeris arborea* (bladderpod), *Lotus scoparius, Malosma laurina* (laurel sumac), *Rhus integrifolia* (lemonadeberry), and *Rhus ovata* (sugarbush). Species such as *Lycium* spp. (boxthorn), *Euphorbia misera* (cliff spurge), *Simmondsia chinensis* (jojoba), and *Opuntia littoralis* (prickly pear), *O. prolifera* (cholla), and *Ferocactus viridescens* (coast barrel cactus), and *Dudleya* spp. (live-forever), are represented in maritime succulent scrub, coast prickly-pear scrub, and southern coastal bluff scrubs. In areas of coastal influence, chamise chaparral has also been documented to support breeding pairs (Campbell *et al.* 1998). Mesic sites dominated by *Baccharis salicifolia* and other Baccharis species such as *Baccharis pilularis* and *Baccharis sarathroides* may also support breeding pairs (Campbell *et al.* 1998).

(3) Critical habitat does not include lands outside of existing designated reserves, preserves, or other conservation lands where incidental take has been authorized, as of the date of this rule, for the coastal California gnatcatcher under section 7(a)(2) and 10(a)(1)(B) of the Act because these lands are not essential to the conservation of the species.

(4) **Note:** Index Map follows:



(5) *Unit 1*: South San Diego County, California.

(i) From USGS 1:100,000 quadrangle maps San Diego and El Cajon, California, lands within County of San Diego Major Amendment areas excluding the San Diego National Wildlife Refuge Otay-Sweetwater Unit (SDNWR).

Land bounded by the following UTM NAD27 coordinates (E, N): 501000, 3635300; 500800, 3635300; 500800, 3635700; 500700, 3635700; 500700, 3635500; 500600, 3635500; 500600, 3635400; 500400, 3635400; 500400, 3635300; 500300, 3635300; 500300, 3638200; 500400, 3638200; 500400, 3638400; 500500, 3638400; 500500, 3638500; thence west to the MCAS, Miramar (MCASM) boundary at UTM y-coordinate 3638500; thence northeast along MCASM boundary to y-coordinate 3640400; thence east and following coordinates: 502000, 3640400; 502000, 3640100; 502200, 3640100; 502200, 3640200; 502700, 3640200; 502700, 3640300; 503200, 3640300; 503200, 3640400; 503600, 3640400; 503600, 3636300; 503500, 3636300; 503500, 3636400; 502900, 3636400; 502900, 3636600; 502800, 3636600; 502800, 3636800; 502700, 3636800; 502700, 3637200; 502000, 3637200; 502000, 3636200; 501600, 3636200; 501600, 3635600; 501700, 3635600; 501700, 3635200; 501600, 3635200; 501600, 3635100; 501300, 3635100; 501300, 3635000; 501000, 3635000; returning to 501000, 3635300; excluding land bounded by 501000, 3635300; 501100, 3635300; 501100, 3635400; 501000, 3635400; 501000, 3635300.

Land bounded by the following UTM NAD27 coordinates (E, N): 510300, 3638600; 510700, 3638600; 510700, 3637400; 510900, 3637400; 510900, 3637500; 511000, 3637500; 511000, 3637600; 511200, 3637600; 511200, 3637700; 511500, 3637700; 511500, 3637000; 511400, 3637000; 511400, 3636900; 511300, 3636900; 511300, 3636700; 511200, 3636700; 511200, 3636600; 511000, 3636600; 511000, 3636500; 511100, 3636500; 511100, 3636400; 511200, 3636400; 511200, 3636300; 511300, 3636300; 511300, 3636100; 511600, 3636100; 511600, 3636000; 511700, 3636000; 511700, 3635200; 511600, 3635200; 511600, 3635100; 511400, 3635100; 511400, 3635000; 511200, 3635000; 511200, 3634900; 511000, 3634900; 511000, 3634800; 510900, 3634800; 510900, 3634700; 510700, 3634700; 510700, 3634600; 510000, 3634600; 510000, 3634900; 509800, 3634900; 509800, 3635400; 510000, 3635400; 510000, 3637200; 510100, 3637200; 510100, 3638500; 510300, 3638500; returning to 510300, 3638600.

Land bounded by the following UTM NAD27 coordinates (E, N): 505000, 3633600; 505300, 3633600; 505300, 3632800; 505400, 3632800; 505400, 3632700; 505500, 3632700; 505500, 3632500; 505600, 3632500; 505600, 3632400; 505700, 3632400; 505700, 3632000; 505800, 3632000; 505800, 3631900; 505900, 3631900; 505900, 3631500; 505600, 3631500; 505600, 3631600; 505300, 3631600; 505300, 3631700; 505200, 3631700; 505200, 3631800; 505000, 3631800; 505000, 3632200; 504100, 3632200; 504100, 3633500; 504400, 3633500; 504400, 3633400; 504500, 3633400; 504500, 3633500; 504600, 3633500; 504600,

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Lands bounded by the following UTM NAD27 coordinates (E, N): 498600, 3631900; 498600, 3632000; 498700, 3632000; 498700, 3632200; 499200, 3632200; 499200, 3632500; 499500, 3632500; 499500, 3632400; 499600, 3632400; 499600, 3632200; 499700, 3632200; 499700, 3631500; 499800, 3631500; 499800, 3631400; 499900, 3631400; 499900, 3631300; 500000, 3631300; 500000, 3630800; 499700, 3630800; 499700, 3631100; 499400, 3631100; 499400, 3630800; 499300, 3630800; 499300, 3630500; 499200, 3630500; 499200, 3630600; 499100, 3630600; 499100, 3630700; 498900, 3630700; 498900, 3630800; 498800, 3630800; 498800, 3630900; 498700, 3630900; 498700, 3631000; 498500, 3631000; 498500, 3631100; 498400, 3631100; 498400, 3631200; 498300, 3631200; 498300, 3631300; 498100, 3631300; 498100, 3631400; 498000, 3631400; 498000, 3631500; 497900, 3631500; 497900, 3631600; 497700, 3631600; 497700, 3631700; 497600, 3631700; 497600, 3631800; 497500, 3631800; 497500, 3631900; 497400, 3631900; 497400, 3632000; 497200, 3632000; 497200, 3632100; 497100, 3632100; 497100, 3632200; 497000, 3632200; 497000, 3632500; 497700, 3632500; 497700, 3632300; 497600, 3632300; 497600, 3632100; 497700, 3632100; 497700, 3632000; 497900, 3632000; 497900, 3631900; 498000, 3631900; 498000, 3632000; 498100, 3632000; 498100, 3632100; 498200, 3632100; 498200, 3632300; 498500, 3632300; 498500, 3631900; returning to 498600, 3631900; excluding land bounded by 498600, 3631900; 498600, 3631700; 498700, 3631700; 498700, 3631900; 498600, 3631900; and land bounded by 499200, 3632200; 499200, 3632100; 499300, 3632100; 499300, 3632200; 499200, 3632200.

Land bounded by the following UTM NAD27 coordinates (E, N): 500700, 3630700; 500700, 3630900; 500900, 3630900; 500900, 3631100; 501100, 3631100; 501100, 3630800; 501200, 3630800; 501200, 3630600; 501300, 3630600; 501300, 3630500; 501200, 3630500; 501200, 3630400; 501300, 3630400; 501300, 3629900; 501400, 3629900; 501400, 3629700; 501300, 3629700; 501300, 3629600; 501500, 3629600; 501500, 3629400; 501100, 3629400; 501100, 3629500; 501000, 3629500; 501000, 3629800; 501100, 3629800; 501100, 3630400; 500900, 3630400; 500900, 3630200; 501000, 3630200; 501000, 3629900; 500800, 3629900; 500800, 3629800; 500600, 3629800; 500600, 3630000; 500500, 3630000; 500500, 3629700; 500200, 3629700; 500200, 3630000; 500100, 3630000; 500100, 3630600; 500300, 3630600; 500300, 3630800; 500600, 3630800; 500600, 3630700; returning to 500700, 3630700; excluding land bounded by 500800, 3630600; 500800, 3630500; 500900, 3630500; 500900, 3630600; 500800, 3630600; land bounded by 500500, 3630000; 500500, 3630200; 500400, 3630200; 500400, 3630000; 500500, 3630000; land bounded by; 500700, 3630700; 500700, 3630600; 500800, 3630600; 500800, 3630700; 500700, 3630700; and land bounded by 500300, 3630600; 500300, 3630300; 500400, 3630300; 500400, 3630400; 500600, 3630400; 500600, 3630500; 500500, 3630500; 500500, 3630600; 500300, 3630600.

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Land bounded by the following UTM NAD27 coordinates (E, N): 501400, 3628600; 501700, 3628600; 501700, 3628500; 501800, 3628500; 501800, 3628400; 501900, 3628400; 501900, 3628200; 501700, 3628200; 501700, 3628000; 501400, 3628000; 501400, 3628300; 501300, 3628300; 501300, 3628500; 501400, 3628500; returning to 501400, 3628600.

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Land bounded by the following UTM NAD27 coordinates (E, N): 504100, 3618800; 504200, 3618800; 504200, 3618300; 504100, 3618300; 504100, 3617900; 503500, 3617900; 503500, 3618000; 503300, 3618000; 503300, 3617900; 503000, 3617900; 503000, 3618000; 502400, 3618000; 502400, 3617900; 502300, 3617900; 502300, 3617800; 502000, 3617800; 502000, 3618100; 502100, 3618100; 502100, 3618300; 502200, 3618300; 502200, 3618400; 502700, 3618400; 502700, 3618500; 503100, 3618500; 503100, 3618600; 503200, 3618600; 503200, 3618400; 503500, 3618400; 503500, 3618300; 503700, 3618300; 503700, 3618200; 503800, 3618200; 503800, 3618300; 503900, 3618300; 503900, 3618400; 504000, 3618400; 504000, 3618600; 504100, 3618600; returning to 504100, 3618800.

Land bounded by the following UTM NAD27 coordinates (E, N): 504000, 3616300; 504500, 3616300; 504500, 3616200; 504900, 3616200; 504900, 3615400; 505600, 3615400; 505600, 3615800; 506500, 3615800; 506500, 3615500; 506300, 3615500; 506300, 3615300; 506200, 3615300; 506200, 3615200; 506100, 3615200; 506100, 3615100; 505900, 3615100; 505900, 3615300; 505600, 3615300; 505600, 3615100; 505500, 3615100; 505500, 3615000; 505300, 3615000; 505300, 3615100; 505100, 3615100; 505100, 3615200; 505000, 3615200; 505000, 3615100; 504900, 3615100; 504900, 3614100; 504600, 3614100; 504600, 3614600; 504500, 3614600; 504500, 3615600; 504400, 3615600; 504400, 3615800; 504200, 3615800; 504200, 3615600; 504100, 3615600; 504100, 3615100; 504000, 3615100; 504000, 3615000; 503900, 3615000; 503900, 3614900; 503800, 3614900; 503800, 3614800; 503900, 3614800; 503900, 3614600; 503800, 3614600; 503800, 3614400; 503700, 3614400; 503700, 3614200; 503400, 3614200; 503400, 3614000; 503200, 3614000; 503200, 3613600; 502900, 3613600; 502900,

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Land bounded by the following UTM NAD27 coordinates (E, N): 500100, 3615200; 500300, 3615200; 500300, 3615000; 500400, 3615000; 500400, 3614700; 500500, 3614700; 500500, 3614400; 500600, 3614400; 500600, 3614200; 500700, 3614200; 500700, 3614100; 500800, 3614100; 500800, 3614000; 501000, 3614000; 501000, 3614100; 501100, 3614100; 501100, 3614400; 501000, 3614400; 501000, 3614800; 501200, 3614800; 501200, 3614600; 501500, 3614600; 501500, 3614500; 501400, 3614500; 501400, 3614400; 501500, 3614400; 501500, 3614300; 502000, 3614300; 502000, 3613900; 502100, 3613900; 502100, 3613600; 502000, 3613600; 502000, 3613500; 502100, 3613500; 502100, 3613400; 502200, 3613400; 502200, 3613100; 502000, 3613100; 502000, 3613300; 501700, 3613300; 501700, 3613100; 501500, 3613100; 501500, 3613200; 501300, 3613200; 501300, 3613300; 500900, 3613300; 500900, 3613100; 501000, 3613100; 501000, 3613000; 500700, 3613000; 500700, 3613100; 500500, 3613100; 500500, 3613200; 500400, 3613200; 500400, 3613700; 500300, 3613700; 500300, 3614000; 500200, 3614000; 500200, 3614200; 500100, 3614200; 500100, 3614400; 500000, 3614400; 500000, 3614800; 499900, 3614800; 499900, 3615100; 500100, 3615100; returning to 500100, 3615200.

Land bounded by the following UTM NAD27 coordinates (E, N): 506000, 3614700; 506500, 3614700; 506500, 3614500; 506000, 3614500; 506000, 3614700; ,; 20,; 506000, 3614400; 506200, 3614400; 506200, 3614200; 506100, 3614200; 506100, 3614100; 506300, 3614100; 506300, 3613900; 506100, 3613900; 506100, 3613200; 505900, 3613200; 505900, 3613300; 505500, 3613300; 505500, 3613500; 505600, 3613500; 505600, 3613600; 505700, 3613600; 505700, 3613700; 505600, 3613700; 505600, 3614000; 505700, 3614000; 505700, 3614100; 505900, 3614100; 505900, 3614200; 506000, 3614200; returning to 506000, 3614400.

Land bounded by the following UTM NAD27 coordinates (E, N): 499700, 3614200; 499800, 3614200; 499800, 3613900; 499900, 3613900; 499900, 3613600; 499700, 3613600; 499700, 3613700; 499600, 3613700; 499600, 3613800; 499300, 3613800; 499300, 3613700; 499400, 3613700; 499400, 3613400; 499000, 3613400; 499000, 3613700; 498900, 3613700; 498900, 3613900; 499100, 3613900; 499100, 3614000; 499400, 3614000; 499400, 3614100; 499700, 3614100; returning to 499700, 3614200.

Land bounded by the following UTM NAD27 coordinates (E, N): 498500, 3610800; 498500, 3610600; 499200, 3610600; 499200, 3610700; 499300, 3610700; 499300, 3610800; 499600, 3610800; 499600, 3610700; 499700, 3610700; 499700, 3610600; 499400, 3610600; 499400, 3610500; 499300, 3610500; 499300, 3610400; 499000, 3610400; 499000, 3610300; 498800, 3610300; 498800, 3610400; 498600, 3610400; 498600, 3610300; 498500, 3610300; 498500, 3610200; 498400, 3610200; 498400, 3610300; 498300, 3610300; 498300, 3610200; 498200, 3610200; 498200, 3610100; 497900, 3610100; 497900, 3610400; 497600, 3610400; 497600, 3610500; 497400, 3610500; 497400, 3610600; 496700, 3610600; 496700, 3610800; 496600, 3610800; 496600, 3610700; 496200, 3610700; 496200, 3610800; 496100, 3610800; 496100, 3610700; 495800, 3610700; 495800, 3610600; 495700, 3610600; 495700, 3610700; 495500, 3610700; 495500, 3610800; 495400, 3610800; 495400, 3611000; 496000, 3611000; 496000, 3611300; 496100, 3611300; 496100, 3611400; 496200, 3611400; 496200, 3611500; 496300, 3611500; 496300,

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Land bounded by the following UTM NAD27 coordinates (E, N): 496900, 3610500; 497100, 3610500; 497100, 3610000; 497200, 3610000; 497200, 3609800; 497600, 3609800; 497600, 3610100; 497500, 3610100; 497500, 3610200; 497700, 3610200; 497700, 3610100; 497800, 3610100; 497800, 3610000; 497900, 3610000; 497900, 3609900; 498000, 3609900; 498000, 3610000; 498200, 3610000; 498200, 3609800; 498100, 3609800; 498100, 3609700; 498400, 3609700; 498400, 3609600; 498600, 3609600; 498600, 3609700; 498900, 3609700; 498900, 3609800; 499100, 3609800; 499100, 3609700; 499300, 3609700; 499300, 3609600; 499200, 3609600; 499200, 3609500; 499000, 3609500; 499000, 3609400; 498600, 3609400; 498600, 3609300; 498200, 3609300; 498200, 3609100; 498000, 3609100; 498000, 3609200; 497800, 3609200; 497800, 3609300; 497600, 3609300; 497600, 3609400; 497500, 3609400; 497500, 3609300; 497400, 3609300; 497400, 3609200; 497200, 3609200; 497200, 3609400; 497300, 3609400; 497300, 3609600; 497100, 3609600; 497100, 3609800; 497000, 3609800; 497000, 3609900; 496900, 3609900; 496900, 3610000; 496800, 3610000; 496800, 3610100; 496900, 3610100; returning to 496900, 3610500; excluding land bounded by 497700, 3609700; 497700, 3609600; 497900, 3609600; 497900, 3609500; 498000, 3609500; 498000, 3609700; 497700, 3609700.

Land bounded by the following UTM NAD27 coordinates (E, N): 497000, 3609200; 497200, 3609200; 497200, 3609000; 497100, 3609000; 497100, 3608900; 496900, 3608900; 496900, 3609000; 497000, 3609000; returning to 497000, 3609200.

Land bounded by the following UTM NAD27 coordinates (E, N): 500000, 3610500; 500200, 3610500; 500200, 3610400; 500300, 3610400; 500300, 3610300; 500200, 3610300; 500200, 3610200; 500100, 3610200; 500100, 3610100; 500000, 3610100; 500000, 3610000; 499900, 3610000; 499900, 3609900; 499700, 3609900; 499700, 3609800; 499600, 3609800; 499600, 3609700; 499400, 3609700; 499400, 3609900; 499500, 3609900; 499500, 3610000; 499600, 3610000; 499600, 3610100; 499800, 3610100; 499800, 3610300; 499900, 3610300; 499900, 3610200; 500000, 3610200; returning to 500000, 3610500.

Land bounded by the following UTM NAD27 coordinates (E, N): 497500, 3608400; 497700, 3608400; 497700, 3608100; 497600, 3608100; 497600, 3607900; 497700, 3607900; 497700, 3608000; 498300, 3608000; 498300, 3608200; 498500, 3608200; 498500, 3608100; 498600, 3608100; 498600, 3608200; 498800, 3608200; 498800, 3608100; 499000, 3608100; 499000, 3608000; 498900, 3608000; 498900, 3607900; 499000, 3607900; 499000, 3607800; 498600, 3607800; 498600, 3607600; 498400, 3607600; 498400, 3607500; 498300, 3607500; 498300, 3607400; 497500, 3607400; 497500, 3607700; 497400, 3607700; 497400, 3608100; 497500, 3608100; returning to 497500, 3608400.

Land bounded by the following UTM NAD27 coordinates (E, N): 505300, 3610500; 505500, 3610500; 505500, 3610200; 505600, 3610200; 505600, 3609900; 505700, 3609900; 505700, 3609600; 505800, 3609600; 505800, 3609300; 505900, 3609300; 505900, 3609100; 506000, 3609100; 506000, 3608800; 506100, 3608800; 506100, 3608500; 506200, 3608500; 506200, 3608200; 506300, 3608200; 506300, 3608100; 506100, 3608100; 506100, 3608200; 506000, 3608200; 506000, 3608000; 506100, 3608000; 506100, 3607900; 506000, 3607900; 506000, 3607600; 506100, 3607600; 506100, 3607700; 506400, 3607700; 506400, 3607400; 506600, 3607400; 506600, 3607100; 506700, 3607100; 506700, 3606800; 506800, 3606800; 506800, 3606500; 506500, 3606500; 506500, 3606400; 506300, 3606400; 506300, 3606300; 506000, 3606300; 506000, 3606200; 505700, 3606200; 505700, 3606100; 505400, 3606100; 505400, 3606000; 505100, 3606000; 505100, 3605900; 504800, 3605900; 504800, 3605800; 504500, 3605800; 504500, 3605700; 504200, 3605700; 504200, 3605600; 503900, 3605600; 503900, 3605500; 503600, 3605500; 503600, 3605400; 503400, 3605400; 503400, 3605300; 503100, 3605300; 503100, 3605200; 502800, 3605200; 502800, 3605100; 502500, 3605100; 502500, 3605000; 502200, 3605000; 502200, 3604900; 501900, 3604900; 501900, 3604800; 501600, 3604800; 501600, 3604700; 501300, 3604700; 501300, 3604600; 501000, 3604600; 501000, 3604500; 500700, 3604500; 500700, 3604400; 500500, 3604400; 500500, 3604600; 500400, 3604600; 500400, 3604900; 500300, 3604900; 500300, 3604800; 500000, 3604800; 500000, 3604700; 499900, 3604700; 499900, 3604800; 499400, 3604800; 499400, 3604900; 498700, 3604900; 498700, 3605400; 498900, 3605400; 498900, 3605300; 499000, 3605300; 499000, 3605200; 500700, 3605200; 500700, 3605300; 500500, 3605300; 500500, 3605400; 500300, 3605400; 500300, 3605500; 500200, 3605500; 500200, 3605400; 499900, 3605400; 499900, 3605500; 499700, 3605500; 499700, 3605600; 499600, 3605600; 499600, 3605700; 496600, 3605700; 496600, 3605900; 496900, 3605900; 496900, 3606000; 497600, 3606000; 497600, 3606100; 497800, 3606100; 497800, 3606200; 498000, 3606200; 498000, 3606100; 498500, 3606100; 498500, 3606000; 498600, 3606000; 498600, 3606100; 499800, 3606100; 499800, 3606000; 499900, 3606000; 499900, 3606100; 500100, 3606100; 500100, 3606000; 500200, 3606000; 500200, 3606200; 500400, 3606200; 500400, 3606100; 500500, 3606100; 500500, 3606700; 500600, 3606700; 500600, 3607000; 500400, 3607000; 500400, 3607200; 500300, 3607200; 500300, 3607700; 500600, 3607700; 500600, 3607600; 500800, 3607600; 500800, 3607500; 500900, 3607500; 500900, 3607900; 501000, 3607900; 501000, 3608000; 501100, 3608000; 501100, 3608100; 501200, 3608100; 501200, 3608000; 501300, 3608000; 501300, 3608100; 501500, 3608100; 501500, 3607900; 501300, 3607900; 501300, 3607800; 501200, 3607800; 501200, 3607700; 501300, 3607700; 501300,

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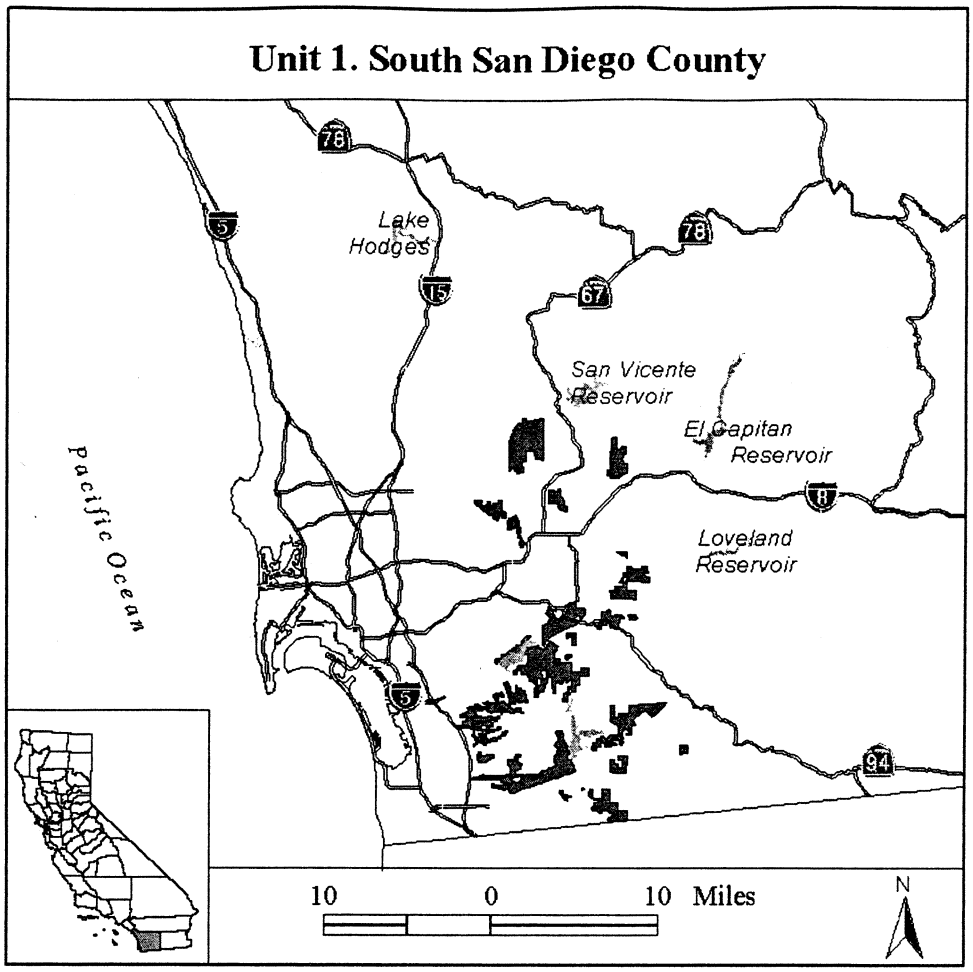
Land within the San Diego National Wildlife Refuge Otay-Sweetwater Unit (SDNWR); excluding Lot 707; land bounded by UTM NAD27 coordinates (E, N) 505200, 3616700, thence north along the following UTM NAD27 coordinates: 505200, 3616800; 505000, 3616800; 505000, 3616900; 504800, 3616900; 504800, 3617000; 504700, 3617000; 504700, 3617300; 504800, 3617300; 504800, 3617500; 504700, 3617500; 504700, 3617700; 504800, 3617700; 504800, 3618000; 504900, 3618000; 504900, 3618200; 505000, 3618200; 505000, 3618500; 505100, 3618500; thence north to the SDNWR boundary at x-coordinate 505100; thence east around SDNWR boundary, passing x-coordinate 505000, to y-coordinate 3616700; returning to the point of beginning; land bounded by UTM NAD27 coordinates (E, N) 508600, 3620500, thence east along the following UTM NAD27 coordinates: 508700, 3620500; 508700, 3620400; 508800, 3620400; 508800, 3620200; 509200, 3620200; 509200, 3620500; 509300, 3620500; 509300, 3620600; 509700, 3620600; 509700, 3621000; 509900, 3621000; 509900, 3620900; 510000, 3620900; 510000, 3620600; 510100, 3620600; 510100, 3620400; thence south around SDNWR boundary, passing UTM y-coordinate 3620000, to UTM x-coordinate 508600; returning to the point of beginning; land bounded by UTM NAD27 coordinates (E, N) 513900, 3624700, thence north along the following UTM NAD27 coordinates: 513900, 3625100; 513800, 3625100; thence north to the SDNWR boundary at x-coordinate 513800; thence east around SDNWR boundary, passing x-coordinate 513750, to y-coordinate 3624700; returning to point of beginning.

