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Presidential Documents

Title 3—

The President

Executive Order 13005 of May 21, 1996

Empowerment Contracting

In order to promote economy and efficiency in Federal procurement, it is necessary to secure broad-based competition for Federal contracts. This broad competition is best achieved where there is an expansive pool of potential contractors capable of producing quality goods and services at competitive prices. A great and largely untapped opportunity for expanding the pool of such contractors can be found in this Nation's economically distressed communities.

Fostering growth of Federal contractors in economically distressed communities and ensuring that those contractors become viable businesses for the long term will promote economy and efficiency in Federal procurement and help to empower those communities. Fostering growth of long-term viable contractors will be promoted by offering appropriate incentives to qualified businesses.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States, including section 486(a) of title 40, United States Code, and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Policy*. The purpose of this order is to strengthen the economy and to improve the efficiency of the Federal procurement system by encouraging business development that expands the industrial base and increases competition.

Sec. 2. *Empowerment Contracting Program*. In consultation with the Secretaries of the Departments of Housing and Urban Development, Labor, and Defense; the Administrator of General Services; the Administrator of the National Aeronautics and Space Administration; the Administrator of the Small Business Administration; and the Administrator for Federal Procurement Policy, the Secretary of the Department of Commerce shall develop policies and procedures to ensure that agencies, to the extent permitted by law, grant qualified large businesses and qualified small businesses appropriate incentives to encourage business activity in areas of general economic distress, including a price or an evaluation credit, when assessing offers for government contracts in unrestricted competitions, where the incentives would promote the policy set forth in this order. In developing such policies and procedures, the Secretary shall consider the size of the qualified businesses.

Sec. 3. *Monitoring and Evaluation*. The Secretary shall:

(a) monitor the implementation and operation of the policies and procedures developed in accordance with this order;

(b) develop a process to ensure the proper administration of the program and to reduce the potential for fraud by the intended beneficiaries of the program;

(c) develop principles and a process to evaluate the effectiveness of the policies and procedures developed in accordance with this order; and

(d) by December 1 of each year, issue a report to the President on the status and effectiveness of the program.

Sec. 4. *Implementation Guidelines*. In implementing this order, the Secretary shall:

(a) issue rules, regulations, and guidelines necessary to implement this order, including a requirement for the periodic review of the eligibility of qualified businesses and distressed areas;

(b) draft all rules, regulations, and guidelines necessary to implement this order within 90 days of the date of this order; and

(c) ensure that all policies and procedures and all rules, regulations, and guidelines adopted and implemented in accordance with this order minimize the administrative burden on affected agencies and the procurement process.

Sec. 5. *Definitions.* For purposes of this Executive order:

(a) ''Agency'' means any authority of the United States that is an ''agency'' under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

(b) ''Area of general economic distress'' shall be defined, for all urban and rural communities, as any census tract that has a poverty rate of at least 20 percent or any designated Federal Empowerment Zone, Supplemental Empowerment Zone, Enhanced Enterprise Community, or Enterprise Community. In addition, the Secretary may designate as an area of general economic distress any additional rural or Indian reservation area after considering the following factors:

(1) Unemployment rate;

(2) Degree of poverty;

(3) Extent of outmigration; and

(4) Rate of business formation and rate of business growth.

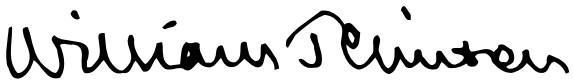
(c) ''Qualified large business'' means a large for-profit or not-for-profit trade or business that (1) employs a significant number of residents from the area of general economic distress; and (2) either has a significant physical presence in the area of general economic distress or has a direct impact on generating significant economic activity in the area of general economic distress.

(d) ''Qualified small business'' means a small for-profit or not-for-profit trade or business that (1) employs a significant number of residents from the area of general economic distress; (2) has a significant physical presence in the area of general economic distress; or (3) has a direct impact on generating significant economic activity in the area of general economic distress.

(e) ''Secretary'' means the Secretary of Commerce.

Sec. 6. *Agency Authority.* Nothing in this Executive order shall be construed as displacing the agencies' authority or responsibilities, as authorized by law, including specifically other programs designed to promote the development of small or disadvantaged businesses.

Sec. 7. *Judicial Review.* This Executive order does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,
May 21, 1996.

[FR Doc. 96–13306
Filed 5–23–96; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13006 of May 21, 1996

Locating Federal Facilities on Historic Properties in Our Nation's Central Cities

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Historic Preservation Act (16 U.S.C. 470 *et seq.*) and the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2505), and in furtherance of and consistent with Executive Order No. 12072 of August 16, 1978, and Executive Order No. 11593 of May 13, 1971, it is hereby ordered as follows:

Section 1. *Statement of Policy.* Through the Administration's community empowerment initiatives, the Federal Government has undertaken various efforts to revitalize our central cities, which have historically served as the centers for growth and commerce in our metropolitan areas. Accordingly, the Administration hereby reaffirms the commitment set forth in Executive Order No. 12072 to strengthen our Nation's cities by encouraging the location of Federal facilities in our central cities. The Administration also reaffirms the commitments set forth in the National Historic Preservation Act to provide leadership in the preservation of historic resources, and in the Public Buildings Cooperative Use Act of 1976 to acquire and utilize space in suitable buildings of historic, architectural, or cultural significance.

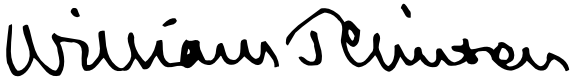
To this end, the Federal Government shall utilize and maintain, wherever operationally appropriate and economically prudent, historic properties and districts, especially those located in our central business areas. When implementing these policies, the Federal Government shall institute practices and procedures that are sensible, understandable, and compatible with current authority and that impose the least burden on, and provide the maximum benefit to, society.

Sec. 2. *Encouraging the Location of Federal Facilities on Historic Properties in Our Central Cities.* When operationally appropriate and economically prudent, and subject to the requirements of section 601 of title VI of the Rural Development Act of 1972, as amended (42 U.S.C. 3122), and Executive Order No. 12072, when locating Federal facilities, Federal agencies shall give first consideration to historic properties within historic districts. If no such property is suitable, then Federal agencies shall consider other developed or undeveloped sites within historic districts. Federal agencies shall then consider historic properties outside of historic districts, if no suitable site within a district exists. Any rehabilitation or construction that is undertaken pursuant to this order must be architecturally compatible with the character of the surrounding historic district or properties.

Sec. 3. *Identifying and Removing Regulatory Barriers.* Federal agencies with responsibilities for leasing, acquiring, locating, maintaining, or managing Federal facilities or with responsibilities for the planning for, or managing of, historic resources shall take steps to reform, streamline, and otherwise minimize regulations, policies, and procedures that impede the Federal Government's ability to establish or maintain a presence in historic districts or to acquire historic properties to satisfy Federal space needs, unless such regulations, policies, and procedures are designed to protect human health and safety or the environment. Federal agencies are encouraged to seek the assistance of the Advisory Council on Historic Preservation when taking these steps.

Sec. 4. *Improving Preservation Partnerships.* In carrying out the authorities of the National Historic Preservation Act, the Secretary of the Interior, the Advisory Council on Historic Preservation, and each Federal agency shall seek appropriate partnerships with States, local governments, Indian tribes, and appropriate private organizations with the goal of enhancing participation of these parties in the National Historic Preservation Program. Such partnerships should embody the principles of administrative flexibility, reduced paperwork, and increased service to the public.

Sec. 5. *Judicial Review.* This order is not intended to create, nor does it create, any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,
May 21, 1996.

[FR Doc. 96–13305
Filed 5–23–96; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 61, No. 102
Friday, May 24, 1996

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV95–916–5C]

Nectarines and Peaches Grown in California; Relaxation of Quality Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final rule published on May 1, 1996 concerning nectarines and peaches grown in California.

EFFECTIVE DATES: May 2, 1996.

FOR FURTHER INFORMATION CONTACT: Kenneth Johnson, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–2861; or Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California, 93721; telephone: (209) 487–5901.

SUPPLEMENTARY INFORMATION:

Background

This rule establishes a ''CA Utility'' quality requirement, based on minimum quality standards established under the California Agriculture Code, with a limitation on the amount of fruit meeting U.S. No. 1 or higher grade requirements that may be contained in the utility pack. This final rule also requires that containers of nectarines and peaches meeting the ''CA Utility'' quality requirement be clearly marked ''CA Utility.''

Need for Correction

In the final rule, FR Doc. 96–10758, published May 1, 1996, the last sentence in section (a)(1)(ii) was inadvertently omitted, therefore, the existing language may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, in FR Doc. 96–10758, page 19164, second column section 916.356, paragraph (a)(1)(ii) is corrected to read as follows:

§ 916.356 [Corrected]

(a) * * *

(ii) Free from serious damage due to skin breaks, cuts, growth cracks, bruises, or other causes. Damage to any nectarine is serious when it causes a waste of 10 percent or more, by volume, of the individual nectarine.

* * * * *

Dated: May 20, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–13085 Filed 5–23–96; 8:45 am]

BILLING CODE 3410–02–M

Rural Utilities Service

7 CFR Part 1755

RUS Specification for Aerial Service Wires

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) amends its regulations on Telecommunications Standards and Specifications for Materials, Equipment and Construction, by codifying the RUS Specification for Aerial Service Wires. The new specification sets forth the engineering and technical standards that are required by RUS in outside plant environments.

DATES: Effective date: June 24, 1996.

Compliance date: Borrowers may purchase aerial wire service products already produced or currently in the process of manufacturing under previous Bulletin 345–36 until February 24, 1997.

Incorporation by reference: Incorporation by reference of certain publications listed in this final rule is approved by the Director of the Federal Register as of June 24, 1996.

FOR FURTHER INFORMATION CONTACT: Charlie I. Harper, Jr., Chief, Outside Plant Branch, Telecommunications Standards Division, Rural Utilities Service, room 2844, AG Box 1598, South Building, U.S. Department of Agriculture, Washington, DC 20250–1598, telephone number (202) 720–0667.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. If adopted, this final rule will not:

(1) Preempt any State or local laws, regulations, or policies;

(2) Have any retroactive effect; and

(3) Require administrative proceedings before parties may file suit challenging the provisions of this rule.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This final rule involves standards and specifications, which may increase the direct short-term costs to RUS borrowers. However, the long-term direct economic costs are reduced through greater durability and lower maintenance cost over time.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in the final rule were approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) under control number of 0572–0059.

Send questions or comments regarding this burden or any other aspect of these collections of information, including suggestions for reducing the burden, to F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Rural Utilities Service, Ag Box 1522, Washington, DC 20250–1522.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this final rule is listed in the Catalog of Federal Domestic Assistance programs under No. 10.851, Rural Telephone Loans and Loan Guarantees; and No. 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A Notice of Final Rule titled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS and RTB loans and loan guarantees, and RTB bank loans, to governmental and nongovernmental entities from coverage under this Order.

Background

RUS issues publications titled ''Bulletin'' which serve to guide borrowers regarding already codified policy, procedures, and requirements needed to manage loans, loan guarantee programs, and the security instruments which provide for and secure RUS financing. RUS issues standards and specifications for the construction of telephone facilities financed with RUS loan funds. RUS Bulletin 345–36, ''RUS Specification for Parallel Conductor Drop Wire,'' PE–7, dated January 25, 1983, presently contains the engineering and technical requirements for aerial service wires that are considered necessary for satisfactory performance in outside plant environments. Because of the technological advancements made in aerial service wire designs over the past eleven years, RUS is rescinding Bulletin 345–36 and codifying these standards in 7 CFR part 1755.700 through 7 CFR part 1755.704, RUS Specification for Aerial Service Wires.

The specification allows aerial service wire designs consisting of one pair through six pairs. The specification also allows aerial service wire designs containing copper coated steel and nonmetallic reinforcing members.

The specification contains mechanical, electrical, and environmental requirements, and test methods for evaluation of these aerial service wire designs.

This action establishes RUS requirements for a wider range of aerial service wires without affecting current designs or manufacturing techniques. This wider selection of aerial service wires will afford RUS telephone borrowers the opportunity to increase subscriber services in an economical and efficient manner through enhanced wire designs brought about by technological advancements made during the past eleven years.

On December 29, 1995, RUS published a proposed rule (60 FR 67340) to codify the RUS Specification for Aerial Service Wires. Comments on this proposed rule were due January 29, 1996. No comments were received by this due date.

List of Subjects in 7 CFR Part 1755

Incorporation by reference, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

For the reasons set out in the preamble, RUS amends chapter XVII of title 7 of the Code of Federal Regulations as follows:

PART 1755—TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT AND CONSTRUCTION

1. The authority citation for part 1755 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

2. Section 1755.98 is amended by adding a new entry to the table in numerical order to read as follows:

§ 1755.98 List of telephone standards and specifications included in other 7 CFR parts.

* * * * *

Section	Issue date	Title
* * *	* *	* *
1755.700 through 1755.704	June 24, 1996	RUS Specification for Aerial Service Wires.
* * *	* *	* *

3. Sections 1755.700 through 1755.704 are added to read as follows:

§ 1755.700 RUS specification for aerial service wires.

§§ 1755.701 through 1755.704 cover the requirements for aerial service wires.

§ 1755.701 Scope.

(a) This section covers the requirements for aerial service wires intended for aerial subscriber drops.

(b) The aerial service wires can be either copper coated steel reinforced or nonmetallic reinforced designs.

(c) For the copper coated steel reinforced design, the reinforcing members are the conductors.

(1) The conductors are solid copper-covered steel wires.

(2) The wire structure is completed by insulating the conductors with an overall extruded plastic insulating compound.

(d) For the nonmetallic reinforced design, the conductors are solid copper individually insulated with an extruded solid insulating compound.

(1) The insulated conductors are either laid parallel (two conductor design only) or twisted into pairs (a star-quad configuration is permitted for two pair wires).

(2) The wire structure is completed by the application of nonmetallic reinforcing members and an overall plastic jacket.

(e) All wires sold to RUS borrowers for projects involving RUS loan funds under §§ 1755.700 through 1755.704 must be accepted by RUS Technical Standards Committee ''A'' (Telecommunications). For wires manufactured to the specification of §§ 1755.700 through 1755.704, all design changes to an accepted design must be submitted for acceptance. RUS will be the sole authority on what constitutes a design change.

(f) Materials, manufacturing techniques, or wire designs not

specifically addressed by §§ 1755.700 through 1755.704 may be allowed if accepted by RUS. Justification for acceptance of modified materials, manufacturing techniques, or wire designs must be provided to substantiate product utility and long term stability and endurance.

§ 1755.702 Copper coated steel reinforced (CCSR) aerial service wire.

(a) *Conductors.* (1) Each conductor shall comply with the requirements specified in the American National Standard Institute/Insulated Cable Engineers Association, Inc. (ANSI/ICEA) S–89–648–1993, paragraphs 2.1 through 2.1.5. The ANSI/ICEA S–89–648–1993 Standard For Telecommunications Aerial Service Wire, Technical Requirements (approved by ANSI July 11, 1994) is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ANSI/ICEA S–89–648–1993 are available for inspection during normal business hours at RUS, room 2845, U.S. Department of Agriculture, Washington, DC 20250–1500 or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Copies are available from ICEA, P. O. Box 440, South Yarmouth, MA 02664, telephone number (508) 394–4424.

(2) Factory joints in conductors shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 2.1.6.

(b) *Conductor insulation.* (1) The raw materials used for the conductor insulation shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraph 3.1.1.

(2) The raw materials shall be accepted by RUS prior to their use.

(3) The finished conductor insulation shall be free from holes, splits, blisters, or other imperfections and shall be as smooth as is consistent with best commercial practice.

(4) The finished conductor insulation shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraphs 3.1.5 through 3.1.5.4.

(5) The insulation shall have a minimum spot thickness of not less than 0.9 millimeters (mm) (0.03 inches (in.)) at any point.

(c) *Wire assembly.* (1) The two conductors shall be insulated in parallel to form an integral configuration.

(2) The finished wire assembly shall be either a flat or a notched oval. Other finished wire assemblies may be used provided that they are accepted by RUS prior to their use.

(3) The overall dimensions of the finished wire assembly shall be in accordance with the following requirements:

Diameter	Dimensions	
	Minimum mm (in.)	Maximum mm (in.)
Major	5.5 (0.22)	8.0 (0.31)
Minor	3.0 (0.12)	5.0 (0.19)

(d) *Conductor marking.* The insulated conductors of a finished wire shall be marked in accordance with the requirements specified in ANSI/ICEA S–89–648–1993, paragraph 3.1.4.

(e) *Electrical requirements.* (1) *Conductor resistance.* The direct current (dc) resistance of each conductor in a completed CCSR aerial service wire shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.1.2.

(2) *Wet mutual capacitance.* The wet mutual capacitance of the completed CCSR aerial service wire shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.1.3.

(3) *Wet attenuation.* The wet attenuation of the completed CCSR aerial service wire shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.1.4.

(4) *Wet insulation resistance.* The wet insulation resistance of the completed CCSR aerial service wire shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.1.5.

(5) *Dielectric strength.* (i) The wet dielectric strength between conductors and between each conductor of the completed CCSR aerial service wire and the surrounding water shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.1.6.

(ii) The dry dielectric strength between conductors of the completed CCSR aerial service wire shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.1.7.

(6) *Fusing coordination.* The completed CCSR aerial service wire shall comply with the fusing coordination requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.1.8.

(7) *Insulation imperfections.* Each length of completed CCSR aerial service wire shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.1.9.

(f) *Mechanical requirements.* (1) *Impact test.* (i) All CCSR aerial service wires manufactured in accordance with this section shall comply with the unaged impact test specified in ANSI/ICEA S–89–648–1993, paragraph 8.1.2.

(ii) All CCSR aerial service wires manufactured in accordance with this section shall comply with the aged impact test specified in ANSI/ICEA S–89–648–1993, paragraph 8.1.3.

(2) *Abrasion resistance test.* All CCSR aerial service wires manufactured in accordance with this section shall comply with the abrasion resistance test specified in ANSI/ICEA S–89–648–1993, paragraph 8.1.4.

(3) *Static load test.* All CCSR aerial service wires manufactured in accordance with this section shall comply with the static load test specified in ANSI/ICEA S–89–648–1993, paragraph 8.1.5.

(4) *Plasticizer compatibility test.* All CCSR aerial service wires manufactured in accordance with this section shall comply with the plasticizer compatibility test specified in ANSI/ICEA S–89–648–1993, paragraph 8.1.8.

(g) *Environmental requirements.* (1) *Cold temperature handling test.* (i) All CCSR aerial service wires manufactured in accordance with this section shall comply with the unaged cold temperature handling test specified in ANSI/ICEA S–89–648–1993, paragraph 8.2.1.

(ii) All CCSR aerial service wires manufactured in accordance with this section shall comply with the aged cold temperature handling test specified in ANSI/ICEA S–89–648–1993, paragraph 8.2.2.

(2) *Light absorption test.* All CCSR aerial service wires manufactured in accordance with this section shall comply with the light absorption test specified in ANSI/ICEA S–89–648–1993, paragraph 8.2.3.

(3) *Low temperature separation test.* All CCSR aerial service wires manufactured in accordance with this section shall comply with the low temperature separation test specified in ANSI/ICEA S–89–648–1993, paragraph 8.2.4.

(4) *Flammability test.* All CCSR aerial service wires manufactured in accordance with this section shall comply with the flammability test specified in ANSI/ICEA S–89–648–1993, paragraph 8.3.

(5) *Wire listing.* All CCSR aerial service wires manufactured in accordance with this section shall comply with the listing requirements specified in ANSI/ICEA S–89–648–1993, paragraph 8.4.

(h) *Identification marker.* Each length of CCSR aerial service wire shall be identified in accordance with ANSI/ICEA S–89–648–1993, paragraph 9.1.4. When surface marking is employed, the color of the initial marking shall be either white or silver.

(i) *Length marking (optional).* (1) Sequentially numbered length marking of the completed CCSR aerial service

wire may be used at the option of the manufacturer unless specified by the end user.

(2) When sequentially numbered length markings are used, the length markings shall be in accordance with ANSI/ICEA S–89–648–1993, paragraph 9.1.5. The color of the initial marking shall be either white or silver.

(j) *Durability of marking.* The durability of the marking of the CCSR aerial service wire shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraph 9.1.6.

§ 1755.703 Nonmetallic reinforced (NMR) aerial service wire.

(a) *Conductors.* (1) Each conductor shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraphs 2.2 and 2.2.1. The ANSI/ICEA S–89–648–1993 Standard For Telecommunications Aerial Service Wire, Technical Requirements (approved by ANSI July 11, 1994) is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ANSI/ICEA S–89–648–1993 are available for inspection during normal business hours at RUS, room 2845, U.S. Department of Agriculture, Washington, DC 20250–1500 or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Copies are available from ICEA, P. O. Box 440, South Yarmouth, MA 02664, telephone number (508) 394–4424.

(2) Factory joints made in the conductors during the manufacturing process shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 2.2.2.

(b) *Conductor insulation.* (1) The raw materials used for the conductor insulation shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraphs 3.2 through 3.2.2.

(2) The finished conductor insulation shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraph 3.2.3.

(3) The dimensions of the insulated conductors shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraph 3.2.3.1.

(4) The colors of the insulation shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraph 3.2.3.2.

(5) A permissible overall performance level of faults in conductor insulation shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 3.2.4.6. The length count and number of faults shall be recorded. The information shall be retained for a period of 6 months and be available for review by RUS when requested.

(6) Repairs to the conductor insulation during manufacture are permissible. The method of repair shall be accepted by RUS prior to its use. The repaired insulation shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 3.2.3.3.

(7) All repaired sections of insulation shall be retested in the same manner as originally tested for compliance with paragraph (b)(5) of this section.

(8) The colored insulating material removed from or tested on the conductor, from a finished wire shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraphs 3.2.4 through 3.2.4.5.

(c) *Identification of pairs and layup of pairs.* (1) The insulation shall be colored coded to identify:

(i) The tip and ring conductor of each pair; and

(ii) Each pair in the completed wire.

(2) The colors to be used in the pairs together with the pair numbers shall be in accordance with the table specified in ANSI/ICEA S–89–648–1993, paragraph 4.1.1.

(3) The insulated conductors shall be either layed parallel (two conductor design only) or twisted into pairs.

(4) When using parallel conductors for the two conductor design, the parallel conductors shall be designed to enable the wire to meet the electrical requirements specified in paragraph (g) of this section.

(5) When twisted pairs are used, the following requirements shall be met:

(i) The pair twists shall be designed to enable the wire to meet the electrical requirements specified in paragraph (g) of this section; and

(ii) The average length of pair twists in any pair in the finished wire, when measured on any 3 meter (10 foot) length, shall not exceed the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 4.1.

(6) An alternative method of forming the two-pair wire is the use of a star-quad configuration.

(i) The assembly of the star-quad shall be such as to enable the wire to meet the electrical requirements specified in paragraph (g) of this section.

(ii) The star-quad configuration shall be assembled in accordance with ANSI/ICEA S–89–648–1993, paragraph 4.1.2.

(iii) The average length of twist for the star-quad in the finished wire, when measured on any 3 meter (10 foot) length, shall not exceed the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 4.1.

(iv) The color scheme used to provide identification of the tip and ring conductors of each pair in the star-quad shall comply with the table specified in ANSI/ICEA S–89–648–1993, paragraph 4.1.2.

(d) *Strength members.* The strength members shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraphs 6.1 and 6.1.1.

(e) *Wire jacket.* (1) The jacket shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraphs 5.1 and 5.1.1.

(2) The jacket raw materials shall be accepted by RUS prior to their use.

(f) *Wire assembly.* The finished wire assembly shall be in accordance with ANSI/ICEA S–89–648–1993, paragraph 5.1.3 and Figure 5–1.

(g) *Electrical requirements.* (1) *Conductor resistance.* The dc resistance of each conductor in a completed NMR aerial service wire shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.2.2.

(2) *Resistance unbalance.* (i) The dc resistance unbalance between the two conductors of any pair in a completed NMR aerial service wire and the average resistance unbalance of all pairs in a Quality Control Lot shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraph 7.2.3.

(ii) The resistance unbalance between tip and ring conductors shall be random with respect to the direction of unbalance. That is, the resistance of the tip conductors shall not be consistently higher with respect to the ring conductors and vice versa.

(3) *Dry mutual capacitance.* The dry mutual capacitance of the completed NMR aerial service wire shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraph 7.2.4, Type 1.

(4) *Pair-to-pair capacitance unbalance.* The pair-to-pair capacitance unbalance as measured on the completed NMR aerial service wire shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraph 7.2.5.

(5) *Attenuation.* (i) The dry attenuation of the completed NMR aerial service wire shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.2.7.

(ii) The wet attenuation of the completed NMR aerial service wire shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.2.8.

(6) *Insulation resistance.* (i) The dry insulation resistance of the completed NMR aerial service wire shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.2.9.

(ii) The wet insulation resistance of the completed NMR aerial service wire shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.2.10.

(7) *Wet Dielectric strength.* The wet dielectric strength between conductors and between each conductor of the completed NMR aerial service wire and the surrounding water shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.2.11.

(8) *Fusing coordination.* The completed NMR aerial service wire shall comply with the fusing coordination requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.2.13.

(9) *Crosstalk loss.* (i) The output-to-output far-end crosstalk loss (FEXT) for any pair of completed NMR aerial service wire shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.2.14.