(ii) **Note:** Map of Unit 1 follows.



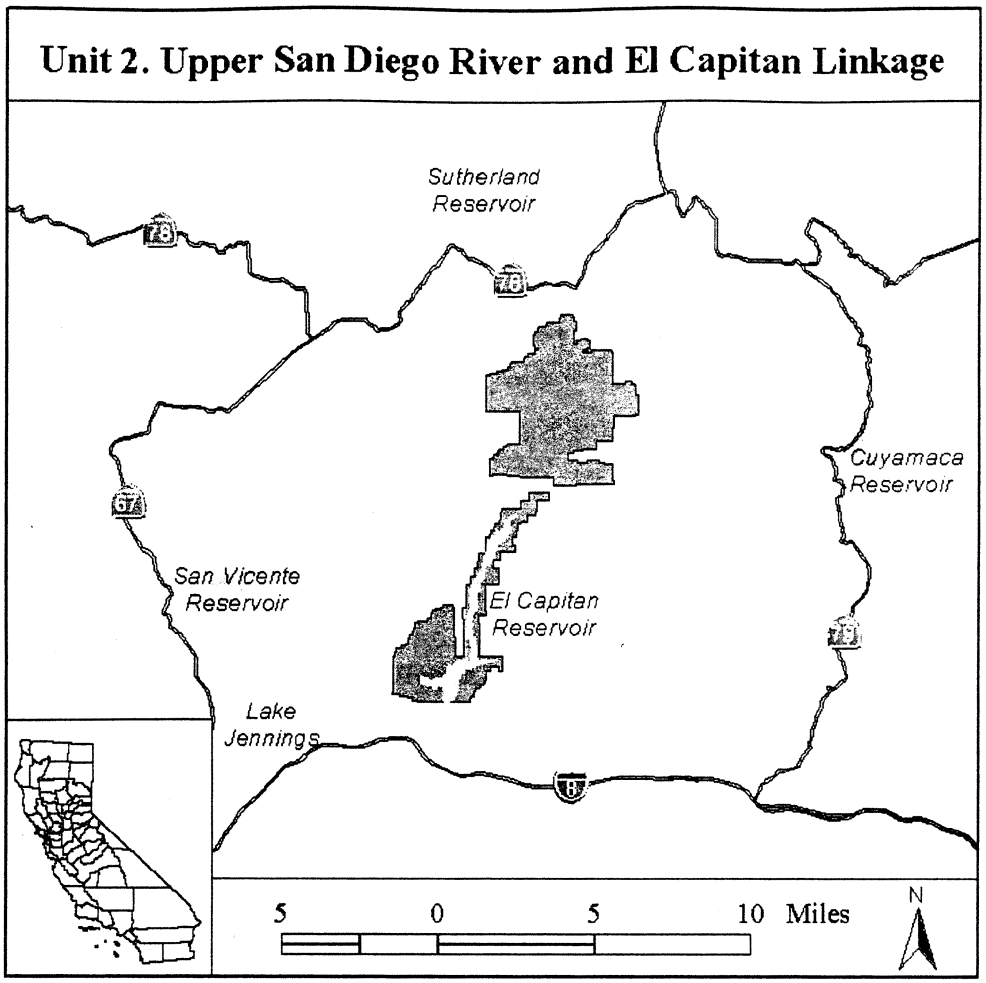
(6) *Unit 2:* Upper San Diego River and El Capitan Linkage, San Diego County, California.

(i) From USGS 1,24,000 quadrangle maps Alpine, El Cajon Mountain, Tule Springs, Santa Ysabel, and Ramona, California, land bounded by the following UTM NAD27 coordinates (E, N): 525100, 3657000; 525700, 3657000; 525700, 3656900; 525800, 3656900; 525800, 3656700; 525900, 3656700; 525900, 3656200; 525800, 3656200; 525800, 3655500; 525900, 3655500; 525900, 3655700; 526100, 3655700; 526100, 3655800; 526500, 3655800; 526500, 3655700; 526600, 3655700; 526600, 3655300; 526500, 3655300; 526500, 3655200; 526300, 3655200; 526300, 3655100; 526700, 3655100; 526700, 3655200; 527700, 3655200; 527700, 3655100; 527800, 3655100; 527800, 3653500; 528400, 3653500; 528400, 3653600; 528800, 3653600; 528800, 3653500; 528900, 3653500; 528900, 3653400; 529000, 3653400; 529000, 3652900; 529100, 3652900; 529100, 3651900; 529000, 3651900; 529000, 3651800; 527900, 3651800; 527900, 3651200; 527800, 3651200; 527800, 3650500; 527000, 3650500; 527000, 3650100; 526300, 3650100; 526300, 3650000; 525800, 3650000; 525800, 3649900; 525500, 3649900; 525500, 3649500; 526000, 3649500; 526000, 3649400; 526500, 3649400; 526500, 3649500; 527100, 3649500; 527100, 3649400; 527400, 3649400; 527400, 3649300; 527800, 3649300; 527800, 3648500; 527900, 3648500; 527900, 3648300; 525900, 3648300; 525900, 3648200; thence west to the Capitan Grande Reservation boundary (CGR) at y-coordinate 3648200; thence west along CGR boundary to x-coordinate 521500; thence north and following coordinates: 521500, 3649600; 521600, 3649600; 521600, 3649700; 521700, 3649700; 521700, 3649800; 521800, 3649800; 521800, 3649900; 521900, 3649900; 521900, 3650000; 522000, 3650000; 522000, 3650100; 522200, 3650100; 522200, 3650200; 522300, 3650200; 522300, 3650300; 522400, 3650300; 522400, 3650400; 523000, 3650400; 523000, 3652000; 521300, 3652000; 521300, 3653900; 521500, 3653900; 521500, 3654000; 521800, 3654000; 521800, 3654100; 522100, 3654100; 522100, 3654200; 522400, 3654200; 522400, 3654300; 522500, 3654300; 522500, 3654500; 522600, 3654500; 522600, 3654600; 523200, 3654600; 523200, 3654800; 523300, 3654800; 523300, 3654900; 523400, 3654900; 523400, 3655000; 523800, 3655000; 523800, 3655200; 523900, 3655200; 523900, 3655300; 523800, 3655300; 523800, 3655400; 523700, 3655400; 523700, 3656000; 523800, 3656000; 523800, 3656100; 523900, 3656100; 523900, 3656300; 524000, 3656300; 524000, 3656400; 524300, 3656400; 524300, 3656500; 524400, 3656500; 524400, 3656600; 525000, 3656600; 525000, 3656800; 525100, 3656800; returning to 525100, 3657000.

Land bounded by the following UTM NAD27 coordinates (E, N): 521000, 3639200; 521000, 3639300; 520900, 3639300; 520900, 3640000; 520800, 3640000; 520800, 3640400; 520700, 3640400; 520700, 3640600; 520600, 3640600; 520600, 3641500; 520700, 3641500; 520700, 3641700; 520800, 3641700; 520800, 3642400; 520900, 3642400; 520900, 3643000; 521000,

3643000; 521000, 3643400; 521100, 3643400; 521100, 3643600; 521000, 3643600; 521000, 3643500; 520900, 3643500; 520900, 3643300; 520800, 3643300; 520800, 3643200; 520700, 3643200; 520700, 3642900; 520600, 3642900; 520600, 3641900; 520500, 3641900; 520500, 3641500; 520400, 3641500; 520400, 3640500; 520500, 3640500; 520500, 3640400; 520600, 3640400; 520600, 3640000; 520700, 3640000; 520700, 3639700; 520600, 3639700; 520600, 3639100; 520400, 3639100; 520400, 3639200; 520200, 3639200; 520200, 3639100; 519900, 3639100; 519900, 3639000; 519800, 3639000; 519800, 3638900; 519400, 3638900; 519400, 3638500; 519300, 3638500; 519300, 3638300; 518800, 3638300; 518800, 3638200; 518600, 3638200; 518600, 3638100; 518400, 3638100; 518400, 3638200; 518300, 3638200; 518300, 3638300; 518100, 3638300; 518100, 3638400; 517900, 3638400; 517900, 3638300; 517800, 3638300; 517800, 3638200; 517900, 3638200; 517900, 3638100; 518300, 3638100; 518300, 3638000; 518400, 3638000; 518400, 3637900; 518700, 3637900; 518700, 3637800; 518800, 3637800; 518800, 3637900; 518900, 3637900; 518900, 3638000; 519100, 3638000; 519100, 3637900; 519200, 3637900; thence south to the Multi-Habitat Planning Area boundary (MHPA) at x-coordinate 519200; thence west along MHPA boundary to y-coordinate 3637100; thence west and following coordinates: 517800, 3637100; 517800, 3637200; 517500, 3637200; 517500, 3637300; 517300, 3637300; 517300, 3637400; 516900, 3637400; 516900, 3637500; 516500, 3637500; thence north to the MHPA boundary at x-coordinate 516500; thence north along MHPA boundary to y-coordinate 3639500; thence northeast and following coordinates: 516600, 3639500; 516600, 3639700; 516700, 3639700; 516700, 3639900; 517000, 3639900; 517000, 3640000; 517200, 3640000; 517200, 3640100; 517300, 3640100; 517300, 3640400; 517400, 3640400; 517400, 3640600; 517500, 3640600; 517500, 3640700; 517600, 3640700; 517600, 3640900; 517700, 3640900; 517700, 3641200; 517800, 3641200; 517800, 3641300; 518300, 3641300; 518300, 3641400; 518500, 3641400; 518500, 3641700; 518600, 3641700; 518600, 3641800; 518700, 3641800; 518700, 3641900; 519000, 3641900; 519000, 3642000; 519100, 3642000; 519100, 3642100; 519600, 3642100; 519600, 3642000; thence east to the CGR boundary at y-coordinate 3642000; thence south along CGR boundary to y-coordinate 3638200; thence southwest and following coordinates: 521300, 3638200; 521300, 3638100; 521200, 3638100; 521200, 3638000; 521100, 3638000; 521100, 3637900; 521000, 3637900; 521000, 3637800; 520800, 3637800; 520800, 3637700; 520700, 3637700; 520700, 3637400; 520600, 3637400; 520600, 3637300; 520500, 3637300; 520500, 3637100; ,; ,; 519500, 3637200; 519600, 3637200; 519600, 3637400; 519700, 3637400; 519700, 3637600; 519800, 3637600; 519800, 3638000; 519900, 3638000; 519900, 3638500; 520000, 3638500; 520000, 3638700; 520200, 3638700; 520200, 3638900; 520600, 3638900; 520600, 3639000; 520800, 3639000; 520800, 3639200; returning to 521000, 3639200; excluding land bounded by 521000, 3639200; 521000, 3639100; 521100, 3639100; 521100, 3639200; 521000, 3639200; and land bounded by 521100, 3643600; 521200, 3643600; 521200, 3643800; 521100, 3643800; 521100, 3643600.

(ii) **Note:** Map of Unit 2 follows.



(7) *Unit 3:* San Diego County Multiple Habitat Conservation Plan (MHCP), San Diego County, California.

(i) From USGS 1:100,000 quadrangle maps Oceanside, Borrego Valley, and San Diego, California. Beginning at Marine Corps Base Camp Pendleton (MCBCP) boundary at y-coordinate 3682100, land bounded by the following UTM NAD27 coordinates (E, N): 3682100; 472900, 3682100; 472900, 3682200; 473300, 3682200; 473300, 3681900; 473200, 3681900; 473200, 3681700; 473300, 3681700; 473300, 3681500; 473200, 3681500; 473200, 3681400; 472800, 3681400; 472800, 3681600; 473100, 3681600; 473100, 3681900; 473000, 3681900; 473000, 3681800; 472800, 3681800; 472800, 3681700; 472600, 3681700; 472600, 3681800; 472500, 3681800; 472500, 3681700; 472200, 3681700; 472200, 3681800; then west to MCBCP at y-coordinate 3681800; then returning to the point of beginning.

Beginning at MCBCP boundary at y-coordinate 3681400, land bounded by the following UTM NAD27 coordinates (E, N): 3681400; 471700, 3681400; 471700, 3680800; 471600, 3680800; 471600, 3680600; 472000, 3680600; 472000, 3680700; 472100, 3680700; 472100, 3680800; 472200, 3680800; 472200, 3681100; 472300, 3681100; 472300, 3681200; 472600, 3681200; 472600, 3681100; 472500, 3681100; 472500, 3680600; 472200, 3680600; 472200, 3680500; 472100, 3680500; 472100, 3680300; 472000, 3680300; 472000, 3680200; 471900, 3680200; 471900, 3680100; 471800, 3680100; 471800, 3680000; 471600, 3680000; 471600, 3679900; 471500, 3679900; 471500, 3679800; 471300, 3679800; 471300, 3679700; 471100, 3679700; 471100, 3679600; 470800, 3679600; then north to MCBCP; then returning to the point of beginning.

Land bounded by the following UTM NAD27 coordinates (E, N): 476100, 3679600; 477300, 3679600; 477300, 3679500; 477300, 3678700; 477300, 3678600; 477300, 3678400; 477400, 3678400; 477400, 3678300; 477300, 3678300; 477300, 3678200; 476900, 3678200; 476900, 3678800; 476800, 3678800; 476800, 3679200; 476500, 3679200; 476500, 3679300; 476100, 3679300; returning to 476100, 3679600.

Beginning at MCBCP boundary at y-coordinate 3678800, land bounded by the following UTM NAD27 coordinates (E, N): 468900, 3678800; 468900, 3678700; 469000, 3678700; 469000, 3678400; 469200, 3678400; 469200, 3678200; 469000, 3678200; 469000, 3678300; 468800, 3678300; 468800, 3678000; 469200, 3678000; 469200, 3677800; 468700, 3677800; 468700, 3677700; 468500, 3677700; 468500, 3677600; 468400, 3677600; 468400, 3677500; 468300, 3677500; 468300, 3677200; 468200, 3677200; 468200, 3677000; 468100, 3677000; 468100, 3676900; 468000, 3676900; 468000, 3677000; 467900, 3677000; 467900, 3677300; 468000, 3677300; 468000, 3677400; 467700, 3677400; 467700, 3677500; 467600, 3677500; then north to MCBCP; then returning to the point of beginning.

Beginning at MCBCP boundary at y-coordinate 3677400, land bounded by the following UTM NAD27 coordinates (E, N): 467300, 3677400; 467300, 3677300; 467500, 3677300; 467500,

3677100; 467200, 3677100; 467200, 3677000; 467100, 3677000; 467100, 3676800; 467000, 3676800; 467000, 3676700; 467100, 3676700; 467100, 3676200; 467000, 3676200; 467000, 3676000; 466800, 3676000; 466800, 3675800; 467700, 3675800; 467700, 3675900; 467800, 3675900; 467800, 3676400; 468400, 3676400; 468400, 3676100; 468500, 3676100; 468500, 3675800; 468600, 3675800; 468600, 3675600; 468700, 3675600; 468700, 3675300; 468800, 3675300; 468800, 3675400; 468900, 3675400; 468900, 3675600; 468800, 3675600; 468800, 3675700; 468900, 3675700; 468900, 3675800; 469000, 3675800; 469000, 3675900; 469200, 3675900; 469200, 3676000; 469400, 3676000; 469400, 3676100; 469700, 3676100; 469700, 3676200; 469900, 3676200; 469900, 3676300; 470100, 3676300; 470100, 3675900; 469700, 3675900; 469700, 3675700; 470100, 3675700; 470100, 3675500; 469800, 3675500; 469800, 3675300; 469700, 3675300; 469700, 3675200; 469500, 3675200; 469500, 3675500; 469300, 3675500; 469300, 3675800; 469200, 3675800; 469200, 3675000; 469100, 3675000; 469100, 3674600; 468400, 3674600; 468400, 3674400; 468300, 3674400; 468300, 3674300; 468000, 3674300; 468000, 3674400; 467900, 3674400; 467900, 3674500; 467400, 3674500; 467400, 3674700; 467500, 3674700; 467500, 3674800; 467700, 3674800; 467700, 3674700; 468000, 3674700; 468000, 3674600; 468100, 3674600; 468100, 3674800; 468200, 3674800; 468200, 3674900; 468700, 3674900; 468700, 3675000; 468600, 3675000; 468600, 3675300; 468500, 3675300; 468500, 3675500; 468400, 3675500; 468400, 3675800; 468300, 3675800; 468300, 3676100; 468200, 3676100; 468200, 3675900; 468100, 3675900; 468100, 3675800; 468000, 3675800; 468000, 3675700; 467900, 3675700; 467900, 3675600; 467700, 3675600; 467700, 3675500; 467200, 3675500; 467200, 3675600; 467000, 3675600; 467000, 3675500; 466800, 3675500; 466800, 3675400; 466700, 3675400; 466700, 3675300; 466800, 3675300; 466800, 3674900; 466500, 3674900; 466500, 3674800; 466700, 3674800; 466700, 3674700; 466800, 3674700; 466800, 3674600; 467000, 3674600; 467000, 3674400; 467300, 3674400; 467300, 3674200; 466900, 3674200; 466900, 3674300; 466800, 3674300; 466800, 3674400; 466300, 3674400; 466300, 3674500; 466200, 3674500; 466200, 3674400; 466100, 3674400; 466100, 3674500; 466000, 3674500; 466000, 3674300; 465900, 3674300; 465900, 3674400; 465800, 3674400; 465800, 3674700; 465100, 3674700; 465100, 3674600; 465000, 3674600; 465000, 3674500; 464900, 3674500; 464900, 3674400; 465100, 3674400; 465100, 3674100; 465200, 3674100; 465200, 3673500; 465000, 3673500; 465000, 3673600; 464800, 3673600; 464800, 3673700; 464700, 3673700; 464700, 3673800; 464600, 3673800; 464600, 3673900; 464500, 3673900; 464500, 3674000; 464300, 3674000; 464300, 3674400; 464400, 3674400; 464400, 3674500; 464500, 3674500; 464500, 3674600; 464600, 3674600; 464600, 3674700; 464700, 3674700; 464700, 3675000; 464800, 3675000; 464800, 3675100; 464900, 3675100; 464900, 3675200; 465100, 3675200; 465100, 3675100; 465300, 3675100; 465300, 3675200; 465400, 3675200; 465400, 3675400; 465300, 3675400; 465300, 3675600; 465500, 3675600; 465500, 3675700; 465600, 3675700; 465600, 3675800; 465700, 3675800; 465700, 3675900; 465800, 3675900; then north to MCBCP; then northeast along the MCBCP boundary to y-coordinate 3676200; then bounded by 466100, 3676200; 466100, 3676300; 466200, 3676300; 466200, 3676400; 466300, 3676400; 466300, 3676500; 466400, 3676500; 466400, 3676600; 466500, 3676600; 466500, 3676700; 466600, 3676700; then north to MCBCP; then returning to the point of beginning; excluding land bounded by 466100, 3675800; 466100, 3675400; 465900, 3675400; 465900, 3675300; 465800, 3675300; 465800, 3675100; 466200, 3675100; 466200, 3675200; 466300, 3675200; 466300, 3675300; 466200, 3675300; 466200, 3675600; 466300, 3675600; 466300, 3675700; 466200, 3675700; 466200, 3675800; 466100, 3675800.

Land bounded by the following UTM NAD27 coordinates (E, N): 471200, 3676500; 471500, 3676500; 471500, 3676300; 471600, 3676300; 471600, 3675700; 471300, 3675700; 471300, 3675800; 471200, 3675800; 471200, 3676200; 471300, 3676200; 471300, 3676300; 471200, 3676300; returning to 471200, 3676500.

Land bounded by the following UTM NAD27 coordinates (E, N): 471500, 3675100; 471700, 3675100; 471700, 3674800; 471500, 3674800; 471500, 3674700; 471300, 3674700; 471300, 3674600; 471100, 3674600; 471100, 3674500; 470900, 3674500; 470900, 3674400; 470800, 3674400; 470800, 3674600; 470500, 3674600; 470500, 3674500; 470100, 3674500; 470100, 3674300; 470000, 3674300; 470000, 3674200; 469800, 3674200; 469800, 3674100; 469700, 3674100; 469700, 3674000; 469600, 3674000; 469600, 3673600; 470000, 3673600; 470000, 3673700; 470100, 3673700; 470100, 3673800; 470300, 3673800; 470300, 3673600; 470400, 3673600; 470400, 3673700; 470800, 3673700; 470800, 3673800; 470900, 3673800; 470900, 3673900; 471100, 3673900; 471100, 3674000; 471300, 3674000; 471300, 3674300; 471900, 3674300; 471900, 3674100; 471800, 3674100; 471800, 3674000; 471700, 3674000; 471700, 3673900; 471500, 3673900; 471500, 3673800; 472500, 3673800; 472500, 3673300; 472000, 3673300; 472000, 3673400; 471000, 3673400; 471000, 3673300; 470900, 3673300; 470900, 3673100; 470700, 3673100; 470700, 3673000; 470600, 3673000; 470600, 3673100; 470400, 3673100; 470400, 3673000; 470500, 3673000; 470500, 3672800; 470600, 3672800; 470600, 3672400; 470500, 3672400; 470500, 3672300; 470300, 3672300; 470300, 3672400; 470200, 3672400; 470200, 3672600; 470300, 3672600; 470300, 3672700; 470200, 3672700; 470200, 3673000; 469900, 3673000; 469900, 3672900; 469800, 3672900; 469800, 3672800; 469600, 3672800; 469600, 3672700; 469500, 3672700; 469500, 3672600; 469200, 3672600; 469200, 3672800; 468900, 3672800; 468900, 3672300; 468700, 3672300; 468700, 3672400; 468500, 3672400; 468500, 3673000; 468400, 3673000; 468400, 3673100; 468200, 3673100; 468200, 3673200; 468300, 3673200; 468300, 3673300; 469200, 3673300; 469200, 3673400; 469300, 3673400; 469300, 3673500; 469000, 3673500; 469000, 3674300; 469200, 3674300; 469200, 3674400; 469500, 3674400; 469500, 3674500; 469600, 3674500; 469600, 3674600; 469800, 3674600; 469800, 3674700; 470600, 3674700; 470600, 3674800; 470700, 3674800; 470700, 3674900; 471300, 3674900; 471300, 3675000; 471500, 3675000; returning to 471500, 3675100; excluding land bounded by 470800, 3673600; 470800, 3673500; 471100, 3673500; 471100, 3673600; 470800, 3673600; and land bounded by 470000, 3673500; 470000, 3673400; 470600, 3673400; 470600, 3673500; 470000, 3673500.

Land bounded by the following UTM NAD27 coordinates (E, N): 488900, 3674500; 489200, 3674500; 489300, 3674500; 489300, 3674200; 489200, 3674200; 489200, 3674100; 489300, 3674100; 489300, 3673700; 489400, 3673700; 489400, 3673500; 489300, 3673500; 489300, 3673300; 489400, 3673300; 489400, 3672800; 489800, 3672800; 489800, 3672600; 490000, 3672600; 490000, 3672500; 490100, 3672500; 490100, 3673100; 490300, 3673100; 490300, 3673200; 490400, 3673200; 490400, 3673300; 490500,

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Land bounded by the following UTM NAD27 coordinates (E, N): 465900, 3673000; 466400, 3673000; 466400, 3672700; 466300, 3672700; 466300, 3672500; 466100, 3672500; 466100, 3672600; 466000, 3672600; 466000, 3672700; 465900, 3672700; returning to 465900, 3673000.

Land bounded by the following UTM NAD27 coordinates (E, N): 467200, 3672300; 467200, 3672200; 467000, 3672200; 467000, 3672300; 466900, 3672300; 466900, 3672600; 467100, 3672600; 467100, 3672700; 467300, 3672700; 467300, 3672800; 467400, 3672800; 467400, 3672900; 467500, 3672900; 467500, 3673000; 467800, 3673000; 467800, 3672900; 467700, 3672900; 467700, 3672800; 467600, 3672800; 467600, 3672500; 467400, 3672500; 467400, 3672400; 467300, 3672400; 467300, 3672300; returning to 467200, 3672300; excluding land bounded by 467200, 3672300; 467200, 3672400; 467100, 3672400; 467100, 3672300; 467200, 3672300.

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Land bounded by the following UTM NAD27 coordinates (E, N): 469500, 3672600; 469700, 3672600; 469700, 3672000; 469800, 3672000; 469800, 3671500; 469900, 3671500; 469900, 3671400; 469500, 3671400; 469500, 3671800; 469400, 3671800; 469400, 3672100; 469500, 3672100; returning to 469500, 3672600.

Land bounded by the following UTM NAD27 coordinates (E, N): 475000, 3672600; 475300, 3672600; 475300, 3672500; 475200, 3672500; 475200, 3672400; 475100, 3672400; 475100, 3672300; 475000, 3672300; 475000, 3672200; 474900, 3672200; 474900, 3672100; 474700, 3672100; 474700, 3672000; 474600, 3672000; 474600, 3671800; 474200, 3671800; 474200, 3671700; 474100, 3671700; 474100, 3671600; 474000, 3671600; 474000, 3671400; 473900, 3671400; 473900,

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Land bounded by the following UTM NAD27 coordinates (E, N): 475300, 3653100; 475400, 3653100; 475400, 3653200; 475600, 3653200; 475600, 3653500; 475700, 3653500; 475700, 3653800; 475600, 3653800; 475600, 3655100; 475900, 3655100; 475900, 3654600; 476100, 3654600; 476100, 3654800; 476400, 3654800; 476400, 3654500; 476600, 3654500; 476600, 3655200; 477000, 3655200; 477000, 3655100; 477600, 3655100; 477600, 3654900; 477500, 3654900; 477500, 3654600; 477600, 3654600; 477600, 3654800; 477700, 3654800; 477700, 3654900; 477800, 3654900; 477800, 3655000; 478000, 3655000; 478000, 3655200; 478200, 3655200; 478200, 3655400; 478300, 3655400; 478300, 3655500; 478400, 3655500; 478400, 3655700; 478500, 3655700; 478500, 3655900; 478600, 3655900; 478600, 3656300; 478700, 3656300; 478700, 3656600; 478800, 3656600; 478800, 3656700; 478900, 3656700; 478900, 3656900; 478700, 3656900; 478700, 3657100; 479000, 3657100; 479000, 3657200; 479400, 3657200; 479400, 3657100; 479500, 3657100; 479500, 3657200; 479600, 3657200; 479600, 3657100; 479800, 3657100; 479800, 3657200; 479900, 3657200; 479900, 3657300; 479800, 3657300; 479800, 3657900; 479900, 3657900; 479900, 3658100; 479700, 3658100; 479700, 3658700; 479800, 3658700; 479800, 3658800; 479900, 3658800; 479900, 3659400; 479800, 3659400; 479800, 3659500; 479500, 3659500; 479500, 3659300; 479400, 3659300; 479400, 3659200; 479300, 3659200; 479300, 3659100; 479000, 3659100; 479000, 3658800; 478700, 3658800; 478700, 3658700; 478500, 3658700; 478500, 3658600; 478900, 3658600; 478900, 3658400; 479400, 3658400; 479400, 3658300; 479300, 3658300; 479300, 3657900; 479000, 3657900; 479000, 3657800; 478600, 3657800; 478600, 3658000; 478500, 3658000; 478500, 3657900; 478300, 3657900; 478300, 3658000; 478100, 3658000; 478100, 3658100; 478200, 3658100; 478200, 3658200; 478300, 3658200; 478300, 3658500; 478200, 3658500; 478200, 3658400; 477700, 3658400; 477700, 3658300; 477500, 3658300; 477500, 3658200; 477400, 3658200; 477400, 3658000; 477300, 3658000; 477300, 3657900; 477400, 3657900; 477400, 3657800; 477200, 3657800; 477200, 3658000; 477100, 3658000; 477100, 3658100; 476900, 3658100; 476900, 3658000; 476500, 3658000; 476500, 3657900; 476200, 3657900; 476200, 3657700; 476300, 3657700; 476300, 3657400; 476400, 3657400; 476400, 3657100; 476300, 3657100; 476300, 3657200; 476200, 3657200; 476200, 3657400; 476100, 3657400; 476100, 3657700; 476000, 3657700; 476000, 3658000; 475900, 3658000; 475900, 3657900; 475700, 3657900; 475700, 3657800; 475600, 3657800; 475600, 3657600; 475400, 3657600; 475400, 3658100; 475500, 3658100; 475500, 3658600; 475400, 3658600; 475400, 3658800; 475200, 3658800; 475200, 3659100; 475300, 3659100; 475300, 3659200; 475400, 3659200; 475400, 3659400; 475300, 3659400; 475300, 3659500; 475200, 3659500; 475200, 3659700; 475100, 3659700; 475100, 3660100; 475000, 3660100; 475000, 3660300; 474900, 3660300; 474900, 3660000; 475000, 3660000; 475000, 3659500; 475100, 3659500; 475100, 3659400; 475200, 3659400; 475200, 3659200; 475100, 3659200; 475100, 3658600; 475200, 3658600; 475200, 3657900; 475100, 3657900; 475100, 3657800; 475200, 3657800; 475200, 3657600; 475100, 3657600; 475100, 3657500; 475000, 3657500; 475000, 3657400; 475100, 3657400; 475100, 3657000; 475400, 3657000; 475400, 3656900; 475500, 3656900; 475500, 3656800; 475600, 3656800; 475600, 3656700; 475200, 3656700; 475200, 3656400; 475100, 3656400; 475100, 3656800; 475000, 3656800; 475000, 3657100; 474900, 3657100; 474900, 3657400; 474800, 3657400; 474800, 3657800; 474700, 3657800; 474700, 3658300; 474800, 3658300; 474800, 3658400; 474700, 3658400; 474700, 3658500; 474600, 3658500; 474600, 3658600; 474400, 3658600; 474400, 3658800; 474500, 3658800; 474500, 3659200; 474200,

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473300, 3662800; 473100, 3662800;
473100, 3662700; 473200, 3662700;
473200, 3662600; 473400, 3662600;
473400, 3663100; 473500, 3663100;
473500, 3663500; 473600, 3663500;
473600, 3663600; 473500, 3663600;
473500, 3663800; 473200, 3663800;
473200, 3664000; 473000, 3664000;
473000, 3664100; 472900, 3664100;
land bounded by 477400, 3664100;
477400, 3664000; 477500, 3664000;
477500, 3663900; 478100, 3663900;
478100, 3664100; 477400, 3664100;
land bounded by 474200, 3663400;
474200, 3663300; 474400, 3663300;
474400, 3663400; 474200, 3663400;
land bounded by 471900, 3661700;
471900, 3661600; 472000, 3661600;
472000, 3661700; 471900, 3661700;
land bounded by 482300, 3661200;
482300, 3660300; 482500, 3660300;
482500, 3660200; 482600, 3660200;
482600, 3660100; 482800, 3660100;
482800, 3660000; 482900, 3660000;
482900, 3659700; 482800, 3659700;
482800, 3659600; 482700, 3659600;
482700, 3659200; 483300, 3659200;
483300, 3659300; 483400, 3659300;
483400, 3659500; 483500, 3659500;
483500, 3659800; 483700, 3659800;
483700, 3659600; 483800, 3659600;
483800, 3660100; 483700, 3660100;
483700, 3660200; 483600, 3660200;
483600, 3660400; 483500, 3660400;
483500, 3660000; 483400, 3660000;
483400, 3660100; 483300, 3660100;
483300, 3660200; 483100, 3660200;
483100, 3660300; 482800, 3660300;
482800, 3660500; 482700, 3660500;
482700, 3660700; 482600, 3660700;
482600, 3660900; 482700, 3660900;
482700, 3661000; 482500, 3661000;
482500, 3661200; 482300, 3661200;
land bounded by 484800, 3661200;
484800, 3661100; 484700, 3661100;
484700, 3660900; 484900, 3660900;
484900, 3661000; 485100, 3661000;
485100, 3661100; 484900, 3661100;
484900, 3661200; 484800, 3661200;
land bounded by 473900, 3660600;
473900, 3660500; 474000, 3660500;
474000, 3660200; 473700, 3660200;
473700, 3660100; 474100, 3660100;
474100, 3660000; 474200, 3660000;
474200, 3660200; 474300, 3660200;
474300, 3660500; 474200, 3660500;
474200, 3660600; 473900, 3660600;
land bounded by 482300, 3660000;
482300, 3659800; 482500, 3659800;
482500, 3659700; 482600, 3659700;
482600, 3659900; 482700, 3659900;
482700, 3660000; 482300, 3660000;
land bounded by 474100, 3659900;
474100, 3659800; 473800, 3659800;
473800, 3659700; 474000, 3659700;
474000, 3659500; 474100, 3659500;
474100, 3659400; 474300, 3659400;
474300, 3659300; 474400, 3659300;
474400, 3659500; 474300, 3659500;
474300, 3659900; 474100, 3659900;
land bounded by 484800, 3659900;
484800, 3659800; 484700, 3659800;
484700, 3659700; 484500, 3659700;
484500, 3659600; 484300, 3659600;
484300, 3659500; 484400, 3659500;
484400, 3659300; 484500, 3659300;
484500, 3659100; 484700, 3659100;
484700, 3659300; 484800, 3659300;
484800, 3659400; 484900, 3659400;
484900, 3659600; 485000, 3659600;
485000, 3659700; 485100, 3659700;
485100, 3659800; 485000, 3659800;
485000, 3659900; 484800, 3659900;
land bounded by 480500, 3659600;
480500, 3659500; 480600, 3659500;
480600, 3659200; 480500, 3659200;
480500, 3659000; 480600, 3659000;
480600, 3659100; 480900, 3659100;
480900, 3659300; 481000, 3659300;
481000, 3659600; 480500, 3659600;
land bounded by 483900, 3659500;
483900, 3659300; 484000, 3659300;
484000, 3659200; 484100, 3659200;
484100, 3659500; 483900, 3659500;
land bounded by 480900, 3659000;
480900, 3658900; 480700, 3658900;
480700, 3658700; 480300, 3658700;
480300, 3658900; 480100, 3658900;
480100, 3658800; 480000, 3658800;
480000, 3658500; 479900, 3658500;
479900, 3658300; 480000, 3658300;
480000, 3658200; 480100, 3658200;
480100, 3658000; 480000, 3658000;
480000, 3657600; 479900, 3657600;
479900, 3657500; 480000, 3657500;
480000, 3657200; 480100, 3657200;

480100, 3657400; 480300, 3657400; 480300, 3657500; 480500, 3657500; 480500, 3657300; 480700, 3657300; 480700, 3657200; 480900, 3657200; 480900, 3657300; 481100, 3657300; 481100, 3657400; 481200, 3657400; 481200, 3657200; 481500, 3657200; 481500, 3657300; 481600, 3657300; 481600, 3657600; 481700, 3657600; 481700, 3657800; 481400, 3657800; 481400, 3657900; 481300, 3657900; 481300, 3658300; 481000, 3658300; 481000, 3658600; 481400, 3658600; 481400, 3658800; 481200, 3658800; 481200, 3658900; 481000, 3658900; 481000, 3659000; 480900, 3659000; land bounded by 481500, 3658500; 481500, 3658300; 481700, 3658300; 481700, 3658200; 481900, 3658200; 481900, 3658300; 481800, 3658300; 481800, 3658500; 481500, 3658500; land bounded by 476700, 3658400; 476700, 3658300; 476200, 3658300; 476200, 3658200; 476600, 3658200; 476600, 3658100; 476800, 3658100; 476800, 3658400; 476700, 3658400; land bounded by 478500, 3658400; 478500, 3658200; 478600, 3658200; 478600, 3658300; 478700, 3658300; 478700, 3658400; 478500, 3658400; land bounded by 476100, 3654100; 476100, 3653900; 476200, 3653900; 476200, 3654100; 476100, 3654100; land bounded by 476200, 3653800; 476200, 3653600; 476300, 3653600; 476300, 3653800; 476200, 3653800; land bounded by 476700, 3653800; 476700, 3653700; 476500, 3653700; 476500, 3653600; 476700, 3653600; 476700, 3653400; 476800, 3653400; 476800, 3653800; 476700, 3653800; land bounded by 476100, 3653400; 476100, 3653300; 476000, 3653300; 476000, 3653200; 475900, 3653200; 475900, 3652900; 476000, 3652900; 476000, 3653000; 476100, 3653000; 476100, 3653100; 476200, 3653100; 476200, 3653400; 476100, 3653400; land bounded by 474900, 3652500; 474900, 3652300; 475000, 3652300; 475000, 3652200; 475100, 3652200; 475100, 3652300; 475200, 3652300; 475200, 3652400; 475100, 3652400; 475100, 3652500; 474900, 3652500; and land designated by the MHPA.

Land bounded by the following UTM NAD27 coordinates (E, N): 470600, 3669100; 470800, 3669100; 470800, 3668800; 470900, 3668800; 470900, 3668600; 471000, 3668600; 471000, 3668400; 470900, 3668400; 470900, 3668500; 470800, 3668500; 470800, 3668600; 470700, 3668600; 470700, 3668700; 470600, 3668700; returning to 470600, 3669100.

Land bounded by the following UTM NAD27 coordinates (E, N): 494200, 3668900; 494300, 3668900; 494300, 3668800; 494400, 3668800; 494400, 3668700; 494500, 3668700; 494500, 3668600; 494700, 3668600; 494700, 3668300; 494500, 3668300; 494500, 3668500; 494400, 3668500; 494400, 3668600; 494300, 3668600; 494300, 3668700; 494200, 3668700; returning to 494200, 3668900.

Land bounded by the following UTM NAD27 coordinates (E, N): 470500, 3668100; 470600, 3668100; 470600, 3667500; 470300, 3667500; 470300, 3667700; 470400, 3667700; 470400, 3668000; 470500, 3668000; returning to 470500, 3668100.

Land bounded by the following UTM NAD27 coordinates (E, N): 470900, 3668100; 471100, 3668100; 471100, 3667600; 470800, 3667600; 470800, 3668000; 470900, 3668000; returning to 470900, 3668100.

Land bounded by the following UTM NAD27 coordinates (E, N): 497100, 3667700; 497700, 3667700; 497700, 3667500; 497100, 3667500; returning to 497100, 3667700.

Land bounded by the following UTM NAD27 coordinates (E, N): 498000, 3667600; 498300, 3667600; 498300, 3667300; 498100, 3667300; 498100, 3667400; 498000, 3667400; returning to 498000, 3667600.

Land bounded by the following UTM NAD27 coordinates (E, N): 473400, 3666900; 473600, 3666900; 473600, 3666800; 473500, 3666800; 473500, 3666700; 473300, 3666700; 473300, 3666800; 473400, 3666800; returning to 473400, 3666900.

Land bounded by the following UTM NAD27 coordinates (E, N): 498400, 3666600; 498500, 3666600; 498500, 3666500; 498600, 3666500; 498600, 3666400; 499000, 3666400; 499000, 3666500; 500100, 3666500; 500100, 3666600; 500300, 3666600; 500300, 3665400; 500200, 3665400; 500200, 3664200; then east to the MHPA; then south along the MHPA to y-coordinate 3664000; then to 499900, 3664000; then south to the MHPA; then south along the MHPA to y-coordinate 3663900; the bounded by 499800, 3663900; 499800, 3664200; 499700, 3664200; 499700, 3664500; 499600, 3664500; 499600, 3664600; 499800, 3664600; 499800, 3664700; 499700, 3664700; 499700, 3664800; 499000, 3664800; 499000, 3665000; 499100, 3665000; 499100, 3665100; 499400, 3665100; 499400, 3665200; 499500, 3665200; 499500, 3665300; 499400, 3665300; 499400, 3665400; 499300, 3665400; 499300, 3665200; 499000, 3665200; 499000, 3665100; 498900, 3665100; 498900, 3665200; 498800, 3665200; 498800, 3664800; 498900, 3664800; 498900, 3664700; 499000, 3664700; 499000, 3664600; 499200, 3664600; 499200, 3664300; 499300, 3664300; 499300, 3664100; 499400, 3664100; 499400, 3664300; 499500, 3664300; 499500, 3664400; 499600, 3664400; 499600, 3664100; 499500, 3664100; 499500, 3664000; 499300, 3664000; 499300, 3663800; 499200, 3663800; then south to the MHPA; then west along the MHPA to y-coordinate 3663700; then bounded by 499000, 3663700; 499000, 3663800; 499100, 3663800; 499100, 3664200; 499000, 3664200; 499000, 3664400; 498900, 3664400; 498900, 3664500; 498800, 3664500; 498800, 3664700; 498700, 3664700; 498700, 3664800; 498600, 3664800; 498600, 3665000; 498500, 3665000; then north to the MHPA; then north and west along the MHPA to x-coordinate 498100; the to 498100, 3665400; and 498000, 3665400; the south to the MHPA; then west along the MHPA to y-coordinate 3665300; the bounded by 497700, 3665300; 497700, 3665700; 497800, 3665700; 497800, 3665800; 497500, 3665800; 497500, 3666000; 497900, 3666000; 497900, 3665900; 498100, 3665900; 498100, 3666000; 498300, 3666000; 498300, 3665900; 498500, 3665900; 498500, 3666000; 498400, 3666000; 498400, 3666400; 498300, 3666400; 498300, 3666500; 498400, 3666500; returning to 498400, 3666600.

Land bounded by the following UTM NAD27 coordinates (E, N): 499200, 3663500; 499900, 3663500; 499900, 3663400; 499800, 3663400; 499800, 3663300; 499200, 3663300; returning to 499200, 3663500.

Land bounded by the following UTM NAD27 coordinates (E, N): 478000, 3663400; 478500, 3663400; 478500, 3663100; 478600, 3663100; 478600, 3662900; 478400, 3662900; 478400, 3663100; 478200, 3663100; 478200, 3663200; 478100, 3663200; 478100, 3663100; 478000, 3663100; 478000, 3662800; 477900, 3662800; 477900, 3662700; 477800, 3662700; 477800, 3662600; 477700, 3662600; 477700, 3663000; 477800, 3663000; 477800, 3663100; 477900, 3663100; 477900, 3663200; 478000, 3663200; returning to 478000, 3663400.

Land bounded by the following UTM NAD27 coordinates (E, N): 476200, 3663100; 476400, 3663100; 476400, 3662500; 476600, 3662500; 476600, 3662400; 476700, 3662400; 476700, 3662300; 476900, 3662300; 476900, 3662200; 477100, 3662200; 477100, 3662100; 477300, 3662100; 477300, 3662000; 477400, 3662000; 477400, 3661900; 477100, 3661900; 477100, 3662000; 476900, 3662000; 476900, 3662100; 476700, 3662100; 476700, 3661800; 476500, 3661800; 476500, 3661700; 476300, 3661700; 476300, 3662000; 476500, 3662000; 476500, 3662300; 476400, 3662300; 476400,

3662400; 476200, 3662400; 476200, 3662600; 476300, 3662600; 476300, 3662700; 476200, 3662700; returning to 476200, 3663100.

Land bounded by the following UTM NAD27 coordinates (E, N): 493400, 3662000; 493600, 3662000; 493600, 3661900; 493900, 3661900; 493900, 3661600; 494000, 3661600; 494000, 3661300; 494100, 3661300; 494100, 3661100; 494200, 3661100; 494200, 3660900; 494300, 3660900; 494300, 3660800; 494400, 3660800; 494400, 3660400; 494500, 3660400; 494500, 3660300; 494800, 3660300; 494800, 3659800; 494500, 3659800; 494500, 3659600; 494400, 3659600; 494400, 3659500; 494300, 3659500; 494300, 3659100; 494200, 3659100; 494200, 3659000; 494100, 3659000; 494100, 3659100; 493900, 3659100; 493900, 3659200; 493800, 3659200; 493800, 3659300; 493700, 3659300; 493700, 3659200; 493500, 3659200; 493500, 3659500; 493700, 3659500; 493700, 3659800; 493600, 3659800; 493600, 3659900; 493500, 3659900; 493500, 3660100; 493400, 3660100; 493400, 3660700; 493600, 3660700; 493600, 3660000; 493800, 3660000; 493800, 3660300; 494200, 3660300; 494200, 3660200; 494300, 3660200; 494300, 3660500; 494200, 3660500; 494200, 3660600; 494100, 3660600; 494100, 3660900; 493900, 3660900; 493900, 3661000; 493800, 3661000; 493800, 3661100; 493700, 3661100; 493700, 3661200; 493800, 3661200; 493800, 3661300; 493700, 3661300; 493700, 3661700; 493600, 3661700; 493600, 3661800; 493400, 3661800; returning to 493400, 3662000.

Land bounded by the following UTM NAD27 coordinates (E, N): 494600, 3661700; 494700, 3661700; 494700, 3661400; 494600, 3661400; returning to 494600, 3661700.

Land bounded by the following UTM NAD27 coordinates (E, N): 494600, 3661200; 494700, 3661200; 494700, 3660900; 494800, 3660900; 494800, 3660600; 494700, 3660600; 494700, 3660700; 494600, 3660700; returning to 494600, 3661200.

Land bounded by the following UTM NAD27 coordinates (E, N): 477100, 3660700; 477300, 3660700; 477300, 3660400; 477400, 3660400; 477400, 3660200; 477300, 3660200; 477300, 3660100; 477200, 3660100; 477200, 3660300; 477100, 3660300; 477100, 3660400; 477000, 3660400; 477000, 3660300; 476800, 3660300; 476800, 3660500; 476900, 3660500; 476900, 3660600; 477100, 3660600; returning to 477100, 3660700.

Land bounded by the following UTM NAD27 coordinates (E, N): 477800, 3659500; 478100, 3659500; 478100, 3659400; 478000, 3659400; 478000, 3659300; 477800, 3659300; 477800, 3659200; 477700, 3659200; 477700, 3659100; 477600, 3659100; 477600, 3659000; 477500, 3659000; 477500, 3658900; 477400, 3658900; 477400, 3658800; 477300, 3658800; 477300, 3658600; 477100, 3658600; 477100, 3658900; 477200, 3658900; 477200, 3659000; 477300, 3659000; 477300, 3659100; 477400, 3659100; 477400, 3659200; 477500, 3659200; 477500, 3659300; 477600, 3659300; 477600, 3659400; 477400, 3659400; 477400, 3659600; 477800, 3659600; returning to 477800, 3659500; excluding land bounded by 477800, 3659500; 477700, 3659500; 477700, 3659400; 477800, 3659400; 477800, 3659500.

Land bounded by the following UTM NAD27 coordinates (E, N): 492200, 3659300; 492400, 3659300; 492400, 3659100; 492300, 3659100; 492300, 3659000; 492400, 3659000; 492400, 3658700; 492500, 3658700; 492500, 3658400; then west to the MHPA; then south, west, and north along the MHPA to y-coordinate 3658300; then to 491700, 3658300; then north to the MHPA; then north along the MHPA to 3658400; then bounded by 491800, 3658400; 491800, 3658500; 491900, 3658500; 491900, 3658600; 492000, 3658600; 492000, 3658900; 492100, 3658900; 492100, 3659200; 492200, 3659200; returning to 492200, 3659300.

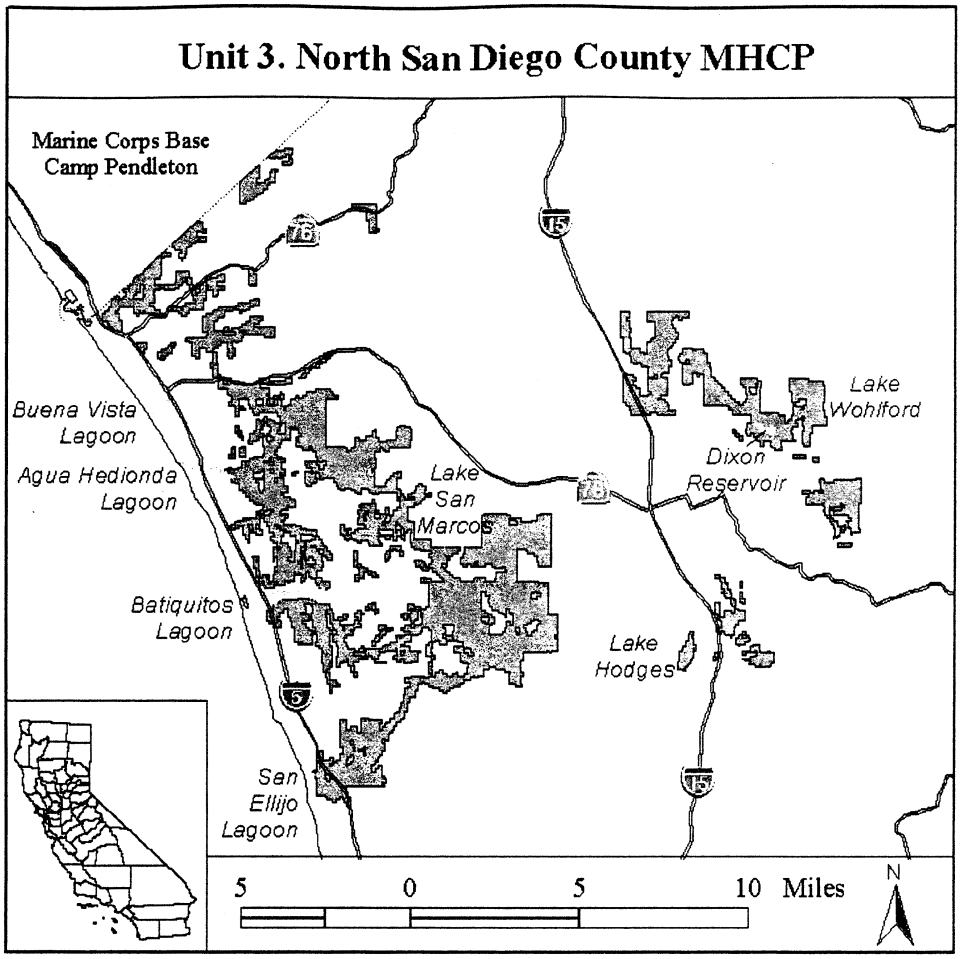
Land bounded by the following UTM NAD27 coordinates (E, N): 494700, 3659300; 494900, 3659300; 494900, 3659200; 494800, 3659200; 494800, 3659100; 494700, 3659100; 494700, 3659000; 494900, 3659000; 494900, 3659100; 495000, 3659100; 495000, 3659000; 495100, 3659000; 495100, 3658900; 495000, 3658900; 495000, 3658800; 494800, 3658800; 494800, 3658700; 494600, 3658700; 494600, 3658600; 494500, 3658600; 494500, 3658700; 494400, 3658700; 494400, 3659000; 494500, 3659000; 494500, 3659100; 494600, 3659100; 494600, 3659200; 494700, 3659200; returning to 494700, 3659300.

Land bounded by the following UTM NAD27 coordinates (E, N): 495200, 3658700; 495500, 3658700; 495500, 3658400; 495600, 3658400; 495600, 3658300; 495900, 3658300; 495900, 3658400; 496000, 3658400; 496000, 3658300; 496200, 3658300; 496200, 3657800; 496100, 3657800; 496100, 3657700; 496000, 3657700; 496000, 3657600; then west to the MHPA; then northwestward along the MHPA to x-coordinate 494700; then bounded by 494700, 3658000; 495100, 3658000; 495100, 3658100; 495300, 3658100; 495300, 3658200; 495400, 3658200; 495400, 3658400; 495300, 3658400; 495300, 3658300; 494900, 3658300; 494900, 3658200; then west to the MHPA; then north along the MHPA to x-coordinate 494700; then bounded by 494700, 3658400; 495100, 3658400; 495100, 3658600; 495200, 3658600; returning to 495200, 3658700.

Land bounded by the following UTM NAD27 coordinates (E, N): 493400, 3658300; then east to the MHPA; then southwestward along the MHPA to x-coordinate 493300; then bounded by 493300, 3658100; 493400, 3658100; returning to 493400, 3658300.

Land bounded by the following UTM NAD27 coordinates (E, N): 477500, 3657900; 477800, 3657900; 477800, 3657800; 477500, 3657800; returning to 477500, 3657900.