(ii) The input-to-input near-end crosstalk loss (NEXT) for any pair of completed NMR aerial service wire shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 7.2.14.

(h) *Mechanical requirements*—(1) *Impact test.* (i) All NMR aerial service wires manufactured in accordance with this section shall comply with the unaged impact test specified in § 1755.702(f)(1)(i).

(ii) All NMR aerial service wires manufactured in accordance with this section shall comply with the aged impact test specified in § 1755.702(f)(1)(ii).

(2) *Abrasion resistance test.* All NMR aerial service wires manufactured in accordance with this section shall comply with the abrasion resistance test specified in § 1755.702(f)(2).

(3) *Static load test.* All NMR aerial service wires manufactured in accordance with this section shall comply with the static load test specified in § 1755.702(f)(3).

(4) *Elongation test.* All NMR aerial service wires manufactured in accordance with this section shall comply with the elongation test specified in ANSI/ICEA S–89–648–1993, paragraph 8.1.7.

(5) *Plasticizer compatibility test.* All NMR aerial service wires manufactured in accordance with this section shall comply with the plasticizer compatibility test specified in § 1755.702(f)(4).

(i) *Environmental requirements.* (1) *Cold temperature handling test.* (i) All NMR aerial service wires manufactured in accordance with this section shall comply with the unaged cold temperature handling test specified in § 1755.702(g)(1)(i).

(ii) All NMR aerial service wires manufactured in accordance with this section shall comply with the aged cold temperature handling test specified in § 1755.702(g)(1)(ii).

(2) *Light absorption test.* All NMR aerial service wires manufactured in accordance with this section shall comply with the light absorption test specified in § 1755.702(g)(2).

(3) *Flammability test.* All NMR aerial service wires manufactured in accordance with this section shall comply with the flammability test specified in § 1755.702(g)(4).

(4) *Wire listing.* All NMR aerial service wires manufactured in accordance with this section shall comply with the listing requirements specified in § 1755.702(g)(5).

(j) *Ripcord (optional).* (1) A ripcord may be used in the NMR aerial service wire structure at the option of the manufacturer unless specified by the end user.

(2) When a ripcord is used it shall comply with the requirements specified in ANSI/ICEA S–89–648–1993, paragraphs 4.2 through 4.2.3.

(k) *Identification marker.* Each length of NMR aerial service wire shall be identified in accordance with ANSI/ICEA S–89–648–1993, paragraphs 9.1 through 9.1.4. When surface marking is employed, the color of the initial marking shall be either white or silver.

(l) *Length marking (optional).* (1) Sequentially numbered length marking of the completed NMR aerial service wire may be used at the option of the manufacturer unless specified by the end user.

(2) When sequentially numbered length markings are used, the length markings shall be in accordance with in accordance with § 1755.702(i)(2).

(m) *Durability of marking.* The durability of the marking of the NMR aerial service wire shall comply with the requirements specified in § 1755.702(j).

§ 1755.704 Requirements applicable to both CCSR and NMR aerial service wires.

(a) *Acceptance testing.* (1) The tests described in §§ 1755.700 through 1755.704 are intended for acceptance of wire designs and major modifications of accepted designs. What constitutes a major modification is at the discretion of RUS. These tests are intended to show the inherent capability of the manufacturer to produce wire products having long life and stability.

(2) For initial acceptance, the manufacturer shall:

(i) Certify that the product fully complies with each paragraph in §§ 1755.700 through 1755.704;

(ii) Agree to periodic plant inspections by RUS;

(iii) Certify whether the product complies with the domestic origin manufacturing provisions of the ''Buy American'' requirements of the Rural Electrification Act of 1938 (7 U.S.C. 903 note), as amended (the ''REA Buy-American provision'');

(iv) Submit at least three written user testimonials concerning field performance of the product; and

(v) Provide any other nonpropriety data deemed necessary by the Chief, Outside Plant Branch (Telecommunications).

(3) In order for RUS to consider a manufacturer's request that a product be requalified, the manufacturer shall certify not later than June 30 of the year in which requalification is required, that the product:

(i) Fully complies with each paragraph in §§ 1755.700 through 1755.704; and

(ii) Does or does not comply with the domestic origin manufacturing provisions of the REA Buy American provisions.The required certifications shall be dated within 90 days of the submission.

(4) Initial and requalification acceptance requests should be addresses to: Chairman, Technical Standards Committee ''A'' (Telecommunications), Telecommunications Standards Division, Rural Utilities Service, AG Box 1598, Washington, DC 20250–1598.

(b) *Extent of testing*—(1) *Tests on 100 percent of completed wire.* (i) Each conductor in the completed CCSR and NMR aerial service wire shall be tested for continuity in accordance with ANSI/ICEA S–89–648–1993, paragraphs 7.1.1 and 7.2.1, respectively. The ANSI/ICEA S–89–648–1993 Standard For Telecommunications Aerial Service Wire, Technical Requirements (approved by ANSI July 11, 1994) is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ANSI/ICEA S–89–648–1993 are available for inspection during normal business hours at RUS, room 2845, U.S. Department of Agriculture, Washington, DC 20250–1500 or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Copies are available from ICEA, P. O. Box 440, South Yarmouth, MA 02664, telephone number (508) 394–4424.

(ii) Each conductor in the completed CCSR and NMR aerial service wire shall be tested for shorts in accordance with ANSI/ICEA S–89–648–1993, paragraphs 7.1.1 and 7.2.1, respectively.

(iii) Each length of completed CCSR and NMR aerial service wire shall be

tested for insulation imperfections in accordance with § 1755.702(e)(7) and § 1755.703(b)(5), respectively.

(2) *Capability tests.* Tests on a quality assurance basis shall be made as frequently as is required for each manufacturer to determine and maintain compliance with:

(i) Performance of the conductors;

(ii) Performance of the conductor insulation and jacket material;

(iii) Sequential marking and lettering;

(iv) Mutual capacitance, capacitance unbalance, attenuation, and crosstalk;

(v) Conductor resistance, resistance unbalance, and insulation resistance;

(vi) Dielectric strength and fusing coordination;

(vii) Impact, abrasion, static load, elongation, and plasticizer compatibility tests; and

(viii) Cold temperature handling, light absorption, low temperature separation, and flammability tests.

(c) *Summary of records of electrical and physical tests.* (1) Each manufacturer shall maintain suitable summary records for a period of at least 3 years of all electrical and physical tests required on completed wire as set forth in paragraph (b) of this section. The test data for a particular lot of aerial service wire shall be in a form such that it may be readily available to the purchaser or to RUS upon request.

(2) Measurements and computed values shall be rounded off to the number of places or figures specified for the requirement according to ANSI/ICEA S–89–648–1993, paragraph 1.3.

(d) *Manufacturing irregularities.* (1) Repairs to the insulation of CCSR aerial service wires are not permitted in wires supplied to end users under §§ 1755.700 through 1755.704.

(2) Repairs to the jacket of NMR aerial service wires are not permitted in wires supplied to end users under §§ 1755.700 through 1755.704.

(e) *Splicing.* Splicing of completed CCSR and NMR aerial service wires shall comply with the requirement specified in ANSI/ICEA S–89–648–1993, paragraph 8.1.1.

(f) *Preparation for shipment.* (1) CCSR and NMR aerial service wire shall be shipped either in coils or on reels.

(2) When CCSR and NMR aerial service wires are shipped on reels the following provisions shall apply:

(i) The diameter of the drum shall be large enough to prevent damage to the wire from reeling or unreeling. The reels shall be substantial and so constructed as to prevent damage to the wire during shipment and handling;

(ii) A waterproof corrugated board or other suitable means of protection accepted by RUS prior to its use may be applied to the reel. If the waterproof corrugated board or other suitable material is used for protection, it shall be suitably secured in place to prevent damage to the wire during storage and handling. The use of the waterproof corrugated board or other suitable means of protection shall be at the option of the manufacturer unless specified by the end user;

(iii) The outer end of the wire shall be securely fastened to the reel head so as to prevent the wire from becoming loose in transit. The inner end of the wire shall be securely fastened in such a way as to make it readily available if required for electrical testing. Spikes, staples, or other fastening devices which penetrate the conductor insulation of the CCSR aerial service wire and the jacket of the NMR aerial service wire shall not be used. The method of fastening the wire ends shall be accepted by RUS prior to their use;

(iv) Each length of wire shall be wound on a separate reel;

(v) Each reel shall be plainly marked to indicate the direction in which it should be rolled to prevent loosening of the wire on the reel; and

(vi) Each reel shall be stenciled or labeled on either one or both sides with the following information:

(A) Customer order number;

(B) Manufacturer's name and product code;

(C) Factory reel number and year of manufacture;

(D) Gauge of conductors and pair size of wire;

(E) Length of wire; and

(F) RUS designation letter ''K.''

(3) When CCSR and NMR aerial service wires are shipped in coils the following provisions shall apply:

(i) The diameter of the coil shall be large enough to prevent damage to the wire from coiling or uncoiling;

(ii) The nominal length of the wire in a coil shall be 305 meters (1,000 feet). No coil shall be less than 290 meters (950 feet) long or more than 460 meters (1,500 feet) long; however, 25 percent of the total number of coils may be less than 305 meters (1,000 feet);

(iii) The coils of wire shall be wound securely with strong tape in four separate evenly spaced places;

(iv) The coils may be protected from damage by wrapping the coil with heavy paper, burlap, or other suitable material accepted by RUS prior to its use. The use of the heavy paper, burlap, or other suitable means of protection shall be at the option of the manufacturer unless specified by the end user; and

(v) Each coil shall be tagged with the following information:

(A) Customer order number;

(B) Manufacturer's name and product code;

(C) Year of manufacture;

(D) Gauge of conductors and pair size of wire;

(E) Length of wire; and

(F) RUS designation letter ''K.''

(4) In lieu of wrapping the coil with heavy paper, burlap, or other suitable material, the coil may be packaged in a moisture resistant carton.

(5) When the coils are shipped in moisture resistant cartons, each carton shall be marked with the information specified in paragraphs (f)(3)(v)(A) through (f)(3)(v)(F) of this section.

(6) Other methods of shipment may be used if accepted by RUS prior to their use.

(7) When NMR aerial service wire is shipped, the ends of the wire shall be sealed in accordance with ANSI/ICEA S–89–648–1993, paragraph 9.2.

Dated: May 10, 1996.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 96–12834 Filed 5–23–96; 8:45 am]

BILLING CODE 3410–15–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

Assessments; Continuation of Adjusted Rate Schedule for BIF-Assessable Deposits

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Continuation of adjusted rate schedule.

SUMMARY: On May 14, 1996, the Board of Directors of the FDIC (Board) adopted a resolution to continue in effect the current downward adjustment to the assessment rate schedule applicable to deposits assessable by the Bank Insurance Fund (BIF). The continuation of the downward adjustment will apply to the semiannual assessment period beginning July 1, 1996. As a result, the BIF assessment rates will continue to range from 0 to 27 basis points. This rate schedule will result in an estimated average annual assessment rate of approximately 0.29 basis points; the estimated annual revenue produced by this rate schedule will be $72 million.

EFFECTIVE DATE: July 1, 1996, through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Frederick S. Carns, Assistant Director, Division of Insurance, (202) 898–3930; Christine E. Blair, Financial Economist, Division of Research and Statistics,

(202) 898–3936; James R. McFadyen, Senior Financial Analyst, Division of Research and Statistics, (202) 898–7027; Christopher L. Hencke, Counsel, Legal Division, (202) 898–8839; Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C., 20429.

SUPPLEMENTARY INFORMATION:

I. Continuation of Adjustment to Rate Schedule 2

Section 7(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(b), provides that the Board shall set semiannual assessments for insured depository institutions. On August 8, 1995, the Board adopted a new assessment rate schedule for deposits subject to assessment by the BIF. 60 FR 42680 (August 16, 1995). The new schedule was codified as Rate Schedule 2 at 12 CFR 327.9(a). This schedule provided for an assessment-rate range of 4 to 31 basis points and became effective retroactively on June 1, 1995, the beginning of the month following the month in which the BIF reached its designated reserve ratio (DRR) of 1.25 percent of total estimated insured deposits.

In adopting Rate Schedule 2, the Board also amended the FDIC's assessment regulations to permit the Board to make limited adjustments to the schedule without notice-and-comment rulemaking. Any such adjustments can be made as the Board deems necessary to maintain the BIF reserve ratio at the DRR and can be accomplished by Board resolution. Under this provision, codified at 12 CFR 327.9(b), any such adjustment must not exceed an increase or decrease of 5 basis points and must be uniform across the rate schedule.

The amount of an adjustment adopted by the Board under 12 CFR 327.9(b) is to be determined by the following considerations: (1) the amount of assessment revenue necessary to maintain the reserve ratio at the DRR; and (2) the assessment schedule that would generate such amount of assessment revenue considering the risk profile of BIF members. In determining the relevant amount of assessment revenue, the Board is to consider BIF's expected operating expenses, case resolution expenditures and income, the effect of assessments on BIF members' earnings and capital, and any other factors the Board may deem appropriate.

Having considered all of these factors, the Board decided on November 14, 1995, to adopt an adjustment factor of 4 basis points for the semiannual assessment period beginning January 1, 1996, with a resulting adjusted schedule ranging from 0 to 27 basis points. 60 FR 63400 (December 11, 1995). The Board has now decided to adopt the same adjustments to Rate Schedule 2 for the upcoming semiannual period from July 1, 1996 to December 31, 1996. The adjusted rate schedule is set forth below.

BIF RATE SCHEDULE AS ADJUSTED FOR THE SECOND SEMIANNUAL PERIOD OF 1996

Capital group	Supervisory subgroup		
	A	B	C
1	[1] 0	3	17
2	3	10	24
3	10	24	27

[1] Subject to a statutory minimum assessment of $1,000 per semiannual period (which also applies to all other assessment risk classifications).

The basis for the Board's decision is discussed below.

II. Basis for the Adjustment

A. Maintaining at the Designated Reserve Ratio

In adopting a rate adjustment under 12 CFR 327.9(b), as mentioned above, the Board must consider the following: (1) the amount of assessment revenue necessary to maintain the reserve ratio at the DRR; and (2) the assessment schedule that would generate such amount of assessment revenue considering the risk profile of BIF members.

The BIF reserve ratio stood at 1.30 percent as of December 31, 1995, the latest date for which complete data are available. Assuming that insured deposit growth during the first half of 1996 falls within the range of 2 percent shrinkage to 6 percent growth annually, and assuming that insurance losses remain moderate as expected, the BIF ratio will range from 1.29 to 1.34 percent at midyear 1996 (Table 1).

For the second half of 1996, insurance losses and operating expenses are expected to total under $350 million, while assessments plus investment income will exceed $650 million.

Insured deposit growth for 1996 is subject to considerable uncertainty, as recent experience has been mixed. From 1991 through early 1995, the growth rate of BIF-insured deposits was essentially zero but, for the year ending in December 1995, BIF-insured deposits grew by 3 percent, with much of this growth occurring in the fourth quarter. In light of the 1995 experience, as well as considerable volatility in deposit growth experienced during the 1980s, the FDIC must consider the possibility that BIF-insured deposits could grow at a 6 percent annual rate throughout 1996.

Table 1 indicates the year-end 1996 range for the BIF reserve ratio, assuming a 6 percent upper bound for annual deposit growth in 1996 and assuming that the values of other variables affecting the reserve ratio in the second semiannual period will fall within their historical ranges. While the lower bound on the year-end BIF reserve ratio is below the 1.25 percent target, this presumes an unexpected increase in insurance losses/provisions of $600 million. Such an increase is consistent with the historical experience of the FDIC, but it must be viewed as a remote possibility in light of the current economic environment and the near-term outlook.

The stronger possibility is that insured-deposit growth rates could exceed forecasts based upon historical experience. While the 6 percent upper bound for deposit growth included in Table 1 is high relative to the experience of the 1990s, the FDIC cannot rule out such a rate of growth in response to the dramatic reductions in BIF assessment rates that were effected in the second half of 1995.

Moreover, given the prospect of a continuing, large premium differential between the insurance funds, there is a realistic possibility of substantial deposit migration from the SAIF to the BIF. Though the law imposes constraints on at least some forms of deposit-shifting from one fund to another, such constraints may be countered by adaptations in the marketplace. The relatively low rate of migration to date is not likely to be indicative of the rate to be expected going forward, given that many market participants may have delayed any plans to migrate deposits in anticipation of a legislative solution. In the absence of a legislative solution to date, the FDIC believes that there is a realistic possibility of a significant increase in deposit migration. However, the precise timing and ultimate magnitude of any increase is uncertain.

For illustration, Table 2 examines the impact on the year-end BIF reserve ratio of alternative deposit migration rates during the second semiannual period of 1996. Columns 2 through 4 of the table indicate the impact of deposit migration rates under three different assumptions concerning ''normal'' growth of BIF-insured deposits (growth that is not due to migration) for 1996. For example, the ratios in the third column are derived under the assumption that normal deposit growth is 2 percent for 1996 (full year); assuming also that no deposit migration occurs during the year, the

year-end BIF ratio would be 1.32 percent (the assumed values for all nondeposit factors affecting the reserve ratio are constant across columns 2–4). Table 2 indicates that, in general, each 5 percent increase in the annual rate of migration during the second half of 1996 (to a maximum annual rate of 30 percent) would reduce the year-end 1996 BIF ratio by approximately 1 basis point. If 30 percent annual migration in the second half of 1996 were to occur along with 6 percent ''normal'' growth of BIF-insured deposits, the BIF ratio at year end would be 1.23 percent under the assumptions of Table 2.

Given the uncertainties reviewed above, the possibility of a large increase in BIF-insured deposit growth during 1996 should be considered seriously. Despite this concern, it is the judgment of the Board that BIF assessment rates should not be changed at this time; rather, deposit flows and trends in deposit growth rates should be closely monitored in preparation for future decisions regarding BIF assessment rates.

In summary, for the reasons discussed above, the Board believes that the assessment schedule for the current semiannual period will generate the revenue necessary to maintain the reserve ratio at the DRR in the next semiannual period.

B. The Long-Term Outlook

The Board believes that an important consideration in setting rates is the long-term revenue needs of the BIF. A balance should exist between long-term BIF revenues and long-term BIF expenses (where expenses include monies needed to prevent dilution due to deposit growth). In August of 1995, the FDIC determined that an effective average BIF assessment rate of 4 to 5 basis points would be appropriate to achieve such balance. This determination was based on a thorough historical analysis of FDIC experience and consideration of recently enacted statutory provisions that may moderate deposit insurance losses going forward. 60 FR 42680 (August 16, 1995).

The Board has not altered its view that, in setting rates, it should look beyond the immediate time frame in estimating the revenue needs of the BIF. Moreover, the Board continues to believe that an average annual assessment rate of 4 to 5 basis points would be appropriate to achieve a long-term balance between BIF revenues and expenses. As discussed in the preceding section, however, the current balance in the BIF also is directly relevant to determining the appropriate assessment level. In light of the favorable existing conditions and outlook for the next several months, it is anticipated that the current rate structure (with an assessment rate of zero for the least-risky institutions) will provide adequate assessment revenue over the near term to maintain the BIF reserve ratio at or above the target ratio of 1.25 percent.

C. Other Considerations

In continuing the current adjustments to the assessment rate schedule, the Board has considered the effect on members' earnings and capital. In light of the fact that these adjustments represent a reduction in the rates set forth in Rate Schedule 2, the Board does not believe that the schedule will produce unwarranted adverse effects on members. Indeed, the rate for many institutions will be zero (with a minimum semiannual assessment of $1,000 mandated by the Federal Deposit Insurance Act).

Another consideration is the statutory requirement under the Federal Deposit Insurance Act for a risk-based assessment system. To be effective, this system must incorporate a range of rates that provides an incentive for institutions to control risk-taking behavior while at the same time covering the long-term costs of the obligations borne by the deposit insurer. In the judgment of the Board, these goals will be achieved for the upcoming semiannual period by retaining the current spread of 27 basis points between the highest- and lowest-rated institutions.

For the reasons discussed above, the Board has decided to continue in effect the current adjustment to the BIF assessment rate schedule with a range of 0 to 27 basis points for the semiannual period from July 1, 1996 through December 31, 1996.

By order of the Board of Directors.

Dated at Washington, DC, this 14th day of May, 1996.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

BILLING CODE 6714–01–P

Table 1

BIF Assessment Rates
Factors to be Considered

Second Semiannual Assessment Period, 1996

BIF Ratio at June 30, 1996 (Percent) (1)	**1.29 to 1.34**
Expected Income ($Millions)	**644 to 701**
Assessment Income ($Millions)	**36**
Interest Income ($Millions) (2)	**608 to 665**
Expected Insurance Losses and Change in Provisions for Future Losses ($Millions) (3)	**-100 to 600**
Expected Operating Expenses ($Millions)	**204**
Estimated BIF-Insured Deposits at December 31, 1996 ($Billions) (4)	**1,913 to 2,070**
BIF Ratio at December 31, 1996 (Percent) (5)	**1.24 to 1.38**

(1) Range reflects annual insured deposit growth rate of +6 percent versus -2 percent for first half of 1996.

(2) Range reflects interest earnings of 5.5 versus 6 percent annually.

(3) Range based on FDIC experience, as reviewed in *Federal Register* notice of August 16, 1995 (12 CFR Part 327).

(4) Lower bound assumes annual growth of insured deposits of -2 percent for 1996; upper bound assumes annual growth of 6 percent. Range based on quarterly volatility evidence from 1984:Q2 to 1995:Q1. The SAIF/BIF premium differential creates a potential for substantial deposit migration from SAIF to BIF. See Table 2 for the effects of alternative migration rates on the year-end 1996 BIF ratio.

(5) Reflects ranges for all preceding items in Table 1.

Prepared by: Division of Insurance, FDIC

Table 2

Effect of SAIF Migration on BIF Reserve Ratio at December 31, 1996

Annual Rate of non-Oakar Deposit Migration from SAIF to BIF During Second Half of 1996*	BIF Ratio at December 31, 1996 (Percent) with "Normal" Growth of**		
	-2%	+2%	+6%
(1)	(2)	(3)	(4)
0%	1.38	**1.32**	1.27
5%	1.37	1.31	1.26
10%	1.36	1.31	1.26
15%	1.35	1.30	1.25
20%	1.34	1.29	1.24
30%	1.33	1.28	**1.23**

* Reflects the percent of the non-Oakar assessment base that migrates to the BIF. Because most BIF-member Oakars own a relatively small proportion of SAIF-assessable deposits, they are less likely to pursue a migration strategy. Assessment savings typically would be small relative to the costs and complexities of establishing new affiliates, encouraging depositors to switch accounts, placing greater reliance on non-deposit funding, and pursuing other avoidance mechanisms. Migration, therefore, is likely to come from the non-Oakar portion of the SAIF assessment base. Note that zero migration is assumed for the first half of 1996.

** We refer to "normal" growth as deposit growth that is not due to migration. Growth rates in columns 2 through 4 are for the full year 1-1-96 through 12-31-96. Values for all other variables affecting the reserve ratio are constant across columns in Table 2, and are as follows:

(1) Assessment income is assumed to be $36 million per semiannual period
(2) Interest and other income is assumed to be $690 million per semiannual period
(3) The sum of insurance losses, provisions for future losses, and operating expenses is assumed to be $250 million per semiannual period

Given these benchmark values, the BIF reserve ratio as of June 30, 1996 is assumed to be 1.34% for column 2, 1.32% for column 3, and 1.29% for column 4. For the three rates of normal growth, the table traces the implications of different rates of second-half 1996 migration for the year-end 1996 BIF reserve ratio. The table is presented for illustrative purposes only.

Prepared by: Division of Insurance, FDIC

[FR Doc. 96–12885 Filed 5–23–96; 8:45 am]
BILLING CODE 6714–01–C

12 CFR Part 327

Assessments; Retention of Existing Assessment Rate Schedule for SAIF-Member Institutions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Confirmation of assessment rate.

SUMMARY: On May 14, 1996, the Board of Directors of the FDIC (Board) adopted a resolution to retain the existing assessment rate schedule applicable to members of the Savings Association Insurance Fund (SAIF) for the semiannual period beginning July 1, 1996. As a result of this action, the SAIF assessment rates to be paid by depository institutions whose deposits are subject to assessment by the SAIF will continue to range from 23 cents per $100 of assessable deposits to 31 cents per $100 of assessable deposits, depending on risk classification.

EFFECTIVE DATE: July 1, 1996, through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: James R. McFadyen, Senior Financial Analyst, Division of Research and Statistics, (202) 898–7027; Christine E. Blair, Financial Economist, Division of Research and Statistics, (202) 898–3936; Christopher L. Hencke, Counsel, Legal Division, (202) 898–8839; Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C., 20429.

SUPPLEMENTARY INFORMATION:

I. Confirmation of Assessment Rate

Section 7(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(b), provides that the Board shall set semiannual assessments for insured depository institutions. For members of the undercapitalized SAIF, the Board must set assessment rates to increase the reserve ratio of the SAIF to the designated reserve ratio (DRR) of 1.25 percent of estimated insured deposits. 12 U.S.C. 1817(b)(2)(A)(i). The Board must consider SAIF's expected operating expenses, case resolution expenditures and income, the effect of assessments on members' earnings and capital, and any other factors that the Board may deem appropriate. 12 U.S.C. 1817(b)(2)(A)(ii).