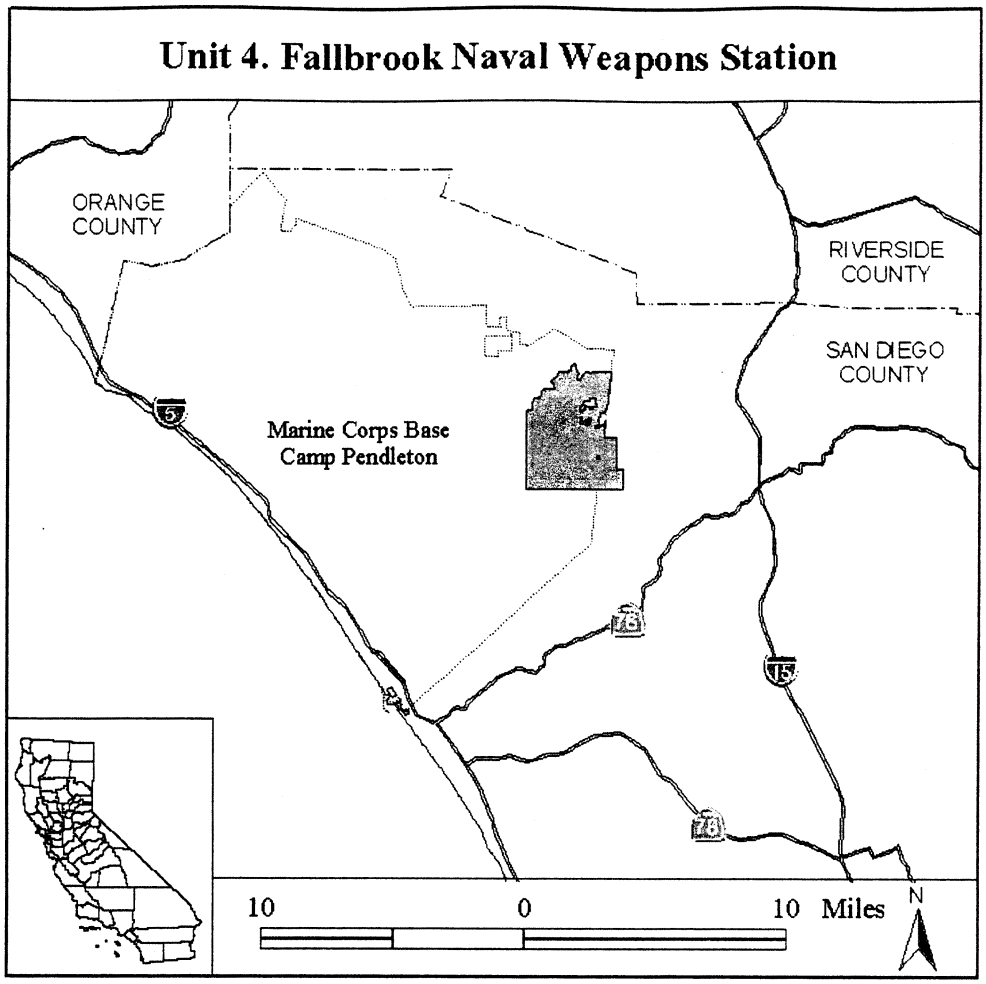
(ii) **Note:** Map of Unit 3 follows.



(8) *Unit 4:* Fallbrook Naval Weapons Station (FNWS), San Diego County, California.

(i) From USGS 1:24,000 quadrangle maps Bonsall, Morro Hill, and Fallbrook, California. Lands within the Santa Margarita y Las Flores Land Grant: FNWS; and Federal Lands associated with FNWS within T. 09 S., R. 04 W., San Bernardino Principal Meridian, secs. 35 and 36; and T. 10 S., R. 04 W., San Bernardino Principal Meridian, secs. 1 and 2; excluding land bounded by the following UTM NAD27 coordinates (E, N): 476000, 3692600; 475800, 3692600; 475800, 3692400; 475700, 3692400; 475700, 3692300; 475500, 3692300; 475500, 3692100; 475400, 3692100; 475400, 3691900; 475300, 3691900; 475300, 3691800; 475400, 3691800; 475400, 3691600; 475300, 3691600; 475300, 3691500; 475100, 3691500; 475100, 3691400; 475400, 3691400; 475400, 3691500; 475500, 3691500; 475500, 3691600; 475600, 3691600; 475600, 3691700; 475700, 3691700; 475700, 3691800; 476000, 3691800; 476000, 3692600; land bounded by 474700, 3691700; 474600, 3691700; 474600, 3691600; 474700, 3691600; 474700, 3691700; land bounded by 474700, 3691700; 474800, 3691700; 474800, 3691800; 474900, 3691800; 474900, 3692000; 474700, 3692000; 474700, 3691900; 474600, 3691900; 474600, 3691800; 474700, 3691800; 474700, 3691700; land bounded by 474800, 3693200; 474800, 3693100; 474500, 3693100; 474500, 3693000; 474400, 3693000; 474400, 3692800; 474300, 3692800; 474300, 3692700; 474200, 3692700; 474200, 3692400; 474300, 3692400; 474300, 3692500; 474400, 3692500; 474400, 3692600; 474500, 3692600; 474500, 3692800; 474600, 3692800; 474600, 3692700; 474800, 3692700; 474800, 3692600; 475000, 3692600; 475000, 3692700; 475200, 3692700; 475200, 3692900; 475100, 3692900; 475100, 3693200; 474800, 3693200; land bounded by 474200, 3692100; 474200, 3691700; 474400, 3691700; 474400, 3691800; 474300, 3691800; 474300, 3692100; 474200, 3692100; and land bounded by 475300, 3689700; 475300, 3689600; 475200, 3689600; 475200, 3689500; 475400, 3689500; 475400, 3689700; 475300, 3689700.

(ii) **Note:** Map of Unit 4 follows.



(9) *Unit 5:* North County Subarea of the MSCP for Unincorporated San Diego County, California.

(i) From USGS 1:100,000 quadrangle maps Oceanside and Borrego Valley, California, land bounded by the following UTM NAD27 coordinates (E, N): 480000, 3682500; 480000, 3682600; 479900, 3682600; 479900, 3682700; 480000, 3682700; 480000, 3682800; 480100, 3682800; 480100, 3682900; 480400, 3682900; 480400, 3682800; 480700, 3682800; 480700, 3681900; 480500, 3681900; 480500, 3682000; 480200, 3682000; 480200, 3682100; 479900, 3682100; 479900, 3681500; 479500, 3681500; 479500, 3681200; 479400, 3681200; 479400, 3681100; 479300, 3681100; 479300, 3681000; 479200, 3681000; 479200, 3680900; 479100, 3680900; 479100, 3680800; 479300, 3680800; 479300, 3680600; 479400, 3680600; 479400, 3680800; 480100, 3680800; 480100, 3680900; 480200, 3680900; 480200, 3681000; 480500, 3681000; 480500, 3681200; 481100, 3681200; 481100, 3680800; 481500, 3680800; 481500, 3680700; 481800, 3680700; 481800, 3680400; 482100, 3680400; 482100, 3680300; 482200, 3680300; 482200, 3680400; 482400, 3680400; 482400, 3680500; 482700, 3680500; 482700, 3679500; 481800, 3679500; 481800, 3679300; 481900, 3679300; 481900, 3679200; 482300, 3679200; 482300, 3678800; 482800, 3678800; 482800, 3678700; 482900, 3678700; 482900, 3678600;

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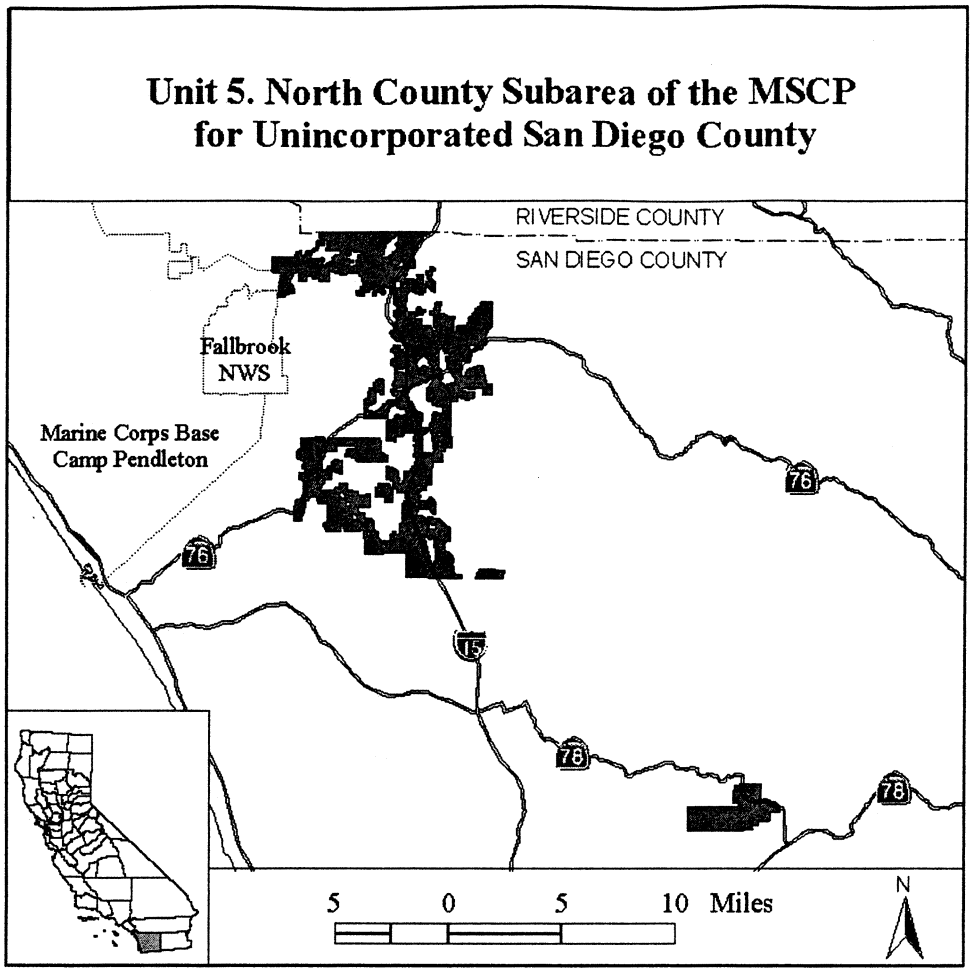
Land bounded by the following UTM NAD27 coordinates (E, N): 494200, 3691100; 494700, 3691100; 494700, 3691000; 494800, 3691000; 494800, 3690500; 494700, 3690500; 494700, 3690400; 494600, 3690400; 494600, 3690300; 494500, 3690300; 494500, 3690100; 494600, 3690100; 494600, 3690000; 494800, 3690000; 494800, 3689600; 494700, 3689600; 494700, 3689500; 494500, 3689500; 494500, 3689400; 493900, 3689400; 493900, 3689500; 493800, 3689500; 493800, 3689700; 493700, 3689700; 493700, 3689900; 493600, 3689900; 493600, 3690100; 493500, 3690100; 493500, 3690400; 493700, 3690400; 493700, 3690500; 493800, 3690500; 493800, 3690600; 493900, 3690600; 493900, 3690700; 494000, 3690700; 494000, 3690800; 494100, 3690800; 494100, 3691000; 494200, 3691000; returning to 494200, 3691100.

Land bounded by the following UTM NAD27 coordinates (E, N): 483200, 3681200; 484000, 3681200; 484000, 3681100; 484100, 3681100; 484100, 3681000; 484200, 3681000; 484200, 3680900; 484300, 3680900; 484300, 3679900; 483700, 3679900; 483700, 3680300; 483100, 3680300; 483100, 3681000; 483200, 3681000; returning to 483200, 3681200.

Land bounded by the following UTM NAD27 coordinates (E, N): 490400, 3675200; 491500, 3675200; 491500, 3675100; 492200, 3675100; 492200, 3674900; 492100, 3674900; 492100, 3674500; 491700, 3674500; 490100, 3674500; 490100, 3674600; 490200, 3674600; 490200, 3674900; 490300, 3674900; 490300, 3675000; 490400, 3675000; returning to 490400, 3675200.

Land bounded by the following UTM NAD27 coordinates (E, N): 510400, 3660000; 510400, 3659000; 510300, 3659000; 510300, 3658900; 510600, 3658900; 510600, 3659000; 510900, 3659000; 510900, 3658900; 511100, 3658900; 511100, 3658800; 511400, 3658800; 511400, 3658700; 511500, 3658700; 511500, 3658600; 511600, 3658600; 511600, 3658500; 511700, 3658500; 511700, 3658000; 511100, 3658000; 511100, 3657500; 511000, 3657500; 511000, 3657400; 510200, 3657400; 510200, 3657100; 509700, 3657100; 509700, 3656900; 509800, 3656900; 509800, 3656800; 509200, 3656800; 509200, 3656700; 505200, 3656700; 505200, 3658400; 508800, 3658400; 508800, 3658700; 508400, 3658700; 508400; then north to the MHPA; then north and east along the MHPA to y-coordinate 3660000; then east along y-coordinate 3660000 to the MHPA; the eastward along the MHPA to y-coordinate 3660000; returning to 510400, 3660000.

(ii) **Note:** Map of Unit 5 follows.



(10) *Unit 6:* Southern Orange Co./ Northwestern San Diego Co., California.

(i) From USGS 1:100,000 quadrangle maps Oceanside and Santa Ana, California, land bounded by the following UTM NAD27 coordinates (E, N): 445500, 3704000; 445100, 3704000; 445100, 3704800; 443600, 3704800; 443600, 3702000; 443300, 3702000; 443300, 3701900; 443200, 3701900; 443200, 3701700; 443300, 3701700; 443300, 3701600; 443400, 3701600; 443400, 3701400; 443500, 3701400; 443500, 3701000; 443700, 3701000; 443700, 3700900; 443800, 3700900; 443800, 3701000; 444000, 3701000; 444000, 3701100; 444200, 3701100; 444200, 3700800; 444100, 3700800; 444100, 3700500; 443900, 3700500; 443900, 3700400; 443700, 3700400; 443700, 3700300; 443800, 3700300; 443800, 3700200; 444000, 3700200; 444000, 3700100; 444300, 3700100; 444300, 3700000; 444400, 3700000; 444400, 3699900; 444500, 3699900; 444500, 3699800; 444700, 3699800; 444700, 3699600; 444800, 3699600; 444800, 3699500; 445100, 3699500; 445100, 3700000; 445200, 3700000; 445200, 3700100; 445300, 3700100; 445300, 3700300; 445200, 3700300; 445200, 3700500; 445300, 3700500; 445300, 3700600; 445700, 3700600; 445700, 3700100; 445800, 3700100; 445800, 3699900; thence east to Orange/ San Diego county line at y-coordinate 3699900; thence southwest along county line to y-coordinate 3697600; thence west and following coordinates: 445300, 3697600; 445300, 3697700; 445100, 3697700; 445100, 3698100; 445000, 3698100; 445000, 3698200; 444900, 3698200; 444900, 3698300; 444800, 3698300; 444800, 3698400; 444700, 3698400; 444700, 3698600; 444600, 3698600; 444600, 3698900; 444500, 3698900; 444500, 3699000; 444400, 3699000; 444400, 3699200; 444100, 3699200; 444100, 3699400; 443900, 3699400; 443900, 3699500; 443800, 3699500; 443800, 3699600; 443700, 3699600; 443700, 3699800; 443600, 3699800; 443600, 3700000; 443500, 3700000; 443500, 3700100; 443200, 3700100; 443200, 3700200; 443000, 3700200; 443000, 3700400; 442900, 3700400; 442900, 3700300; 442800, 3700300; 442800, 3700200; 442700, 3700200; 442700, 3700100; 442600, 3700100; 442600, 3700000; 442300, 3700000; 442300, 3700500; 442500, 3700500; 442500, 3700700; 442400, 3700700; 442400, 3701200; 442500, 3701200; 442500, 3701400; 442700, 3701400; 442700, 3701700; 442500, 3701700; 442500, 3701600; 441900, 3701600; 441900, 3702300; 442100, 3702300; 442100, 3702400; 442200, 3702400; 442200, 3702600; 442100, 3702600; 442100, 3703100; 442200, 3703100; 442200, 3703000; 442500, 3703000; 442500, 3702900; 442600, 3702900; 442600, 3703000; 442700, 3703000; 442700, 3703100; 442800, 3703100; 442800, 3703200; 442900, 3703200; 442900, 3703300; 442800, 3703300; 442800, 3703400; 442700, 3703400; 442700, 3703600; 442800,

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Land bounded by the following UTM NAD27 coordinates (E, N): 442600, 3725800; 442600, 3725400; 442500, 3725400; 442500, 3725100; 442300, 3725100; 442300, 3725000; 442200, 3725000; 442200, 3724900; 442100, 3724900; 442100, 3725000; 442000, 3725000; 442000, 3725300; 441900, 3725300; thence north to the Central Orange County NCCP reserve boundary at x-coordinate 441900; thence northeast along the NCCP reserve boundary to y-coordinate 3725800; returning to the point of beginning.

Land bounded by the following UTM NAD27 coordinates (E, N): 468100, 3684800; 468100, 3685000; 468200, 3685000; 468200, 3685200; 468300, 3685200; 468300, 3685400; 468500, 3685400; 468500, 3685500; 468600, 3685500; 468600, 3685600; 468700, 3685600; 468700, 3685700; 468800, 3685700; 468800, 3685800; 469000, 3685800; 469000, 3685900; 469100, 3685900; 469100, 3686000; 469200, 3686000; 469200, 3686100; 469300, 3686100; 469300, 3686200; 469500, 3686200; 469500, 3686300; 469600, 3686300; 469600, 3686500; 469700, 3686500; 469700, 3686800; 470000, 3686800; 470000, 3686900; 469900, 3686900; 469900, 3687000; 469800, 3687000; 469800, 3687300; 470300, 3687300; 470300, 3687500; 470400, 3687500; 470400, 3687700; 470500, 3687700; 470500, 3687800; 470400, 3687800; 470400, 3687900; 470200, 3687900; 470200, 3688300; 470100, 3688300; 470100, 3688400; 470000, 3688400; 470000, 3688500; 469700, 3688500; 469700, 3688600; 469600, 3688600; 469600, 3688700; 469700, 3688700; 469700, 3689000; 469400, 3689000; 469400, 3689200; 469300, 3689200; 469300, 3689500; 469400,

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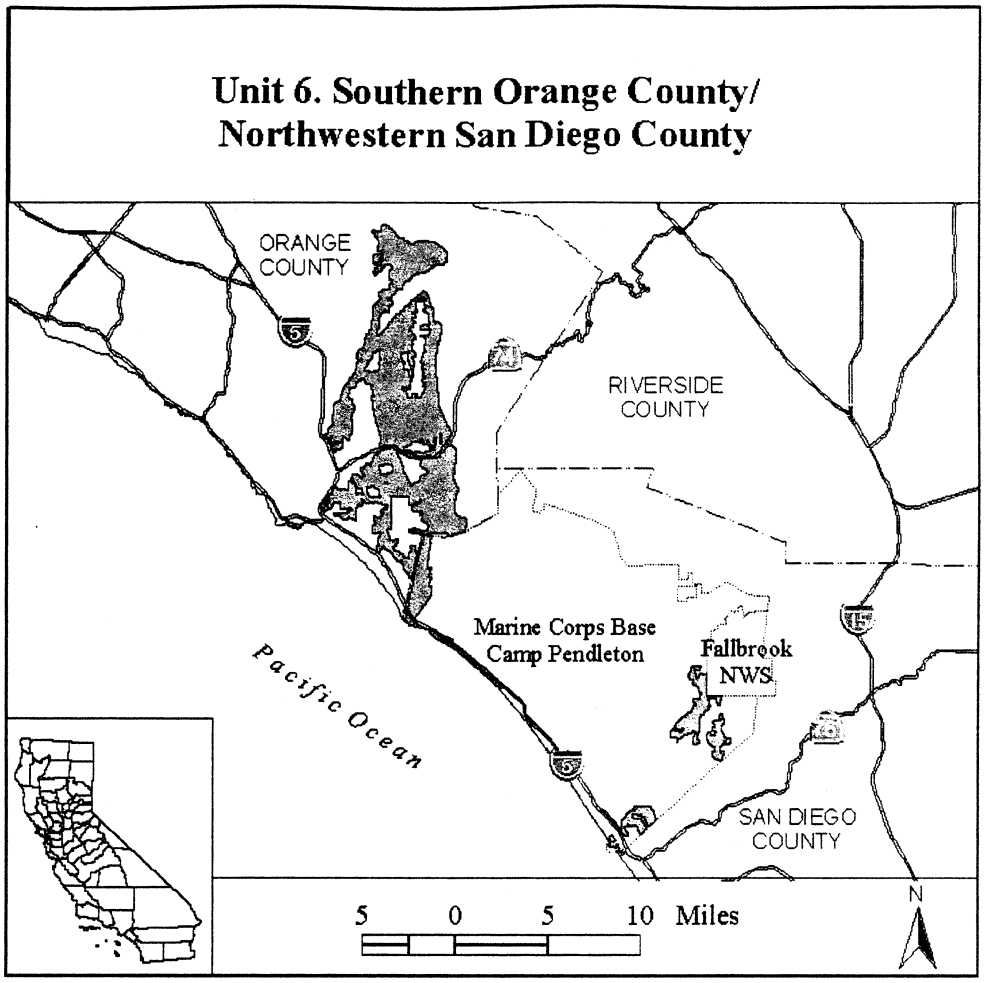
Land bounded by the following UTM NAD27 coordinates (E, N): 472100, 3686100; 472300, 3686100; 472300, 3685600; 472400, 3685600; 472400, 3685100; 472300, 3685100; 472300, 3685000; 472200, 3685000; 472200, 3684500; 472300, 3684500; 472300, 3684300; 472400, 3684300; 472400, 3684200; 472500, 3684200; 472500, 3684100; 472600, 3684100; 472600, 3684000; 472700, 3684000; 472700, 3683900; 472800, 3683900; 472800, 3684000; 473000, 3684000; 473000, 3683500; 472900, 3683500; 472900, 3683400; 472600, 3683400; 472600, 3683600; 472500, 3683600; 472500, 3683500; 472400, 3683500; 472400, 3683400; 472300, 3683400; 472300, 3683300; 472200, 3683300; 472200, 3683200; 472100, 3683200; 472100, 3682700; 472200, 3682700; 472200, 3682800; 472400, 3682800; 472400, 3682400; 472300, 3682400; 472300, 3682100; 472200, 3682100; 472200, 3682000; 471900, 3682000; 471900, 3682100; 471600, 3682100; 471600, 3682200; 471500, 3682200; 471500, 3682300; 471400, 3682300; 471400, 3682800; 471600, 3682800; 471600, 3683100; 471500, 3683100; 471500, 3683200; 471400, 3683200; 471400, 3683300; 471300, 3683300; 471300, 3683400; 471200, 3683400; 471200, 3683500; 471100, 3683500; 471100, 3683600; 471000, 3683600; 471000, 3683700; 470900, 3683700; 470900, 3684300; 471100, 3684300; 471100, 3684400; 471300, 3684400; 471300, 3684200; 471600, 3684200; 471600, 3684400; 471700, 3684400; 471700, 3684500; 471600, 3684500; 471600, 3684600; 471400, 3684600; 471400, 3684900; 471600, 3684900; 471600, 3685100; 471500, 3685100; 471500, 3685300; 471400, 3685300; 471400, 3685400; 471500, 3685400; 471500, 3685500; 472100, 3685500; 472100, 3685600; 472000, 3685600; 472000, 3686000; 472100, 3686000; returning to 472100, 3686100.

Land bounded by the following UTM NAD27 coordinates (E, N): 464600, 3678000; 466100, 3678000; 466100, 3677800; 466200, 3677800; 466200, 3677700; 466300, 3677700; 466300, 3677600; 466400, 3677600; 466400, 3677300; 466500, 3677300; 466500, 3676900; 466600, 3676900; thence south to Marine Corps Base Camp Pendleton boundary (MCBCP) at x-coordinate 466600; thence southwest along MCBCP boundary to y-coordinate 3676500; thence west and following coordinates: 466100, 3676500; 466100, 3676400; 466000, 3676400; 466000, 3676300; 465900, 3676300; 465900, 3676400; 465800, 3676400; 465800, 3676600; 465700, 3676600; 465700, 3676800; 465600, 3676800; 465600, 3677100; 465300, 3677100; 465300, 3677300; 465200, 3677300; 465200, 3677200; 465000, 3677200; 465000, 3677300; 464500, 3677300; 464500, 3677100; 464600, 3677100; 464600, 3677000; 464800, 3677000; 464800, 3676900; 465300, 3676900; 465300, 3676700; 465400, 3676700; 465400, 3676600; 465500, 3676600; 465500, 3676400; 465700, 3676400; 465700, 3676200; 465800, 3676200; thence south to MCBCP boundary at x-coordinate 465800; thence southwest along MCBCP boundary to y-coordinate 3675600; thence west and following coordinates: 465200, 3675600; 465200, 3675700; 465100, 3675700; 465100, 3675900; 465000, 3675900; 465000, 3676300; 464900, 3676300; 464900, 3676400; 464800, 3676400; 464800, 3676300; 464700, 3676300; 464700, 3676400; 464500, 3676400; 464500, 3676200; 464400, 3676200; 464400, 3676300; 464300, 3676300; 464300, 3676400; 464200, 3676400; 464200, 3676500; 464100, 3676500; 464100, 3676300; 463900, 3676300; 463900, 3676200; 463800, 3676200; 463800, 3676100; 463900, 3676100; 463900, 3675900; 464000, 3675900; 464000, 3675800; 464100, 3675800; 464100, 3675400; 463800, 3675400; 463800, 3675500; 463700, 3675500; 463700, 3675600; 463600, 3675600; 463600, 3676800; 463700, 3676800; 463700, 3676900; 463800, 3676900; 463800, 3677100; 463900, 3677100; 463900, 3677300; 464000, 3677300; 464000, 3677400; 464200, 3677400; 464200, 3677500; 464300, 3677500; 464300, 3677600; 464500, 3677600; 464500, 3677800; 464600, 3677800; returning to 464600, 3678000.

Land within Marine Corps Base Camp Pendleton Designated Areas: San Onofre State Park Lease Area and San Onofre State Beach.