The minimum semiannual assessment for each member is $1,000. 12 U.S.C. 1817(b)(2)(A)(iii). Moreover, the total amount raised by SAIF assessments must not be less than the total amount that would be raised by a rate of 18 basis points. 12 U.S.C. 1817(b)(2)(E). The assessment revenue is subject to a priority claim by the Financing Corporation (FICO). 12 U.S.C. 1817(b)(2)(D).

In accordance with the statutory requirements above, the Board adopted the SAIF assessment rate schedule codified at 12 CFR 327.9(d)(1). The Board has applied this schedule in previous assessment periods as well as the current period from January 1, 1996 through June 30, 1996. 60 FR 63406 (December 11, 1995). The Board has now decided to retain this schedule for the upcoming semiannual period from July 1, 1996 through December 31, 1996.

II. Basis for Confirmation

In setting assessment rates, the Board must increase the reserve ratio of the SAIF to the DRR of 1.25 percent of estimated insured deposits. On December 31, 1995, the SAIF had a balance of nearly $3.4 billion and a reserve ratio of 0.47 percent of insured deposits, about $5.5 billion below the amount needed to meet the DRR. The SAIF reserve ratio continues to rise, but the rate of progress is slowed by the diversion of assessment revenues to other statutory purposes. Since the inception of the SAIF in 1989, these diversions have totaled $7.7 billion. Without these diversions, the SAIF would be fully capitalized today. Some of these demands on the SAIF have been fully satisfied, but FICO continues to have an annual draw of up to $793 million against SAIF assessments, until 2019.

The SAIF grew by $1.4 billion in 1995, but a large share of that growth—$321 million—stemmed from the reduction in loss reserves for anticipated failures. These reductions in loss reserves reflect recent improvements in the health of the thrift industry and a decline in projected thrift failures. Further reductions in reserves of this magnitude will not happen again because the remaining loss reserves are now only approximately $111 million.

At the present pace and under reasonably optimistic conditions, the SAIF is not expected to meet the DRR until 2001, which is slightly ahead of the capitalization date projected last year. The acceleration of the capitalization date is attributable to lower-than-expected loss experience in 1995 and the lowering of loss projections for 1996 and 1997. The thrift industry is healthy today, and no large thrifts are expected to fail in the near future. Thrifts earned record profits of $7.6 billion in 1995, and the number and assets of ''problem'' thrifts continue to decline. Presently, 88 percent of all SAIF members qualify for the lowest premium under the FDIC's risk-based assessment system. However, it is not known how much longer the present favorable conditions can continue, and it would be prudent for the SAIF to be fully capitalized as quickly as possible to be prepared for future uncertainties.

The Board has the option of lowering SAIF assessment rates to a minimum average annual assessment rate of 18 basis points until January 1, 1998, at which time rates must return to a minimum average annual assessment rate of 23 basis points until the DRR is attained. However, the lowering of rates for this 18-month period would delay the SAIF from reaching full capitalization and could result in a FICO default in 1997.

Other developments have threatened the stability of the SAIF. Given the recapitalization of the Bank Insurance Fund (BIF) in 1995, the Board subsequently lowered BIF premiums to an average of just 0.3 basis points, compared to the average SAIF premium of 23.4 basis points. This disparity between BIF and SAIF premiums of about 23 basis points provides powerful economic incentives for SAIF-insured institutions to reduce their SAIF-assessable deposits. Despite a general ban on conversions between insurance funds, thrifts have developed and are pursuing means to transfer deposits from SAIF to BIF insurance or otherwise reduce their reliance on SAIF-assessable deposits. During 1995, for example, one large SAIF member shifted an estimated $3.4 billion in deposits to a BIF-member affiliate, and another thrift took advantage of an Oakar accounting anomaly that caused $3.3 billion of SAIF deposits to be reclassified as BIF deposits following the sale of BIF-insured deposits.

The migration of deposits out of the SAIF deposit base would accelerate the capitalization of the SAIF (see Table 2), but it would exacerbate the problems facing the SAIF by reducing the fund's ability to diversify its risks. It is likely to be the stronger SAIF members that will be successful in shifting deposits to the BIF. As a result, weaker thrifts and the banks that own SAIF deposits would be more exposed to the losses of an insurance fund that will have a higher risk profile.

If the Board were to lower SAIF assessment rates to 18 basis points, it would reduce the premium disparity from 23 basis points to 18 basis points, but it is unlikely that a temporary reduction of 5 basis points would temper the existing incentives to reduce reliance on SAIF-assessable deposits. Moreover, a reduction in assessment rates, in combination with a shrinking assessment base, would hasten a FICO shortfall (see Tables 3 and 4).

In recommending that SAIF assessment rates remain unchanged, the Board has considered the impact on the earnings and capital of SAIF members and found no unwarranted adverse effects. As discussed earlier, the earnings and capital of SAIF members are satisfactory though the Board has recognized that the full impact of the premium disparity may not yet be realized.

Pending enactment of a comprehensive legislative solution to the problems facing the SAIF, the FDIC must operate within the existing statutory framework. For the reasons discussed above, the Board has decided to retain the current SAIF assessment rate schedule of 23 to 31 basis points in order to enable the SAIF to reach full capitalization as quickly as possible. The schedule to be applied for the semiannual period from July 1, 1996, through December 31, 1996, is codified at 12 CFR 327.9(d)(1).

By order of the Board of Directors.

Dated at Washington, D.C., this 14th day of May, 1996.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

BILLING CODE 6714–01–P

Table 1

SAIF Assessment Rates
(basis points)

Capital Category	Supervisory Subgroup A	B	C
1	23	26	29
2	26	29	30
3	29	30	31

SAIF Assessment Base Distribution
Deposits as of December 31, 1995
Supervisory and Capital Ratings in Effect January 1, 1996

Capital Category		Supervisory Subgroup A		B		C	
Well	Number	1,514	87.7%	127	7.4%	19	1.1%
	Base ($bill)	667.4	90.9%	39.9	5.4%	2.3	0.3%
Adequate	Number	17	1.0%	20	1.2%	25	1.4%
	Base ($bill)	7.1	1.0%	9.2	1.3%	7.3	1.0%
Under	Number	0	0.0%	0	0.0%	5	0.3%
	Base ($bill)	0.0	0.0%	0.0	0.0%	1.1	0.2%

Note: "Number" reflects the number of SAIF members; "Base" reflects the SAIF–assessable deposits of SAIF members and of BIF–member Oakar banks.

Annual assessment revenue	1.7	billion
Assessment base	734.3	billion
Average assessment rate	23.4	basis points

Table 2

Projected 12/31/96 SAIF Reserve Ratio Based on The Migration of Non–Oakar Insured Deposits (billions of dollars)

- Under reasonably optimistic conditions, the SAIF reserve ratio is expected to approach 0.61 percent by year–end 1996.
- However, the migration of deposits from the SAIF to the BIF would accelerate the SAIF's capitalization.
- Because most BIF–member Oakars own a relatively small proportion of SAIF–assessable deposits, they are less likely to pursue a migration strategy.
- Migration, therefore, is likely to come from the non–Oakar portion of the SAIF assessment base.
- If the non–Oakar portion of the SAIF assessment base were to shrink by 30 percent, the SAIF reserve ratio could increase to 0.75 percent by year–end 1996.

	Annual Migration Rate	Non–Oakar Insured Deposits	BIF–Member Oakar Deposits	Total Insured Deposits	SAIF Balance	Reserve Ratio
12/31/95 Actual	– –	492	219	711	3.358	0.47%
12/31/96 Projected	0%	479	227	706	4.299	0.61%
	5%	454	227	681	4.292	0.63%
	10%	429	227	656	4.285	0.65%
	15%	405	227	632	4.279	0.68%
	20%	380	227	607	4.272	0.70%
	25%	355	227	582	4.265	0.73%
	30%	341	227	568	4.258	0.75%

Table 3

SAIF Assessment Base Available to Pay FICO (billions of dollars)

- The FICO claim is payable only out of assessments paid by SAIF–member savings associations. This excludes SAIF assessments paid by "Oakar" and "Sasser" banks.
- The FICO–available assessment base is shrinking 11 percent per year, on average.
- Shrinkage of the FICO base slowed in 1995 as deposit growth partially offset additional Oakar purchases.

	Total Assessment Base	Less: Oakars	Less: Sassers	FICO–Available Base	Change From Prior Year–End	Average Assessment Rate [1]	FICO–Required Base [2]	FICO "Cushion" [3]
1995	734.4	218.7	56.4	459.3	–4.4%	23.7	329.1	130.2
1994	714.1	181.7	52.0	480.4	–10.7%	24.4	319.7	160.7
1993	720.8	139.9	42.8	538.0	–16.8%	25.0	312.0	226.0
1992	755.3	80.5	28.4	646.3	–11.5%	23.0	339.1	307.2
1991	811.7	69.8	11.9	730.1	–12.4%	23.0	339.1	391.0
1990	870.0	34.0	2.8	833.3	–11.4%	20.8	375.0	458.3
1989	942.8	2.1	0.0	940.6	– –	20.8	375.0	565.6
				Annual average:	–11.2%			

[1] Basis points (100 basis points equals 1 percent).
[2] Assessment base required to generate $780 million at the average rates in effect, by year. During the first half of 1996, the average SAIF assessment fell to 23.4 basis points, raising the FICO–required base to $333 billion.
[3] The FICO cushion is the amount by which the FICO–available base exceeds the FICO–required base.

Table 4

Impact on FICO of SAIF Assessment Base Shrinkage

- On 12/31/95, the FICO–available assessment base was $459 billion.
- At the current average SAIF assessment rate of 23.4 basis points, FICO requires an assessment base of at least $333 billion to generate an annual payment of $780 million.
- The FICO base declined at an average annual rate of 11 percent from 1989 through 1995. A 27.4 percent decline from the year–end 1995 level could lead to a FICO default.
- The current 23–basis point disparity between BIF and SAIF assessment rates is likely to accelerate the shrinkage of SAIF–assessable deposits.
- The following table shows the year in which a shortfall would occur at various annual rates of assessment base shrinkage.

Shrinkage Rate	Shortfall Year
– 5%	2002
–10%	1999
–11% [1]	1998
–15%	1997
–20%	1997
–25%	1997
–30%	1996

[1] Historical rate of shrinkage.

[FR Doc. 96–12884 Filed 5–23–96; 8:45 am]
BILLING CODE 6714–01–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–110–AD; Amendment 39–9631; AD 96–11–06]

RIN 2120–AA64

Airworthiness Directives; de Havilland Model DHC–7 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland Model DHC–7 series airplanes, that requires modification of the emergency lights circuitry. This amendment is prompted by reports of the emergency lights turning on inadvertently due to voltage spikes from other equipment; and reports that the existing emergency light switch arrangement allows the flight compartment and flight attendant's panel switches to override each other. The actions specified by this AD are intended to prevent such failures of the emergency light systems, which could prevent the use of the emergency lights in the event of an emergency.

DATES: Effective June 28, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 28, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7511; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–7 series airplanes was published in the Federal Register on January 9, 1996 (61 FR 636). That action proposed to require modification of the emergency lights circuitry.

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

Support for the Proposal

Two commenters support the proposed rule.

Request To Include an Additional Modification Requirement

One commenter requests that proposed rule be revised to include a requirement to install Modification 7/2622. This modification is described in de Havilland Service Bulletin 7–33–23 and also affects the emergency lighting system. The commenter mentions that this modification is mandated by Canadian airworthiness directive CF 95–03. The commenter states that, by including a requirement in the proposal to install Modification 7/2622, safety would be enhanced and unnecessary requests for alternate means of compliance would be avoided.

The FAA does not concur with the commenter's request to revise this AD action to require installation of Modification 7/2622. The FAA finds that, although the unsafe condition that prompted the Transport Canada airworthiness action to mandate that modification concerns the failure of the emergency lighting systems, the cause of that failure is different from the causes of failure addressed in this AD. Additionally, the modification affects some airplanes other than those identified in the applicability of this AD.

However, the FAA is considering separate rulemaking action to address the installation of Modification 7/2622 on applicable airplanes.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 14 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $6,720, or $480 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein 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. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

96–11–06 De Havilland, Inc.: Amendment 39–9631. Docket 95–NM–110–AD.

Applicability: Model DHC–7 series airplanes, serial numbers 3 through 27 inclusive, on which de Havilland Modification No. 7/1697 has not been installed; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the emergency lighting system due to voltage spikes from other equipment or due to inadvertent override of the emergency lighting switches, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the emergency lights circuitry by accomplishing de Havilland Modification No. 7/1697 (Emergency Lights-Revised Switching Logic), in accordance with the Accomplishment Instructions of de Havilland Service Bulletin No. 7–33–7, dated October 17, 1980.

(b) As of the effective date of this AD, no person shall install an emergency light switch, part number MS24659–21A, on any airplane subject to this AD.

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

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

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

(e) The modification shall be done in accordance with de Havilland Service Bulletin No. 7–33–7, dated October 17, 1980. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, , Valley Stream, New York 11581; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 28, 1996.

Issued in Renton, Washington, on May 15, 1996.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12729 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–197–AD; Amendment 39–9632; AD 96–11–07]

RIN 2120–AA64

Airworthiness Directives; Learjet Model 31 and 35A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Learjet Model 31 and 35A airplanes, that requires replacement of two segments of 16 American Wire Gauge (AWG) wire with 8 AWG wire at the connector that is connected to the auxiliary cabin heater relay box. This amendment is prompted by a report that two segments of the 16 AWG wire in the auxiliary cabin heater that were spliced during production do not provide adequate current-carrying capacity. The actions specified by this AD are intended to prevent electrical arcing and a subsequent fire hazard that could result from wiring with inadequate current-carrying capacity.

DATES: Effective June 28, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 28, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dale Bleakney, Aerospace Engineer, Flight Test Branch, ACE–117W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; telephone (316) 946–4135; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Learjet Model 31 and 35A airplanes was published in the Federal Register on March 7, 1996 (61 FR 9119). That action proposed to require replacement of two segments of 16 AWG wire with 8 AWG wire at the P190 connector that is connected to the E33 auxiliary cabin heater relay box.

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

Conclusion

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

Cost Impact

There are approximately 52 Learjet Model 31 and 35A airplanes of the affected design in the worldwide fleet. The FAA estimates that 44 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $10,560, or $240 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein 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. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

96–11–07 Learjet, Inc.: Amendment 39–9632. Docket 95–NM–197–AD.

Applicability: Model 31 airplanes having serial numbers 31–002 through 31–029 inclusive, and Model 35A airplanes having serial numbers 35–647 through 35–670 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical arcing and subsequent fire hazard, accomplish the following:

(a) Within 6 months after the effective date of this AD, replace two segments of 16 American Wire Gauge (AWG) wire with 8 AWG wire at the P190 connector that is connected to the E33 auxiliary cabin heater relay box, in accordance with Learjet Service Bulletin SB 31–21–10, dated August 11, 1995 (for Model 31 airplanes), or Learjet Service Bulletin SB 35–21–24, dated August 11, 1995 (for Model 35A airplanes), as applicable.

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

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

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

(d) The replacement shall be done in accordance with Learjet Service Bulletin SB 31–21–10, dated August 11, 1995, or Learjet Service Bulletin SB 35–21–24, dated August 11, 1995, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on June 28, 1996.

Issued in Renton, Washington, on May 15, 1996.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12730 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–85–AD; Amendment 39–9630; AD 96–11–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Industrie Model A300, A300–600, and A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300, A300–600, and A310 series airplanes, that requires inspections to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, and repair, if necessary. This amendment is prompted by reports that fatigue cracking has been found on the lower spar of the pylon. The actions specified by this AD are intended to prevent such fatigue cracking, which could result in reduced structural integrity of the lower spar of the pylon.

DATES: Effective June 28, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 28, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Industrie Model A300, A300–600, and A310 series airplanes was published in the Federal Register on March 6, 1996 (61 FR 8892). That action proposed to require inspections to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, and repair, if necessary.

Interested persons have been afforded an opportunity to participate in the

making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed rule.

Request To Revise Compliance Threshold for Inspection

One commenter requests that the inspection threshold specified in paragraph (h) of the proposal be revised from 14,500 landings to 17,000 landings for consistency with the threshold provided in Airbus Service Bulletin A300–54–6014, Revision 1, dated March 28, 1994.

The FAA concurs with the commenter's request. The FAA's intent is that the inspection threshold and repetitive inspection interval specified in paragraph (h) of this AD parallel the threshold and interval recommended in the Airbus service bulletin. The FAA has revised paragraph (h) of the final rule to specify an inspection threshold of 17,000 landings. The repetitive inspection interval of 14,500 landings, which was recommended in the Airbus service bulletin, remains unchanged in this final rule.

Correction of Service Bulletin Number

The FAA has revised the reference to a service bulletin number that appeared in paragraph (i) of the proposed AD as Airbus Industrie Service Bulletin A300–54–2017. The correct service bulletin number is A310–54–2017.

Conclusion

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

Cost Impact

The FAA estimates that 99 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $47,520, or $480 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator of a Model A300 series airplane elect to accomplish the optional modification that is provided by this AD action, it will take approximately 100 work hours to accomplish, at an average labor rate of $60 per work hour. The cost of required parts will be approximately $1,500 per airplane. Based on these figures, the cost impact of the optional modification for Model A300 series airplanes is estimated to be $7,500 per airplane.

Should an operator of a Model A300–600 or A310 series airplane elect to accomplish the optional modification that is provided by this AD action, it will take approximately 110 work hours to accomplish, at an average labor rate of $60 per work hour. The cost of required parts will be approximately $1,500 per airplane. Based on these figures, the cost impact of the optional modification for Model A300–600 and A310 series airplanes is estimated to be $8,100 per airplane.

Regulatory Impact

The regulations adopted herein 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. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

96–11–05 Airbus Industrie: Amendment 39–9630. Docket 95–NM–85–AD.

Applicability: Model A300, A300–600, and A310 series airplanes; as listed in Airbus Industrie Service Bulletins A300–54–0073, A300–54–6014, and A310–54–2017, all Revision 1, all dated March 28, 1994; 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 (k) 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 reduced structural integrity of the lower spar, accomplish the following:

(a) For Model A300 series airplanes equipped with General Electric CF6–50C engines, and having pylons that have not been modified in accordance with Airbus Industrie Service Bulletin A300–54–0080, Revision 1, dated January 16, 1995: Prior to the accumulation of 10,900 total landings, or within 500 landings after the effective date of this AD, whichever occurs later, perform an internal eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–0073, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the inspection thereafter at intervals not to exceed 6,700 landings.

(2) If any crack is found that is less than 35 mm, prior to further flight, stop-drill the crack in accordance with the procedures specified in Section 51–41–10 of the Structural Repair Manual (SRM). Thereafter, prior to the accumulation of 250 landings after crack discovery, repair in accordance with the service bulletin. Prior to the accumulation of 17,900 landings after accomplishing the repair, perform an eddy current inspection to detect cracks at the stiffener ends, ribs 6 and 7, at the edge of the holes made during the repair and on the fasteners located at the edge of the doubler, in accordance with the service bulletin.

(i) If no crack is found, repeat the inspection required by paragraph (a)(2) of this AD thereafter at intervals not to exceed 15,000 landings.

(ii) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) If any crack is found that is greater than or equal to 35 mm, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(b) For Model A300 series airplanes equipped with General Electric CF6–50C engines, and having pylons that have been modified in accordance with Airbus Industrie Service Bulletin A300–54–0080, Revision 1, dated January 16, 1995: Prior to the accumulation of 30,300 landings since installation of the modification, or within 500 landings after the effective date of this AD, whichever occurs later, perform an eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–0073, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the eddy current inspection thereafter at intervals not to exceed 21,300 landings.

(2) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(c) For Model A300 series airplanes equipped with Pratt & Whitney JT9D–59A engines, and having pylons that have not been modified in accordance with Airbus Industrie Service Bulletin A300–54–0080, Revision 1, dated January 16, 1995: Prior to the accumulation of 8,600 total landings, or within 500 landings after the effective date of this AD, whichever occurs later, perform an internal eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–0073, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the inspection thereafter at intervals not to exceed 5,700 landings.

(2) If any crack is found that is less than 35 mm, prior to further flight, stop-drill the crack in accordance with the procedures specified in Section 51–41–10 of the SRM. Thereafter, prior to the accumulation of 250 landings after crack discovery, repair in accordance with the service bulletin. Prior to the accumulation of 14,200 landings after accomplishing the repair, perform an eddy current inspection to detect cracks at the stiffener ends, ribs 6 and 7, at the edge of the holes made during the repair and on the fasteners located at the edge of the doubler, in accordance with the service bulletin.

(i) If no crack is found, repeat the inspection required by paragraph (c)(2) of this AD thereafter at intervals not to exceed 12,800 landings.

(ii) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(3) If any crack is found that is greater than or equal to 35 mm, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(d) For Model A300 series airplanes equipped with Pratt & Whitney JT9D–59A engines, and having pylons that have been modified in accordance with Airbus Industrie Service Bulletin A300–54–0080, Revision 1, dated January 16, 1995: Prior to the accumulation of 24,000 landings since installation of the modification, or within 500 landings after the effective date of this AD, whichever occurs later, perform an eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–0073, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the eddy current inspection thereafter at intervals not to exceed 18,200 landings.

(2) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(e) For Model A300–600 series airplanes equipped with General Electric CF6–80C2 engines, and having pylons that have not been modified in accordance with Airbus Industrie Service Bulletin A300–54–6020, dated February 22, 1994: Prior to the accumulation of 9,400 total landings, or within 500 landings after the effective date of this AD, whichever occurs later, perform an internal eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–6014, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the inspection thereafter at intervals not to exceed 6,100 landings.

(2) If any crack is found that is less than or equal to 35 mm, prior to further flight, stop-drill the crack in accordance with the procedures specified in Section 51–41–10 of the SRM. Thereafter, prior to the accumulation of 250 landings after crack discovery, repair in accordance with the service bulletin. Prior to the accumulation of 15,600 landings after accomplishing the repair, perform an eddy current inspection to detect cracks at the stiffener ends, ribs 6 and 7, at the edge of the holes made during the repair and on the fasteners located at the edge of the doubler, in accordance with the service bulletin.

(i) If no crack is found, repeat the inspection required by paragraph (e)(2) of this AD thereafter at intervals not to exceed 13,600 landings.

(ii) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(3) If any crack is found that is greater than or equal to 35 mm, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(f) For Model A300–600 series airplanes equipped with General Electric CF6–80C2 engines, and having pylons that have been modified in accordance with Airbus Industrie Service Bulletin A300–54–6020, dated February 22, 1994: Prior to the accumulation of 26,400 landings since installation of the modification, or within 500 landings after the effective date of this AD, whichever occurs later, perform an eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–6014, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the eddy current inspection thereafter at intervals not to exceed 19,400 landings.

(2) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(g) For Model A300–600 series airplanes equipped with Pratt & Whitney JT9D–7R4 or PW 4000 engines, and having pylons that have not been modified in accordance with Airbus Industrie Service Bulletin A300–54–6020, dated February 22, 1994: Prior to the accumulation of 5,700 total landings, or within 500 landings after the effective date of this AD, whichever occurs later, perform an internal eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–6014, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the inspection thereafter at intervals not to exceed 4,400 landings.

(2) If any crack is found that is less than 35 mm, prior to further flight, stop-drill the crack in accordance with the procedures specified in Section 51–41–10 of the SRM. Thereafter, prior to the accumulation of 250 landings after crack discovery, repair in accordance with the service bulletin. Prior to the accumulation of 10,100 landings after accomplishing the repair, perform an eddy current inspection to detect cracks at the stiffener ends, ribs 6 and 7, at the edge of the holes made during the repair and on the fasteners located at the edge of the doubler, in accordance with the service bulletin.

(i) If no crack is found, repeat the inspection required by paragraph (g)(2) of this AD thereafter at intervals not to exceed 10,000 landings.

(ii) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(3) If any crack is found that is greater than or equal to 35 mm, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(h) For Model A300–600 series airplanes equipped with Pratt & Whitney JT9D–7R4 or PW 4000 engines, and having pylons that have been modified in accordance with Airbus Industrie Service Bulletin A300–54–6020, dated February 22, 1994: Prior to the accumulation of 17,000 landings since installation of the modification, or within 500 landings after the effective date of this AD, whichever occurs later, perform an eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A300–54–6014, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the eddy current inspection thereafter at intervals not to exceed 14,500 landings.

(2) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(i) For Model A310 series airplanes equipped with General Electric CF6–80C2, or Pratt & Whitney JT9D–7R4, or Pratt & Whitney PW4000 engines: Prior to the accumulation of 36,700 total landings, or within 500 landings after the effective date of this AD, whichever occurs later, perform an internal eddy current inspection to detect cracks in the lower spar axis of the pylons between ribs 6 and 7, in accordance with Airbus Industrie Service Bulletin A310–54–2017, Revision 1, dated March 28, 1994.

(1) If no crack is found, repeat the inspection thereafter at intervals not to exceed 15,000 landings.

(2) If any crack is found that is less than 35 mm, prior to further flight, stop-drill the crack in accordance with the procedures specified in Section 51–41–10 of the SRM. Thereafter, prior to the accumulation of 250 landings after crack discovery, repair in accordance with the service bulletin. Prior to the accumulation of 40,000 landings after accomplishing the repair, perform an eddy current inspection to detect cracks at the stiffener ends, ribs 6 and 7, at the edge of the holes made during the repair and on the fasteners located at the edge of the doubler, in accordance with the service bulletin.

(i) If no crack is found, repeat the inspection required by paragraph (i)(2) of this AD thereafter at intervals not to exceed 33,000 landings.