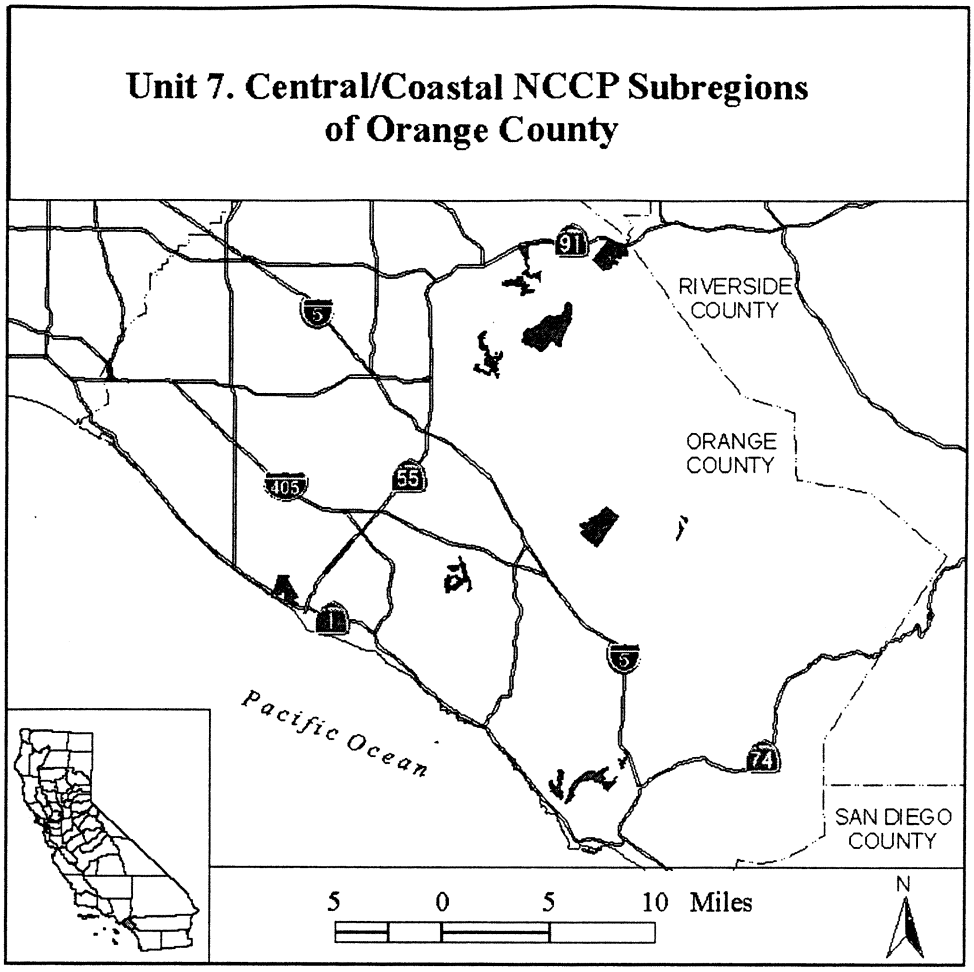
(ii) **Note:** Map of Unit 6 follows.



(11) *Unit 7:* Central-Coastal Natural Communities Conservation Plan (NCCP) Subregions of Orange County, Orange County, California.

(i) From USGS 1:100,000 quadrangle maps Santa Ana and Oceanside, California, land defined by the boundary of the designated reserve within Marine Corps Air Station El Toro; the designated reserve in the North Ranch Policy Plan Area, and selected Existing Land Use areas within the NCCP for the Central-Coastal Subregion.

(ii) **Note:** Map of Unit 7 follows.



(12) *Unit 8:* Palos Verdes Peninsula Subregion, Los Angeles County, California.

(i) From USGS 1:24,000 quadrangle maps San Pedro, Redondo Beach, Redondo Beach OE S, and Torrance, land bounded by the following UTM NAD27 coordinates (E, N): 378000, 3735500; 378200, 3735500; 378400, 3735600; 378400, 3735700; 378600, 3735700; 378600, 3735500; 378500, 3735500; 378100, 3735300; 378100, 3735200; 377800, 3735200; 377700, 3735100; 377700, 3735000; 377400, 3735000; 377400, 3734900; 377600, 3734900; 377600, 3734800; 377800, 3734800; 377800, 3734700; 377900, 3734600; 378000, 3734600; 378000, 3734400; 378200, 3734400; 378200, 3734500; 378700, 3734500; 378700, 3734300; 378300, 3734300; 378300, 3734200; 377900, 3734200; 377900, 3734300; 377600, 3734300; 377600, 3734000; 377300, 3734000; 377300, 3733700; 377400, 3733600; 377500, 3733600; 377500, 3733400; 377700, 3733400; 377700, 3733200; 377500, 3733200; 377300, 3733100; 377300, 3733000; 377400, 3733000; 377400, 3732800; 377300, 3732800; 377300, 3732500; 377200, 3732500; 377200, 3732400; 377100, 3732400; 377100, 3732500; 376800, 3732500; 376800, 3732600; 376300, 3732600; 376300, 3732700; 376100, 3732700; 376100, 3732800; 375900, 3733000; 375700, 3733000; 375700, 3733100; 375600, 3733100; 375600, 3733300; 375800, 3733300; 375800, 3733200; 376300, 3733200; 376300, 3733100; 376400, 3733100; 376400, 3733200; 376300, 3733300; 376200, 3733300; 376200, 3733600; 376400, 3733600; 376400, 3733500; 376600, 3733300; 376700, 3733300; 376700, 3733400; 376600, 3733400; 376600, 3733500; 376700, 3733500; 376700, 3733600; 377000, 3733600; 377000, 3733800; 376900, 3733800; 376900, 3734000; 376800, 3734000; 376800, 3734200; 376700, 3734200; 376700, 3734100; 376400, 3734100; 376400, 3734200; 376100, 3734200; 376100, 3734000; 376000, 3734000; 376000, 3733800; 375600, 3733800; 375600, 3733600; 375400, 3733600; 375300, 3733500; 375300, 3733400; 375200, 3733400; 375200, 3733500; 374900, 3733800; 374600, 3733800; 374600, 3733900; 374500, 3733900; 374500, 3733600; 374600, 3733500; 374700, 3733500; 374700, 3733200; 374800, 3733200; 374800, 3733100; 374700, 3733100; 374700, 3732900; then west to the Pacific Ocean; thence westward along the coastline past x-coordinate 371500 to y-coordinate 3733800; then bounded by 371000, 3733800; 371000, 3734000; 371100, 3734000; 371100, 3734100; 371500, 3734100; 371700, 3734300; 371700, 3734600; 371800, 3734600; 371800, 3734700; 371600, 3734700; 371600, 3734500; 371200, 3734500; 371200, 3734400; 370900, 3734400; 370900, 3734300; 370600, 3734300; 370200, 3734100; 370200, 3734000; then west to the Pacific Ocean; thence northwestward along the coastline to y-coordinate 3734800; then bounded by 3734800; 369900, 3734800; 370000, 3734900; 370000, 3735000; 369900, 3735000; 369900, 3735400; 369800, 3735400; 369800, 3736200; 369700, 3736300; 369600, 3736300; 369600, 3736800; 369400, 3736800; 369400, 3737100; 369000, 3737200; 368500, 3737200; 368400, 3737100; 368400,

3737000; 368200, 3737000; then north to the Pacific Ocean; thence northward along the coastline to y-coordinate 3737200; then bounded by 368400, 3737200; 368400, 3737400; 368300, 3737600; then west to the Pacific Ocean; thence northwest along the coastline to x-coordinate 368200, then bounded by 368200, 3737800; 368400, 3737800; 368400, 3737700; 368500, 3737500; 368600, 3737400; 368800, 3737300; 369300, 3737300; 369300, 3737200; 369400, 3737200; 369400, 3737400; 369600, 3737400; 369600, 3737300; 369700, 3737300; 369700, 3737500; 369500, 3737500; 369500, 3737600; 369400, 3737600; 369400, 3737800; 369500, 3737800; 369500, 3737700; 369700, 3737700; 369700, 3737800; 369600, 3737900; 369400, 3737900; 369400, 3738100; 369600, 3738100; 369700, 3738200; 369700, 3738400; 369800, 3738400; 369800, 3738900; 369500, 3738900; 369500, 3738800; 369600, 3738800; 369600, 3738600; 369400, 3738600; 369400, 3738800; 369300, 3738800; 369300, 3739100; 369200, 3739200; 369000, 3739200; 368800, 3738900; 368700, 3738900; then north to the Pacific Ocean; thence northeastward along the coastline to y-coordinate 3739900; then bounded by 370500, 3739900; 370800, 3740200; 371000, 3740200; 371000, 3740400; 371100, 3740400; 371100, 3740500; 371800, 3740500; 371800, 3740300; 372100, 3740300; 372100, 3740100; 372400, 3740100; 372400, 3740200; 372500, 3740200; 372500, 3740100; 372700, 3740100; 372700, 3739400; 372600, 3739400; 372400, 3739000; 372400, 3738800; 372500, 3738600; 372600, 3738600; 372600, 3738400; 372300, 3738400; 372300, 3738500; 372200, 3738700; 372100, 3738700; 372100, 3739000; 372200, 3739000; 372200, 3739300; 372100, 3739300; 372100, 3739600; 371800, 3739600; 371800, 3739800; 371900, 3739800; 371900, 3740000; 371800, 3740000; 371800, 3739900; 371700, 3739900; 371700, 3740000; 371500, 3740000; 371400, 3740200; 371200, 3740200; 371200, 3740100; 371000, 3740100; 370900, 3740000; 370900, 3739900; 370700, 3739900; 370600, 3739800; 370600, 3739700; 370700, 3739700; 370700, 3739300; 370500, 3739300; 370300, 3739200; 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Land bounded by the following UTM NAD27 coordinates (E, N): 374700, 3740500; 375100, 3740500; 375100, 3740300; 375200, 3740300; 375200, 3739900; 375000, 3739900; 375000, 3740000; 374800, 3740000; 374800, 3739800; 374100, 3739800; 374100, 3740000; 373800, 3740200; 373600, 3740200; 373600, 3740400; 373900, 3740400; 373900, 3740300; 374200, 3740200; 374800, 3740200; 374800, 3740300; 374700, 3740300; returning to 374700, 3740500.

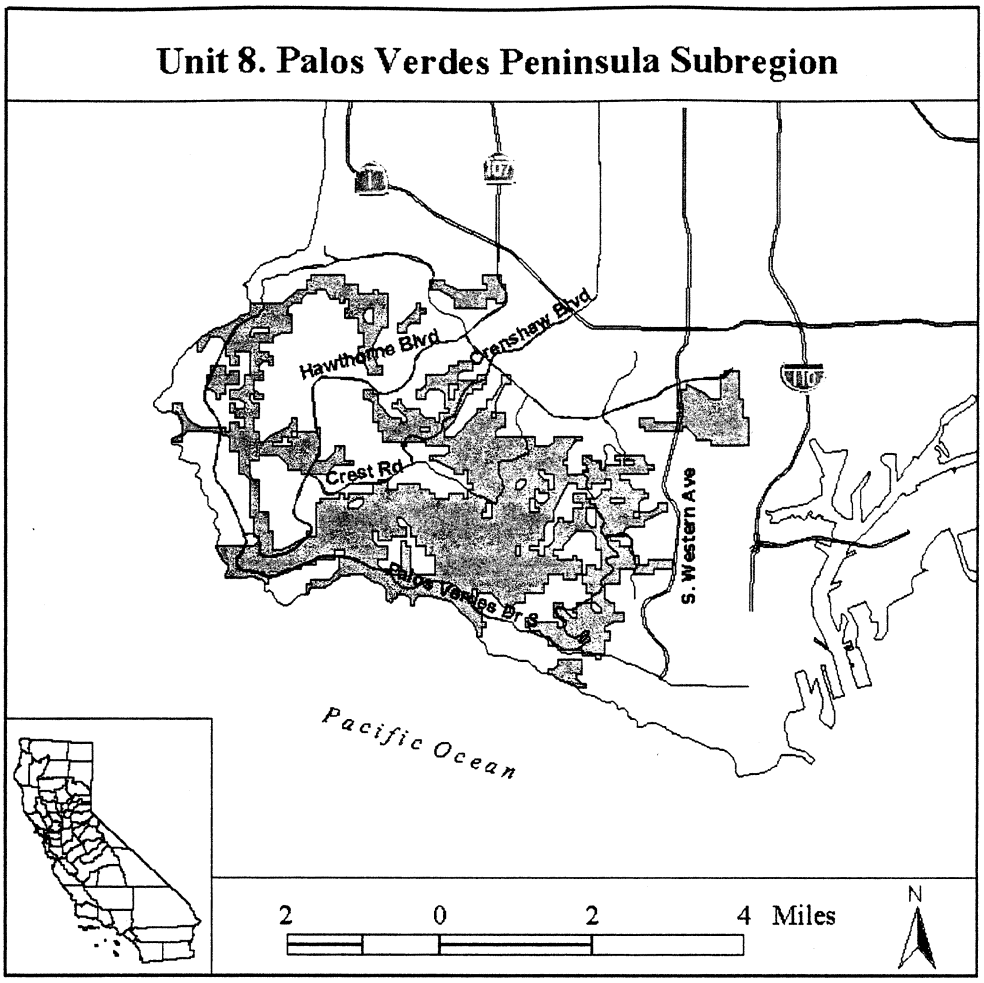
Land bounded by the following UTM NAD27 coordinates (E, N): 373300, 3739900; 373400, 3739900; 373400, 3739800; 373500, 3739800; 373500, 3739700; 373400, 3739700; 373400, 3739500; 373200, 3739500; 373100, 3739400; 373100, 3739300; 372900, 3739300; 372900, 3739500; 373000, 3739500; 373300, 3739800; returning to 373300, 3739900.

Land bounded by the following UTM NAD27 coordinates (E, N): 369000, 3738600; 369300, 3738600; 369300, 3738400; 369400, 3738400; 369400, 3738500; 369600, 3738500; 369600, 3738200; 369300, 3738200; 369300, 3738000; 369200, 3738000; 369200, 3737900; 369100, 3737900; 369100, 3738000; 369000, 3738100; 368900, 3738100; 368900, 3738400; 369000, 3738400; returning to 369000, 3738600.

Land bounded by the following UTM NAD27 coordinates (E, N): 379800, 3738500; 380100, 3738500; 380100, 3737900; 380200, 3737900; 380200, 3737500; 380300, 3737500; 380300, 3736900; 379500, 3736900; 379500, 3737000; 379200, 3737000; 379200, 3737100; 379000, 3737300; 378900, 3737300; 378900, 3737200; 378100, 3737200; 378100, 3737300; 378000, 3737300; 378000, 3737500; 378300, 3737500; 378300, 3737400; 378800, 3737400; 378800, 3737600; 378900, 3737600; 378900, 3737700; 378800, 3737700; 378800, 3738100; 379000, 3738100; 379000, 3738200; 379400, 3738000; 379500, 3737900; 379700, 3737900; 379700, 3738400; 379800, 3738400; returning to 379800, 3738500.

Beginning at the Pacific Ocean at x-coordinate 376100, land bounded by the following UTM NAD27 coordinates (E, N): 376100, 3732200; 376200, 3732200; 376300, 3732300; 376800, 3732400; 376800, 3732100; 376700, 3732100; 376700, 3732000; 376800, 3731900; 376900, 3731900; 376900, 3731800; then west to the Pacific Ocean; thence northwestward to the point of beginning.

(ii) **Note:** Map of Unit 8 follows.



(13) *Unit 9:* East Los Angeles County—Matrix NCCP Subregion of Orange, Los Angeles, and San Bernardino Counties, California.

(i) From USGS 1:24,000 quadrangle maps El Monte, Black Star Canyon, Prado Dam, Yorba Linda, La Habra, and Whittier, California, land bounded by the following UTM NAD27 coordinates (E, N): 399400, 3766400; 400000, 3766400; 400000, 3766300; 400600, 3766300; 400600, 3766400; 400700, 3766400; 400700, 3766300; 400800, 3766300; 400800, 3766200; 400900, 3766200; 400900, 3766100; 401000, 3766100; 401000, 3766000; 401100, 3766000; 401100, 3765900; 401200, 3765900; 401200, 3765800; 401400, 3765800; 401400, 3765700; 401600, 3765700; 401600, 3765600; 401700, 3765600; 401700, 3765700; 402500, 3765700; 402500, 3765800; 403000, 3765800; 403000, 3765900; 403400, 3765900; 403400, 3766000; 404000, 3766000; 404000, 3766100; 404200, 3766100; 404200, 3765900; 404100, 3765900; 404100, 3765800; 403900, 3765800; 403900, 3765700; 403700, 3765700; 403700, 3765600; 403500, 3765600; 403500, 3765400; 403400, 3765400; 403400, 3765300; 403300, 3765300; 403300, 3765200; 403200, 3765200; 403200, 3765000; 403100, 3765000; 403100, 3764800; 403000, 3764800; 403000, 3764700; 402700, 3764700; 402700, 3764800; 401000, 3764800; 401000, 3765000; 401100, 3765000; 401100, 3765100; 400800, 3765100; 400800, 3765200; 400600, 3765200; 400600, 3765100; 400200, 3765100; 400200, 3765200; 399800, 3765200; 399800, 3765400; 398800, 3765400; 398800, 3765300; 398500, 3765300; 398500, 3765200; 398300, 3765200; 398300, 3765700; 398400, 3765700; 398400, 3765900; 398500, 3765900; 398500, 3766000; 398700, 3766000; 398700, 3766100; 399100, 3766100; 399100, 3766200; 399300, 3766200; 399300, 3766300; 399400, 3766300; returning to 399400, 3766400.

Land bounded by the following UTM NAD27 coordinates (E, N): 437900, 3748300; 437800, 3748300; 437800, 3748200; 437200, 3748200; 437200, 3748000; 433500, 3748000; 433500, 3748100; 433700, 3748100; 433700, 3748200; 434800, 3748200; 434800, 3748300; 435100, 3748300; 435100, 3748400; 435400, 3748400; 435400, 3748500; 435500, 3748500; 435500, 3748700; 436200, 3748700; 436200, 3748800; 436000, 3748800; 436000, 3748900; 435700, 3748900; 435700, 3749000; 435300, 3749000; 435300, 3748900; 434900, 3748900; 434900, 3749000; 434700, 3749000; 434700, 3749200; 434800, 3749200; 434800, 3749400; 434700, 3749400; 434700, 3749700; 434900, 3749700; 434900, 3749800; 435000, 3749800; 435000, 3749900; 434700, 3749900; 434700, 3750000; 434500, 3750000; 434500, 3750100; 434400, 3750100; 434400, 3749800; 434200, 3749800; 434200, 3749600; 434100, 3749600; 434100, 3749500; 434000, 3749500; 434000, 3749400; 433900, 3749400; 433900, 3749300; 433800, 3749300; 433800, 3749200; 434100, 3749200; 434100, 3749100; 434300, 3749100; 434300, 3749000; 434200, 3749000; 434200, 3748900; 433900, 3748900; 433900, 3749000; 433500, 3749000; 433500, 3749100; 433400, 3749100; 433400, 3749200; 433100, 3749200; 433100,

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Land bounded by the following UTM NAD27 coordinates (E, N): 409700,

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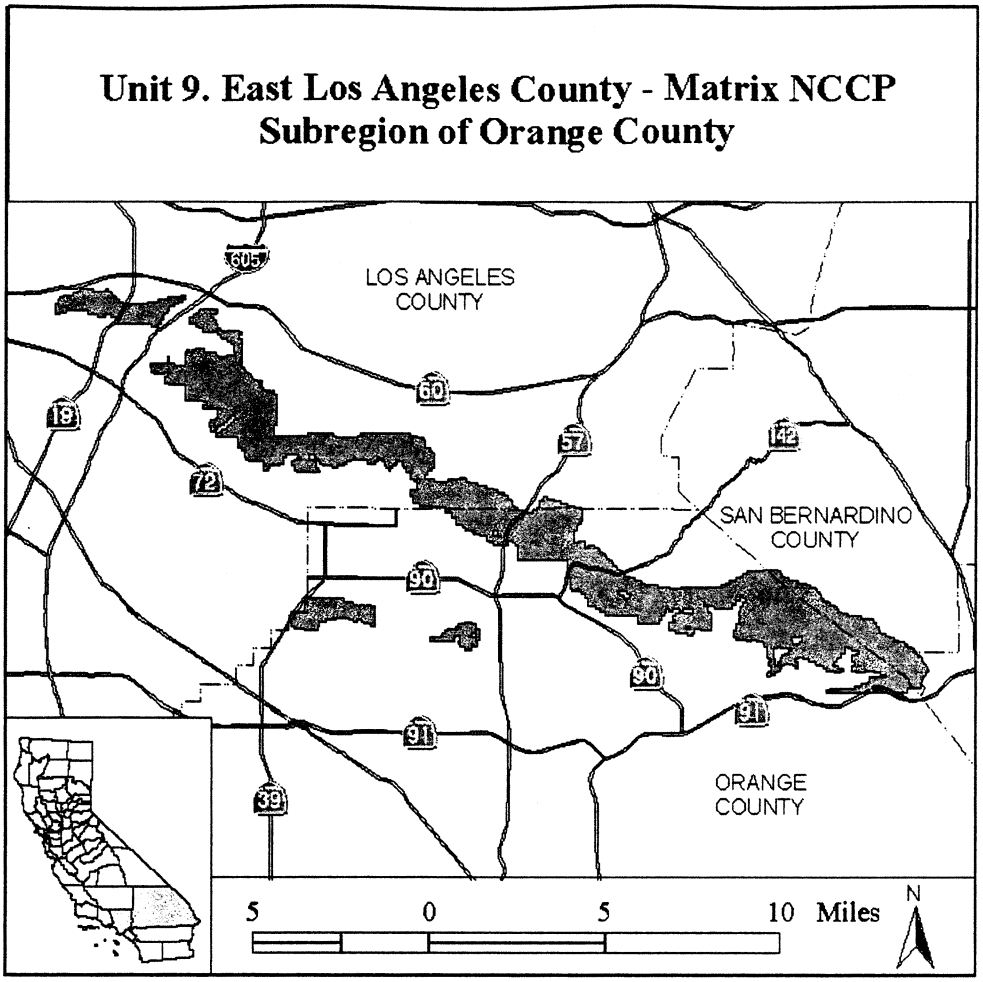
Land bounded by the following UTM NAD27 coordinates (E, N): 417000, 3751200; 417300, 3751200; 417300, 3751100; 417500, 3751100; 417500, 3750900; 417700, 3750900; 417700, 3750400; 417500, 3750400; 417500, 3750300; 417600, 3750300; 417600, 3750100; 417400, 3750100; 417400, 3750200; 417300, 3750200; 417300, 3749900; 417000, 3749900; 417000, 3750100; 416800, 3750100; 416800, 3750200; 416700, 3750200; 416700, 3750300; 416800, 3750300; 416800, 3750600; 416600, 3750600; 416600, 3750500; 416500, 3750500; 416500, 3750300; 415400, 3750300; 415400, 3750500; 415900, 3750500; 415900, 3750600; 416000, 3750600; 416000, 3750700; 416100, 3750700; 416100, 3750800; 416200, 3750800; 416200, 3750900; 416600, 3750900; 416600, 3751000; 416700, 3751000; 416700, 3751100; 417000, 3751100; returning to 417000, 3751200; excluding land bounded by 417300, 3750700; 417300, 3750600; 417200, 3750600; 417200, 3750500; 417500, 3750500; 417500, 3750700; 417300, 3750700.

(ii) **Note**: Map of Unit 9 follows.



(14) *Unit 10:* Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), Riverside and San Bernardino Counties, California.

(i) From USGS 1:100,000 quadrangle maps Borrego Valley, Oceanside, Palm Springs, Santa Ana, and San Bernardino, California, land bounded by the following UTM NAD27 coordinates (E, N): 459800, 3767500; 462300, 3767500; 462300, 3766500; 462500, 3766500; 462500, 3766600; 462800, 3766600; 462800, 3766500; 463100, 3766500; 463100, 3766400; 463300, 3766400; 463300, 3766300; 463500, 3766300; 463500, 3766100; 463400, 3766100; 463400, 3766000; 463300, 3766000; 463300, 3765900; 463500, 3765900; 463500, 3765700; 463100, 3765700; 463100, 3763900; 463000, 3763900; 463000, 3763700; 462900, 3763700; 462900, 3763100; 462800, 3763100; 462800, 3763000; 462700,

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Land bounded by the following UTM NAD27 coordinates (E, N): 474400, 3766500; 474400, 3766600; 474200, 3766600; 474200, 3766700; 473900, 3766700; 473900, 3767000; 473800, 3767000; 473800, 3767100; 473700, 3767100; 473700, 3767300; 473900, 3767300; 473900, 3767400; 474200, 3767400; 474200, 3767300; 474400, 3767300; 474400, 3767200; 474500, 3767200; 474500, 3767300; 474800, 3767300; 474800, 3767400; 475100, 3767400; 475100, 3767200; 475300, 3767200; 475300, 3766700; 475400, 3766700; 475400, 3766600; 475800, 3766600; 475800, 3766700; 476000, 3766700; 476000, 3766600; 476500, 3766600; 476500, 3766400; 477000, 3766400; 477000, 3766000; 476900, 3766000; 476900, 3765800; 477000, 3765800; 477000, 3765700; 477100, 3765700; 477100, 3765400; 477200, 3765400; 477200, 3764900; 477400, 3764900; 477400, 3764800; 477500, 3764800; 477500, 3764400; 477700, 3764400; 477700, 3764200; 477800, 3764200; 477800, 3764100; 477900, 3764100; 477900, 3764000; 478100, 3764000; 478100, 3763900; 478200, 3763900; 478200, 3763800; 478700, 3763800; 478700, 3763700; 479000, 3763700; 479000, 3763400; 479100, 3763400; 479100, 3763200; 479200, 3763200; 479200, 3763100; 479300, 3763100; 479300, 3763000; 479200, 3763000; 479200, 3762900; 479300, 3762900; 479300, 3761200; 479200, 3761200; 479200, 3761300; 479000, 3761300; 479000, 3761400; 478900, 3761400; 478900, 3761600; 478700, 3761600; 478700, 3761300; 478800, 3761300; 478800, 3761200; 478900, 3761200; 478900, 3760800; 479000, 3760800; 479000, 3760700; 479200, 3760700; 479200, 3760500; 479300, 3760500; 479300, 3760600; 479600, 3760600; 479600, 3760400; 479700, 3760400; 479700, 3760300; 479800, 3760300; 479800, 3760100; 480100, 3760100; 480100, 3759900; 480300, 3759900; 480300, 3759800; 480400, 3759800; 480400, 3759700; 480500, 3759700; 480500, 3759600; 480600, 3759600; 480600, 3759400; 480700, 3759400; 480700, 3759300; 480800, 3759300; 480800, 3759200; 480900, 3759200; 480900, 3759100; 481000, 3759100; 481000, 3759000; 481100, 3759000; 481100, 3758900; 481200, 3758900; 481200, 3758700; 481300, 3758700; 481300, 3758400; 481400, 3758400; 481400, 3758300; 481500, 3758300; 481500, 3757900; 481600, 3757900; 481600, 3757600; 479100, 3757600; 479100, 3759200; 479000, 3759200; 479000, 3759400; 478900, 3759400; 478900, 3759800; 478800, 3759800; 478800, 3759700; 478600, 3759700; 478600, 3759500; 478500, 3759500; 478500, 3759400; 478600, 3759400; 478600, 3759200; 475900, 3759200; 475900, 3759900; 475800, 3759900; 475800, 3760000; 475700, 3760000; 475700, 3760100; 475600, 3760100; 475600, 3760200; 475500, 3760200; 475500, 3760300; 475400, 3760300; 475400, 3760400; 475300, 3760400; 475300, 3760800; 475200, 3760800; 475200, 3760900; 475400, 3760900; 475400, 3761000; 475100, 3761000; 475100, 3761200; 474700, 3761200; 474700, 3761300; 474600, 3761300; 474600, 3761500; 474300, 3761500; 474300, 3761400; 474400, 3761400; 474400, 3761200; 474100, 3761200; 474100, 3760900; 473900, 3760900; 473900, 3760800; 473800, 3760800; 473800, 3760700; 473900, 3760700; 473900, 3760500; 474400, 3760500; 474400, 3760400; 474800, 3760400; 474800, 3760200; 475000, 3760200; 475000, 3759900; 475100, 3759900; 475100, 3759800; 475000, 3759800; 475000, 3759700; 474900, 3759700; 474900, 3759500; 475200, 3759500; 475200, 3759200; 474400, 3759200; 474400, 3758900; 474300, 3758900; 474300, 3756400; 474200, 3756400; 474200, 3756500; 473900, 3756500; 473900, 3756600; 473800, 3756600; 473800, 3756900; 473500, 3756900; 473500, 3756800; 473000, 3756800; 473000, 3757300; 472900, 3757300; 472900, 3757200; 472800, 3757200; 472800, 3757100; 472700, 3757100; 472700, 3756100; 472500, 3756100; 472500, 3756200; 472200, 3756200; 472200, 3756300; 472100, 3756300; 472100, 3756500; 472000, 3756500; 472000, 3756800; 471900,

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Land bounded by the following UTM NAD27 coordinates (E, N): 468400, 3767200; 469000, 3767200; 469000, 3767100; 469100, 3767100; 469100, 3767000; 469200, 3767000; 469200, 3766800; 469100, 3766800; 469100, 3766700; 469000, 3766700; 469000, 3766600; 468900, 3766600; 468900, 3766300; 469000, 3766300; 469000, 3766200; 469100, 3766200; 469100, 3766100; 469000, 3766100; 469000, 3765700; 468900, 3765700; 468900, 3765600; 469000, 3765600; 469000, 3765300; 468900, 3765300; 468900, 3765200; 468700, 3765200; 468700, 3765000; 468600, 3765000; 468600, 3764700; 468700, 3764700; 468700, 3764500; 468300, 3764500; 468300, 3764400; 468200, 3764400; 468200, 3764300; 468000, 3764300; 468000, 3764200; 467600, 3764200; 467600, 3764300; 467400, 3764300; 467400, 3764800; 466700, 3764800; 466700, 3765000; 466800, 3765000; 466800, 3765200; 466900, 3765200; 466900, 3765300; 467000, 3765300; 467000, 3765400; 467100, 3765400; 467100, 3765600; 467200, 3765600; 467200, 3765700; 467300, 3765700; 467300, 3765900; 467400, 3765900; 467400, 3766300; 467500, 3766300; 467500, 3766600; 467600, 3766600; 467600, 3766800; 468300, 3766800; 468300, 3767000; 468400, 3767000; returning to 468400, 3767200.

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Beginning at the Riverside/San Diego County line at y-coordinate 3700600, land bounded by the following UTM NAD27 coordinates (E, N): 477900, 3700600; 477900, 3700700; 479200, 3700700; 479200, 3700600; 479100, 3700600; 479100, 3700500; 479000, 3700500; 479000, 3700400; 479300, 3700400; 479300, 3700500; 479500, 3700500; 479500, 3700600; 479800, 3700600; 479800, 3700700; 480000, 3700700; 480000, 3700600; 480800, 3700600; 480800, 3701100; 481000, 3701100; 481000, 3701200; 481200, 3701200; 481200, 3701300; 481400, 3701300; 481400, 3701400; 481700, 3701400; 481700, 3701500; 481900, 3701500; 481900, 3701600; 482100, 3701600; 482100, 3701700; 482400, 3701700; 482400, 3701800; 482600, 3701800; 482600, 3701900; 482800, 3701900; 482800, 3702000; 483000, 3702000; 483000, 3702100; 483300, 3702100; 483300, 3702200; 483500, 3702200; 483500, 3702300; 483700, 3702300; 483700, 3702400; 484000, 3702400; 484000, 3702500; 484100, 3702500; 484100, 3702800; 484200, 3702800; 484200, 3702900; 484300, 3702900; 484300, 3703000; 484700, 3703000; 484700, 3702900; 484800, 3702900; 484800, 3702800; 485000, 3702800; 485000, 3702900; 485200, 3702900; 485200, 3703000; 485300, 3703000; 485300, 3703100; 485200, 3703100; 485200, 3703200; 485100, 3703200; 485100, 3703300; 484700, 3703300; 484700, 3703500; 485200, 3703500; 485200, 3703600; 485600, 3703600; 485600, 3703700; 485700, 3703700; 485700, 3703800; 485800, 3703800; 485800, 3704000; 485900, 3704000; 485900, 3704300; 486000, 3704300; 486000, 3704500; 485900, 3704500; 485900, 3704600; 485400, 3704600; 485400, 3704900; 485200, 3704900; 485200, 3705000; 485000, 3705000; 485000, 3704900; 484900, 3704900; 484900, 3704800; 485000, 3704800; 485000, 3704600; 485100, 3704600; 485100, 3704500; 485200, 3704500; 485200, 3704300; 485300, 3704300; 485300, 3704100; 485200, 3704100; 485200, 3703900; 485000, 3703900; 485000, 3704000; 484900, 3704000; 484900, 3704100; 484600, 3704100; 484600, 3704200; 484500, 3704200; 484500, 3704300; 484400, 3704300; 484400, 3704600; 484300, 3704600; 484300, 3704700; 484100, 3704700; 484100, 3704600; 483500, 3704600; 483500, 3705400; 483400, 3705400; 483400, 3705800; 483300, 3705800; 483300, 3705900; 483100, 3705900; 483100, 3706200; 482900, 3706200; 482900, 3706400; 482600, 3706400; 482600, 3706600; 482500, 3706600; 482500, 3707000; 482000, 3707000; 482000, 3707200; 481700, 3707200; 481700, 3707600; 482000, 3707600; 482000, 3707800; 481800, 3707800; 481800, 3707900; 481300, 3707900; 481300, 3708100; 481400, 3708100; 481400, 3708200; 481500, 3708200; 481500, 3708300; 481700, 3708300; 481700, 3708400; 481600, 3708400; 481600, 3708500; 481500, 3708500; 481500, 3708600; 481100, 3708600; 481100, 3708800; 481000, 3708800; 481000, 3708900; 480000, 3708900; 480000, 3709900; 480500, 3709900; 480500, 3709800; 480600, 3709800; 480600, 3709700; 481100, 3709700; 481100, 3709500; 481300, 3709500; 481300, 3709400; 481400, 3709400; 481400, 3709300; 481600, 3709300; 481600, 3709200; 481700, 3709200; 481700, 3709100; 481800, 3709100; 481800, 3709000; 482000, 3709000; 482000, 3708900; 482100, 3708900; 482100, 3708800; 482200, 3708800; 482200, 3708600; 482600, 3708600; 482600, 3708500; 482700, 3708500; 482700, 3708300; 482800, 3708300; 482800, 3708200; 482900, 3708200; 482900, 3708000; 483000, 3708000; 483000, 3707600; 483100, 3707600; 483100, 3707500; 483200, 3707500; 483200, 3707200; 483300, 3707200; 483300, 3707100; 484000, 3707100; 484000, 3707000; 484300, 3707000; 484300, 3706700; 484500, 3706700; 484500, 3706600; 484600, 3706600; 484600, 3706500; 484700, 3706500; 484700, 3706400; 484900, 3706400; 484900, 3706300; 485100, 3706300; 485100, 3706200; 485200, 3706200; 485200, 3706100; 485300, 3706100; 485300, 3706000; 485700, 3706000; 485700, 3705900; 485800, 3705900; 485800, 3705800; 485900, 3705800; 485900, 3705700; 486000, 3705700; 486000, 3705600; 486100, 3705600; 486100, 3705500; 486200,

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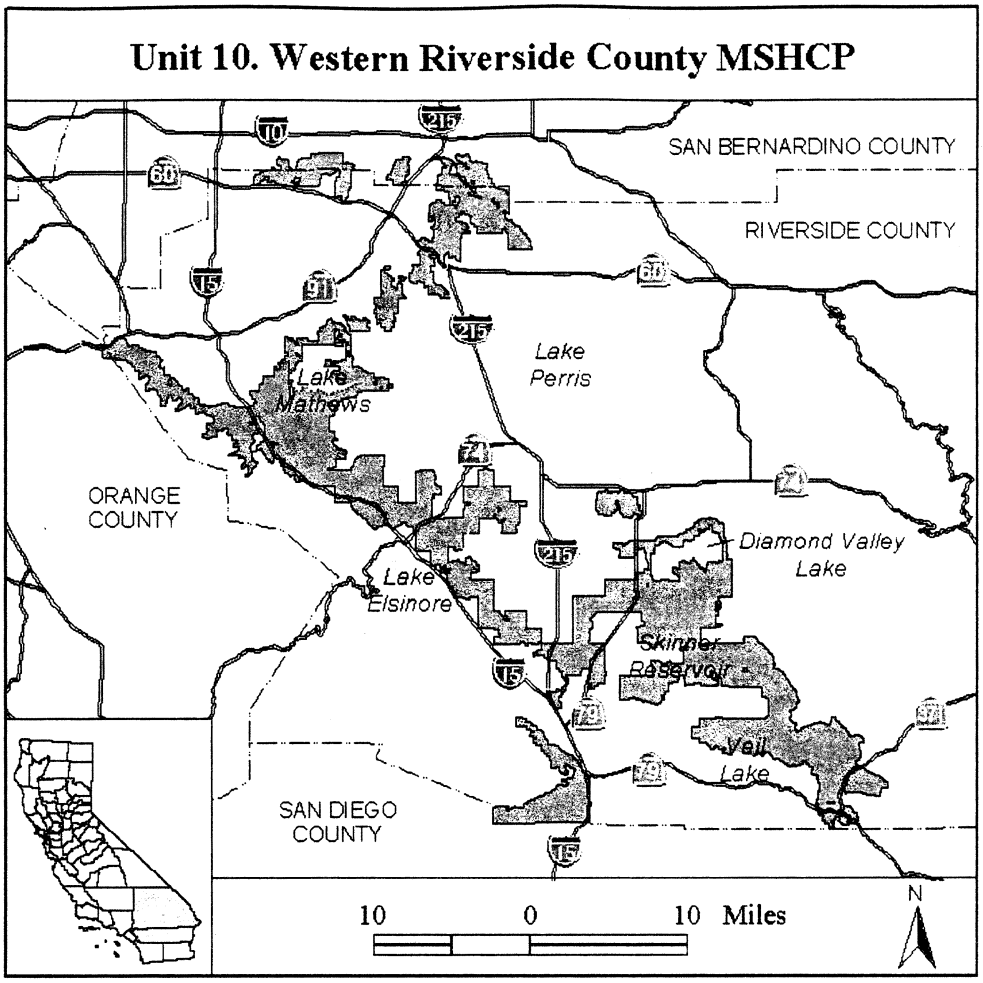
(ii) **Note:** Map of Unit 10 follows.



(15) *Unit 11:* San Bernardino Valley MSHCP, San Bernardino County, California.

(i) From USGS 1:24,000 quadrangle maps San Bernardino North, Devore, and Cucamonga Peak, California, land bounded by the following UTM NAD27 coordinates (E, N): 461600, 3787700; 461700, 3787700; 461700, 3787600; 461800, 3787600; 461800, 3787500; 461900, 3787500; 461900, 3787400; 462000, 3787400; 462000, 3787300; 462100, 3787300; 462100, 3787200; 462200, 3787200; 462200, 3787000; 462400, 3787000; 462400, 3786900; 462600, 3786900; 462600, 3786700; 462700, 3786700; 462700, 3786600; 463000, 3786600; 463000, 3786500; 463100, 3786500; 463100, 3786200; 463000, 3786200; 463000, 3786100; 463100, 3786100; 463100, 3786000; 463200, 3786000; 463200, 3785900; 463400, 3785900; 463400, 3785800; 463500, 3785800; 463500, 3785700; 463600, 3785700; 463600, 3785500; 463700, 3785500; 463700, 3785400; 463800, 3785400; 463800, 3785200; 463900, 3785200; 463900, 3785100; 464000, 3785100; 464000, 3785000; 464100, 3785000; 464100, 3784900; 464200, 3784900; 464200, 3784800; 464400, 3784800; 464400, 3784700; 464600, 3784700; 464600, 3784600; 464700, 3784600; 464700, 3784500; 464800, 3784500; 464800, 3784200; 464900, 3784200; 464900, 3783900; 465000, 3783900; 465000, 3783800; 465100, 3783800; 465100, 3783600; 465300, 3783600; 465300, 3783500; 465400, 3783500; 465400, 3783400; 465500, 3783400; 465500, 3783300; 465600, 3783300; 465600, 3783000; 465500, 3783000; 465500, 3782900; 465600, 3782900; 465600, 3782800; 465700, 3782800; 465700, 3782700; 465800, 3782700; 465800, 3782600; 466000, 3782600; 466000, 3782400; 466100, 3782400; 466100, 3782300; 466200, 3782300; 466200, 3782100; 466100, 3782100; 466100, 3781700; 466000, 3781700; 466000, 3781600; 466600, 3781600; 466600, 3781800; 466500, 3781800; 466500, 3782100; 466400, 3782100; 466400, 3782300; 466300, 3782300; 466300, 3782400; 466200, 3782400; 466200, 3782600; 466100, 3782600; 466100, 3782700; 466000, 3782700; 466000, 3782800; 466100, 3782800; 466100, 3782900; 466200, 3782900; 466200, 3783000; 466500, 3783000; 466500, 3782900; 466600, 3782900; 466600, 3782700; 466700, 3782700; 466700, 3782600;

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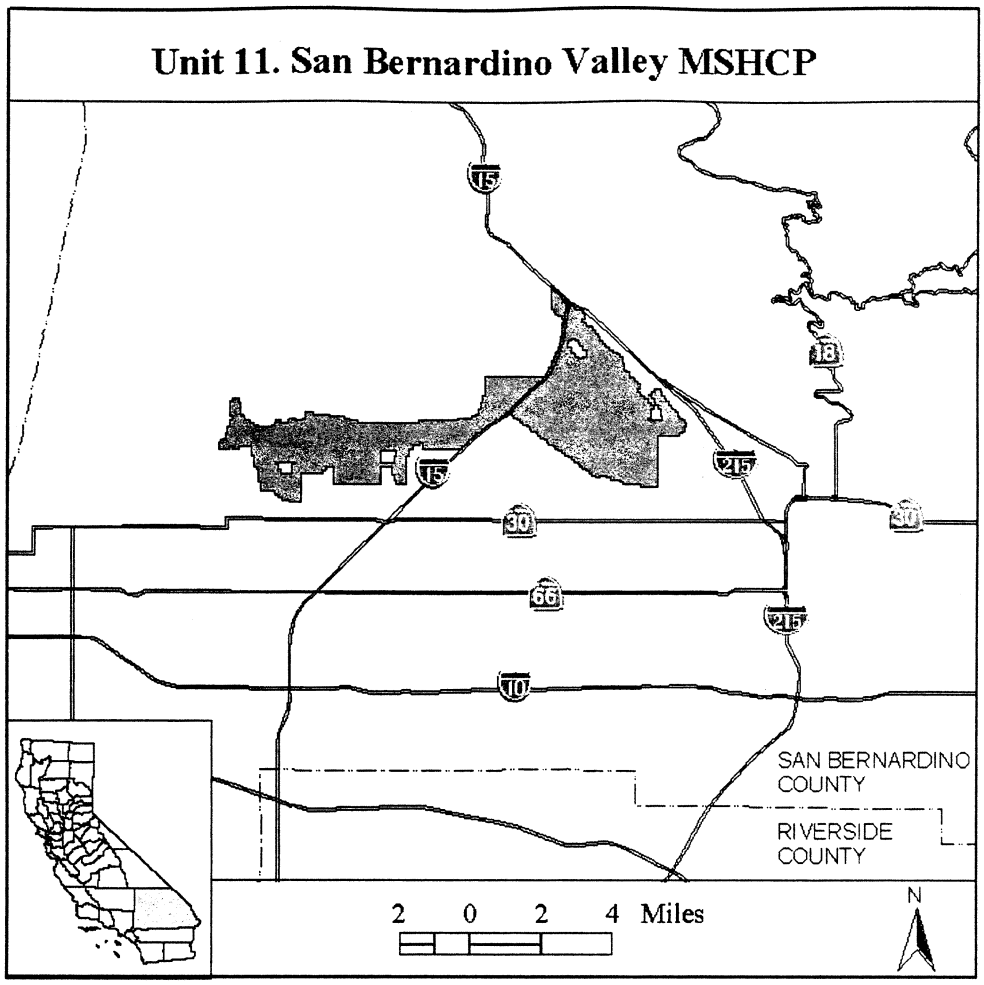
(ii) **Note:** Map of Unit 11 follows.



(16) *Unit 12:* East Los Angeles County Linkage, Los Angeles County, California.

(i) From USGS 1:24,000 quadrangle maps San Dimas and Baldwin Park, California, land bounded by the following UTM NAD27 coordinates (E, N): 426700, 3772700; 427000, 3772700; 427000, 3772400; 427200, 3772400; 427200, 3772300; 427700, 3772300; 427700, 3770400; 427600, 3770400; 427600, 3770300; 427200, 3770300; 427200, 3770200; 426900, 3770200; 426900, 3770100; 426800, 3770100; 426800, 3770000; 426600, 3770000; 426600, 3769900; 426400, 3769900; 426400, 3769800; 426100, 3769800; 426100, 3769700; 425700, 3769700; 425700, 3769800; 425600, 3769800; 425600, 3770000; 425500, 3770000; 425500, 3769500; 425300, 3769500; 425300, 3769400; 424900, 3769400; 424900, 3769300; 424300, 3769300; 424300, 3769100; 424200, 3769100; 424200, 3769000; 424100, 3769000; 424100, 3768800; 424000, 3768800; 424000, 3768700; 423600, 3768700; 423600, 3768600; 423700, 3768600; 423700, 3768400; 423300, 3768400; 423300, 3768500; 423200, 3768500; 423200, 3768600; 423100, 3768600; 423100, 3768500; 422900, 3768500; 422900, 3768400; 422600, 3768400; 422600, 3768500; 422400, 3768500; 422400, 3768400; 422200, 3768400; 422200, 3768200; 422000, 3768200; 422000, 3768100; 421800, 3768100; 421800, 3768000; 421500, 3768000; 421500, 3768100; 421400, 3768100; 421400, 3768200; 421300, 3768200; 421300, 3768100; 421100, 3768100; 421100, 3768200; 421000, 3768200; 421000, 3768000; 420800, 3768000; 420800, 3767900; 420700, 3767900; 420700, 3767800; 420800, 3767800; 420800, 3767700; 420700, 3767700; 420700, 3767600; 420200, 3767600; 420200, 3767400; 420000, 3767400; 420000, 3767300; 419800, 3767300; 419800, 3767200; 419700, 3767200; 419700, 3767300; 419600, 3767300; 419600, 3767500; 419300, 3767500; 419300, 3767400; 419100, 3767400; 419100, 3767300; 419000, 3767300; 419000, 3767200; 418800, 3767200; 418800, 3767100; 418700, 3767100; 418700, 3767000; 418500, 3767000; 418500, 3766900; 418400, 3766900; 418400, 3766800; 418500, 3766800; 418500, 3766600; 418400, 3766600; 418400, 3766200; 418500, 3766200; 418500, 3766300; 419300, 3766300; 419300, 3766200; 419000, 3766200; 419000, 3766100; 418600, 3766100; 418600, 3766000; 418400, 3766000; 418400, 3765900; 418300, 3765900; 418300, 3765800; 417600, 3765800; 417600, 3766000; 417700, 3766000; 417700, 3766100; 417800, 3766100; 417800, 3766600; 418100, 3766600; 418100, 3766700; 418200, 3766700; 418200, 3766800; 418100, 3766800; 418100, 3766900; 418000, 3766900; 418000, 3767000; 417800, 3767000; 417800, 3766900; 417500, 3766900; 417500, 3766800; 416900, 3766800; 416900, 3766900; 416500, 3766900; 416500, 3767000; 416400, 3767000; 416400, 3766900; 415900, 3766900; 415900, 3767200; 416000, 3767200; 416000, 3767300; 416100, 3767300; 416100, 3767400; 416200, 3767400; 416200, 3767500; 416300, 3767500; 416300, 3767200; 416700, 3767200; 416700, 3767400; 417200, 3767400;

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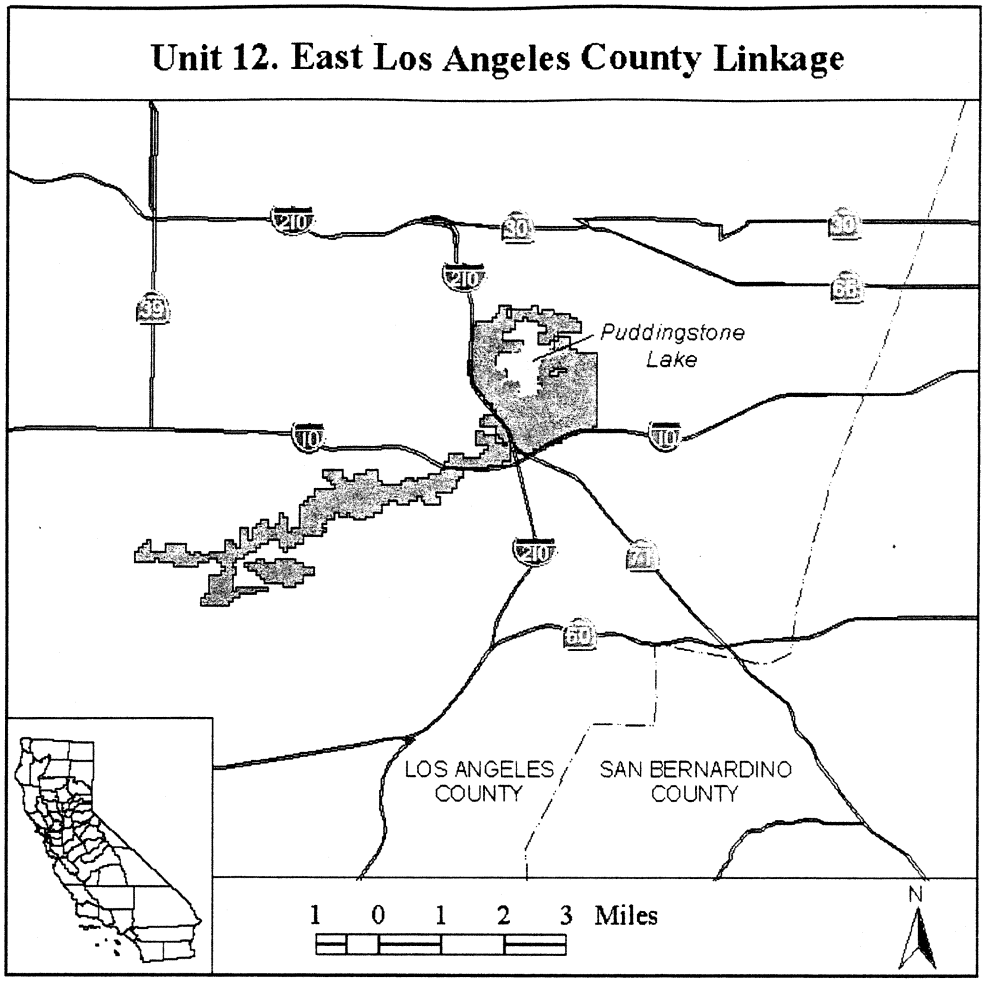
Land bounded by the following UTM NAD27 coordinates (E, N): 419000, 3767000; 419200, 3767000; 419200, 3766900; 419500, 3766900; 419500, 3767000; 420000, 3767000; 420000, 3766900; 420200, 3766900; 420200, 3766800; 420500, 3766800; 420500, 3766600; 420200, 3766600; 420200, 3766400; 420000, 3766400; 420000, 3766300; 419700, 3766300; 419700, 3766400; 419200, 3766400; 419200, 3766500; 419100, 3766500; 419100, 3766600; 419000, 3766600; 419000, 3766700; 418800, 3766700; 418800, 3766800; 418700, 3766800; 418700, 3766900; 419000, 3766900; returning to 419000, 3767000.

(ii) **Note:** Map of Unit 12 follows.



(17) *Unit 13:* Western Los Angeles and Ventura Counties, California.