(ii) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(3) If any crack is found that is greater than or equal to 35 mm, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(j) For Model A310 series airplanes equipped with General Electric CF6–80C2, or Pratt & Whitney JT9D–7R4, or Pratt & Whitney PW4000 engines: Accomplishment of the modification specified in Airbus Industrie Service Bulletin A310–54–2023, dated October 15, 1993, constitutes terminating action for the inspections required by paragraph (i) of this AD.

(k) 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, Standardization Branch, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(l) 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.

(m) The actions shall be done in accordance with the following Airbus Industrie service bulletins, which contain the specified effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
A300–54–0073, Revision 1, March 28, 1994	1,5	1	Mar. 28, 1994.
	2–4, 6–36	Original	Oct. 15, 1993.
A300–54–6014, Revision 1, March 28, 1994	1–4, 13	1	Mar. 28, 1994.
	5–12, 14–44	Original	Oct. 15, 1993.
A310–54–2017, Revision 1, March 28, 1994	1, 5,	1	Mar. 28, 1994.
	2–4, 6–48	Original	Oct. 15, 1993.
A310–54–2023, October 15, 1993	1–38	Original	Oct. 15, 1993.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(n) This amendment becomes effective on June 28, 1996.

Issued in Renton, Washington, on May 15, 1996.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12731 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 95–ANE–60]

Amendment to Class D and Class E Airspace; New England Region; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, correction.

SUMMARY: This action corrects an error in the description of the Class E airspace areas at Beverly, MA (BVY), contained in final rule published in the Federal Register on February 15, 1996 (61 FR 5935), Airspace Docket No. 95–ANE–60. That final rule modified certain Class D and Class E airspace areas in the New England Region.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Raymond Duda, Operations Branch, ANE–530.3, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7533; fax (617) 238–7596.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 96–3492, Airspace Docket 95–ANE–60, published on February 15, 1996, (61 FR 5935) reduced the lateral limits of the Class D airspace areas at Beverly, MA (BVY); Bedford, MA (BED); Danbury, CT (DXR); Norwood, MA (OWD); Lebanon, NH (LEB); and Nashua, (ASH); and, as a consequence to those changes, made the necessary changes to the associated Class E airspace areas at Beverly (BVY), Lebanon (LEB), and Nashua (ASH). The description of the Class E airspace area at BVY, however, did not contain a geographic position for the Topfield non-directional beacon (NDB). This action corrects that error by including in the airspace description for the Class E airspace area at BVY, the geographic position of the Topfield NDB.

Correction to the Final Rule.

Accordingly, pursuant to the authority delegated to me, the description of class E airspace area at Beverly, MA, as published in the Federal Register on February 15, 1996 (61 FR 5935), Federal Register Document 96–3492; page 5937, column 1), and the description in FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1, is corrected to read as follows:

§ 71.1 [Corrected]

Subpart E—Class E Airspace

* * * * *

ANE MA E4 Beverly, MA [Corrected]

Beverly Municipal Airport, MA
(lat. 42°53′03″ N, long. 70°54′59″ W)
Topsfield NDB
(lat. 42°37′10″ N, long. 70°57′25″ W)

That airpace extending upward from the surface within 3.2 miles on each side of the Topsfield NDB 317° bearing extending from a 4.1-mile radius of Beverly Municipal Airport to 7 miles northwest of the Topsfiled NDB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Burlington, MA on May 17, 1996.

David J. Hurley,

Manager, Air Traffic Division, New England Region.

[FR Doc. 96–13157 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 73

[Airspace Docket No. 95–AEA–8]

Revocation of Restricted Area R–5202, Gardiner's Island, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes Restricted Area R–5202, Gardiner's Island, NY. The U. S. Navy has determined that this restricted airspace area is no longer necessary to support Department of Defense missions.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT: Pete Magarelli, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–3075.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 73 of the Federal Aviation Regulations revokes Restricted Area R–5202, Gardiner's Island, NY. The U.S. Navy has determined that the restricted area airspace is no longer required to support Department of Defense missions. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.52 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8C dated June 29, 1995.

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

Environmental Review

This action is not subject to environmental assessments and procedures under FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy Act.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 73.52 [Amended]

2. Section 73.52 is amended as follows:

R–5202 Gardiner's Island, NY [Removed]

Issued in Washington, DC, on May 13, 1996.

Harold W. Becker,

Acting Program Director for Air Traffic, Airspace Management.

[FR Doc. 96–13156 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

15 CFR Part 24

RIN 0605–AA10

Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

AGENCY: Department of Commerce.

ACTION: Announcement regarding Grant and Cooperative Agreement Cost Principles for State, Local and Indian Tribal Governments.

SUMMARY: The Department of Commerce (Department) is announcing the applicability of the revised Office of Management and Budget (OMB) Circular A–87, ''Cost Principles for State, Local and Indian Tribal Governments,'' (60 FR 26484, May 17, 1995). This Circular establishes principles for determining the allowable costs incurred by State, local, and federally-recognized Indian tribal governments (governmental units) under grants, cost reimbursement contracts, and other agreements with the Federal Government.

DATES: This announcement is effective May 24, 1996.

FOR FURTHER INFORMATION CONTACT: John J. Phelan, III, Director, Office of Executive Assistance Management, Room 6020, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Telephone Number 202–482–4115.

SUPPLEMENTARY INFORMATION: On March 11, 1988, the Department joined other agencies in the Federal government in publishing in the Federal Register a final rule, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' (53 FR 8048) which was codified at 15 CFR Part 24 for the Department. Part 24.22 established OMB Circular A–87 as the cost principles used by the Department for determining allowable costs of State and local governments under grants and cooperative agreements with the Department. In addition, recipients of the Department's financial assistance awards are given actual notice of which cost principles apply to the award on the face page of the award document, Commerce Department Form CD–450, ''Financial Assistance Award.''

On May 17, 1995 the Office of Management and Budget (OMB) published a Final Revision to OMB Circular A–87, ''Cost Principles for State, Local and Indian Tribal Governments,'' and directed agencies to

issue codified regulations to implement the provisions of the Circular. This announcement notifies the public that the provisions of OMB Circular A–87 as published in the Federal Register on May 17, 1995 (60 FR 26484) are applicable to 15 CFR Part 24.22.

Executive Orders 12866 and 12875

This announcement has been determined to be ''not significant'' for purposes of Executive Order 12866, ''Regulatory Planning and Review.'' In addition, it has been determined that, consistent with the requirements of Executive Order 12875, ''Enhancing Intergovernmental Partnership,'' this announcement will not impose any unfunded mandates upon State, local, and tribal governments.

Administrative Procedures Act and Regulatory Flexibility Act

Because notice and comment, and delayed effective date are not required under 5 U.S.C. 553, or any other law, for this announcement relating to public property, loans, grants, benefits, or contracts (5 USC 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this announcement. As stated above, this announcement is based on the revised OMB Circular A–87 that was developed by an interagency task force and received extensive public comment. OMB has stipulated that Federal agencies responsible for administering programs that involve cost reimbursement contracts, grants, and other agreements with governmental units shall issue codified regulations to implement the provisions of OMB Circular A–87 and its attachments.

Executive Order 12612 (Federalism Assessment)

This action has been reviewed in accordance with the principles and criteria contained in Executive Order 12612. It has been determined that this proposal does not have sufficient Federalism implications to warrant a full Federalism Assessment under the principles and criteria contained in Executive Order 12612.

Paperwork Reduction Act

This announcement does not contain any information collection requirements under the Paperwork Reduction Act.

Catalog of Federal Domestic Assistance

This announcement affects all of the grant and cooperative agreement programs administered by DOC under which State, local, and Indian tribal governments may participate.

List of Subjects in 15 CFR Part 24

Accounting, Grant programs, Grant administration, Insurance Reporting and recordkeeping requirements.

Sonya G. Stewart,

Director for Executive Budgeting and Assistance Management.

[FR Doc. 96–13107 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–FA–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1500 and 1507

Large Multiple-tube Fireworks Devices; Affirmation of Final Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Affirmation of final rule.

SUMMARY: The Commission announces that it has received no objections to its final rule amending its fireworks regulations under the Federal Hazardous Substances Act that was published on March 26, 1996 (61 FR 13084). Accordingly, the rule will go into effect on March 26, 1997, as originally provided. This final rule will require that large multiple-tube fireworks devices that have any tube with an inner diameter of 1.5 inches (3.8 cm) or greater pass a performance test for stability.

EFFECTIVE DATE: The rule published March 26, 1996 (61 FR 13084) is effective March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Samuel B. Hall, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207–0001; telephone (301) 504–0400, ext. 1371.

SUPPLEMENTARY INFORMATION: On March 26, 1996, the Commission issued a final rule amending its fireworks regulations under the Federal Hazardous Substances Act. 61 FR 13084, corrected 61 FR 18245 (April 25, 1996). This final rule will require that large multiple-tube fireworks devices that have any tube with an inner diameter of 1.5 inches (3.8 cm) or greater pass a performance test for stability. Under the test, these devices may not tip over when inclined at an angle of 60 degrees from the horizontal. This requirement is intended to reduce the risk of injury posed when these fireworks devices tip over during firing. If they tip over, subsequent tubes may discharge in the direction of spectators or others in the vicinity.

A proceeding to classify a substance as a banned hazardous substance under section 2(q)(1) of the FHSA is governed by sections 3(f)–(i) of the FHSA, and by sections 701(e)–(g) of the Federal Food, Drug, and Cosmetic Act (''FDCA''), 21 U.S.C. 371(e)–(g). See 15 U.S.C. 1261(q)(2). These procedures provide that once the Commission issues a final rule, persons who would be adversely affected by the rule have 30 days in which to file objections with the Commission stating the grounds therefor, and to request a public hearing on those objections. 21 U.S.C. 371(e). This period for objections expired on April 25, 1996.

The Commission is required to publish a notice in the Federal Register specifying any parts of the regulation that have been stayed by the filing of proper objections or, if no objections have been filed, stating that fact. By this notice, the Commission states that no objections to the final rule were filed in this proceeding. Accordingly, the rule will go into effect on March 26, 1997, as originally provided. The rule will apply to the subject multiple-tube fireworks devices that first enter interstate commerce or are imported on or after the effective date.

Dated: May 20, 1996.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 96–13046 Filed 5–23–96; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 1, 2, and 3

[T.D. ATF–373]

RIN 1512–AB43

Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits (95R–023P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final Rule, Treasury decision.

SUMMARY: As part of a regulatory reform initiative, the Bureau of Alcohol, Tobacco and Firearms (ATF) is revising and recodifying the regulations covering the basic permit requirements, the nonindustrial use of spirits and wine, and the bulk sales and bottling of distilled spirits under the Federal Alcohol Administration Act. Changes include consolidating 27 CFR parts 1, 2, and 3 into a single part 1 for ease of use and minor technical corrections.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: David Brokaw, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 27 CFR parts 1, 2, and 3 implement various provisions of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 201 *et seq.* The regulations in part 1 govern the issuance, amendment, denial, revocation, suspension, automatic termination, and annulment of basic permits. These regulations implement sections 103 and 104 of the FAA Act, 27 U.S.C. 203 and 204, which requires basic permits of persons engaged in business as importers, producers, or wholesalers of distilled spirits, wine, or malt beverages. The FAA Act defines the terms ''distilled spirits'' and ''wine'' to include only products for ''nonindustrial'' use. The regulations in part 2 specify the uses of distilled spirits and wine that are deemed ''nonindustrial,'' as that term is used in section 117 of the FAA Act, 27 U.S.C. 211(a) (5) and (a) (6). Finally, section 106 of the FAA Act, 27 U.S.C. 206, provides that bulk distilled spirits may only be sold to certain classes of persons, including distillers, winemakers for the fortification of wine, operators of class 8 Customs bonded warehouses, and agencies of the United States or any State. The regulations in part 3 implement these provisions.

On February 21, 1995, President Clinton announced a regulatory reform initiative. As part of this initiative, each Federal agency was instructed to conduct a page by page review of all agency regulations to identify those which are obsolete or burdensome and those whose goals could be better achieved through the private sector, self-regulation or State and local governments. In cases where the agency's review disclosed regulations which should be revised or eliminated, the agency would, as soon as possible, propose administrative changes to the regulations. In addition, on April 13, 1995, the Bureau published Notice No. 809 (60 FR 18783), which requested comments from the public regarding which ATF regulations could be improved or eliminated.

ATF did not receive any specific comments from the public regarding 27 CFR parts 1, 2, and 3. However, in keeping with the President's regulatory reform initiative, the Bureau has decided to consolidate parts 1, 2, and 3 into a single part 1 for ease of use. This consolidation will eliminate some of the duplicative material, such as definitions of terms under the FAA Act which may be found in more than one part.

ATF is also making certain minor technical corrections in the new part 1. References to sections of the FAA Act have been corrected to reflect the changes in section numbering arising out of the enactment of the Alcoholic Beverage Labeling Act of 1988, Pub.L. 100–690. Definitions of the terms ''distilled spirits'' and ''wine'' which refer to sections of the FAA Act have been clarified by adding citations to Title 27 of the United States Code. Conforming changes to the regulations which define the ''nonindustrial'' uses of distilled spirits and wines have been made to reflect technical amendments to the sections of the Internal Revenue Code of 1986 which set forth the conditions under which distilled spirits and wines may be withdrawn free of tax. *See* 26 U.S.C. 5214 (a) (2) and 5362 (c) (9). Finally, references in section 1.30 to the form for executing a power of attorney have been updated to refer to Form 5000.8 (1534), to reflect the new number for that form. ATF is making several other minor technical changes in the regulations.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this rule because no new requirement to collect information is imposed.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action because it will not, (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Administrative Procedures Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U. S. C. 553(b). Similarly, it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is David W. Brokaw, Wine, Beer, and Spirits Regulations Branch, Bureau of Alcohol, Tobacco, and Firearms.

List of Subjects in 27 CFR Part 1

Administrative practices and procedures, Alcohol and alcoholic beverages, Authority delegations, Imports, Liquors, Warehouses, and Wine.

Authority and Issuance

PARTS 2 AND 3—[REMOVED]

Paragraph 1. Title 27 Code of Federal Regulations parts 2 and 3 are removed and part 1 is revised as follows:

PART 1—BASIC PERMIT REQUIREMENTS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT, NONINDUSTRIAL USE OF DISTILLED SPIRITS AND WINE, BULK SALES AND BOTTLING OF DISTILLED SPIRITS

Subpart A—Scope

Sec.
1.1 General.
1.2 Territorial extent.
1.3 Forms prescribed.

Subpart B—Definitions

1.4 Meaning of terms.

Subpart C—Basic Permits

When Required

1.20 Importers.
1.21 Domestic producers, rectifiers, blenders, and warehousemen.
1.22 Wholesalers.
1.23 State agencies.

Persons Entitled to Basic Permits

1.24 Qualifications of applicants.

Applications for Permits

1.25 General.
1.26 Incomplete or incorrectly executed applications.
1.27 Change in ownership, management, or control of the applicant.
1.29 Individual plant or premises.
1.30 Power of attorney; Form 5000.8 (1534).
1.31 Denial of permit applications.

Authorization

1.35 Authority to issue, amend, deny, suspend, revoke, or annul basic permits.

Amendment and Duration of Basic Permits

1.40 Change of name.
1.41 Change of address.
1.42 Change in ownership, management, or control of business.
1.43 Duration of permits.
1.44 Automatic termination of permits.
Revocation, Suspension, or Annulment of Basic Permits
1.50 Revocation or suspension.
1.51 Annulment.
1.52 Disposition of stocks of alcoholic beverages upon revocation, annulment, or automatic termination of basic permit.

Miscellaneous

1.55 Recalling permits for correction.
1.56 Oaths and affirmations.
1.57 Procedure.
1.58 Filing of permits.
1.59 Public information as to applications acted upon.

Subpart D—Nonindustrial Use of Distilled Spirits and Wine

Uses Regarded as Industrial

1.60 Use of distilled spirits.
1.61 Use of wine.
1.62 Use of distilled spirits or wine for experimental purposes and in manufacture of nonbeverage products.

Uses Classed as Nonindustrial

1.70 General.
1.71 Distilled spirits in containers of a capacity of one gallon or less.

Subpart E—Bulk Sales and Bottling of Distilled Spirits

Bulk Sales and Bottling

1.80 Sales of distilled spirits in bulk.
1.81 Importation of distilled spirits in bulk.
1.82 Acquiring or receiving distilled spirits in bulk for redistillation, processing, rectification, warehousing, or warehousing and bottling.
1.83 Acquiring or receiving distilled spirits in bulk for addition to wine.
1.84 Acquisition of distilled spirits in bulk by Government agencies.

Warehouse Receipts

1.90 Distilled spirits in bulk.
1.91 Bottled distilled spirits.

Sales of Distilled Spirits for Industrial Use

1.95 General.

Authority: 27 U.S.C. 203, 204, 206, 211 unless otherwise noted.

Subpart A—Scope

§ 1.1 General.

(a) The regulations in this part relate to requirements governing the issuance, amendment, denial, revocation, suspension, automatic termination, and annulment of basic permits and the duration of permits, except that the provisions of part 200, Rules of Practice in Permit Proceedings, of this chapter are hereby made applicable to administrative proceedings with respect to the application for, and to the suspension, revocation, or annulment of, basic permits under the Federal Alcohol Administration Act.

(b) The regulations in this part also specify what uses of distilled spirits and wine are ''nonindustrial,'' as that term is used in section 117 of the Federal Alcohol Administration Act (27 U.S.C. 211). Finally, this part, in accordance with section 106 of the Federal Alcohol Administration Act (27 U.S.C. 206), contains the substantive requirements relative to bulk sales and bottling of distilled spirits under the Federal Alcohol Administration Act, including the terms of warehouse receipts for distilled spirits in bulk. No procedural requirements are prescribed.

§ 1.2 Territorial extent.

The provisions of this part are applicable to the several States of the United States, the District of Columbia and Puerto Rico.

§ 1.3 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) Requests for forms should be mailed to the ATF Distribution Center, PO Box 5950, Springfield, Virginia 22153–5950

Subpart B—Definitions

§ 1.4 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this part.

Act. The Federal Alcohol Administration Act.

Alcohol. Ethyl alcohol distilled at or above 190° proof.

Applicant. Any person who has filed with the regional director (compliance) an application for a basic permit under the Federal Alcohol Administration Act.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration and enforcement of this part.

Basic permit. A formal document issued under the Act in the form prescribed by the Director, authorizing the person named therein to engage in the activities specified at the location stated.

Brandy. Brandy or wine spirits for addition to wines as permitted by internal revenue law.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

Distilled spirits. Section 117(a) of the Federal Alcohol Administration Act (27 U.S.C. 211(a)) defines ''distilled spirits'' as ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof for nonindustrial use.

In bulk. Distilled spirits in containers having a capacity in excess of one wine gallon.

Other term. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by the Act.

Permittee. Any person holding a basic permit issued under the Federal Alcohol Administration Act.

Person. Any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent.

Regional director (compliance). The principal ATF regional official responsible for administering regulations in this part.

Resale at wholesale. A sale to any trade buyer.

Trade buyer. Any person who is a wholesaler or retailer of distilled spirits, wine, or malt beverages.

Wine. Section 117(a) of the Federal Alcohol Administration Act (27 U.S.C. 211(a)) defines ''wine'' as:

(a) Wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 5381–5392), as now in force or hereafter amended, and

(b) Other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake; in each instance, only if containing not less than 7 percent and not more than 24 percent of alcohol by volume, and if for nonindustrial use.

Wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

Subpart C—Basic Permits

When Required

§ 1.20 Importers.

No person, except pursuant to a basic permit issued under the Act, shall:

(a) Engage in the business of importing into the United States distilled spirits, wine, or malt beverages; or

(b) While so engaged, sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits, wine, or malt beverages so imported.

§ 1.21 Domestic producers, rectifiers, blenders, and warehousemen.

No person, except pursuant to a basic permit issued under the Act, shall:

(a) Engage in the business of distilling distilled spirits, producing wine, rectifying or blending distilled spirits or wine, or bottling, or warehousing and bottling, distilled spirits; or

(b) While so engaged, sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits or wine so distilled, produced, rectified, blended, or bottled, or warehoused and bottled.

§ 1.22 Wholesalers.

No person, except pursuant to a basic permit issued under the Act, shall:

(a) Engage in the business of purchasing for resale at wholesale, distilled spirits, wine, or malt beverages; or,

(b) While so engaged, receive, sell, offer or deliver for sale, contract to sell, or ship in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits, wine, or malt beverages so purchased.

§ 1.23 State agencies.

This subpart shall not apply to any agency of a State or political subdivision thereof or to any officer or employee of any such agency, and no such agency or officer or employee thereof shall be required to obtain a basic permit under this subpart.

Persons Entitled to Basic Permits

§ 1.24 Qualifications of applicants.

The application of any person shall be granted and the permit issued by the regional director (compliance) if the applicant proves to the satisfaction of the regional director (compliance) that:

(a) Such person (or in case of a corporation, any of its officers, directors, or principal stockholders) has not, within 5 years prior to the date of application, been convicted of a felony under Federal or State law, and has not, within 3 years prior to date of application, been convicted of a misdemeanor under any Federal law relating to liquor, including the taxation thereof; and

(b) Such person, by reason of the person's business experience, financial standing or trade connections, is likely to commence operations as a distiller, warehouseman and bottler, rectifier, wine producer, wine blender, importer, or wholesaler, as the case may be, within a reasonable period and to maintain such operations in conformity with Federal law; and

(c) The operations proposed to be conducted by such person are not in violation of the law of the State in which they are to be conducted.

Applications for Permits

§ 1.25 General.

Applications for basic permits to engage in any of the operations set forth in §§ 1.20 to 1.22 shall be made on the appropriate form prescribed by the Director, verified as required by § 1.56, and shall be accompanied by such affidavits, documents, and other supporting data, as the Director or the regional director (compliance) shall require. All data, written statements, affidavits, documents, or other evidence submitted in support of the application, or upon hearing thereon, shall be deemed to be a part of the application. All applications shall be filed by mailing or delivering the same to the office of the regional director (compliance).

§ 1.26 Incomplete or incorrectly executed applications.

Incomplete or incorrectly executed applications will not be acted upon, but the applicant shall be entitled to file a new application without prejudice, or to complete the application already filed.

§ 1.27 Change in ownership, management, or control of the applicant.

In the event of any change in the ownership, management, or control of the applicant (in case of a corporation, any change in the officers, directors, or persons holding more than 10 percent of the corporate stock), after the date of filing of any application for a basic permit and prior to final action on such application, the applicant shall notify the regional director (compliance) immediately of such change.

§ 1.29

Individual plant or premises.

An application for a basic permit must be filed, and permit issued, to cover each individual plant or premises where any of the businesses specified in section 103 of the Act is engaged in, such application to be filed with and permit issued by the regional director (compliance) for the region wherein such plant or premises is located.

§ 1.30 Power of attorney; Form 5000.8 (1534).

If the application and other documents in support of such application are signed by an attorney in fact of an individual, partnership, association, or corporation, or by one of the members of a copartnership or association, or, in the case of a corporation by an officer or other person not authorized by the corporation's bylaws or by its board of directors to sign such applications and supporting documents, the applications must be supported by a duly authenticated copy of the power of attorney conferring authority upon the person signing the documents to execute the same. Such powers of attorney will be executed on Form 5000.8 (1534), in triplicate, and submitted to the regional director (compliance).

(Approved by the Office of Management and Budget under control number 1512–0079)

§ 1.31 Denial of permit applications.

If, upon examination of any application for a basic permit, the regional director (compliance) has reason to believe that the applicant is not entitled to such a permit, the regional director (compliance) shall institute proceedings for the denial of the application in accordance with the procedure set forth in part 200 of this chapter.

Authorization

§ 1.35 Authority to issue, amend, deny, suspend, revoke, or annul basic permits.

The authority and power of issuing, amending, or denying basic permits, or amendments thereof, is conferred upon the Director and (except as to agency initiated curtailment) upon the regional director (compliance). The authority and power of suspending, revoking, or annulling basic permits is conferred upon the Director, and upon the administrative law judges referred to in part 200 of this chapter. The Director, upon consideration of appeals on petitions for review, may order the regional director (compliance) to issue, deny, suspend, revoke, or annul basic permits.

Amendment and Duration of Basic Permits

§ 1.40 Change of name.

In the event of any change in the name (trade or corporate name) of a permittee, or, in the event a permittee desires to engage in operations under an additional trade name, such permittee must file application Form 5100.18 (1643), with the regional director (compliance), for an amended basic

permit, which application must be approved, and amended permit issued, before operations may be commenced under the new name.

(Approved by the Office of Management and Budget under control number 1512–0090)

§ 1.41 Change of address.

In the event of a change in address the permittee must file application Form 5100.18 (1643), with the regional director (compliance), for an amended basic permit.

§ 1.42 Change in ownership, management, or control of business.

In the event of any change in the ownership, management, or control of any business operated pursuant to a basic permit (if the permittee is a corporation, if any change occurs in the officers, directors, or persons owning or controlling more than 10 percent of the voting stock of said corporation) the permittee shall immediately notify the regional director (compliance) of such change, giving the names and addresses of all new persons participating in the ownership, management, or control of such business, or in the case of a corporation, the names and addresses of such new officers, directors, or persons owning or controlling more than 10 percent of the voting stock. Notice to the regional director (compliance) of any such change shall be accompanied or supplemented by such data in reference to the personal or business history of such persons as the regional director (compliance) may require.