(i) From USGS 1:100,000 quadrangle map Los Angeles, California, land bounded by the following UTM NAD83 coordinates (E, N): 367023, 3809918; 366923, 3809918; 366923, 3810118; 367123, 3810118; 367123, 3810218; 367323, 3810218; 367323, 3810318; 367423, 3810318; 367423, 3810518; 367523, 3810518; 367523, 3810718; 367623, 3810718; 367623, 3810918; 367723, 3810918; 367723, 3811018; 367823, 3811018; 367823, 3811118; 367923, 3811118; 367923, 3811218; 367823, 3811218; 367823, 3811318; 367723, 3811318; 367723, 3811218; 367523, 3811218; 367523, 3811118; 367423, 3811118; 367423, 3811018; 367323, 3811018; 367323, 3810918; 367223, 3810918; 367223, 3810818; 367123, 3810818; 367123, 3810718; 367023, 3810718; 367023, 3810618; 366923, 3810618; 366923, 3810518; 366823, 3810518; 366823, 3810418; 366723, 3810418; 366723, 3810318; 366623, 3810318; 366623, 3810218; 366523, 3810218; 366523, 3810118; 366423, 3810118; 366423, 3810018; 366323, 3810018; 366323, 3809918; 366123, 3809918; 366123, 3810118; 366023, 3810118; 366023, 3810518; 365823, 3810518; 365823, 3810618; 365723, 3810618; 365723, 3810718; 365623, 3810718; 365623, 3810818; 365523, 3810818; 365523, 3810918; 365623, 3810918; 365623, 3812018; 365523, 3812018; 365523, 3812118; 365123, 3812118; 365123, 3811418; 365023, 3811418; 365023, 3811318; 364823, 3811318; 364823, 3811418; 364723, 3811418; 364723, 3811518; 364423, 3811518; 364423, 3811618; 364323, 3811618; 364323, 3811718; 363823, 3811718; 363823, 3812018; 363223, 3812018; 363223, 3811918; 363123, 3811918; 363123, 3811718; 362723, 3811718; 362723, 3811618; 362923, 3811618; 362923, 3811518; 362723, 3811518; 362723, 3811118; 362823, 3811118; 362823, 3811218; 362923, 3811218; 362923, 3811318; 363123, 3811318; 363123, 3811118; 363723, 3811118; 363723, 3811018; 364123, 3811018; 364123, 3810918; 364023, 3810918; 364023, 3810818; 363623, 3810818; 363623, 3810918; 363523, 3810918; 363523, 3811018; 363323, 3811018; 363323, 3810918; 363223, 3810918; 363223, 3810818; 363123, 3810818; 363123, 3810718; 362523, 3810718; 362523, 3810618; 361923, 3810618; 361923, 3810518; 361323, 3810518; 361323, 3810418; 361123, 3810418; 361123, 3810318; 361023, 3810318; 361023, 3810218; 360923, 3810218; 360923, 3810118; 360723, 3810118; 360723, 3810018; 360623, 3810018; 360623, 3809918; 360523, 3809918; 360523, 3810218; 360623, 3810218; 360623, 3810318; 360723, 3810318; 360723, 3810418; 360823, 3810418; 360823, 3810618; 360923, 3810618; 360923, 3810718; 361023, 3810718; 361023, 3810818; 361123, 3810818; 361123, 3811018; 361223, 3811018; 361223, 3811118; 361323, 3811118; 361323, 3811218; 361423, 3811218; 361423, 3811318; 361523, 3811318; 361523, 3811418; 361623, 3811418; 361623, 3811518; 361723, 3811518; 361723, 3811618; 361823, 3811618; 361823, 3811718; 361923, 3811718; 361923, 3812118;

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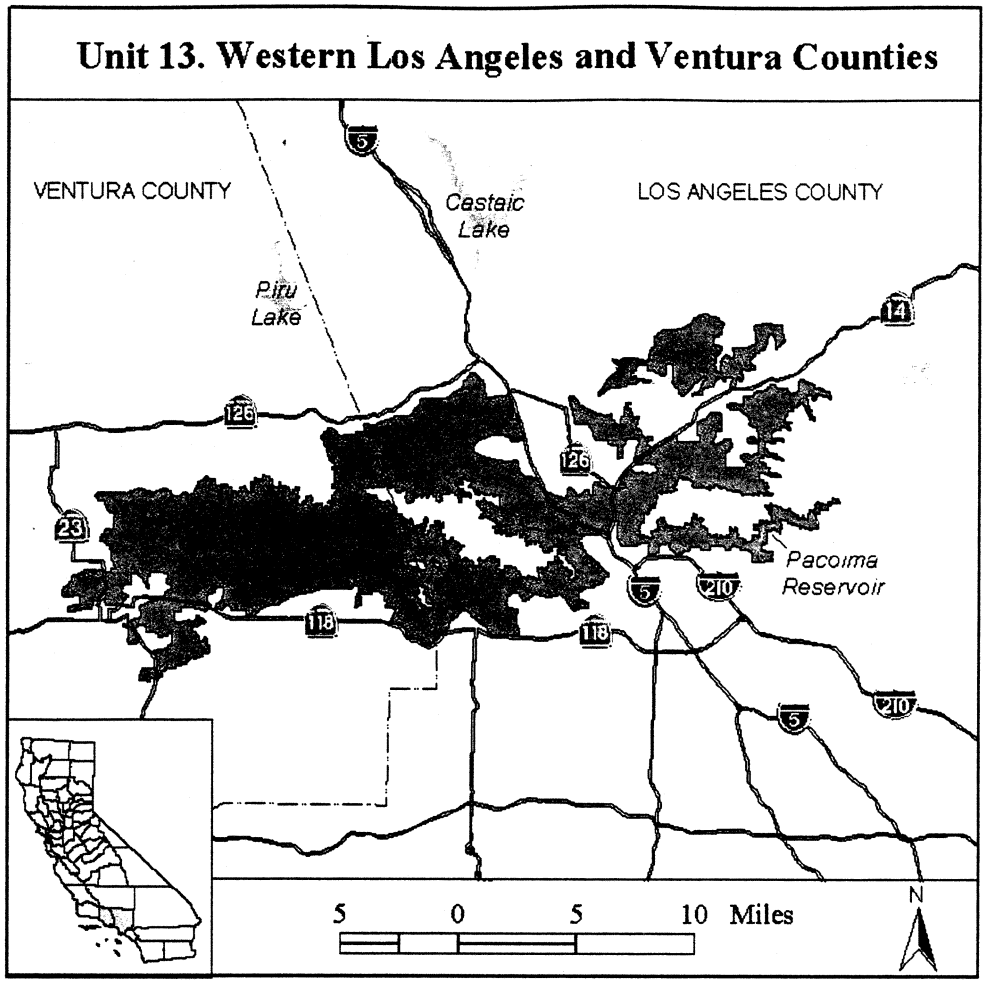
Land bounded by the following UTM NAD83 coordinates (E, N): 363023, 3805518; 362923, 3805518; 362923, 3805718; 363023, 3805718; 363023, 3806118; 363123, 3806118; 363123, 3806418; 363223, 3806418; 363223, 3806618; 363323, 3806618; 363323, 3806918; 363223, 3806918; 363223, 3807018; 363023, 3807018; 363023, 3807118; 362923, 3807118; 362923, 3807018; 362523, 3807018; 362523, 3806918; 362423, 3806918; 362423, 3806618; 362323, 3806618; 362323, 3806518; 362223, 3806518; 362223, 3805718; 361923, 3805718; 361923, 3805618; 361823, 3805618; 361823, 3806518; 361423, 3806518; 361423, 3806618; 361223, 3806618; 361223, 3806918; 360423, 3806918; 360423, 3807018; 360323, 3807018; 360323, 3807218; 360223, 3807218; 360223, 3807518; 360123, 3807518; 360123, 3807718; 360023, 3807718; 360023, 3807818; 359923, 3807818; 359923, 3808018; 359023, 3808018; 359023, 3808118; 358923, 3808118; 358923, 3808618; 358823, 3808618; 358823, 3809018; 358723, 3809018; 358723, 3809318; 358623, 3809318; 358623, 3809618; 358523, 3809618; 358523, 3809818; 358623, 3809818; 358623, 3809918; 358923, 3809918; 358923, 3809818; 359023, 3809818; 359023, 3809718; 359123, 3809718; 359123, 3809618; 359223, 3809618; 359223, 3809518; 359323, 3809518; 359323, 3809318; 359523, 3809318; 359523, 3809218; 359623, 3809218; 359623, 3809118; 359823, 3809118; 359823, 3809018; 360023, 3809018; 360023, 3808918; 360223, 3808918; 360223, 3808818; 360423, 3808818; 360423, 3808718; 360723, 3808718; 360723, 3808618; 360923, 3808618; 360923, 3808518; 361123, 3808518; 361123, 3808618; 361423, 3808618; 361423, 3808718; 361523, 3808718; 361523, 3808318; 361623, 3808318; 361623, 3808118; 361723, 3808118; 361723, 3808018; 361823, 3808018; 361823, 3807918; 362023, 3807918; 362023, 3808418; 362123, 3808418; 362123, 3808518; 362323, 3808518; 362323, 3809218; 362423, 3809218; 362423, 3809518; 362723, 3809518; 362723, 3809418; 362623, 3809418; 362623, 3809118; 362723, 3809118; 362723, 3808818; 362823, 3808818; 362823, 3808518; 362923, 3808518; 362923, 3808418; 363123, 3808418; 363123, 3808518; 363323, 3808518; 363323, 3808418; 363223, 3808418; 363223, 3808018; 363123, 3808018; 363123, 3807718; 363323, 3807718; 363323, 3807618; 363423, 3807618; 363423, 3807518; 363523, 3807518; 363523, 3807318; 363623, 3807318; 363623, 3807218; 363723, 3807218; 363723, 3807118; 363823, 3807118; 363823, 3807218; 364223, 3807218; 364223, 3806918; 363923, 3806918; 363923, 3806818; 363823, 3806818; 363823, 3806518; 364023, 3806518; 364023, 3806418; 364123, 3806418; 364123, 3806318; 364023, 3806318; 364023, 3806218; 363923, 3806218; 363923, 3806118; 363723, 3806118; 363723, 3806018; 363623, 3806018; 363623, 3805918; 363423, 3805918; 363423, 3805818; 363223, 3805818; 363223, 3805718; 363123, 3805718; 363123, 3805618; 363023, 3805618; returning to 363023, 3805518.

(ii) **Note:** Map of Unit 13 follows.



Dated: April 10, 2003.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 03–9435 Filed 4–23–03; 8:45 am]

BILLING CODE 4310–55–P

Federal Register

Thursday,
April 24, 2003

Part III

Department of Housing and Urban Development

Notice of Funding Availability (NOFA) for the Permanent Housing and Special Efforts for Subpopulations Technical Assistance Program (PHASES–TA); Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4802–N–01]

Notice of Funding Availability (NOFA) for the Permanent Housing and Special Efforts for Subpopulations Technical Assistance Program (PHASES–TA)

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA).

SUMMARY: *Purpose of the Program:* The purpose of the technical assistance (TA) program detailed in this NOFA is: To provide technical assistance to grantees, project sponsors, and potential applicants for the McKinney-Vento Act funded Supportive Housing Program, Section 8 Moderate Rehabilitation Single Room Occupancy, and Shelter Plus Care projects to promote the development of permanent housing and supportive services as part of the Continuum of Care (CoC) approach, including innovative approaches to enable homeless persons to live as independently as possible. A Continuum of Care approach helps communities plan for and provide a balance of emergency, transitional, and permanent housing and service resources to address the needs of homeless persons so they can make the critical transition from the streets to permanent housing and independent living. In addition to prevention, the fundamental components of a CoC system are outreach and assessment to identify an individual's or family's needs and make connections to facilities and services, emergency shelter, transitional housing, and permanent housing arrangements. In addition, this TA program is intended to provide assistance to faith-based and other community grassroots organizations, veteran-specific organizations, and organizations serving Colonias areas to better enable them to develop and implement viable project proposals to assist homeless persons using McKinney-Vento funds.

HUD's Strategic Goals: Activities funded through this NOFA are meant, to the extent practicable, to support the Strategic Goals described below:

Strategic Goal 1. Effectively address the challenge of homelessness. Ending chronic homelessness within a decade is a primary goal of HUD's homeless assistance programs. HUD is also the primary agency responsible for providing housing and related resources to prevent homelessness and help homeless families and individuals move to permanent housing.

Strategic Goal 2. Strengthen and expand faith-based and other community partnerships that enhance communities. HUD has a long and rich history of cooperating with faith-based and other community-based organizations to address the needs of underserved communities, including the needs of those Americans for whom homelessness, the lack of affordable housing, and limited alternatives for special needs housing lead to despair and hopelessness. Building on this history, HUD plans to strengthen and expand its partnerships with faith-based and other community-based groups to take further advantage of their capacity to provide quality services to communities and families.

Available Funds. Up to $2 million in FY 2002 funds is available for the PHASES–TA program. (Approximately $1 million will be available in TA funds for development and implementation of permanent housing, with the remaining $1 million to be used for technical assistance for faith-based and other community organizations, veteran-specific organizations, and organizations either currently serving or desiring to serve Colonias.)

Eligible Applicants. Specific eligibility requirements for the PHASES–TA program are found below in Section III (C).

Application Deadline. June 18, 2003.

Match: None.

ADDITIONAL INFORMATION:

I. Application Due Date; Application Submission Procedures; Further Information and Technical Assistance

Application Due Date: Applicants must submit a completed application (original and one copy) by June 18, 2003, to the address shown below. Only one application per applicant is permitted.

Application Submission Procedures. HUD has standardized security procedures that affect the application submission process. Please read the following instructions carefully and completely. HUD will not accept hand delivered applications. Applications may be mailed using DHL, Falcon Carrier, FedEx, United Parcel Service (UPS), or the United States Postal Service (USPS). No other delivery services are permitted into HUD Headquarters without escort. Applicants must, therefore, use one of the five carriers listed above.

Mailed Applications. An application will be considered timely filed if it is postmarked on or before 5:15 pm EDT on June 18, 2003, and received by the designated HUD office on or within twenty-one (21) days of the application due date. All applicants must obtain and save a Certificate of Mailing showing the date when the application was submitted to the United States Postal Service (USPS). The Certificate of Mailing will be the applicant's documentary evidence that the application was timely filed.

Applications Sent by Overnight/Express Mail Delivery. If the application is sent by overnight delivery or express mail, the application will be timely filed if it is received on or before June 18, 2003, or when the applicant submits documentary evidence that the application was placed in transit with the overnight delivery/express mail service by no later than June 18, 2003. Due to security measures, applicants must use one of four carrier services that are permitted into HUD Headquarters without escort. These services are DHL, Falcon Carrier, FedEx and UPS. Delivery by these services must be made during HUD Headquarters business hours, 8:30 a.m. to 5:30 p.m. Eastern Time, Monday through Friday. If these companies do not service an applicant's area, the applicant should submit the application via the United States Postal Service.

Addresses for Submitting Applications. Applicants must submit completed applications to HUD Headquarters, U.S. Department of Housing and Urban Development, Office of Community Planning and Development (CPD) Processing and Control Branch, Room 7251, 451 Seventh Street, SW., Washington, DC 20410. A completed application consists of the original application and one copy. When submitting an application, applicants should refer to the Permanent Housing and Special Efforts for Subpopulations Technical Assistance (PHASES–TA) Program. Applicants should include name, mailing address (including zip code), telephone number (including area code), and fax number (including area code).

Further Information and Technical Assistance. For supplemental information or technical assistance, applicants may contact Jean Whaley at 202–708–3176, x2774 (this is not a toll-free number) in HUD Headquarters. Persons with hearing and speech challenges may access the above number via TTY by calling the Federal Relay Service at 1–800–877–8339. Information on this NOFA may also be obtained through the HUD Web site on the Internet at *http://www.hud.gov.*

II. Amount Allocated

(A) The amount allocated for the PHASES-TA program is up to $2,000,000.

(B) HUD will determine the total amount to be awarded to each provider based upon the size and needs of the provider's operating service area, the funds available for that area, the number of other awardees selected in that area, and the scope of the technical assistance to be provided. HUD may require selected applicants, as a condition of funding, to provide coverage on a geographically broader basis than applied for in order to supplement or strengthen the intermediary network in terms of the location (service area) and types and scope of technical assistance proposed.

(C) To the extent permitted by funding constraints, HUD intends to provide coverage for as full a range as possible of eligible activities. To achieve this objective, HUD will fund the highest ranking providers that bring the required expertise in one or more specialized activity areas, and may fund portions of providers' proposed programs in which they have the greatest skill and capability for given geographic areas. HUD will apply rating factors, identified in Section V of this NOFA, to select a range of providers and activities that would best serve program objectives for the programs funded under this NOFA.

III. Program Description; Program Award Period; Eligible Applicants; Eligible Activities

(A) Program Description

Up to $2 million in funds are available for technical assistance providers to help organizations that operate or wish to provide McKinney-Vento programs to better serve their clients' permanent and/or special housing and supportive service needs. Here the term ''special'' refers to one or more of three designated populations: homeless veterans, homeless persons in Colonias, or homeless persons being assisted by faith-based and other community grassroots organizations. Faith-based and other community grassroots organizations are defined as those organizations that are headquartered in the local community to which they provide services; and have social service budgets of $300,000 or less (not including other portions of the budget such as salaries and expenses), or have six or fewer full-time equivalent employees. Local affiliates of national organizations are not considered ''grassroots.'' Local affiliates of national organizations are encouraged, however, to partner with grassroots organizations but must demonstrate that they are currently working with a grassroots organization, *e.g.*, having a congregation or civic organization, or other charitable organization provide volunteers.

Thus far, the three types of technical assistance that have been delineated include TA to providers who serve homeless veterans, TA to providers who serve homeless persons in Colonias, and TA to providers who serve homeless persons through faith-based and other community grassroots organizations. The fourth kind of technical assistance will be for providers of permanent housing serving any or all categories of homeless people. Eligible applicants are able to apply for funding to address the technical assistance needs of as few as one, and as many as all four, of these TA areas. This section of the NOFA reflects the statutory requirements of the PHASES–TA program.

(B) Program Award Period

(1) Cooperative agreements will be for a period of up to 18 months. HUD, however, reserves the right to:

(a) Terminate awards in accordance with provisions contained in OMB Circular A–102 and A–110, and 24 CFR parts 84–85, anytime after 12 months;

(b) Withdraw funds from a specific provider, if HUD determines that the need for assistance is not commensurate with the award for assistance; or

(c) Extend the performance period for up to a total of 12 additional months of individual awardees that have performed satisfactorily or for which there is a demonstrated continuing need for assistance. As a condition of receiving an award, a successful applicant must agree to serve for an extended period.

(2) In cases where an applicant selected for funding is currently providing technical assistance under an existing HUD grant/cooperative agreement, HUD reserves the right to adjust the start date of funding available under this NOFA to coincide with the conclusion of the previous award, or to incorporate the remaining activities from the previous award into the new agreement, adjusting the funding levels as necessary.

(C) Eligible Applicants

HUD is specifically looking for applicants who satisfy any one, or a combination of, the conditions from the following list:

(1) Applicant is a provider of permanent housing and/or supportive services to homeless individuals and/or families;

(2) Applicant has experience with the McKinney-Vento funding process;

(3) Applicant is a provider that services primarily homeless veterans and their families or focuses on homeless veterans as part of the homeless population it serves;

(4) Applicant is a provider that serves homeless persons in Colonias and their families;

(5) Applicant is a faith-based or community organization that serves homeless individuals and/or families;

(6) Applicant is a public and/or private nonprofit or for-profit group, including educational institutions and area-wide planning organizations, qualified to provide technical assistance on McKinney-Vento Act Homeless Assistance activities.

An organization may not provide assistance to itself. All applicant organizations must have demonstrated ability to provide TA in a geographic area larger than a single city or county and must propose to serve an area larger than a single city or county. A consortium of organizations may apply for one or more TA programs, but HUD will require that one organization be designated as the legal applicant, where legally feasible. Where one organization cannot be so designated for all proposed activities, HUD may execute more than one cooperative agreement with the members of a consortium. However, in general HUD will not award more than one cooperative agreement per application unless necessary due to legal requirements.

(D) Eligible Activities

Eligible activities under this NOFA are described below. All proposed activities must be generally eligible as described in (1), and address one of the following from (2), (3), (4), or (5), below:

(1) Funds are available to provide technical assistance to grantees and project sponsors for McKinney-Vento Act funded homeless assistance projects. Funds also may be used to provide technical assistance to potential applicants and potential project sponsors of McKinney-Vento Act homeless assistance grants. The assistance may include, but is not limited to, written information such as reports, manuals, guides and brochures; person-to-person exchanges; on-site or remote technical assistance visits and provision of technical expertise; and training and related costs. Eligible activities as appropriate for each of the four separate categories of technical assistance are listed below:

(2) *Permanent housing.* Provide assistance to (i) identify expert resources and facilitate the exchange of information needed to help participating organizations/jurisdictions build the capacity to develop and/or implement permanent housing in

projects funded under the McKinney-Vento Act in order to better serve homeless persons and families; (ii) develop and publish descriptive material, in the form of a best practices guide, and include best practice examples for use by organizations working to develop and implement a McKinney-Vento funded permanent housing project; (iii) develop regional workshops focused on developing and implementing permanent housing projects funded under the McKinney-Vento Act; (iv) conduct 25 on-site or remote technical assistance visits to organizations seeking to develop or implement a permanent housing project using McKinney-Vento funds; (v) develop a guidebook on how Safe Havens can be developed and implemented as Supportive Housing Program permanent housing for the handicapped homeless and Section 8 Single Room Occupancy (SRO) projects. Safe Havens are a form of permanent housing that serves hard-to-reach homeless persons with severe mental illness who are unwilling or unable to participate in supportive services.

(3) *Colonias.* Colonias are primarily rural communities that are located within 150 miles of the U.S.-Mexican border and lack adequate infrastructure and basic services. For providers who serve homeless persons in Colonias, provide assistance to (i) identify projects receiving HUD McKinney-Vento Act funds that can be cited as best practices and or expert resources for effectively coordinating between Colonias and community organizations; (ii) identify and analyze barriers that tend to exclude or discourage Colonias from participation in the Continuum of Care process or other efforts to assist homeless persons; (iii) develop one or more workshops focused on developing and implementing housing projects funded under the McKinney-Vento Act and serving homeless persons in Colonias; (iv) develop and publish descriptive material in the form of a best practices guide for use by organizations working to develop and implement a McKinney-Vento-funded housing and/or services project serving homeless persons in Colonias.

(4) *Faith-based and other community organizations.* Provide assistance to (i) identify active projects receiving HUD McKinney-Vento Act funds that can be cited as best practices and/or expert resources for effectively coordinating between Continuum of Care systems and faith-based and other community organizations; (ii) identify and analyze factors that may tend to discourage faith-based and other community organizations from participation in HUD's homeless programs; (iii) develop 3–5 regional workshops, institutes, or other forums that will attract faith-based and other community organizations interested in developing projects to serve homeless individuals and families. Assistance will focus on the organization's capacity, which means that in addition to knowledge of, and experience with, homelessness in general, the organization carrying out the project, its employees and/or its partners must have the necessary knowledge, experience, and administrative systems in place to carry out the specific activities proposed (*e.g.*, housing development, housing management, and service delivery) and the TA provided will be able to successfully assist or train organizations to compete for funding assistance under HUD's McKinney-Vento Act Homeless Assistance Program; (iv) conduct 10 on-site or remote technical assistance visits to faith-based and other community organizations seeking to develop or implement McKinney-Vento projects;

(5) *Homeless veterans.* Using previously identified best practices and expert resources, provide assistance to (i) facilitate the exchange of information needed to help participating organizations/jurisdictions build capacity to develop veteran-specific McKinney-Vento projects, *i.e.*, in which the primary target group is homeless veterans; (ii) develop and participate in 3–5 training workshops, institutes, forums, or national or regional conferences and present the pertinent information obtained; (iii) conduct ten on-site or remote technical assistance visits to organizations seeking to develop or implement a veteran-specific McKinney-Vento project using McKinney-Vento funds; (iv) analyze coordination between the Continuum of Care and the Department of Veterans Affairs Community Homelessness Assessment, Local Education and Networking Groups (CHALENG) planning systems as it relates to addressing housing to meet the needs of veterans who are chronically homeless. The analysis should lead to development of more efficient planning and/or delivery of housing to chronically homeless veterans.

IV. Program Requirements

(A) Statutory Requirements

To be eligible for funding under this NOFA, the applicant must meet all statutory and regulatory requirements applicable to the McKinney-Vento program or programs for which funding is sought. If applicants need copies of the program regulations, they are available through the HUD Web site, *http://www.hud.gov.*

(B) Threshold Requirements

(1) Ineligible Applicants. HUD will not consider an application from an ineligible applicant.

(2) Compliance with Fair Housing and Civil Rights Laws.

(a) All applicants and their sub-recipients must comply with all Fair Housing and Civil Rights laws, statutes, regulations, and Executive Orders as enumerated at 24 CFR 5.105(a).

(b) Applicants may not apply for assistance under this NOFA, if the applicants:

(i) Have been charged with a systemic violation of the Fair Housing Act alleging ongoing discrimination;

(ii) Are a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an on-going pattern or practice of discrimination; or

(iii) Have received a letter of non-compliance findings under Title VI, Section 504, or Section 109, and if the charge, lawsuit, or letter of findings has not been resolved to HUD's satisfaction before the application deadline stated in the NOFA. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken to address allegations of on-going discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(3) *Conducting Business in Accordance with HUD's Core Values and Ethical Standards.* Entities subject to 24 CFR parts 84 and 85 (most nonprofit organizations and state, local and tribal governments or government agencies or instrumentalities who receive federal awards of financials assistance) are required to develop and maintain a written code of conduct (see Sections 84.42 and 85.36(b)(3)). Consistent with regulations governing specific programs, an applicant's code of conduct must: prohibit real and apparent conflicts of interest that may arise among officers, employees, or agents; prohibit the solicitation and acceptance of gifts or gratuities by its officers, employees, and agents for their personal benefit in excess of minimal value; and outline administrative and disciplinary actions available to remedy violations of such standards. If awarded assistance under this NOFA, applicants will be required, prior to entering into a grant agreement with HUD, to submit a copy of their code of conduct and describe the methods they will use to ensure that all officers, employees, and agents of their organizations are aware of their code of conduct;

(C) Additional Program Requirements

(1) *Profit/Fee.* No increment above cost, and no fee for profit, may be paid to any recipient of an award under this NOFA:

(2) *Demand/Response Delivery System.*

(a) Awardees must operate within the structure of the Demand/Response System described in this section.

(b) Under the Demand/Response System, awardees will be required to: (i) When requested by a Government Technical Representative (GTR), market the availability of their services to existing and potential recipients to include local jurisdictions in which the assistance will be delivered; (ii) when requested by a GTR, conduct a Needs Assessment to identify the type and nature of the assistance needed by the assistance recipients. These needs assessments should identify the nature of the problem to be addressed by the technical assistance services, and then delineate the plan of action to address the need, including the type of technical assistance services to be provided, the duration of the services, the staff assigned to provide the assistance, anticipated products and/or outcomes, the estimated cost for the provision of services, and the relationship of the proposed services to the planned or expected Consolidated Plan submission to HUD and to other technical assistance providers within the locality; (iii) obtain approval for the Technical Assistance Delivery Plan (TADP) from HUD (See Section a below); (iv) work cooperatively with other PHASES–TA providers in their geographic areas to ensure that clients are provided with the full range of PHASES–TA services needed and available. PHASES–TA providers are expected to be knowledgeable about the range of services available from other providers, make referrals and arrange visits by other PHASES–TA providers when appropriate, and carry out PHASES–TA activities concurrently when it is cost-effective and in the interests of the client to do so. HUD may direct PHASES–TA providers to conduct joint activities.

(3) *Technical Assistance Delivery Plan (TADP).*

(a) After selection for funding, but prior to award, an applicant must develop a TADP in consultation with and approved by an Office of Community Planning and Development GTR.