§ 1.43 Duration of permits.

A basic permit shall continue in effect until suspended, revoked, annulled, voluntarily surrendered, or automatically terminated, as provided in the Act and in this part.

§ 1.44 Automatic termination of permits.

No basic permit shall be leased, sold, or otherwise voluntarily transferred, and, in the event of such lease, sale, or other voluntary transfer, such basic permit shall automatically terminate thereupon. If any basic permit is transferred by operation of law or if actual or legal control of the permittee is acquired, directly or indirectly whether by stock ownership or in any other manner, by any person, then such permit shall be automatically terminated at the expiration of 30 days thereafter: Provided, That if within such 30-day period application for a new basic permit is made by the transferee or permittee, respectively, then the outstanding basic permit shall continue in effect until such time as the application is finally acted upon.

Revocation, Suspension, or Annulment of Basic Permits

§ 1.50 Revocation or suspension.

Whenever the regional director (compliance) has reason to believe that any permittee has willfully violated any of the conditions of the permittee's basic permit or has not engaged in the operations authorized by the permit for a period of more than two years, the regional director (compliance) shall institute proceedings for the revocation or suspension of such permit, in accordance with the procedure set forth in part 200 of this chapter, which part is made applicable to such proceedings.

§ 1.51 Annulment.

Whenever the regional director (compliance) has reason to believe that any basic permit was procured through fraud, or misrepresentation or concealment of material fact, the regional director (compliance) shall institute proceedings for the annulment of such permit in accordance with the procedure set forth in part 200 of this chapter, which part is made applicable to such proceedings.

§ 1.52 Disposition of stocks of alcoholic beverages upon revocation, annulment, or automatic termination of basic permit.

In the event of the revocation or annulment of a basic permit, pursuant to part 200 of this chapter, or in the event such permit is automatically terminated by operation of law (27 U.S.C. 204(g) and § 1.44 of this part), the regional director (compliance) may authorize the orderly disposition of stocks of distilled spirits, wines, or malt beverages then held by the permittee or former permittee upon such conditions as may be considered proper.

Miscellaneous

§ 1.55 Recalling permits for correction.

Whenever it shall be discovered that any basic permit has been issued authorizing acts, or combinations of acts, which may not properly, under the law and regulations, as of now or hereafter in force, be authorized, or that any material mistake has occurred in the issuance thereof, the holder of such permit shall forthwith surrender the same for correction or amendment upon demand of the regional director (compliance).

§ 1.56 Oaths and affirmations.

Any document required by regulations or instructions of the Director to be verified, shall be so verified upon oath or affirmation taken before a person authorized by the laws of the United States or by State or local law to administer oaths or affirmations in the jurisdiction wherein such document is to be executed.

§ 1.57 Procedure.

The procedures prescribed by the rules of practice in permit proceedings (part 200 of this chapter) are applicable to administrative proceedings for the issuance, amendment, denial, revocation, suspension, or annulment of basic permits, the issuance of subpoenas and the taking of depositions under the Act.

§ 1.58 Filing of permits.

Every person receiving a basic permit under the provisions of this part must file the same, at the place of business covered by the basic permit, so that it may be examined by ATF officers.

§ 1.59 Public information as to applications acted upon.

The regional director (compliance) shall cause to be maintained currently in the regional director's (compliance) office for public inspection, until the expiration of one year following final action on the application, the following information with respect to each application for basic permit filed:

(a) The name, including trade name or names, if any, and the address of the applicant; the kind of permit applied for and the location of the business; whether the applicant is an individual, a partnership or a corporation; if a partnership, the name and address of each partner; if a corporation, the name and address of each of the principal officers and of each stockholder owning 10 percent or more of the corporate stock.

(b) The time and place set for any hearing on the application.

(c) The final action taken on the application. In the event a hearing is held upon an application for a basic permit, the regional director (compliance) shall make available for inspection at the regional director's (compliance) office, upon request therefor: The transcript of the hearing, a copy of the administrative law judge's recommended decision, a copy of the regional director's (compliance) decision and, in the event of an appeal to the Director, the decision on appeal with the reasons given in support thereof.

Subpart D—Nonindustrial Use of Distilled Spirits and Wine

Uses Regarded as Industrial

§ 1.60 Use of distilled spirits.

The following uses of distilled spirits are regarded as ''industrial'' and will be

excluded from any application of the term ''nonindustrial use.'' The use of distilled spirits:

(a) Free of tax by, and for the use of, the United States or any governmental agency thereof, any State, any political subdivision of a State, or the District of Columbia, for nonbeverage purposes; or

(b) Free of tax for nonbeverage purposes and not for resale or use in the manufacture of any product for sale:

(1) For the use of any educational organization described in 26 U.S.C. 170(b)(1)(A)(ii) which is exempt from income tax under 26 U.S.C. 501(a), or for the use of any scientific university or college of learning;

(2) For any laboratory for use exclusively in scientific research;

(3) For use at any hospital, blood bank, or sanitarium (including use in making analysis or test at such hospital, blood bank, or sanitarium), or at any pathological laboratory exclusively engaged in making analyses, or tests, for hospitals or sanitariums; or

(4) For the use of any clinic operated for charity and not for profit (including use in compounding of bona fide medicines for treatment outside of such clinics of patients thereof); or

(c) Free of tax, after denaturation of such spirits in the manner prescribed by law for:

(1) Use in the manufacture of ether, chloroform, or other definite chemical substance where such distilled spirits are changed into some other chemical substance and do not appear in the finished product; or

(2) Any other use in the arts and industries (except for uses prohibited by 26 U.S.C. 5273 (b) or (d)) and for fuel, light, and power.

§ 1.61 Use of wine.

The following uses of wine are regarded as ''industrial'' and will be excluded from any application of the term ''nonindustrial''. The use of wine:

(a) Without payment of tax for use in the production of vinegar; or

(b) Free of tax for experimental or research purposes by any scientific university, college of learning, or institution of scientific research; or

(c) Free of tax for use by the United States or any agency thereof, and for use for analysis, testing, research, or experimentation by the governments of the several States and the District of Columbia or of any political subdivision thereof or by any agency of such governments; or

(d) Which has been rendered unfit for beverage use.

§ 1.62 Use of distilled spirits or wine for experimental purposes and in manufacture of nonbeverage products.

The use of distilled spirits or wine for experimental purposes and in the manufacture of (a) medicinal, pharmaceutical, or antiseptic products, including prescriptions compounded by retail druggists; (b) toilet preparations; (c) flavoring extracts, syrups, or food products; or (d) scientific, chemical, mechanical, or industrial products, provided such products are unfit for beverage use, is regarded as ''industrial,'' and will be excluded from any application of the term ''nonindustrial use.''

Uses Classed as Nonindustrial

§ 1.70 General.

All uses of distilled spirits and wines, except as provided in §§ 1.60, 1.61, and 1.62 of this part, are regarded as ''nonindustrial.'' Such ''nonindustrial'' use shall include, but not be limited to, distilled spirits or wine used for beverage purposes, or in the manufacture, rectification, or blending of alcoholic beverages; or in the preparation of food or drink by a hotel, restaurant, tavern, or similar establishment; or for sacramental purposes; or as a medicine.

§ 1.71 Distilled spirits in containers of a capacity of one gallon or less.

Distilled spirits in containers of a capacity of one wine gallon or less, except anhydrous alcohol and alcohol which may be withdrawn free of tax under the internal revenue laws, will be deemed to be for nonindustrial use.

Subpart E—Bulk Sales and Bottling of Distilled Spirits

Bulk Sales and Bottling

§ 1.80 Sales of distilled spirits in bulk.

It is unlawful for any person to sell, offer to sell, contract to sell, or otherwise dispose of distilled spirits in bulk, for nonindustrial use, except for export or to the classes of persons enumerated in §§ 1.82, 1.83, and 1.84.

§ 1.81 Importation of distilled spirits in bulk.

It is unlawful for any person to import distilled spirits in bulk, for nonindustrial use, except for sale to or for use by the classes of persons enumerated in §§ 1.82, 1.83 and 1.84.

§ 1.82 Acquiring or receiving distilled spirits in bulk for redistillation, processing, rectification, warehousing, or warehousing and bottling.

(a) *Proprietors of distilled spirits plants.* Persons holding basic permits (issued under subpart B of this part) authorizing the distilling, processing, rectifying, or warehousing and bottling of distilled spirits, or operating permits (issued under § 19.157 and succeeding sections of this chapter) may acquire or receive in bulk and redistill, warehouse, or process distilled spirits, so far as permitted by law.

(b) *Proprietors of class 8 customs bonded warehouses.* If the permittee operates a class 8 customs bonded warehouse, the permittee may acquire or receive in bulk, and warehouse and bottle, imported distilled spirits, so far as permitted by the customs laws.

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

§ 1.83 Acquiring or receiving distilled spirits in bulk for addition to wine.

Persons holding permits as producers and blenders of wine, may, pursuant to such permit, acquire or receive in bulk alcohol or brandy for addition to wines.

§ 1.84 Acquisition of distilled spirits in bulk by Government agencies.

Any agency of the United States, or of any State or political subdivision thereof, may acquire or receive in bulk, and warehouse and bottle, imported and domestic distilled spirits in conformity with the internal revenue laws.

Warehouse Receipts

§ 1.90 Distilled spirits in bulk.

By the terms of the Act (27 U.S.C. 206), all warehouse receipts for distilled spirits in bulk must require that the warehouseman shall package such distilled spirits, before delivery, in bottles labeled and marked in accordance with law, or deliver such distilled spirits in bulk only to persons to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk.

§ 1.91 Bottled distilled spirits.

The provisions of the Act, which forbid any person to sell, offer to sell, contract to sell, or otherwise dispose of warehouse receipts for distilled spirits in bulk, do not apply to warehouse receipts for bottled distilled spirits.

Cross Reference: For labeling of distilled spirits, see part 5 of this chapter.

Sales of Distilled Spirits for Industrial Use

§ 1.95 General.

Distillers, rectifiers, and other permittees engaged in the sale or other disposition of distilled spirits for nonindustrial use shall not sell or otherwise dispose of distilled spirits in bulk (other than alcohol) for industrial use, unless such distilled spirits are

shipped or delivered directly to the industrial user thereof.

Bradley A. Buckles,

Acting Director.

Approved: April 29, 1996.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 96–12965 Filed 5–23–96; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 95

[DoD Directive 1005.13]

Gifts From Foreign Governments; Removal of Part

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document removes the Department of Defense's rule concerning gifts from foreign governments. The part has served the purpose for which it was intended for the Code of Federal Regulations, and is no longer necessary.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. R. Kennedy, 703–697–1142.

SUPPLEMENTARY INFORMATION: Paper copies of DoD Directive 1005.13 are available, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. The Directive is also available on the World-Wide Web at URL address: http:\\www.dtic.mil/adm.

List of Subjects in 32 CFR Part 95

Foreign relations; Government employees; Government property.

PART 95—[REMOVED]

Accordingly, by the authority of 10 U.S.C. 301, 32 CFR Part 95 is removed.

Dated: May 21, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–13148 Filed 5–23–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–96–017]

RIN 2115–AE46

Special Local Regulation; Quonset Open House, North Kingstown, RI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for an airshow known as the Quonset Open House. The Quonset Open House will be held on June 1 and 2, 1996, off Quonset Point, North Kingstown, RI. This regulation is needed to protect the boating public from the hazards associated with low flying aircraft in the vicinity of the airstrip.

EFFECTIVE DATE: This rule is effective on June 1 and 2, 1996, from 9 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Benjamin M. Algeo, Chief, Boating Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Regulatory History

As authorized by 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this section effective less than 30 days after Federal Register publication. The application for the event was received less than 30 days prior to the event date. Publishing a NPRM and delaying the event would be contrary to the public interest because the airshow is intended for viewing by the public. The sponsor was unable to provide more leadtime due to the difficulties in scheduling the participating aircraft.

Background and Purpose

The Quonset Open House is a local, traditional airshow sponsored by the Rhode Island National Guard. Participating aircraft take off and land from an airstrip located on Quonset Point, North Kingstown, RI. Due to the aircrafts' low flight paths, close proximity to spectator vessels, and other water related events, a regulated area is needed to protect life and property during the event.

This section establishes a regulated area in the West Passage of Rhode Island Sound, off Quonset Point. It prohibits vessels from entering the regulated area during the event. In emergency situations, provisions may be made to establish safe escort by a Coast Guard or designated Coast Guard vessel for vessels requiring transit through the regulated area.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review of the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. The effect of this section will not be significant for several reasons: the regulated area includes less than half of one square nautical mile of Narragansett Bay; entry into the regulated area is restricted for a short duration; vessels may transit around the regulated area; and the extensive advance advisories which will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impacts of this rule and concluded that, under paragraph 2.B.2.e.34(h) of COMDTINST 16475.1B, (as revised by 61 FR 13563, March 27, 1996) this is a regulation issued in conjunction with a regatta or marine parade and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

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

Final Regulation

For the reasons set out in the preamble, the Coast Guard proposes to temporarily amend 33 CFR Part 100 as follows:

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

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

2. A temporary section, 100.T01–017, is added to read as follows:

§ 100.T01–017 Quonset Open House, North Kingstown, RI

(a) *Regulated area.* The regulated area includes all waters of the West Passage of Rhode Island Sound within the following points (NAD 83):

Latitude	*Longitude*
41°35′10″ N	071°24′29″ W
41°34′54″ N	071°23′29″ W
41°35′07″ N	071°23′29″ W
41°36′42″ N	071°24′29″ W

(b) *Special local regulations.* (1) The Coast Guard patrol commander may delay, modify, or cancel the event as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area unless participating in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels encountering emergencies which require transit through the regulated area should contact the Coast Guard patrol commander on VHF Channel 16. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated area with a Coast Guard designated escort.

(4) All persons and vessels shall comply with the instructions of the Coast Guard on-scene patrol commander. On-scene patrol personnel may include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more short blasts from a U.S. Coast Guard vessel, the operator of a vessel shall proceed as directed. Members of the Coast Guard Auxiliary may also be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* This section is effective on June 1 and 2, 1996, from 9 a.m. to 4:30 p.m.

Dated: May 10, 1996.

J.L. Linnon,

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

[FR Doc. 96–13162 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD01–95–170]

RIN 2115–AE46

Special Local Regulation: Swim the Bay, Narragansett Bay, Narragansett, RI

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent special local regulation for a swimming competition know as Swim the Bay. The event will be held on July 27, 1996, and each year thereafter on a date and times published in a Federal Register document. This regulation is needed to protect the participants from vessel traffic during the swimming competition.

EFFECTIVE DATE: This rule is effective on June 24, 1996.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Benjamin M. Algeo, Chief, Boating Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Regulatory History

A Notice of Proposed Rulemaking (NPRM) was published on March 20, 1996, (61 FR 11353) proposing the establishment of a permanent special local regulation for the annual swimming competition Swim the Bay. The NPRM proposed to restrict vessels from approaching within 200 feet of any participating swimmer to ensure the safety of participants during the event. No comments were received and no hearing was requested.

Background and Purpose

The annual Swim the Bay competition is a local, traditional event that has been held for many years in the East Passage of Narragansett Bay, Jamestown/Newport, RI. In the past, the Coast Guard has promulgated individual regulations for each year's race. Given the recurring nature of the event, the Coast Guard is establishing a permanent regulation. This rule establishes a regulated area in the East Passage of Narragansett Bay and provides specific guidance to control vessel movement during the race. This rule restricts vessels from approaching within 200 feet of participating competition swimmers.

The event consists of two heats of approximately 100 swimmers racing 1.7 miles from Coasters Harbor Island beach, Newport, RI, to Potters Cove, Jamestown, RI. There will be approximately 25–30 support boats on scene to augment a Coast Guard patrol to alert boating traffic of the presence of the swimmers. The time period for the event is dictated by tidal conditions. Subject to Coast Guard approval, the sponsor selects a Saturday in July or August that most closely exhibits low tide 40 minutes after 8 a.m. Spectator craft are authorized to watch the race from any area as long as they remain 200 feet away from any participating swimmer. In emergency situations, provisions may be made to establish safe escort by a Coast Guard or Coast Guard designated vessel for vessels requiring transit within 200 feet of participating swimmers. This final rule varies from the NPRM in that it provides the exact date and times for this year's race and provides for the effective date and times for subsequent year's events to be published in a Federal Register document.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). Due to the short duration of the event and its limited restriction on vessel traffic transiting the East Passage of Narragansett Bay, the Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under

paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less the 50,000.

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impacts of this rule and concluded that, under paragraph 2.B.2.e.34(h) of COMDTINST 16475.1B, (as revised by 61 FR 13563, March 27, 1996) this rule is a regulation issued in conjunction with a regatta or marine parade and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

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

Final Regulation

For reasons set out in the preamble, the Coast Guard is amending 33 CFR Part 100 as follows:

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

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

2. Section 100.112 is added to read as follows:

§ 100.112 Swim the Bay, Narragansett Bay, Narragansett, RI.

(a) *Regulated area.* All waters of the East Passage of Narragansett Bay within 200 feet of participating competition swimmers.

(b) *Special local regulations.* (1) The Coast Guard patrol commander may delay, modify, or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area unless participating in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels encountering emergencies which require transit through the regulated area should contact the Coast Guard patrol commander on VHF Channel 16. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated area with the Coast Guard designated escort.

(4) All persons and vessels shall comply with the instructions of the Coast Guard on-scene patrol commander. On-scene patrol personnel may include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more short blasts from a U.S. Coast Guard vessel, the operator of a vessel shall proceed as directed. Members of the Coast Guard Auxiliary may also be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* This section is effective on July 27, 1996, from 10:30 a.m. to 12:30 p.m., and each year thereafter on a date and times published in a Federal Register document.

Dated: May 13, 1996.

J.L. Linnon,

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

[FR Doc. 96–13163 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGDO1–96–016]

RIN 2115–AE46

Special Local Regulation: Revision to Special Local Regulations, 33 CFR Part 100

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is permanently amending a number of special local regulations governing marine events in the First Coast Guard District. This rule provides the effective dates for these events in 1996 and provides that the effective dates for the following years will be published in a Federal Register notice.

EFFECTIVE DATE: This section is effective on June 24, 1996.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Benjamin M. Algeo, Chief, Boating Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was published on March 22, 1996, (61 FR 11796) in the Federal Register proposing a permanent change to a number of special local regulations governing marine events in the First Coast Guard District. No comments were received and no hearing was requested.

Background and Purpose

The Coast Guard is permanently amending 33 CFR Part 100, sections 100.103—National Sweepstakes Regatta, 100.107—Windjammer Days, 100.108—Great Kennebec River Whatever Race, 100.111—Stonington Lobster Boat Races, 100.505—New Jersey Offshore Grand Prix, and removing section 100.109—Whatever Festival Hydroplanes. This final rule provides the effective dates for the 1996 events and eliminates the need to undergo the rulemaking process for each event annually by allowing the dates and times for events in later years to be published in a Federal Register notice. This rule varies from the NPRM in that it provides notice of the dates and times of the 1996 events, requires annual notice in the Federal Register rather than a Coast Guard Notice to Mariners, and provides rain dates for the Great Kennebec River Whatever Race, the Stonington Lobster Boat Races, and the New Jersey Offshore Grand Prix. It also removes section 100.109, the Whatever Festival Hydroplanes race, which has been canceled subsequent to the published NPRM.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of

Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that no substantive changes are being made to the special local regulations and that notice of the events by a Federal Register notice and Coast Guard Notice to Mariners will provide sufficient notice to waterways users.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impacts of this rule and concluded that, under paragraph 2.B.2.e.34(h) of COMDTINST 16475.1B (as revised by 61 FR 13563, March 27, 1996), this rule modifies special local regulations issued in conjunction with regattas or marine parades and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

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

Final Regulation

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR part 100 as follows:

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

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

2. Section 100.103 is amended by revising paragraph (b) as follows:

§ 100.103 National Sweepstakes Regatta, RedBank, NJ.

* * * * *

(b) *Effective period.* This section is in effect from 8 a.m. to 6 p.m. on July 20 and 21, 1996, and each year thereafter on dates and times specified in a Federal Register notice.

* * * * *

3. Section 100.107 is amended by revising paragraph (c) as follows:

§ 100.107 Windjammer Days, Boothbay Harbor, ME.

* * * * *

(c) *Effective period.* This section is in effect from 2 p.m. to 10 p.m. on June 26 and 27, 1996, and each year thereafter on dates and times specified in a Federal Register notice.

4. Section 100.108 is amended by revising paragraph (c) as follows:

§ 100.108 Great Kennebec River Whatever Race.

* * * * *

(c) *Effective period.* This section is in effect from 6 a.m. to 6 p.m. on June 30, 1996, and each year thereafter on a date and times specified in a Federal Register notice. If the event is canceled due to weather, this section is effective the following day.

§ 100.109 [Removed]

5. Section 100.109 is removed.

6. Section 100.111 is amended by revising paragraph (c) as follows:

§ 100.111 Stonington Lobster Boat Races, Stonington, ME.

* * * * *

(c) *Effective period.* This section is in effect from 10 a.m. to 4 p.m. on August 3, 1996, and each year thereafter on a date and times specified in a Federal Register notice. If the event is canceled due to weather, this section is effective the following day.

7. Section 100.505 is amended by revising paragraph (b) as follows:

§ 100.505 New Jersey Offshore Grand Prix.

* * * * *

(b) *Effective period.* This section is in effect from 8 a.m. to 5 p.m. on July 17, 1996, and each year thereafter on a date and times specified in a Federal Register notice. If the event is canceled due to weather, this section is effective the following day.

* * * * *

Dated: May 13, 1996.

J.L. Linnon,

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

[FR Doc. 96–13164 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD01–96–033]

RIN 2115–AE84

Regulated Navigation Area: Boston Harbor, Long Island Bridge, Boston, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule with request for comments.

SUMMARY: The Coast Guard is establishing a temporary Regulated Navigation Area (RNA) in the waters surrounding the Long Island Bridge, Boston Harbor, Boston, MA. Maintenance and repair work is being conducted to ensure bridge integrity. This RNA will increase safety by requiring all vessels in the regulated area to operate at a no-wake speed.

EFFECTIVE DATES: This temporary final rule is effective May 7, 1996, until October 31, 1996, Monday through Friday from 9:30 a.m. until 3:30 p.m. Comments must be received on or before July 10, 1996.

ADDRESSES: Comments should be mailed to Commanding Officer, U.S. Coast Guard Marine Safety Office, 455 Commercial Street, Boston, MA 02109–1045.

FOR FURTHER INFORMATION CONTACT: LTJG John Buckley, Vessel Division, Coast Guard Captain of the Port Boston, 455 Commercial Street, Boston, MA 02109–1045, (617) 233–3000.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD01–96–033) and the specific section of the rule to which their comments apply, and give reasons for each comment. Persons wanting

acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period and may change this section in view of the comments. The Coast Guard plans no public hearing; however, a public hearing may be requested by an interested person by writing to the Project Manager at the address under **ADDRESSES**. If it is determined that the opportunity for oral presentations at a public meeting will aid this rulemaking, the Coast Guard will hold such a public hearing at a time and place announced by a later notice in the Federal Register.

Background and Purpose

PEER Consultants, P.C. is conducting repairs and maintenance on the Long Island Bridge, Boston Harbor, Boston, MA. Contract work is being conducted to ensure bridge integrity by replacing/repairing selected structural members of the Long Island Bridge. In order to provide for the safe repair and maintenance of the Long Island Bridge, the Coast Guard deems an RNA necessary.

Discussion of the Rule

The RNA includes all waters of Boston Harbor within a 600 × 200 yard rectangle bound by the following coordinates: 42°18′26″ N, 070°59′12″ W; 42°18′35″ N, 070°58′51″ W; 42°18′31″ N, 070°58′49″ W; 42°18′23″ N, 070°59′09″ W. [Datum: NAD 1983]. A barge mooring area will be located on the northwestern side of the bridge within the RNA boundaries. Also, several work boats and barges will be operating in the RNA. Vessels in the regulated area will be required to operate at a no-wake speed to protect contract workers aboard the work boats and barges. The repair work is scheduled to take place from May 7, 1996, until October 31, 1996. Repair work will be conducted from 9:30 a.m. to 3:30 p.m., Monday through Friday.

Good cause exists for publishing a temporary final rule without notice and prior to opportunity for comment and without a delayed effective date because immediate action is needed to regulate traffic in the construction area. However, the Coast Guard is providing an opportunity for comment so that changes can be made to this final rule. It is in the public interest to have the Long Island Bridge repaired and to have a no-wake zone around the bridge during construction. Delaying this rule to provide for a notice and comment period would be impracticable, unnecessary, and contrary to the public interest. Other then commuter boats, this area receives minimal vessel traffic. Since repair work will commence at 9:30 a.m. and conclude at 3:30 p.m., Monday through Friday, commuter boat schedules will not be significantly effected. All commuter boat operators have been notified of the regulation.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this section to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The waters in the vicinity of the Long Island Bridge are used by commuter vessels, commercial fishing vessels, commercial lobster vessels and recreational vessels. Due to the minimal time delay caused by the requirement to proceed at a no-wake speed, this regulation is not expected to have a significant impact on these vessels.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and (2) governmental jurisdictions with populations of less than 50,000.

For reasons set forth in the above Regulatory Evaluation, this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2(e)(34)(g) of Commandant Instruction M16475.1B, (as amended by 59 FR 38654, July 29, 1994), this rule is a Regulated Navigation Area and is categorically excluded from further environmental documentation. A written Categorical Exclusion Determination and checklist are included in the docket.

List of Subjects in 33 CFR Part 165

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

Final Regulation

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary Section, § 165.T01–033, is added to read as follows:

§ 165.T01–033 Regulated Navigation Area; Long Island Bridge, Boston Harbor, Boston, MA.

(a) *Location.* The following area is a Regulated Navigation Area: All waters surrounding the Long Island Bridge, Boston Harbor, Boston, MA bound by the following coordinates: 42°18′26″ N, 070°59′12″ W; 42°18′35″ N, 070°58′51″ W; 42°18′31″ N, 070°58′49″ W; 42°18′23″ N, 070°59′09″ W. [Datum: NAD 1983]

(b) *Effective date.* This section is effective Monday through Friday from 9:30 a.m. until 3:30 p.m., May 7, 1996, to October 31, 1996.

(c) *Regulations.* All vessels shall operate at no-wake speed while with the Regulated Navigation Area.

Dated: May 7, 1996.

J.L. Linnon,

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

[FR Doc. 96–13165 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

33 CFR Part 334

Albemarle Sound, Pamlico Sound, and adjacent waters, North Carolina; danger zones/restricted areas for naval aircraft operations.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the final rule which was published Tuesday, February 27, 1996 (61 FR 7214). The effective date was February 27, 1996. This rule re-established a danger zone as a restricted area in the waters off of Harvey Point, Perquimans County, North Carolina. This is an editorial correction and will not affect the restrictions placed on entry into the area.

DATES: Effective May 24, 1996.

ADDRESS: HQUSACE, CECW–OR, Washington, D.C. 20314–1000.

FOR FURTHER INFORMATION CONTACT: Ms. Angie Yelverton of the Corps Wilmington District at (910) 251–4480, or Mr. Ralph Eppard, Regulatory Branch, CECW–OR at (202) 761–1783.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps promulgated a regulation under 33 CFR 334.412 which re-established an area that was previously a danger zone, as a restricted area in the waters off of Harvey Point, Albemarle Sound, North Carolina.

Need for Correction

As published, the final rules in Sec. 334.412(a) contain an incorrect bearing listed as ''southwesterly to latitude 36° 04′18″, which should have read ''northwesterly to latitude 36° 04′18″''

Correction of Publication

Accordingly, the publication on February 27, 1996, of the final rule, which was the subject of 61 FR 7214–7215, is corrected as follows:

§ 334.412 [Corrected]

On page 7215, in § 334.412 in the second column, second line, remove ''southwesterly'' and replace it with ''northwesterly''.

Dated: May 6, 1996.

Approved;

Stanley G. Genega,

Major General, USA, Director of Civil Works.

[FR Doc. 96–13090 Filed 5–23–96; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 2

RIN 2900–AI12

Delegations of Authority Concerning Discrimination or Reprisal

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document sets forth delegations of authority to the General Counsel and certain subordinates to make the final decision on a complaint of discrimination on grounds of race, color, religion, sex, national origin, age, disability, or reprisal brought by an employee of the Department of Veterans Affairs or an applicant for employment. The effect of this action is to clarify and expand CFR material to specify all delegations of authority already made concerning this subject matter.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Neal C. Lawson, Assistant General Counsel (024), Office of General Counsel, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–6384.

SUPPLEMENTARY INFORMATION: This final rule consists of delegations of authority and, therefore, is not subject to the notice and comment and effective date provisions of 5 U.S.C. 553.

The Secretary hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule merely sets forth delegations of authority.

There is no Catalog of Federal Domestic Assistance program number for this regulation.

List of Subjects in 38 CFR Part 2

Authority delegations (government agencies).

Approved: May 17, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 2 is amended as set forth below:

PART 2—DELEGATIONS OF AUTHORITY

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

Authority: 5 U.S.C. 302; 38 U.S.C. 501,512; 44 U.S.C. 3702.

2. In § 2.6, paragraph (e)(6) is revised to read as follows:

§ 2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).

* * * * *

(e) * * *

(6) Authority is delegated to the General Counsel and Deputy General Counsel and to the Assistant General Counsel and Deputy Assistant General Counsel of Professional Staff Group IV to make the final decision on a complaint of discrimination on grounds of race, color, religion, sex, national origin, age, disability, or reprisal brought by an employee of the Department of Veterans Affairs or an applicant for employment.

(Authority: 38 U.S.C. 512)

* * * * *

[FR Doc. 96–13079 Filed 5–23–96; 8:45 am]

BILLING CODE 8320–01–P

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38 CFR Part 21

RIN 2900–AH60

Veterans and Dependents Education: Miscellaneous

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the educational assistance regulations. It removes ''sunsetted'' provisions that had been authorized by the Vietnam Era GI Bill. Under the Vietnam Era GI Bill, no benefits can be authorized for training that occurred after December 31, 1989, and no educational loans can be authorized for training that occurred after December 31, 1991. Consequently, the provisions concerning such educational assistance are removed because they are no longer of any effect. This document also amends the educational assistance regulations by placing virtually all of the provisions relating solely to benefits under the Survivors' and Dependents' Educational Assistance program in one subpart, 38 CFR Part 21, Subpart C. Further, this document removes regulations in 38 CFR Part 21, Subpart E concerning civil rights matters since they are duplicative of provisions in 38 CFR Parts 18, 18a, and 18b. In addition, this document removes 38 CFR Part 21, Subpart F–2 concerning special benefits for certain

former military officers since the deadline for applying for such benefits has expired and no further benefits can be paid. The educational assistance regulations are further amended by removing a number of other provisions that no longer apply or otherwise have no substantive effect and by making changes for purposes of clarification.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, 202–273–7187.

SUPPLEMENTARY INFORMATION: This document affects 38 CFR part 21, subparts B, C, D, E, F, F–2, and K. It removes provisions that are obsolete, duplicative, or without substantive effect; moves provisions from one subpart to another; and makes changes for clarification. This document makes no substantive changes. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C 601–612. This final rule makes no substantive changes. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.117 and 64.124.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 13, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 21 is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart B—Claims and Applications for Educational Assistance

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

Authority: 38 U.S.C. 501(a), ch. 51, unless otherwise noted.

2. The heading for subpart B is revised to read as set forth above.

3. The undesignated center heading preceding § 21.1020, §§ 21.1020 through 21.1022, § 21.1025, the undesignated center heading preceding § 21.1040, and §§ 21.1040 through 21.1045 are removed.

Subpart C—Survivors' and Dependents' Educational Assistance under 38 U.S.C. Chapter 35

4. The authority citation for subpart C is revised to read as follows:

Authority: 38 U.S.C. 501(a), 512, 3500–3566, unless otherwise noted.

5. Sections 21.3001 and 21.3002 are added, to read as follows:

§ 21.3001 Delegation of authority.

Except as otherwise provided, authority is delegated to the Under Secretary for Benefits and to supervisory or administrative personnel within the jurisdiction of the Education Service, Veterans Benefits Administration, designated by him or her to make findings and decisions under 38 U.S.C. chapter 35 and the applicable regulations, precedents and instructions, as to the program authorized by this subpart.

(Authority: 38 U.S.C. 512(a))

§ 21.3002 Administration of Survivors' and Dependents' Educational Assistance Program.

Subpart D of this part applies to the Survivors' and Dependents' Educational Assistance Program, unless the provisions of a section in that subpart are explicitly limited to one or more of the other educational assistance programs VA administers.

(Authority: 38 U.S.C. 501, 3501–3566)

6. In § 21.3021, paragraphs (h), (i), (j), and (k) are added prior to the cross references, to read as follows:

§ 21.3021 Definitions.

* * * * *

(h) *Program of education.* The term *program of education* means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill the requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

(Authority: 38 U.S.C. 3501(a)(5))

(i) *Educational objective.* An educational objective is one that leads to the awarding of a diploma, degree, or certificate which reflects educational attainment.

(Authority: 38 U.S.C. 3501(a)(5))

(j) *Professional or vocational objective.* A professional or vocational objective is one that leads to an occupation. It may include educational objectives essential to prepare for the chosen occupation. When a program consists of a series of courses not leading to an educational objective, such courses must be directed toward attainment of a designated professional or vocational objective.

(Authority: 38 U.S.C. 3501(a)(5))

(k) *Additional definitions.* The definitions in § 21.4200 apply to subpart C of this part.

(Authority: 38 U.S.C. 501, 3501)

* * * * *

7. Section 21.3025 is revised to read as follows:

§ 21.3025 Nonduplication; Federal programs.

Payment of subsistence allowance and special training allowance is prohibited to an otherwise eligible person—

(a) Who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service); or

(b) For a unit course or courses which are being paid for under 5 U.S.C. chapter 41.

(Authority: 38 U.S.C. 3681(a))

§ 21.3032 [Amended]

8. In § 21.3032, paragraph (a)(2) is amended by removing ''§ 21.4105'' and adding, in its place, ''§ 21.3104''.

9. In § 21.3040, an authority citation is added following paragraph (d), to read as follows:

§ 21.3040 Eligibility; child.

* * * * *

(d) * * *

(Authority: 38 U.S.C. 3512(a))

§ 21.3041 [Amended]

10. In § 21.3041, paragraph (d)(9)(iii) is amended by removing ''eligibility'' and adding, in its place ''eligibility'' and by removing ''§ 21.4135(z)'' and adding, in its place, ''§ 21.3135(g)''.

11. In § 21.3042, paragraph (d) is removed; and paragraph (a) is revised to read as follows:

§ 21.3042 Service with Armed Forces.

(a) No educational assistance under 38 U.S.C. chapter 35 may be provided an otherwise eligible person during any period he or she is on duty with the Armed Forces. See § 21.3021 (e) and (f). This does not apply to brief periods of active duty for training. See § 21.3135(f).

(Authority: 38 U.S.C. 3501(d))

* * * * *

§ 21.3044 [Amended]

12. In § 21.3044, paragraph (c)(1) is amended by removing ''§ 21.4237(d)'' and adding, in its place, ''§ 21.3344(d)''.

§ 21.3045 [Amended]

13. In § 21.3045, the introductory text of paragraph (b)(1) and the introductory text of paragraph (b)(2) are amended by removing ''21.4235 of this part'' each time it appears and adding, in its place, ''21.3344''; and paragraph (b)(2)(i) is amended by removing ''21.4137(a)'' and adding, in its place, ''21.3131(a)''.

14. An undesignated center heading and §§ 21.3100, 21.3102, 21.3103, 21.3104, and 21.3105 are added to read as follows:

Counseling

§ 21.3100 Counseling.

(a) *Purpose of counseling.* The purpose of counseling is to assist:

(1) In selecting an educational or training objective;

(Authority: 38 U.S.C. 3520)

(2) In developing a suitable program of education or training;

(Authority: 38 U.S.C. 3520)

(3) In selecting an educational institution or training establishment appropriate for the attainment of the educational or training objective;

(Authority: 38 U.S.C. 3561(a))

(4) In resolving any personal problems which are likely to interfere with successful pursuit of a program;

(Authority: 38 U.S.C. 3561(a))

(5) In selecting an employment objective for the eligible person that would be likely to provide the eligible person with satisfactory employment opportunities in light of his or her circumstances.

(Authority: 38 U.S.C. 3520, 3561(a))

(b) *Availability of counseling.* Counseling assistance is available for—

(1) Identifying and removing reasons for academic difficulties which may result in interruption or discontinuance of training; or

(2) In considering changes in career plans, and making sound decisions about the changes.

(Authority: 38 U.S.C. 3520, 3561(a))

(c) *Provision of counseling.* VA shall provide counseling as needed for the purposes identified in paragraphs (a) and (b) of this section upon the request of the eligible person.

(Authority: 38 U.S.C. 3520, 3561(a))

§ 21.3102 Required counseling.

(a) *Child.* The VA counseling psychologist will provide counseling and assist in preparing the educational plan only if the eligible child or his or her parent or guardian requests assistance, except that counseling is required for an eligible child if—

(1) The eligible child may require specialized vocational training or special restorative training; or

(2) The eligible child has reached the compulsory school attendance age under State law, but has neither reached his or her 18th birthday, nor completed secondary schooling. See § 21.3040(a).

(b) *Spouse or surviving spouse.* Counseling is required for a spouse or surviving spouse only if he or she desires specialized vocational training.

(Authority: 38 U.S.C. 3520, 3536, 3541, 3561)

§ 21.3103 Failure to cooperate.

VA will not act further on an eligible person's application for assistance under 38 U.S.C. chapter 35 when counseling is required for him or her and the eligible person—

(a) Fails to report;

(b) Fails to cooperate in the counseling process; or

(c) Does not complete counseling to the extent required under § 21.3102.

(Authority: 38 U.S.C. 3536, 3541, 3561(a))

§ 21.3104 Special training.

(a) *Initial counseling.* A counseling psychologist in the Vocational Rehabilitation and Counseling Division will counsel a disabled child, spouse, or surviving spouse before referring the case to the Vocational Rehabilitation Panel (established under § 21.60) for consideration as to the child's, spouse's or surviving spouse's need for a course of specialized vocational training or the child's need for special restorative training. After consulting with the panel, and considering the panel's report, the counseling psychologist will determine if the disabled child, spouse, or surviving spouse needs a course of specialized vocational training or the disabled child needs special restorative training, and where need is found to exist will prescribe a course which is suitable to accomplish the goals of 38 U.S.C. chapter 35.

(Authority: 38 U.S.C. 3536, 3540–3543, 3561(a))

(b) *Counseling after special restorative training.* When an eligible child completes or discontinues a course of special restorative training without having selected an objective and a program of education, a counseling psychologist in the Vocational Rehabilitation and Counseling Division will provide additional counseling to assist the child in selecting a program of education suitable to accomplish the purposes of 38 U.S.C. chapter 35.

(Authority: 38 U.S.C. 3561)

§ 21.3105 Travel expenses.

(a) *General.* VA shall determine and pay the necessary expense of travel to and from the place of counseling for an eligible person who is required to receive counseling as provided under 38 U.S.C. 111 (a), (d), (e), and (g).

(Authority: 38 U.S.C. 111 (a), (d), (e), and (g))

(b) *Restriction.* VA will not pay the necessary cost of travel to and from the place of counseling when counseling is not required, but is provided as a result of a voluntary request by the eligible person.

(Authority: 38 U.S.C. 111)

15. Sections 21.3130 and 21.3131 are added following the undesignated center heading that precedes § 21.3145, to read as follows:

§ 21.3130 Educational assistance.

(a) *Approval of a program of education.* VA will approve a program of education selected by an eligible person if:

(1) The program is described in § 21.3021 (h) and (i) or (j);

(2) The individual is not already qualified for the objective of the program of education;

(3) The proposed educational institution or training establishment is in compliance with all the requirements of 38 U.S.C. chapters 35 and 36; and

(4) It does not appear that the enrollment in or pursuit of such person's program of education would violate any provision of 38 U.S.C. chapters 35 and 36.

(Authority: 38 U.S.C. 3521)

(b) *Payments.* VA will pay educational assistance at the rate specified in § 21.3131 (subject to the reductions required by § 21.3132) while the eligible person is pursuing an approved program of education or training.

(Authority: 38 U.S.C. 3521, 3532)

(c) *No payment for excessive training.* (1) VA will make no payment for:

(i) Training in an apprenticeship or other on-job training program in excess of the number of hours approved by the State approving agency or VA; or

(ii) Lessons completed in a correspondence course in excess of the number approved by the State approving agency.

(2) A school's standards of progress may permit a student to repeat a course or portion of a course in which he or she has done poorly. VA considers the repeated courses to be part of the program of education. VA will make no payment for courses or training if the courses or training are not part of the eligible person's program of education.

(Authority: 38 U.S.C. 3501(a)(5), 3521)

(d) *Courses precluded.* VA may not pay educational assistance:

(1) For pursuit of a course if approval of the enrollment in the course is precluded by § 21.4252;

(2) For training in a foreign country unless the training is in the Philippines or is approved pursuant to the provisions of § 21.4260; or

(3) For pursuit of a course offered by open-circuit television, unless the eligible person's pursuit meets the requirements of § 21.4233(c).

(Authority: 38 U.S.C. 3523)

(e) *Commencing date.* In determining the commencing date of an award of educational assistance, VA will apply the provisions of § 21.4131.

(Authority: 38 U.S.C. 5113)

§ 21.3131 Rates—educational assistance allowance—38 U.S.C. chapter 35.

(a) *Rates.* Except as provided in § 21.3132, educational assistance allowance is payable at the following rates effective January 1, 1990:

Type of courses	Monthly rate
Institutional:	
Full time	$404
¾ time	304
½ time	202
Less than ½ but more than ¼ time [3].	202
¼ time or less [3]	101
Cooperative (other than farm cooperative) (Full time only).	$327
Apprentice or On-Job (full time only, but see footnote [1])	
First six months	$294
Second six months	220
Third six months	146
Fourth six months and thereafter.	73
Farm Cooperative:	
Full time	$327
¾ time	245
½ time	163
Correspondence	55 percent of the established charge for the number of lessons completed by the eligible spouse or surviving spouse and serviced by the school—Allowance paid quarterly.[2]

[1] See footnote 5 of § 21.4270(c) for measurement of full time and § 21.3132(c) for proportionate reduction in award for completion of less than 120 hours per month.

[2] Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the eligible spouse or surviving spouse, whichever is the lesser. VA considers the continuity of an enrollment broken when there are more than 6 months between the servicing of the lessons.

[3] If an eligible person under chapter 35 pursuing independent study on a less than one-half-time basis completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed $202 or $101 as appropriate, per month, if the maximum allowance is not initially authorized.

(Authority: 38 U.S.C. 3532, 3686)

(b) *Less than half time.* The monthly rate for an eligible person who is pursuing an institutional course on less than one-half time basis may not exceed the monthly rate of the cost of the course computed on basis of the total cost for tuition and fees which the school requires similarly circumstanced individuals enrolled in the same course to pay. ''Cost of the course'' does not include the cost of books or supplies which the student is required to purchase at his or her own expense.

(Authority: 38 U.S.C. 3532(a)(2))

(c) *Courses leading to a secondary school diploma or equivalency certificate.* The monthly rate of Survivors' and Dependents' Educational Assistance payable for an eligible person enrolled in a course leading to a secondary school diploma or equivalency certificate shall be the rate for institutional training stated in paragraph (a) of this section.

(Authority: 38 U.S.C. 3532(d), 3533)

(d) *Payments made to eligible persons in the Republic of the Philippines or to certain Filipinos.* When the eligible person is pursuing training at an institution located in the Republic of the Philippines or when an eligible child's entitlement is based on the service of a veteran in the Philippine Commonwealth Army, or as a Philippine Scout as defined in § 3.8 (b), (c), or (d) of this chapter, payments of educational assistance allowance made after December 31, 1994, will be made at the rate of 50 cents for each dollar authorized.

(Authority: 38 U.S.C. 3532(d), 3565)

§ 21.4137 [Redesignated as § 21.3132]

§ 21.3132 [Amended]

16. Section 21.4137 is redesignated as § 21.3132; paragraphs (d) through (g) are removed; paragraph (h) is redesignated as paragraph (d); newly redesignated paragraph (d)(4) is amended by removing ''106'' and adding, in its place, ''1606''; newly redesignated paragraphs (d)(4) and (d)(5) are amended by removing ''(h)(1)(ii)'' in each place it appears and adding, in its place, ''(d)(1)(ii)''; paragraphs (i) through (o) are removed; and the section heading is revised, introductory text is added, and paragraphs (a) through (c) are revised, to read as follows:

§ 21.3132 Reductions in Survivors' and Dependents' Educational Assistance.

The monthly rates established in § 21.3131 shall be reduced as stated in this section whenever the circumstances described in this section arise.

(a) *No educational assistance allowance for some incarcerated eligible persons.* VA will pay no educational assistance allowance to an eligible person who:

(1) Is incarcerated in a Federal, State, or local penal institution for conviction of a felony; and

(2) Is enrolled in a course:

(i) For which there are no tuition or fees, or charges for books, supplies, and equipment; or

(ii) For which tuition and fees are being paid by a Federal program (other than one administered by VA) or by a State or local program, and the eligible person is incurring no charge for the books, supplies, and equipment necessary for the course.

(Authority: 38 U.S.C. 3532(e))

(b) *Reduced educational assistance allowance for some incarcerated eligible persons—felony conviction.* (1) VA will pay a reduced educational assistance allowance to an eligible person who:

(i) Is incarcerated in a Federal, State, or local penal institution for conviction of a felony; and

(ii) Is enrolled in a course:

(A) For which the eligible person pays some (but not all) of the charges for tuition and fees; or

(B) For which a Federal program (other than one administered by VA) or a State or local program pays all the

charges for tuition and fees, but which requires the eligible person to pay for books, supplies, and equipment.

(2) The monthly rate of educational assistance allowance payable to such an eligible person who is pursuing a course on a half-time or greater basis shall be the lesser of the following:

(i) The monthly rate of the portion of the tuition and fees that the eligible person must pay plus the monthly rate of the charge to the eligible person for the cost of necessary supplies, books, and equipment; or

(ii) The monthly rate stated in § 21.3131.

(3) The monthly rate of educational assistance payable to such an eligible person who is pursuing the course on a less than half-time basis or on a one quarter-time basis shall be the lowest of the following:

(i) The monthly rate of the tuition and fees charged for the course;

(ii) The monthly rate of tuition and fees which the eligible person must pay plus the monthly rate of the charge to the eligible person for the cost of necessary supplies, books, and equipment; or

(iii) The monthly rate stated in § 21.3131.

(Authority: 38 U.S.C. 3482(g))

(c) *Reduction in training assistance allowance.* (1) For any month in which an eligible person pursuing an apprenticeship or on-job training program fails to complete 120 hours of training, VA shall reduce the rate specified in § 21.3131(a) proportionally. In this computation VA shall round the number of hours worked to the nearest multiple of eight.

(2) For the purpose of this paragraph *hours worked* include only:

(i) The training hours the eligible person worked; and

(ii) All hours of the eligible person's related training which occurred during the standard workweek and for which the eligible person received wages.

(Authority: 38 U.S.C. 3687(b)(3))

* * * * *

17. Section 21.3133 is added to read as follows:

§ 21.3133 Payment procedures.

(a) *Release of payments and payment procedures.* In determining whether payments of educational assistance allowance may be made in a lump sum, in advance, for an interval or if a certification is required from an eligible person before a payment may be made, VA will apply the provisions of § 21.4138.

(Authority: 38 U.S.C. 3680)

(b) *Payee.* (1) VA will pay an educational assistance allowance to the eligible person if he or she has attained majority and has no known legal disability.

(2) If an eligible person has not attained majority, VA will pay an educational assistance allowance directly to an eligible person, a relative, or some other person for the use and benefit of the eligible person notwithstanding a legal disability on the part of the eligible person when VA determines:

(i) The best interest of the eligible person would be served;

(ii) Undue delay in payment would be avoided; or

(iii) Payment would otherwise not be feasible.

(Authority: 38 U.S.C. 3501(a)(4), 3501(c), 3531(a), 5502)

(c) *Payment of accrued benefits.* Educational assistance remaining due and unpaid at the date of the eligible person's death is payable under the provisions of § 3.1000 of this chapter.

(Authority: 38 U.S.C. 5121)

(d) *Tutorial assistance.* An individual who is otherwise eligible to receive benefits under the Survivors' and Dependents' Educational Assistance program may receive supplemental monetary assistance to provide tutorial services. In determining whether VA will pay the individual this assistance, VA will apply the provisions of § 21.4236.

(Authority: 38 U.S.C. 3492, 3533(b))

(e) *Offsets: 38 U.S.C. chapter 35, compensation, pension and dependency and indemnity compensation.* Payment of dependents' educational assistance will be subject to offset of amounts of pension, compensation or dependency and indemnity compensation paid over the same period on behalf of a child based on school attendance.

(Authority: 38 U.S.C. 3562)

(f) *Final payment.* VA may withhold final payment until VA receives proof of continued enrollment and adjusts the eligible person's account.

(Authority: 38 U.S.C. 3680)

18. Section 21.3135 is added to read as follows:

§ 21.3135 Reduction or discontinuance dates for awards of educational assistance allowance.

The reduction or discontinuance date of an award of educational assistance will be as stated in this section. If more than one basis for reduction or discontinuance is involved, the earliest date will control.

(a) *Ending date of course.* Educational assistance allowance will be discontinued on the ending date of the course or period of enrollment as certified by the school.

(Authority: 38 U.S.C. 3531, 3680(a))

(b) *Ending date of eligibility.* Educational assistance allowance will be discontinued on the ending date of the eligible person's eligibility as determined by § 21.3041, § 21.3042, § 21.3043, or § 21.3046.

(Authority: 38 U.S.C. 3512)

(c) *General reduction or discontinuance dates.* Educational assistance allowance will be reduced or discontinued on the date specified in § 21.4135.

(Authority: 38 U.S.C. 3482(g), 3531, 3671(g), 3672(a), 3680, 3683, 3690, 5112, 5113, 6103, 6104, 6105)

(d) *Divorce.* If the veteran and eligible spouse divorce, the discontinuance date for the eligible spouse's award of educational assistance will be:

(1) The end of the quarter or semester if the school is operated on a quarter or semester system, and the divorce was without fault on the eligible spouse's part;

(2) The end of the course or a 12-week period, whichever is earlier, if the school does not operate on a quarter or semester system, and the divorce was without fault on the eligible spouse's part; or

(3) In all other instances, the date the divorce decree becomes final.