(b) The TADP must clearly delineate all the tasks and sub-tasks for each program the applicant will undertake. The plan must identify the improved program performance or other results expected from the activity and the methodology for measuring the success of the PHASES–TA. The TADP must show the location of the community/state in which the PHASES–TA activities will occur, the level of PHASES–TA funding and proposed activities by location, a time schedule for delivery of the activities, budget-by-task, budget summary, and staffing plan.

(4) *Forms, Certifications, and Assurances.* The applicant must submit signed copies of the standard forms, certifications, and assurances listed in this section. As part of HUD's continuing efforts to improve the NOFA process, several of the required standard forms have been simplified. The standard forms, certifications, and assurances are:

- Application for Federal Assistance (HUD–424);
- Applicant Assurance and Certifications (HUD–424–B);
- Budget Summary for Competitive Grant Programs (HUD–424–C);
- Grant Application Detailed Budget Worksheet (HUD–424–CBW);
- Applicant/Recipient Disclosure/Update Report (HUD–2880);
- Certification of Consistency with RC/EZ/EC Strategic Plan (HUD–2990), if applicable;
- Certification of Consistency with the Consolidated Plan (HUD–2991), if applicable;
- Acknowledgment of Application Receipt (HUD–2993);
- Client Comments and Suggestions (HUD–2994); and
- If engaged in lobbying, the Disclosure Form Regarding Lobbying (SF–LLL).

Copies of these standard forms are available from the HUD Web site at http://www.hud.gov.

(5) *Financial Management and Audit Information.* After selection for funding, but prior to award, an applicant must submit a certificate from an Independent Public Accountant or the cognizant government auditor, stating that its financial management system meets prescribed standards for control and accountability required by 24 CFR part 84 for Institutions of Higher Education and other Non-Profit Institutions, 24 CFR part 85 for States and local governments, or the Federal Acquisition Regulations (for all other applicants). The information should include the name and telephone number of the independent auditor, cognizant federal auditor, or other audit agency, as applicable.

(6) *Training Sessions.* When conducting training sessions as part of PHASES–TA activities, providers are required to; (a) design the course materials as ''step-in'' packages (also called ''train-the-trainer'' packages) so that HUD or its designee may separately give the course on its own; (b) arrange for joint delivery (grantee and HUD staff or designees, for example) of the training when so requested by the GTR; and (c) when requested by the GTR, provide for professional videotaping of the workshops/courses and ensure their production in a professional and high-quality manner, suitable for viewing by other PHASES–TA clients (if this requirement is implemented, additional funds may be requested); (d) when required by HUD, deliver HUD-approved training courses that have been designed and developed by other HUD contractors or HUD cooperating parties on a ''step-in'' basis for PHASES–TA clients, and send trainers to HUD-approved Train-the-Trainer sessions.

(7) *Reports to GTRs.* PHASES–TA awardees will be required to report to Headquarters GTRs. At a minimum, this reporting will be *on a quarterly basis unless otherwise specified in the approved TADP.*

(D) Additional Non-Discrimination Requirements

Applicants, and their sub-recipients, must comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 1201 *et seq*), Section 504 of the Rehabilitation Act of 1973, and Title IX of the Education Amendments Act of 1972 (20 U.S.C. 1681 *et seq*).

(E) Accessible Technology

The Rehabilitation Act Amendments of 1998 apply to all electronic technology (EIT) used by a grantee for transmitting, receiving, using or storing information to carry out the responsibilities of any federal grant awarded. The Act's coverage includes, but is not limited to, computers (hardware, software, word-processing, e-mail, and web pages), facsimile machines, copiers and telephones. When developing, procuring, maintaining, or using EIT, funding recipients must ensure that the EIT allows employees with disabilities and members of the public with disabilities to have access to and use of information and data that is comparable to the access and use of information and data by employees and members of the public who do not have disabilities. If these standards impose a hardship on a funding recipient, they may provide an alternative means to allow the individual to use the information and data. However, no grantee will be required to provide information services

to a person with disabilities at any location other than the location at which the information services are generally provided.

V. Application Selection Process

(A) Rating and Ranking

HUD will evaluate applications competitively and rank them against all other applicants that have applied for the PHASES–TA program.

(1) Once scores are assigned, all applications will be listed in rank order.

(2) Applications will be funded in rank order; however, HUD reserves the right to make selections out of rank order to provide for geographic distribution of its funds.

(3) HUD reserves the right to adjust funding levels for each applicant as follows:

(a) Adjust funding levels for any provider based upon the size and needs of the provider's operating service area, the funds available for that area, the number of other awardees selected in that area, funds available on a national basis for providers that will be operating nationally, or the scope of the technical assistance to be provided;

(b) To negotiate increased grant awards with applicants approved for funding if HUD requests them to offer coverage to geographic areas for which they did not apply or budget, or if HUD receives an insufficient amount of applications;

(c) If funds remain after all selections have been made, remaining funds may be made available for other HUD-administered McKinney-Vento Act program competitions.

(B) Factors for Award Used To Evaluate and Rate Applications

The factors and maximum points for each factor are provided below. The maximum number of points to be awarded for a PHASES–TA application is 100. The minimum score for an applicant to be considered in the funding range is 75, with a minimum of 15 points for Factor 1. Rating of the ''applicant'' or the ''applicant's organization and staff,'' unless otherwise specified, will include any sub-contractors, consultants, sub-recipients, and members of consortia which are firmly committed to the project. When addressing the Factors for Award, applicants should discuss the specific TA projects, activities, tasks, etc., suggested to be carried out during the term of the cooperative agreement. See Sections IV(C)(2) and (3) of this NOFA for a discussion of the Demand/Response Delivery System and the TADP and the extent to which such activities may be revised at or after time of award. In responding to the factors, applicants should be specific about the type of experience, knowledge, skills and abilities that organization, staff, and any subcontractors have with the PHASES–TA program and should provide relevant examples to support the application. Applicants should also be specific when detailing the communities, populations and/or organizations which they propose to serve, especially in response to Factor 3, Subfactor 2.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (25 Points) (Minimum for Funding Eligibility: 15 Points)

In rating this factor, HUD will consider the extent to which the application demonstrates, in relation to the PHASES–TA program funding that is requested:

(1) (10 points) Recent relevant and successful experience of an applicant's organization and staff in providing technical assistance in all eligible activities and to all eligible entities for the PHASES–TA program, as described in the NOFA; (In rating this factor, HUD will evaluate experience, preferably within the last 4 years, which describes and documents specific examples of actual past work.)

(2) (8 points) The relevant experience, including past experience in providing similar services to HUD and HUD clients, competence, knowledge, skills, and abilities of key personnel in managing complex, multi-faceted or multi-disciplinary programs that require coordination with other PHASES–TA entities or multiple, diverse units in an organization; (In rating this factor, HUD will evaluate the resumes of key staff, consultants, and subcontractors for their recent (within 4 years) and relevant experience in performing activities that are substantially the same as the activities covered by this NOFA, as well as clearly described and documented examples of the work.)

(3) (7 points) Sufficient personnel or access to qualified experts or professionals with the knowledge, skills, and abilities to deliver the proposed level of technical assistance in each proposed service area in a timely and effective manner; (In rating this factor, HUD will evaluate the resumes of key staff, consultants, and subcontractors to determine their availability to perform the work, factoring in time and geography.)

Rating Factor 2: Need/Extent of the Problem (20 Points)

In rating this factor, HUD will consider the extent to which the application:

(1) (10 points) Identifies high priority needs and issues for the PHASES–TA program; (In rating this factor, HUD will be looking for very specific needs and issues and a detailed demonstration of the applicant's knowledge of the homeless programs.)

(2) (10 points) Outlines a clear and cost-effective plan of suggested TA activities for addressing those needs and aiding a broad range of eligible grantees or potential grantees and/or beneficiaries; (In rating this factor, HUD will evaluate the proposed costs of the program described in the application including labor, travel, and other costs as it relates to costs for similar activities in other TA programs which HUD has undertaken.)

Rating Factor 3: Soundness of Approach (30 Points)

In rating this factor, HUD will consider the extent to which the application:

(1) (7 points) Provides evidence of a sound approach in addressing identified needs; (In rating this factor, HUD will evaluate the specific techniques and methods proposed to alleviate the needs identified in the application.)

(2) (8 points) Provides a cost-effective plan for designing, organizing, managing, and carrying out the suggested technical assistance activities within the framework of the Demand/Response System; (In rating this factor, HUD will evaluate how clearly the applicant spells out how it will operate under the requirements of the Demand/Response System, including: (a) How it will operate under the direction of, and respond to requests for assistance from HUD; (b) how it will handle competing demands for assistance; and (c) how it will coordinate activities. The work plan should have built-in flexibility to allow for unanticipated demands for assistance.)

(3) (10 points) Demonstrates an effective outreach and assistance program to the identified clients for the categories of assistance being proposed; (In rating this factor, HUD will evaluate whether the applicant specifically names and accurately identifies communities (meaning neighborhoods as well as localities) and/or organizations that are significantly disadvantaged and underserved by McKinney-Vento programs. HUD will also evaluate if the applicant persuasively demonstrates that the

identified community/organization has a high potential to participate in McKinney-Vento programs if it receives the level of TA proposed.)

(4) (5 points) Proposes a feasible, creative plan to transfer models and lessons learned in its PHASES–TA program activities to other community programs; (In rating this factor, HUD will evaluate whether the applicant has proposed a clear and feasible plan for obtaining and disseminating information on lessons learned in each of its TA activities to other TA clients, using state of the art or new promising technology as appropriate.)

Rating Factor 4: Quality/Responsiveness and Sustainability (15 Points)

HUD will review applications to determine if they meet the following quality standards:

(1) (10 points) The proposed TA must be appropriate and responsive to the needs of the project sponsors, McKinney-Vento grantees, and potential applicants to be served, as well as the localities involved. The PHASES–TA applicant should emphasize how they will advise and train project applicants and project sponsors in undertaking program planning, community consultations, housing development and operations, coordination with related health-care and other supportive services, and evaluation and reporting on program performance. All of these elements are especially important when addressing the needs of providers desiring to provide permanent housing for severely mentally ill persons, homeless veterans, homeless persons in Colonias, and chronically homeless and hard-to reach individuals and families; (In rating this factor, HUD will evaluate the specificity in which each element of this factor is addressed that demonstrates both an understanding of the issues and solid experience and methods in fulfilling each of the elements.) HUD may find the technical assistance to be inappropriate if:

(a) The technical assistance to be provided does not show how participants will be helped to expand their capacity to develop permanent housing, if proposing activities in this category of technical assistance; or, for those proposing to serve the other three categories, if the proposal does not show how participants will be helped to expand their capacity to develop McKinney-Vento projects serving the special subpopulations they propose to serve.

(b) Development of housing and housing accessibility for persons with disabilities will not be provided as required by applicable laws including Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and the Fair Housing Act and their implementing regulations.

(c) The technical assistance provided or activities proposed will not result in service delivery in the most integrated setting appropriate for qualified persons with disabilities, consistent with the objectives of the President's New Freedom Initiative and *Olmstead* v. *L.C.*

(d) The technical assistance to be provided does not address community-wide planning to avoid duplication of service activity or service provision.

(e) The technical assistance to be provided does not demonstrate responsive, efficient and cost-effective planning in its proposed activities.

(2) (5 Points). The proposed TA must promote sustainability. Sustainability refers to the potential for TA recipient organizations to become self-sustaining financially, and the potential of a specific project or activity to be sustained into the future absent any McKinney-Vento funding; (In rating this factor, HUD will evaluate the specificity in which sustainability is addressed and any experience the applicant can document in achieving this goal.)

Rating Factor 5: Achieving Results and Program Evaluation (10 Points)

This factor emphasizes HUD's commitment to ensure that grantees keep promises made in their applications and to assess their performance to ensure performance goals are met. Program evaluation requires that the applicant identify program outcomes, interim products or benchmarks, and performance indicators that will allow measure of performance. Performance indicators should be quantifiable and measure actual against planned achievements. Applicants are also asked to describe their successful past performance, including timely and cost-effective delivery of services, in other relevant community development and/or technical assistance programs.

In rating this factor, HUD will consider the extent to which the application:

(1) (5 points) Proposes an effective, outcome-oriented evaluation plan for measuring performance. The evaluation plan should identify outcomes to be measured, how they will be measured, and the steps in place to make adjustments to work plans if performance targets are not met within established timeframes. The evaluation plan should also identify shortcomings and recommend areas for improvement when providing technical assistance services. The applicant is also asked to describe previous experience developing such plans; (In rating this factor, HUD will evaluate the specificity in which the evaluation plan is developed and the applicant's previous experience in developing such plans.)

(2) (5 points) Demonstrates successful past performance in administering HUD McKinney-Vento TA grants. Applicants new to HUD's Community Development Technical Assistance (CD–TA) Programs should certify to that fact. In order to reach new technical assistance providers in the McKinney-Vento Act homeless assistance program area, up to 25% of the funds will be reserved for applicants who have not previously been funded under a community and planning development technical assistance competition. If qualified new applicants are not found in each field office and/or at the national level, the remaining funds will be made available for previously funded providers. (**Note:** There will be no point deduction on this subfactor for new applicants who comply with the above requirement.) Applicants new to the HUD Supportive Housing-TA or Homeless-TA Programs should certify to that fact, but should demonstrate successful past performance in providing technical assistance in other community development programs. (In rating this factor, HUD will use currently available information in HUD files, including financial and drawdown information, for all current Community Development TA providers.)

VI. Application Submission Requirements

The application must, at a minimum, contain the following items:

(A) Transmittal Letter which identifies the NOFA, the dollar amount requested, and the applicant or applicants submitting the application.

(B) Narrative statement addressing the Factors for Award described in section V of this NOFA. An applicant should number the narrative response in accordance with each factor for award. This narrative statement will be the basis for evaluating the application. It should include a plan of suggested TA activities as described in factors 2, 3, and elsewhere. These suggested TA activities may form a starting point for negotiating the TADP described in section IV(C)(2) of this NOFA.

(C) Budget Summary identifying costs for implementing the plan of suggested TA activities by cost category, in accordance with the following:

(1) Direct Labor by position or individual, indicating the estimated hours per position, the rate per hour,

estimated cost per staff position, and the total estimated direct labor costs;

(2) Fringe Benefits by staff position identifying the rate, the salary base the rate was computed on, estimated cost per position, and the total estimated fringe benefit cost;

(3) Material Costs indicating the item, quantity, unit cost per item, estimated cost per item, and the total estimated material costs;

(4) Transportation Costs, as applicable;

(5) Equipment charges, if any. Equipment charges should identify the type of equipment, quantity, unit costs, and total estimated equipment costs;

(6) Consultant Costs, if applicable. Indicate the type, estimated number of consultant days, rate per day, total estimated consultant costs per consultant, and total estimated costs for all consultants.

(7) Subcontract Costs, if applicable. Indicate each individual subcontract and amount;

(8) Other Direct Costs listed by item, quantity, unit cost, total for each item listed, and total other costs for the award;

(9) Indirect Costs should identify the type, approved indirect cost rate, base to which the rate applies and total indirect costs.

These line items should total the amount requested for the PHASES–TA program.

VII. Corrections, Debriefing

(A) Corrections to Deficient Applications

After the application due date, HUD may not, consistent with its regulations in 24 CFR part 4, subpart B, consider any unsolicited information applicants may want to provide. HUD may contact applicants to clarify an item in an application or to correct technical deficiencies. HUD may not seek clarification of items or responses that improve the substantive quality of responses to any rating factors. In order to not unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. Examples of correctable technical deficiencies include failure to submit the proper certifications or failure to submit an application that contains an original signature by an authorized official. In each case, HUD will notify applicants in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile (FAX) or by USPS, return receipt requested. Clarifications or corrections of technical deficiencies in accordance with the information provided by HUD must be submitted within 14 calendar days of the date of receipt of the HUD notification. (If the due date falls on a Saturday, Sunday, or federal holiday, an applicant's correction must be received by HUD on the next day that is not a Saturday, Sunday, or federal holiday.) If the deficiency is not corrected within this time period, HUD will reject the application as incomplete and it will not be considered for funding.

(B) Applicant Debriefing

Beginning not less than 30 days after the Department publicly announces the awards for assistance, and for at least 120 days after such announcement, HUD will provide any requesting applicant with a debriefing on their application. All requests for debriefing must be made in writing or email by the authorized official whose signature appears on the HUD–424 or his or her successor in office. Applicants should submit their requests to Jean Whaley, who may be reached at (202) 708–3176, extension 2774 (this is not a toll-free number). Information provided to applicants during the debriefing will include, at a minimum, the final score received for each rating factor, final evaluator comments for each rating factor, and the final assessment indicating the basis upon which assistance was provided or denied.

VIII. Findings and Certifications

(A) Federalism Impact

Executive Order 13132 (captioned ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the Executive Order are met. This NOFA does not have federalism implications and does not impose substantial direct compliance costs on state and local governments nor preempt state law within the meaning of the Executive Order.

(B) Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the regulations in 24 CFR part 4, subpart A contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. HUD will comply with the documentation, public access, and disclosure requirements of section 102 with regard to the assistance awarded under this NOFA, as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(2) *Disclosures.* HUD will make available for public inspection for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also reported on HUD Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period of less than three years. All reports, both applicant disclosures and updates, will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(3) *Publication of Recipients of HUD Funding.* HUD's regulations at 24 CFR part 4 provide that HUD will publish a Notice in the **Federal Register** to notify the public of all decisions made by the Department to provide:

(i) Assistance subject to section 102(a) of the HUD Reform Act; and/or

(ii) Assistance provided through grants or cooperative agreements on a discretionary (non-formula, non-demand) basis, but that is not provided on the basis of a competition.

(C) Section 103 HUD Reform Act

HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information

to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708–3815 (this is not a toll-free number). For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel.

(D) Paperwork Reduction Act Statement

The information collection requirements in this NOFA have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB number is 2506–0166, valid through November 30, 2004. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

(E) Environmental Requirements

This NOFA does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19 (c)(1), this NOFA is categorically excluded from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

In accordance with 24 CFR 50.19(b)(9) and 58.34(a)(9), the assistance provided by this NOFA relates only to the provision of technical assistance and is categorically excluded from the requirements of the National Environmental Policy Act and not subject to environmental review under the related laws and authorities.

(F) Catalog of Federal Domestic Assistance Numbers

The Federal Domestic Assistance number for this program is 14.506.

IX. Authority

McKinney-Vento Act Homeless Assistance Programs Technical Assistance. The Supportive Housing Program is authorized under 42 U.S.C. 11381 *et seq.*; 24 CFR 583.140. The Emergency Shelter Grant, Section 8 Moderate Rehabilitation Single Room Occupancy Program and the Shelter Plus Care Technical Assistance Programs are authorized by the FY 2002 HUD Appropriations Act.

Dated: April 15, 2003.

Roy A. Bernardi,

Assistant Secretary for Community Planning and Development.

[FR Doc. 03–10094 Filed 4–23–03; 8:45 am]

BILLING CODE 4210–29–P

Federal Register

Thursday,
April 24, 2003

Part IV

Department of Housing and Urban Development

24 CFR 245

Tenant Participation in State-Financed, HUD-Assisted Housing Developments; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 245

[Docket No. FR–4611–F–02]

RIN 2502—AH55

Tenant Participation in State-Financed, HUD-Assisted Housing Developments

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: HUD's current regulations protecting the statutory right of tenants in HUD-assisted and insured multifamily housing developments to organize and participate in the operation of the development do not currently cover state-financed housing developments that receive assistance under certain HUD programs. The statutory right of tenants to organize includes those state-financed housing developments. This final rule extends the protection of tenant organizations to include state-financed housing developments assisted under certain HUD programs.

DATES: *Effective Date:* May 27, 2003.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone (202) 708–3000 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On June 18, 2002 (67 FR 41583), HUD published a proposed rule that would apply the same protections provided to tenant organizations in HUD-assisted and/or insured multifamily housing developments to tenant organizations in state-financed, HUD-assisted housing developments receiving assistance under the Rent Supplement Program (12 U.S.C. 1701(s)) or under section 236 of the National Housing Act (12 U.S.C. 1715z–1). HUD's current regulations protecting the statutory right of tenants in HUD-assisted and insured multifamily housing developments to organize and participate in the operation of the development do not currently cover state-financed housing developments that receive assistance under those HUD programs. This rule extends to state-financed, HUD-assisted housing developments the organizational rights of tenants in other HUD-assisted and insured multifamily housing developments.

Section 245.10(a)(3) of HUD's regulations excludes state or local housing finance agency developments receiving assistance under section 236 of the National Housing Act or the Rent Supplement Program from the coverage of subpart B, which contains the specific protections and basic regulations for tenant organizations. The statutory language, however, gives HUD the authority to include these state-financed, HUD-assisted housing developments within the coverage of this subpart of the tenant participation rule.

Specifically, section 202(a) of the Housing and Community Development Amendments of 1978, 12 U.S.C. 1715z–1b(a), provides that ''the term 'multifamily housing project' means a project which is eligible for assistance as described in section 1715z–1a(c) of this title * * *'' The protection for tenant organizations, found in 12 U.S.C. 1715z–1b(b)(4), applies to multifamily housing projects as so defined. Developments eligible for assistance under 12 U.S.C. 1715z–1a(c) include those assisted under section 236, 12 U.S.C. 1715z–1, or section 101 of the Housing and Urban Development Act of 1965, 12 U.S.C. 1701s (Rent Supplements). Section 12 U.S.C. 1715z–1a(b) explicitly states that projects eligible for assistance under section 1715z–1a are eligible ''without regard to whether such projects are assisted under the National Housing Act.'' Therefore, because eligibility for assistance is not based on federal insurance, and because tenant organization rights apply based on the eligibility for assistance, HUD has authority to apply the statutory protections for tenant organizations to state-financed, HUD-assisted housing developments, so long as the developments receive one of the eligible forms of assistance. Given this authority, this rule extends coverage of protections of tenant organizations to state-financed, HUD-assisted housing developments.

II. The Proposed Rule

On June 18, 2002 (67 FR 41582), HUD published a proposed rule that would amend 24 CFR 245.10(a)(3) to extend the protections for tenant organizations to state-financed, HUD-assisted housing developments that receive one of the covered forms of assistance, Rent Supplement or assistance under section 236. In addition, the proposed rule would correct an error in a legal citation in 24 CFR 245.135(a)(3), and correct a cross-reference to ''subpart D'' in 24 CFR 245.10(a)(3), replacing it with the correct reference to ''subpart E.''

III. Final Rule

This final rule follows publication of the June 18, 2002, proposed rule and takes into consideration the public comments received on the proposed rule. This final rule adopts the proposed rule without change.

IV. Discussion of Public Comments on the June 18, 2002, Proposed Rule

The public comment period for the proposed rule closed on August 19, 2002. HUD received eight comments on the proposed rule, six from local tenant associations, one from a regional tenant advocacy corporation, and one from a national tenant association. All eight comments supported the rule.

Six of the eight commenters wrote that tenants of State-financed, HUD-assisted housing developments should be afforded the same rights and protections to organize and participate in the operation of their developments as tenants in HUD-assisted housing that is not State-financed. Three of the commenters added that tenant association independence from the development owners and management is a ''most important'' issue for their organizations. One commenter explained that experiential evidence demonstrated that once educated and empowered by their rights, tenants are ''effective in preserving affordable housing and maintaining this valuable resource for their communities.''

Comment: Four commenters submitted comments on enforcement of this rule. The comments generally noted the importance of enforcing the rule. Two of these four commented more specifically that there ''must be an enforcement procedure, sanctions, and a listing of prohibited owner/management activities if these regulations are going to work.''

HUD Response: HUD agrees that it is important that tenants' rights to organize be enforceable, however, HUD does not anticipate adding additional enforcement actions other than those that already exist in the overall final rule, ''Tenant Participation in Multifamily Housing Projects,'' published on June 7, 2000 (65 FR 36272). Therefore, the comments relating to enforcement procedures, sanctions, and a listing of prohibited owner/management activities have already been addressed and do not need to be added to this final rule including Housing Finance Agencies.

V. Findings and Certifications

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. This rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of the UMRA.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made at the proposed rule stage in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact remains applicable and is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule and in so doing certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule is exclusively concerned with the procedures governing tenant participation in multifamily housing projects and would have minimal economic impact on the owners of covered projects. Although the rule would require that owners permit tenants and tenant organizers to conduct reasonable activities related to the establishment or operation of tenant organizations, it would not impose any affirmative obligations on owners to assist tenant organizations in the conduct of these activities. For example, the owners of covered projects would not be required to contribute, economically or otherwise, to the preparation or distribution of leaflets and other informational materials developed by a tenant organization. The rule permits tenant organizations to develop responses to economic proposals made by owners, such as rent increases and major capital additions. While HUD encourages owners to take these responses into consideration, the rule does not require that owners modify or abandon their proposals based on the recommendations made by the tenant organization.

Federalism Impact

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410–0500.

List of Subjects in 24 CFR Part 245

Condominiums, Cooperatives, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Rent subsidies, Reporting and recordkeeping requirements, Utilities.

■ For the reasons discussed in this preamble, HUD amends 24 CFR part 245 as follows:

PART 245—TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS

■ 1. The authority citation for 24 CFR part 245 continues to read as follows:

Authority: 12 U.S.C. 1715z–1b; 42 U.S.C. 3535(d).

■ 2. Amend § 245.10, paragraph (a)(3) as follows:

§ 245.10 Applicability of part.

(a) * * *

(3) *State or local housing finance agency project.* The project receives assistance under section 236 of the National Housing Act (12 U.S.C. 1715z–1) or the Rent Supplement Program (12 U.S.C. 1701s) administered through a state or local housing finance agency, but does not have a mortgage insured under the National Housing Act or held by the Secretary. Subject to the further limitation in paragraph (b) of this section, only the provisions of subparts A, B and C of this part, and of subpart E of this part for requests for approval of a conversion of a project from project-paid utilities to tenant-paid utilities or of a reduction in tenant utility allowances, apply to a mortgagor of such a project;

* * * * *

■ 3. Make the following technical correction to § 245.135:

■ a. Revise the authority citation at § 245.135(a)(3) to read ''24 CFR part 24, subpart G.''

Dated: April 15, 2003.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 03–10093 Filed 4–23–03; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://*

www.access.gpo.gov/nara/nara005.html. Some laws may not yet be available.

H.R. 397/P.L. 108–12

To reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois. (Apr. 22, 2003; 117 Stat. 612)

H.R. 672/P.L. 108–13

To rename the Guam South Elementary/Middle School of the Department of Defense Domestic Dependents Elementary and Secondary Schools System in honor of Navy Commander William ''Willie'' McCool, who was the pilot of the Space Shuttle Columbia when it was tragically lost on February 1, 2003. (Apr. 22, 2003; 117 Stat. 613)

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