(Authority: 38 U.S.C. 3501(a)(1)(D), 3511(b))

(e) *Remarriage or other relationship of spouse or surviving spouse.* (1) If an eligible surviving spouse remarries, the date of discontinuance of his or her award of educational assistance allowance will be the last date of attendance before remarriage.

(2) If a spouse or surviving spouse begins a relationship by living with another person and holding himself or herself out openly to the public to be the spouse of the other person, the date of discontinuance of his or her award of educational assistance allowance will be the last date of the month before the spouse's or surviving spouse's relationship began.

(Authority: 38 U.S.C. 101(3), 3501(a)(1)(B))

(f) *Entrance on active duty (§ 21.3042).* If an eligible person enters on active duty, VA will terminate his or her educational assistance allowance on the day before the day of entrance on active duty. Brief periods of active duty for training, if the school permits such an absence without interruption of

training, will not result in termination of the allowance under this paragraph.

(Authority: 38 U.S.C. 3501(d))

(g) *Eligible child ceases to be a stepchild.* When an eligible child loses eligibility because he or she ceases to be the stepchild of the veteran, VA will discontinue the dependent's educational assistance allowance on the last day of the child's eligibility as determined by § 21.3041(d)(9).

(Authority: 38 U.S.C. 101(4)(A), 3501)

(h) *Veteran no longer rated permanently and totally disabled.* (1) If the veteran on whose service an eligible person's eligibility is based is no longer permanently and totally disabled, VA will discontinue the educational assistance allowance—

(i) On the last date of the quarter or semester during which VA rated the veteran as no longer permanently and totally disabled if the eligible person's educational institution is organized on a quarter or semester basis; or

(ii) On the earlier of the following dates when the eligible person's educational institution is not organized on a quarter or semester basis:

(A) The last date of the course;

(B) The end of a 12-week period beginning on the date VA rated the veteran as being no longer permanently and totally disabled.

(Authority: 38 U.S.C. 3511(b), 3512(a)(6)(A))

(i) Serviceperson is removed from ''missing status'' listing. (1) If the serviceperson on whose service an eligible person's eligibility is based is removed from the ''missing status'' listing, VA will discontinue the educational assistance allowance—

(i) On the last date of the quarter or semester during which the serviceperson was removed from the ''missing status'' listing if the eligible person's educational institution is organized on a quarter or semester basis; or

(ii) On the earlier of the following dates when the eligible person's educational institution is not organized on a quarter or semester basis:

(A) The last date of the course;

(B) The end of a 12-week period beginning on the date the serviceperson was removed from the ''missing status'' listing.

(Authority: 38 U.S.C. 3512(a)(6)(A))

§ 21.3145 [Removed]

19. Section 21.3145 is removed.

20. In § 21.3330, paragraph (a) is amended by removing ''§ 21.4139'' and adding, in its place, ''§ 21.3133(b)''; and paragraph (c) is revised to read as follows:

§ 21.3330 Payments.

* * * * *

(c) The provisions of § 21.3133(e) apply to the payment of special restorative training allowance.

(Authority: 38 U.S.C. 3562)

§ 21.3331 [Amended]

21. Section 21.3331 is amended by removing ''§ 21.4131'', and adding, in its place, ''§ 21.3130(c)''.

§ 21.3332 [Amended]

22. Section 21.3332 is amended by removing ''§ 21.4135'', and adding, in its place, ''§ 21.3130(d)''.

23. An undesignated center heading and § 21.3344 are added to read as follows:

Special Assistance and Training

§ 21.3344 Special assistance for the educationally disadvantaged.

(a) *Enrollment.* VA may approve the enrollment of an eligible person in an appropriate course or courses at the secondary school level. This approval may be made only if the eligible person—

(1) Has not received a secondary school diploma (or an equivalency certificate);

(2) Needs additional secondary school education, remedial, refresher, or deficiency courses, to qualify for admission to an appropriate educational institution in a State in order to pursue a program of education; and

(3) Is to pursue the course or courses in a State.

(Authority: 38 U.S.C. 3491(a), 3533)

(b) *Measurement.* VA will measure remedial, deficiency, or refresher courses offered at the secondary school level as provided in §§ 21.4270(a)(2) and 21.4272(k).

(Authority: 38 U.S.C. 3533)

(c) *Educational assistance.* VA will authorize educational assistance at the monthly rates specified in § 21.3131.

(Authority: 38 U.S.C. 3491(a), 3533)

(d) *Entitlement charge.* The provisions of § 21.3045 will determine whether VA will make a charge against the period of the entitlement of the eligible person because of enrollment in a course under the provisions of this section.

(Authority: 38 U.S.C. 3533)

(e) *Certifications.* (1) Certifications of the eligible person's need for deficiency or remedial courses in basic English language skills and mathematics skills may be made by:

(i) A VA counseling psychologist in the Vocational Rehabilitation and Counseling Division;

(ii) The educational institution administering the course; or

(iii) The educational institution where the student has applied for admission.

(2) Certification of need for other refresher, remedial or deficiency course requirements are to be made by the educational institution—

(i) Administering the course which the eligible person is planning to enter; or

(ii) Where the eligible person has applied for admission.

(Authority: 38 U.S.C. 3533)

(f) *Basic skills.* Basic English language courses or mathematics courses will be authorized when it is found by accepted testing methods that the eligible person is lacking in basic reading, writing, speaking, or essential mathematics.

(Authority: 38 U.S.C. 3533)

Subpart D—Administration of Educational Assistance Programs

24. The authority citation for subpart D is revised to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

25. The heading for subpart D is revised to read as set forth above.

§ 21.4001 [Amended]

26. In § 21.4001, paragraph (a) is amended by removing ''Chief Benefits Director'' and adding, in its place, ''Under Secretary for Benefits''; by removing ''Vocational Rehabilitation and''; and by removing ''34, 35,'' and adding, in its place, ''34''; paragraph (b) is amended by removing ''Chief, Benefits Director'' and adding, in its place, ''Under Secretary for Benefits''; and by removing ''Vocational Rehabilitation and''; paragraph (c) introductory text is amended by removing ''Vocational Rehabilitation and''; paragraph (d) is amended by removing ''Chief Benefits Director'' and adding, in its place, ''Under Secretary for Benefits'', and by adding ''his or her'' immediately preceding ''designee''; paragraph (e) is amended by removing ''Chief Benefits Director'' and adding, in its place, ''Under Secretary for Benefits''; paragraph (f) is amended by removing ''Chief Benefits Director'' and adding, in its place, ''Under Secretary for Benefits''; and paragraph (g) is amended by removing ''Education'' and adding, in its place, ''Counseling''.

§ 21.4009 [Amended]

27. In § 21.4009, paragraph (a)(2)(i) is amended by removing ''excessive absences from a course or''; and by removing ''veteran'' and adding, in its place, ''veteran, reservist''.

§ 21.4022 [Amended]

28. In § 21.4022, the heading for paragraph (a) is removed; paragraph (b) is removed; and paragraph (a) introductory text and paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), and (a)(9) are redesignated as introductory text and paragraphs (a), (b), (c), (d), (e), (f), (g), (h), and (i), respectively.

§ 21.4025 [Removed]

29. Section 21.4025 is removed.

§§ 21.4100 through 21.4105 and 21.4130 [Removed]

30. The undesignated center heading which precedes § 21.4100, and §§ 21.4100 through 21.4105 and § 21.4130 are removed.

§ 21.4131 [Amended]

31. In § 21.4131, paragraphs (e) and (j) are removed and reserved; the heading for paragraph (g) is amended by removing ''(§§ 21.1042(b), 21.3042(b))''; paragraph (g) is amended by removing ''veteran'' and adding, in its place, ''veteran or eligible person''; the authority citation for paragraph (g) is amended by removing ''3462(b)'' and adding, in its place, ''3462(b), 3501(d)''; and paragraph (h), introductory text, is amended by removing ''§ 21.4136 (n), (o), (p), or (r) § 21.4137 (j) or (l)'' and adding, in its place, ''§ 21.3132(a) or (b) or § 21.5139''.

§ 21.4132 [Removed]

32. Section 21.4132 is removed.

33. In § 21.4135, paragraphs (b), (c), (d), (n), (o), (v), and (z) are removed and reserved; paragraph (e)(2) introductory text is amended by removing ''as provided in § 21.4136(k) or 21.4137(h),''; paragraph (m)(1) is amended by removing ''§ 21.4136(n), (o), (p), or (r) or § 21.4137(j) or (l)'' and adding, in its place, ''§ 21.3132(a) or (b) or § 21.5139''; and in paragraph (e), the heading and paragraph (e)(1) are revised, to read as follows:

§ 21.4135 Discontinuance dates.

* * * * *

(e) *Course discontinued; course interrupted; course terminated; course not satisfactorily completed or withdrawn from.* (1) If the individual receives all nonpunitive grades, or withdraws from all courses other than because of being ordered to active duty, and no mitigating circumstances are found, VA will terminate the individual's educational assistance allowance effective the first date of the term in which the withdrawal occurs.

* * * * *

34. In § 21.4136, paragraphs (a) through (j) are removed; paragraph (k) heading, paragraph (k)(1) introductory text, paragraphs (k)(1)(i), (k)(1)(ii) introductory text, (k)(1)(ii)(A), (k)(1)(ii)(B), (k)(1)(ii)(C), and (k)(2) through (k)(5) are redesignated as paragraph (a) heading, paragraph (a) introductory text, paragraphs (a)(1), (a)(2) introductory text, (a)(2)(i), (a)(2)(ii), (a)(2)(iii), and (b) through (e), respectively; newly redesignated paragraphs (a)(2)(ii) and (a)(2)(iii) are amended by removing ''veteran'' wherever it appears and adding, in its place, ''individual''; paragraphs (l) through (t) and the cross reference at the end of the section are removed; and the section heading, the heading and introductory text of newly redesignated paragraph (a), the authority citation at the end of newly redesignated paragraph (a), and newly redesignated paragraph (a)(1) and paragraphs (b) through (e) are revised to read as follows:

§ 21.4136 Withdrawals or nonpunitive grades may result in nonpayment.

(a) *General.* VA will not pay benefits to an individual for a course from which the individual withdraws or receives a nonpunitive grade which is not used in computing the requirements for graduation unless:

(1) The individual withdraws because he or she is ordered to active duty; or

* * * * *

(Authority: 38 U.S.C. 3680(a))

(b) *Representative mitigating circumstances.* The following circumstances, which are not all inclusive, are representative of those that VA considers to be mitigating provided they prevent the individual from pursuing the program of education continuously:

(1) An illness of the individual;

(2) An illness or death in the individual's family;

(3) An unavoidable geographical transfer resulting from the individual's employment;

(4) An unavoidable change in the individual's conditions of employment;

(5) Immediate family or financial obligations beyond the control of the individual that require him or her to suspend pursuit of the program of education to obtain employment;

(6) Discontinuance of the course by the school;

(7) Unanticipated active duty for training;

(8) Unanticipated difficulties in caring for the individual's child or children.

(Authority: 38 U.S.C. 3680(a))

(c) *Failure to complete a course for the educationally disadvantaged.* If the individual fails to satisfactorily complete a course under 38 U.S.C. 3491(a) without fault, VA will consider the circumstances that caused the failure to be mitigating. This will be the case even if the circumstances were not so severe as to preclude continuous pursuit of a program of education.

(d) *Withdrawals after May 31, 1989.* In the first instance of a withdrawal after May 31, 1989, from a course or courses for which the individual received educational assistance under 38 U.S.C. chapter 32, VA will consider that mitigating circumstances exist with respect to courses totaling not more than six semester hours or the equivalent, and paragraphs (a)(2)(ii) and (a)(2)(iii) of this section will not apply.

(Authority: 38 U.S.C. 3680(a)(3))

(e) *Withdrawals during a drop-add period.* If the individual withdraws from a course during a drop-add period, VA will consider the circumstances that caused the withdrawal to be mitigating, and paragraphs (a)(2)(ii) and (a)(2)(iii) of this section will not apply.

(Authority: 38 U.S.C. 3680(a))

§§ 21.4139 through 21.4141 [Removed]

35. Sections 21.4139 through 21.4141 are removed.

36. In § 21.4145, paragraph (b) is amended by removing ''veteran'' wherever it appears, and adding, in its place, ''veteran, reservist, or eligible person'', and by removing ''veteran's'' and adding, in its place, ''veteran's, reservist's, or eligible person's''; paragraph (c) introductory text is amended by removing ''Veteran-student'' and adding, in its place, ''Work-study''; the heading of paragraph (g) is amended by removing ''*Veteran*'' and adding, in its place, ''*Veteran, reservist, or eligible person*''; paragraphs (g) and (h) are amended by removing ''veteran'' wherever it appears, and adding, in its place, ''veteran, reservist, or eligible person''; paragraph (i) is amended by removing ''veterans'' and adding, in its place, ''veterans, reservists, or eligible persons''; and the section heading and paragraphs (a), (c)(3), (c)(4), (d), (e), and (f) are revised, and paragraph (c)(5) is added, to read as follows:

§ 21.4145 Work-study allowance.

(a) *Eligibility.* (1) A veteran or reservist pursuing a program of education under either 38 U.S.C. chapter 30 or 32 or 10 U.S.C. chapter 1606 at a rate of three-quarter time or full time is eligible to receive a work-study allowance.

(2) An eligible person is eligible to receive a work-study allowance when-

(i) The eligible person is pursuing a program of education under 38 U.S.C. chapter 35 on at least a three-quarter-time basis;

(ii) The eligible person is pursuing a program of education in a State; and

(iii) The eligible person is not pursuing a program of special restorative training.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3241, 3485, 3537)

* * * * *

(c) * * *

(3) Hospital and domiciliary care and medical treatment at VA facilities;

(4) For a reservist training under 10 U.S.C. chapter 1606, activities relating to the administration of 10 U.S.C. chapter 1606 at Department of Defense facilities, Coast Guard facilities, or National Guard facilities; and

(5) Any other appropriate activity of VA.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3241, 3485, 3537)

(d) *Rate of payment.* In return for the veteran's, reservist's, or eligible person's agreement to perform services for VA totaling not more than 25 hours times the number of weeks contained in an enrollment period, VA will pay an allowance in an amount equal to the higher of:

(1) The hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) times the number of hours the veteran, reservist, or eligible person has agreed to work; or

(2) The hourly minimum wage under comparable law of the State in which the services are to be performed times the number of hours the veteran, reservist, or eligible person has agreed to work.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3241, 3485, 3537)

(e) *Payment in advance.* VA will pay in advance an amount equal to the lesser of the following:

(1) 40 percent of the total amount payable under the contract; or

(2) An amount equal to 50 times the applicable minimum hourly wage in effect on the date the contract is signed.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3241, 3485, 3537)

(f) *Veteran, reservist, or eligible person reduces rate of training.* In the event the veteran, reservist, or eligible person reduces his or her training to less than three-quarter-time before completing an agreement, the veteran, reservist, or eligible person, with the approval of the Director of the VA field station, or designee, may be permitted to complete the portions of an agreement in the same or immediately following term, quarter, or semester in which the veteran, reservist, or eligible person ceases to be a three-quarter-time student.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3241, 3485, 3537)

* * * * *

§ 21.4146 [Amended]

37. In § 21.4146, paragraph (a) is amended by removing ''Chapters 34, 35 and 36, Title 38, U.S.C.'' and adding, in its place, ''38 U.S.C. chapters 30, 32, 35, or 36, or 10 U.S.C. chapter 1606''; and paragraph (f) is removed.

38. In § 21.4153, paragraph (b) is amended by removing ''Chief Benefits Director'' and adding, in its place, ''Under Secretary for Benefits''; and by removing ''Vocational Rehabilitation and''; paragraph (c)(2)(i)(B) is amended by removing ''Vocational Rehabilitation and''; and paragraph (c)(3) is revised, to read as follows:

§ 21.4153 Reimbursement of expenses.

* * * * *

(c) *Reimbursable expenses.* * * *

(3) *Administrative expenses.* In determining the allowance for administrative expenses for which payment may be authorized, VA will apply the provisions of 38 U.S.C. 3674(b). In making that application, VA will determine reimbursable salary cost pursuant to paragraph (c)(1) of this section.

* * * * *

39. In § 21.4200, paragraph (v) is revised to read as follows:

§ 21.4200 Definitions.

* * * * *

(v) *Reservist.* The term *reservist* means a member of the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces who is eligible to receive educational assistance under 38 U.S.C. chapter 30 or 10 U.S.C. chapter 1606.

(Authority: 38 U.S.C. 3002)

§ 21.4201 [Amended]

40. In § 21.4201, paragraph (g)(6) is amended by removing ''in a course either before December 1, 1976 or after November 30, 1976,''.

§ 21.4204 [Amended]

41. In § 21.4204, paragraph (b)(2) is removed; and paragraphs (b)(3), (b)(4), (b)(5), and (b)(6) are redesignated as paragraphs (b)(2), (b)(3), (b)(4), and (b)(5), respectively.

§ 21.4205 [Removed]

42. Section 21.4205 is removed.

§ 21.4209 [Amended]

43. Section 21.4209 is amended in the heading of paragraph (c) by removing ''Below college level'' and adding, in its place, ''Noncollege degree''; in paragraph (c) by removing ''veterans or'' and adding, in its place, ''veterans, servicemembers, reservists, and/or''; by removing ''or courses which do'' and adding, in its place, ''that does''; and by removing ''which has enrolled veterans under Chapter 34 or eligible persons under Chapter 35'' and adding, in its place, ''that has enrolled veterans under 38 U.S.C. chapter 30 or 32, reservists under 10 U.S.C. chapter 1606, or eligible persons under 38 U.S.C. chapter 35''; and, immediately after paragraph (c), by adding an authority citation to read ''(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3241, 3690(c))''.

§ 21.4230 [Removed]

44. Section 21.4230 is removed.

§ 21.4235 [Removed]

45. Section 21.4235 is removed.

46. In § 21.4236, the section heading, the authority citation following paragraph (b), and paragraphs (c) and (d) are revised, to read as follows:

§ 21.4236 Tutorial assistance.

* * * * *

(b) * * *

(Authority: 10 U.S.C. 16131(h); 38 U.S.C. 3019, 3234, 3492, 3533(b))

(c) *Limits on tutorial assistance.* (1) VA will authorize the cost of tutorial assistance in an amount not to exceed $100 per month.

(2) The total amount of all tutorial assistance provided under this section will not exceed $1200.

(Authority: 38 U.S.C. 3019, 3492, 3533(b))

(d) *Entitlement charge.* VA will make no charge against the veteran's or eligible person's entitlement to educational assistance for any amount of tutorial assistance authorized.

(Authority: 38 U.S.C. 3019, 3492, 3533(b))

§ 21.4237 [Removed]

47. Section 21.4237 is removed.

§ 21.4252 [Amended]

48. In § 21.4252, the authority citation for paragraph (b)(3) is amended by removing ''3473(a), 3523(a)'' and adding, in its place, ''3523(a), 3680A(b)''; paragraph (c)(1) is amended by removing ''training under Chapter 34.'' and adding, in its place, ''training; or''; paragraph (c)(2) is removed; paragraph (c)(3) is redesignated as

paragraph (c)(2); and the authority citation for paragraph (c) is amended by removing ''Sec. 2003, Pub. L. 97–35'' and adding, in its place, ''10 U.S.C. 16131(g); 38 U.S.C. 3034(d), 3241(b), 3523(b), 3680A(b)''.

§ 21.4260 [Amended]

49. In § 21.4260, paragraph (c)(1)(i) is amended by removing ''§§ 21.1040 through 21.1045,'' and paragraph (c)(1)(ii) is amended by removing ''21.4230 or § 21.5230'' and adding, in its place, ''21.3021(h) or § 21.5021(q)''.

§ 21.4264 [Amended]

50. In § 21.4264, paragraph (b) is amended by removing ''a veteran or'' and adding, in its place, ''an''; and paragraph (d)(1) introductory text is amended by removing ''veterans,''.

§ 21.4266 [Amended]

51. In § 21.4266, paragraph (c)(1)(iii) is amended by removing ''21.4203, 21.4204 and 21.4205''; and adding, in its place, ''21.4203 and 21.4204''.

§ 21.4276 [Removed]

52. Section 21.4276 is removed.

Subpart E—[Removed]

53. Subpart E is removed.

Subpart F—Education Loans

54. The authority citation for subpart F is revised to read as follows:

Authority: 38 U.S.C. 501, 3537, 3698, 3699, unless otherwise noted.

55. In § 21.4500, paragraph (b) is amended by removing ''Veteran or person'' and adding, in its place, ''spouse or surviving spouse'', and by removing ''section 3698, Title 38, U.S.C.'' and adding, in its place, ''38 U.S.C. 3512(f) and 3698.''; paragraph (d)(2) introductory text is amended by removing ''a veteran or eligible person'' and adding, in its place, ''an eligible spouse or surviving spouse''; the authority citation following paragraph (d)(2) introductory text is amended by removing ''3698'' and adding, in its place, ''3512(f), 3698''; paragraph (d)(2)(ii) is amended by removing ''Vocational Rehabilitation and'' in each place it appears; the authority citation for paragraph (d) is amended by removing ''3698(c)'' and adding, in its place, ''3512(f), 3698(c)''; paragraph (e)(1) is amended by removing ''the veteran or other eligible person'' and adding, in its place, ''the eligible spouse or surviving spouse''; paragraph (e)(2) is amended by removing ''the veteran or other eligible person'' and adding, in its place, ''the eligible spouse or surviving spouse''; paragraph (e)(3) is amended by removing ''the veteran or other eligible person'' and adding, in its place, ''the eligible spouse or surviving spouse''; paragraph (e)(4) is amended by removing ''the veteran or other eligible person under section 3231, 3461, or subchapter II of Chapter 35, Title 38 U.S.C., which applies solely to the veteran or eligible person'' and adding, in its place, ''the eligible spouse or surviving spouse under 38 U.S.C. chapter 35''; paragraph (e)(5) is amended by removing ''veteran or other eligible person'' and adding, in its place, ''eligible spouse or surviving spouse''; paragraph (e)(6) is amended by removing ''veteran under section 3485, Title 38 U.S.C.'' and adding, in its place, ''eligible spouse or surviving spouse under 38 U.S.C. 3537''; paragraph (g) is amended by removing ''a veteran or eligible person'' and adding, in its place, ''an eligible spouse or surviving spouse''; and by removing ''Effective January 1, 1975, the'' and adding, in its place, ''The''; the authority citation following paragraph (h) is amended by removing ''3698(b)'' and adding, in its place, ''3512(f), 3698(b)''; and paragraph (f) is revised to read as follows:

§ 21.4500 Definitions.

* * * * *

(f) *Actual cost of attendance.* The term *actual cost of attendance* means:

(1) The actual charge per student for tuition, fees, and books;

(2) An allowance for commuting (this allowance will be based on 22.5¢ per mile for distances not exceeding normal commuting distance);

(3) An allowance for other expenses reasonably related to attendance at the institution at which the eligible spouse or surviving spouse is enrolled; and

(4) A room and board allowance that shall be determined as follows:

(i) If the educational institution actually provides the eligible spouse or surviving spouse with room and board, the allowance shall equal the actual charges to him or her for room and board;

(ii) If the educational institution provides some students with room and board, but does not provide room and board for the eligible spouse or surviving spouse, the room and board allowance shall equal either the actual expenses incurred by the eligible spouse or surviving spouse for room and board, or the amount for room and board that the educational institution would have charged the eligible spouse or surviving spouse, had the educational institution provided him or her with room and board, whichever is less; and

(iii) If the educational institution does not provide any students with room and board, the room and board allowance shall equal either the actual expenses incurred by the eligible spouse or surviving spouse for room and board or the amount the eligible spouse or surviving spouse would have been charged for room and board had he or she been provided room and board by the nearest State college or State university that provides room and board, whichever is less.

* * * * *

56. Section 21.4501 is revised to read as follows:

§ 21.4501 Eligibility.

(a) *General.* Any eligible spouse or surviving spouse shall be eligible to receive an education loan if he or she meets the criteria of this section.

(Authority: 38 U.S.C. 3512(f), 3698)

(b) *Eligibility criteria.* To qualify for an education loan—

(1) The eligible spouse's or surviving spouse's delimiting period as determined by § 21.3046 (a), (b), or (d) must have expired;

(2) The eligible spouse or surviving spouse must—

(i) Have financial resources that may reasonably be expected to be expended for education needs and which are insufficient to meet the actual costs of attendance;

(ii) Execute a promissory note payable to the Department of Veterans Affairs, as provided by § 21.4504;

(iii) Have unused entitlement provided under 38 U.S.C. 3511;

(iv) During the term, quarter, or semester for which the loan is granted, be enrolled on a full-time basis in pursuit of the approved program of education in which he or she was enrolled on the date his or her eligibility expired under § 21.3046 (a), (b), or (d); and

(v) Have been enrolled in a program of education on a full-time basis—

(A) On the date his or her period of eligibility expired under § 21.3046 (a), (b), or (d); or

(B) On the last date of the ordinary term, semester or quarter preceding the date his or her eligibility expired under § 21.3046 (a), (b), or (d), if the delimiting date fell during a school break or summer term.

(Authority: 38 U.S.C. 3512(f), 3698)

(c) *Limitations.* The period for which a loan may be granted shall not extend beyond the earliest of the following dates:

(1) Two years after the expiration of the period of eligibility as determined by § 21.3046(a), (b), or (d);

(2) The date on which the eligible spouse's or surviving spouse's entitlement is exhausted; or

(3) The date on which the eligible spouse or surviving spouse completes the approved program of education which he or she was pursuing on the date the delimiting period determined by § 21.3046 (a), (b), or (d) expired.

(Authority: 38 U.S.C. 3512(f), 3698)

(d) *Exclusions.* No eligible spouse or surviving spouse shall be authorized an education loan if he or she has defaulted on a previous education loan and there is a remaining unliquidated payment due VA.

(Authority: 38 U.S.C. 3512(f), 3698)

§ 21.4502 [Amended]

57. In § 21.4502, paragraph (a) is amended by removing ''veteran or other eligible person'' and adding, in its place, ''spouse or surviving spouse''; paragraph (b)(2) is amended by removing ''veteran or other eligible person'' and adding, in its place, ''eligible spouse or surviving spouse''; paragraph (b)(3) is amended by removing ''veteran or other eligible person'' and adding, in its place, ''eligible spouse or surviving spouse''; and paragraph (b)(4) is amended by removing ''veteran or other eligible person'' wherever it appears, and adding, in its place, ''eligible spouse or surviving spouse''.

58. In § 21.4503, paragraph (a)(1) is amended by removing ''veteran or other eligible person'' and adding, in its place, ''eligible spouse or surviving spouse''; paragraphs (b)(4), (b)(5), (b)(10), and (b)(11) are removed; paragraphs (b)(6), (b)(7), (b)(8), and (b)(9) are redesignated as paragraphs (b)(4), (b)(5), (b)(6), and (b)(7), respectively; the authority citation following newly redesignated paragraph (b)(4) is amended by removing ''3698(b)'' and adding, in its place, ''3512(f), 3698(b)''; newly redesignated paragraph (b)(5) is amended by removing ''veteran or other eligible person'' and adding, in its place, ''eligible spouse or surviving spouse''; newly redesignated paragraph (b)(7) is amended by removing ''veteran or other eligible person'' and adding, in its place, ''spouse or surviving spouse''; and paragraph (b)(2) and newly redesignated paragraph (b)(6) are revised to read as follows:

§ 21.4503 *Determination of loan amount.*

* * * * *

(b) *Amount.* * * *

(2) The aggregate of the amounts any eligible spouse or surviving spouse may borrow for an education loan may not exceed $2,500 in any one academic year. It also may not exceed an amount determined by multiplying the number of months of educational assistance to which the eligible spouse or surviving spouse would be entitled were it not for the expiration of his or her delimiting period under 38 U.S.C. 3511 times $376.

(Authority: 38 U.S.C. 3512(f), 3698)

* * * * *

(6) An eligible spouse or surviving spouse may receive more than one loan covering separate loan periods, subject to paragraphs (b)(3) and (b)(7) of this section.

* * * * *

59. In § 21.4504, paragraph (d) is amended by removing ''veteran or other eligible person'' each place it appears, and adding, in its place, ''spouse or surviving spouse'' and by removing ''veteran's or eligible person's'' and adding, in its place, ''eligible spouse's or surviving spouse's''; paragraph (e) is amended by removing ''veteran or eligible person'' and adding, in its place, ''spouse or surviving spouse''; paragraph (f) is amended by removing ''veteran or eligible person'' each place it appears, and adding, in its place, ''spouse or surviving spouse''; paragraph (g) is amended by removing ''A veteran or eligible person'' and adding, in its place, ''An eligible spouse or surviving spouse''; and paragraph (a) introductory text and paragraph (a)(3)(ii) are revised to read as follows:

§ 21.4504 *Promissory note.*

(a) *General.* The agreement by VA to loan money pursuant to 38 U.S.C. 3512(f) and 3698 to any eligible spouse or surviving spouse shall be in the form of a promissory note which shall include:

* * * * *

(3) * * *

(ii) For loans of less than $600, 1 year and 7 months after such date for the first $50 of the loan plus 1 additional month for each additional $5 of the loan.

* * * * *

§ 21.4505 [Amended]

60. In § 21.4505, paragraph (a) is amended by removing ''veteran or eligible person'' each place it appears, and adding, in its place, ''eligible spouse or surviving spouse''; paragraph (b)(1) is amended by removing ''veteran or eligible person'' and adding, in its place, ''eligible spouse or surviving spouse''; paragraph (b)(2) introductory text is amended by removing ''veterans and other eligible persons'',and adding, in its place, ''spouses or surviving spouses''; and the authority citation following paragraph (b) is amended by removing ''3698'' and adding, in its place, ''3512(f), 3698''.

§ 21.4507 [Amended]

61. In § 21.4507, paragraph (a) is amended by removing ''persons'' and adding, in its place, ''spouses and surviving spouses''; paragraph (b) is amended by removing ''veterans and other eligible persons'' and adding, in its place, ''spouses and surviving spouses''; and the authority citation is amended by removing ''3696'' and adding, in its place, ''3512(f), 3696''.

Subpart F–2—[Removed]

62. Subpart F–2 is removed.

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

63. The authority citation for subpart K continues to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

64. The heading for subpart K is revised to read as set forth above.

65. In § 21.7000, paragraph (b) is revised to read as follows:

§ 21.7000 Establishment of educational assistance program.

* * * * *

(b) *Purpose.* The purpose of this program is as stated in 38 U.S.C. 3001.

(Authority: 38 U.S.C. 3001)

66. In § 21.7044, the section heading and paragraphs (a)(1) and (b)(1) are revised to read as follows:

§ 21.7044 Persons with eligibility under 38 U.S.C. chapter 34.

* * * * *

(a) *Eligibility based solely on active duty.* * * *

(1) The individual must have met the requirements of 38 U.S.C. chapter 34, as in effect on December 31, 1989, establishing eligibility for educational assistance allowance under that chapter;

* * * * *

(b) *Eligibility based on combined active duty service and service in the Selected Reserve.* * * *

(1) The individual must have met the requirements of 38 U.S.C. chapter 34, as in effect on December 31, 1989, establishing eligibility for educational assistance allowance under that chapter;

* * * * *

§ 21.7135 [Amended]

67. In § 21.7135, paragraph (f)(3) is amended by removing ''21.7140(b) of this part'' and adding, in its place, ''21.7140(d)''; paragraph (i) is amended by removing ''of this part'' wherever it appears; paragraphs (j)(1), (k)(1), (n), and (o) are amended by removing ''of this part''; paragraph (p) is amended by

removing ''of this part'' each place it appears; paragraph (r) is amended by removing ''of this part'' each place it appears; and paragraph (t) is amended by removing ''of this part''.

§ 21.7140 [Amended]

68. In § 21.7140, paragraph (c)(1)(i) is amended by removing ''of this part''; paragraph (c)(2) introductory text is amended by removing ''after-'' and adding, in its place, ''after—''; paragraph (c)(2)(i) is amended by removing ''of this part''; paragraph (c)(2)(ii) is amended by removing ''worked'' and adding, in its place, ''worked.''; paragraph (d)(1) is amended by removing ''of this part'' wherever it appears; paragraphs (d)(2)(i) and (d)(2)(ii) are amended by removing ''Vocational Rehabilitation and'' wherever it appears; and paragraph (e)(2) is amended by removing ''of this part''.

69. Section 21.7141 is revised to read as follows:

§ 21.7141 Tutorial assistance.

An individual who is otherwise eligible to receive benefits under the Montgomery GI Bill - Active Duty may receive supplemental monetary assistance to provide tutorial services. In determining whether VA will pay the individual this assistance, VA will apply the provisions of § 21.4236.

(Authority: 38 U.S.C. 3019, 3492)

§ 21.7145 [Removed]

70. Section 21.7145 is removed.

§ 21.7154 [Amended]

71. In § 21.7154, paragraph (b) is removed, and paragraph (c) is redesignated as paragraph (b).

§ 21.7158 [Amended]

72. In § 21.7158, paragraph (b)(1) is amended by removing ''21.744(b)'' and adding, in its place, ''21.7144(b)''.

[FR Doc. 96–12548 Filed 5–23–96; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300412A; FRL–5359–4]

RIN 2070–AB78

Oxo-Alkyl Acetates; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document exempts from the requirements of a tolerance residues of a group of chemicals known as oxo-alkyl acetates [oxo-hexyl acetate (CAS Reg. No. 88230–35–7), oxo-heptyl acetate (CAS Reg. No. 90438–79–2), oxo-octyl acetate (CAS Reg. No. 108419–32–5), oxo-nonyl acetate (CAS Reg. No.108419–34–7), oxo-decyl acetate (CAS Reg. No. 108419–33–6), and oxo-tridecyl acetate (CAS Reg. No. 108419–35–8)] when used as a solvent in pesticide formulations. This regulation was requested by Exxon Chemical Co., Performance Products Group.

EFFECTIVE DATE: May 24, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [OPP–300412A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP–300412A]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia M. Acierto, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 2800 Crystal Drive, North Tower, Arlington, VA, 703–308–8375; e-mail: acierto.amelia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 14, 1996 (61 FR 5728), Exxon Chemical Co., Performance Products Group, Linden, NJ 07036, submitted pesticide petition (PP) 3E04267 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for oxo-alkyl acetates [oxo-hexyl acetate (CAS Reg. No. 88230–35–7), oxo-heptyl acetate (CAS Reg. No. 90438–79–2), oxo-octyl acetate (CAS Reg. No. 108419–32–5), oxo-nonyl acetate (CAS Reg. No. 108419–34–7), oxo-decyl acetate (CAS Reg. No. 108419–33–6), and oxo-tridecyl acetate (CAS Reg. No. 108419–35–8)] when used as solvents in pesticide formulations applied to growing crops only.

There were no comments received in response to the proposed rule.

Based upon an evaluation of the toxicological data which shows no evidence of mutagenicity (Ames Test), and no significant acute and subchronic or developmental toxicity of the branched alkyl acetates in this molecular weight range (C_8-C_{13} alkyl acetates), the Agency concludes that this chemical poses no significant risks under the conditions of use and that no further data are required.

Based upon the toxicological data evaluated, the physico-chemical properties of oxo-alkyl acetates and information regarding their use, the Agency has found that, when used in accordance with good agricultural practice, these ingredients are useful and a tolerance is not necessary to protect the public health. Therefore, EPA is exempting oxo-alkyl acetates from the requirement of a tolerance as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions

of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

EPA has established a record for this rulemaking under docket number [OPP–300401A] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:
opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

The Office of Management and Budget has exempted this proposed rule from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: May 10, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:
Authority: 21 U.S.C. 346a and 371.

2. In § 180.1001(d) the table is amended by adding alphabetically the following inert ingredients, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * * *	
Oxo-decyl acetate (CAS reg. No. 108419–33–6)		Solvent
Oxo-heptyl acetate (CAS Reg. No. 90438–79–2)		Solvent
Oxo-hexyl acetate (CAS Reg. No. 88230–35–7)		Solvent
Oxo-nonyl acetate (CAS Reg. No. 108419–34–7)		Solvent
Oxo-octyl acetate (CAS Reg. No. 108419–32–5)		Solvent
Oxo-tridecyl acetate (CAS Reg. No. 108419–35–8)		Solvent
* * *	* * * *	

[FR Doc. 96–13019 Filed 5–23–96; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 180

[OPP–300405A; FRL–4996–1]

RIN 2070–AB78

Maleic Hydrazide, Oryzalin, Hexazinone, Streptomycin; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing a final tolerance rule for maleic hydrazide, oryzalin, hexazinone, and streptomycin. EPA has completed the reregistration process and issued a Reregistration Eligibility Decision (RED). In the reregistration process, all information to support a pesticide's continued registration is reviewed for adequacy and, when needed, supplemented with new scientific studies. Based on the RED tolerance assessments for the pesticide chemicals subject to this rule, EPA is revoking various tolerances for maleic hydrazide, oryzalin, and hexazinone. This rule also deletes as surplusage the term ''negligible'' from a regulation on streptomycin.

EFFECTIVE DATES: This regulations is effective June 24, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [OPP–300405A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources

Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington , DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to:opp-docket@epamail.epa.gov.

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP–300405A] . No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Jeff Morris, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Special Review Branch, Crystal Station #1, 3rd Floor, 2800 Crystal Drive, Arlington, VA 22202. Telephone: (703)–308–8029; e-mail: morris.jeffrey@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 6, 1995 (60 FR 62361), EPA issued a proposed rule that gave notice that EPA intended to revoke various tolerances for maleic hydrazide, oryzalin, and hexazinone. EPA also proposed to delete as surplusage the term ''negligible'' from a regulation on streptomycin.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances are not needed to protect the public health. Therefore, the tolerances are being removed as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

EPA has established a record for this rulemaking under docket number [OPP–300405A] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

This final rule contains no Federal mandates under Title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, for State, local, or tribal governments or the private sector, because it would not impose enforceable duties on them.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: May 14, 1996.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

§ 180.175 [Amended]

2. In § 180.175 *Maleic hydrazide; tolerances for residues*; by removing and reserving paragraph (b).

§ 180.245 [Amended]

3. By amending § 180.245 *Streptomycin; tolerances for residues*; by removing the term ''negligible'' from the text.

§ 180.304 [Amended]

4. In § 180.304 *Oryzalin; tolerances for residues*; by amending paragraph (a) in the table therein by removing the entries for ''cottonseed,'' ''grain, barley,'' ''grain, wheat,'' ''peas (succulent),'' ''potatoes,'' and ''soybeans.''

§ 180.396 [Amended]

5. In § 180.396 *Hexazinone; tolerances for residues*; by amending paragraph (a) in the table therein by removing the entries for ''eggs,'' ''poultry, fat,'' ''poultry, mbyp,'' ''poultry, meat,'' ''pineapple, fodder,'' and ''pineapple, forage.''

[FR Doc. 96–13021 Filed 5–23–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 80

[WT Docket No. 94–153; FCC 96–202]

Vessel Traffic Services (VTS)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has added Prince William Sound to the United States Coast Guard (Coast Guard) designated radio protection areas for mandatory VTS and establish marine VHF Channel 11 as the VTS frequency for Prince William Sound. This action is in response to a request from the Coast Guard. The designation of Prince William Sound as a VTS area will allow the Coast Guard to manage vessel traffic in a more efficient manner.

EFFECTIVE DATE: June 24, 1996.

FOR FURTHER INFORMATION CONTACT: James Shaffer, (202) 418–0680, Private Radio Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 96–202, adopted May 2, 1996, and released May 9, 1996. The full text of this Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, Suite 140, Washington, D.C. 20037, telephone (202) 857–3800.

Summary of Report and Order

1. The Coast Guard filed a petition (RM–8199), Public Notice No. 1932, requesting that the Commission amend Part 80 of the Rules, 47 CFR Part 80, to add Prince William Sound to the Coast Guard designated radio protection areas for mandatory VTS and establish marine VHF Channel 11 (156.550 MHz) as the VTS frequency for Prince William Sound.

2. As a result of the Oil Pollution Act of 1990, Public Law 101–380, 104 Stat. 484, the Coast Guard plans to implement a mandatory Automated Dependent Surveillance (ADS) system for cargo ships, *e.g.* oil tankers, that operate in Prince William Sound. The ADS will operate as part of the proposed VTS system and is scheduled to begin operation in July 1994. An ADS system works as follows: the vessel determines its position using a highly accurate differential GPS receiver and automatically transmits its position, identification and the time of the position to the Coast Guard using digital selective calling (DSC) techniques on VHF marine Channel 70 (156.525 MHz). The Coast Guard needs Channel 11 to supplement Channel 70 ADS use and for voice VTS communications in support of vessel traffic control operations.

3. Designating Prince William Sound as a VTS area will allow the Coast Guard to manage vessel traffic in that area more efficiently and protect the marine environment by preventing vessel collisions and groundings. Therefore, we are adding Prince William Sound to the Commission's list of designated radio protection areas for VTS systems specified in Section 80.383. The radio protection area will be defined as ''The rectangle between North latitudes 61 degrees 17 minutes and 59 degrees 22 minutes and West longitudes 149 degrees 39 minutes and 145 degrees 36 minutes.''

4. Additionally, we will permit private coast stations currently authorized to operate on Channel 11 within the Prince William Sound VTS area to continue operation until the end of their current license terms on a noninterference basis. The staff will help affected licensees find suitable alternative channels. No fee will be charged for affected stations that apply for modification for an alternative channel before their next renewals.

List of Subjects in 47 CFR Part 80

Communications equipment, Marine safety.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rules Changes

Title 47 of the Code of Federal Regulations, Part 80, is amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for Part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.383 is amended by revising the entry for 156.550 MHz in the table in paragraph (a), removing the final word ''and'' in paragraph (b)(4), removing the final ''.'' and adding in its place ''; and'' in paragraph (b)(5), and adding a new paragraph (b)(6) to read as follows:

§ 80.383 Vessel Traffic Services (VTS) system frequencies.

* * * * *

(a) * * *

VESSEL TRAFFIC CONTROL FREQUENCIES

Carrier frequencies (MHz)	Geographic areas
* * * * *	
156.550	New York, New Orleans,[1] Houston, Prince William Sound.[3]
* * * * *	

[1] Until further notice, this frequency is available for use as permitted by § 80.373(f), notwithstanding the provisions of footnote 3, that are applicable to the VTS system. Availability is a result of the closure of the VTS system for the port area of New Orleans. If the United States Coast Guard re-establishes this system, the Commission may require operations pursuant to such conditional licenses for this frequency to cease, or may choose not to renew such conditional licenses. All licenses for this frequency will be expressly conditioned upon the continued availability of the frequency for non-VTS use.

* * * * *

[3] Private coast station licenses for the use of this frequency in this area will expire at the end of the current license term or five years after the adopted date of the final rule, whichever comes first. Continued use until expiration must be on a noninterference basis to Coast Guard VTS communications.

(b) * * *

(6) *Prince William Sound.* The rectangle between North latitudes 61 degrees 17 minutes and 59 degrees 22 minutes and West longitudes 149 degrees 39 minutes and 145 degrees 36 minutes.

* * * * *

[FR Doc. 96–13100 Filed 5–23–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192, 193, and 195

[Docket No. PS–143]

RIN 2137–AC74

Periodic Updates to the Pipeline Safety Regulations

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule updates the references to voluntary specifications and standards to reflect more recently published editions of each document. This final rule enables pipeline operators to utilize current technology, materials, and practices, thereby reducing costs and enhancing economic growth. In addition, this final rule eliminates the requirements for odorization of hydrogen in transmission lines in instances where the hydrogen is intended for use as a feedstock in a manufacturing process. This eliminates a requirement that is costly, but not needed for safety. This final rule is consistent with the President's goals of regulatory reinvention and improvement of customer service.

EFFECTIVE DATE: June 24, 1996.

FOR FURTHER INFORMATION CONTACT: Eben M. Wyman, (202) 366–0918, regarding the subject matter of this Notice; or the Dockets Unit, (202) 366–4453, for copies of this final rule or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

In a March 1995 memorandum, President Clinton directed Federal regulatory agencies to, among other things, conduct a page-by-page review of all agency regulations, cutting or revising those that were obsolete, intrusive, or better handled by parties other than the Federal government (i.e., private business, State, or local government).

In response to the President's directive, RSPA issued a Notice of Proposed Rulemaking (NPRM) in this docket on March 4, 1996 (61 FR 8213). The NPRM proposed updating the references to voluntary specifications and standards and proposed elimination of the requirement to odorize hydrogen transmission pipelines.

Eight parties submitted written comments on the NPRM.

Commenters consisted of seven pipeline operators, two of which are hydrogen pipeline operators, and a standard setting organization. Comments were generally supportive of RSPA's efforts, although some commenters made additional suggestions.

Incorporation by Reference

RSPA is adopting the proposal to incorporate by reference all or portions of over 40 different documents containing practices, codes, standards, and specifications developed and published by technical organizations, including the American Petroleum Institute, American Gas Association, American Society of Mechanical Engineers, American Society of Civil Engineers, American Concrete Institute, American Society for Testing and Materials, International Conference of Building Officials, Manufacturers Standardization Society of the Valve and Fittings Industry, and National Fire Protection Association. Many editions previously referenced in 49 CFR Parts 192, 193, and 195 are out of print or obsolete. Later published editions of these documents focus on up-to-date technology. Pipeline operators could be unnecessarily burdened with design and construction requirements that are referred to in earlier editions.

To avoid these burdens and allow operators to benefit from technological improvements in materials and methods, this final rule updates those references for which the latest editions have been reviewed and accepted by OPS.

All six commenters on the proposed updates of the voluntary consensus standards were supportive of the initiative. However, one commenter suggested that the regulatory language in Section 192.63 should not make reference to the year of the latest edition of the standard in order to maintain consistency throughout the regulations. RSPA sees merit in this comment, and therefore has revised the final rule to cite the standard without reference to the year of the latest edition.

One commenter suggested that RSPA eliminate the use of specific editions and dates for the referenced standards and refer instead to ''the latest edition'' of each standard. This commenter believed that in some cases operators are burdened with unnecessary delays and additional costs to obtain pipe or components manufactured to an out-of-date standard.

RSPA will not adopt this proposal to revise the pipeline safety regulations to permanently reference ''the latest edition'' of the incorporated consensus standards. Before adopting any updated consensus standard RSPA first reviews the standard to determine whether it should be incorporated by reference into the regulations. RSPA then proposes to accept the document(s) through a Federal Register Notice, providing the public with an opportunity to comment on the proposal. It would be inconsistent with the Administrative Procedure Act for RSPA to announce that the latest editions of these documents will be accepted without RSPA review or opportunity for public comment.

Three commenters suggested that RSPA review the standards at least annually. RSPA understands the benefits to operators of periodically updating the referenced standards. RSPA will try to revise them annually, as this will lessen burdens on pipeline operators.

Requirement to Odorize Hydrogen Transmission Pipelines

In support of the President's goal to eliminate obsolete and unnecessary regulations, this final rule adopts the proposal to amend 49 CFR 192.625 to eliminate the odorization requirement for hydrogen transmission lines in cases where its intended use is as a feedstock in a manufacturing process. Hydrogen pipelines that were operating without an odorant before May 5, 1975, were

already exempt from the odorization requirement.

When used as an industrial feedstock, the hazard from hydrogen pipeline leaks is minimal. Hydrogen is much less dense than air and thus tends to dissipate rapidly. In addition, hydrogen has relatively low energy content for a given volume compared to natural gas. The ignition energy of hydrogen is so low that even static electricity can ignite the gas, making a build-up of gas to dangerous levels unlikely.

Moreover, the costs of deodorization are substantial. Odorization renders hydrogen unfit for most of its industrial uses, as it can reduce the reactivity of catalysts, make the end product unfit for the purpose for which it is intended, or reduce the percentage completion of a chemical reaction. This means that the odorant needs to be removed, an expensive process, prior to its use in manufacture.

Three commenters discussed RSPA's proposal to eliminate the requirements for odorization of hydrogen transmission pipelines. All comments were in full support of this initiative, and one commenter noted that the revised language in Section 192.625 is consistent with the President's goals of RRI, as it ''will serve to effectively eliminate a regulatory requirement that is both unnecessary and economically burdensome on industry.''

Advisory Committees

The Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) have been established by statute to evaluate proposed pipeline safety regulations. The committees are required to report on the technical feasibility, reasonableness, and practicability of the proposals.

The NPRM was sent by mail to the committees for consideration. The proposal was unanimously accepted by 11 members of the THLPSSC. The comments of the TPSSC supported the proposal and generally were consistent with written comments filed by other commenters discussed above. Written comments of the TPSSC were similar, but a few members requested further information regarding the hydrogen transmission pipelines that would no longer be subject to the odorization requirement. A TPSSC member asked where these lines are located, and whether they would be tested or surveyed more extensively than other pipelines that are required to use odorant.

The bulk of hydrogen transmission pipelines are operated by two companies and are located primarily in Texas and Louisiana. For the reasons discussed earlier in this final rule, relieving operators of hydrogen pipelines from the odorization requirement will not sacrifice safety and thus no additional testing or monitoring is needed.

Because only 6 members of the TPSSC responded to the mail ballot, the TPSSC considered the proposal at its May 7, 1996 meeting. All twelve TPSSC members present voted in favor of the proposal.

Corrections

In the NPRM, RSPA provided an incorrect address for the American Society for Testing and Materials (ASTM). The correct town is ''West Conshohocken, PA, '' not ''Conshohocken, PA,'' as noted in the NPRM. Thus, the correct address for ASTM is 100 Barr Harbor Drive, West Conshohocken, PA, 19428. The NPRM also incorrectly named the latest edition of NFPA–59A as the 1994 edition. The latest edition is the 1996 edition. This information is incorporated in the final rule where appropriate. Finally, Section 192.189 is corrected to reflect the appropriate nomenclature of ANSI/NFPA 70 as the ''National Electrical Code,'' not ''National Electric Code'' as named in the NPRM.

Rulemaking Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to review by the Office of Management and Budget (OMB). The final rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

Executive Order 12612

The final rule has been analyzed with the principles and criteria in Executive Order 12612 (''Federalism''), and does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

Regulatory Flexibility Act

Based on the facts available, I certify that this final rule will not, have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

There are no new information collection requirements in this final rule.

List of Subjects

49 CFR Part 192

Incorporation by reference, Natural gas, Pipeline Safety.

49 CFR Part 193

Incorporation by reference, Liquefied natural gas (LNG), Pipeline safety.

49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Incorporation by reference, Petroleum, Pipeline safety.

In consideration of the foregoing, RSPA to amends 49 CFR Parts 192, 193, and 195 as follows:

PART 192—[AMENDED]

1. The authority citation for Part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60118; 49 CFR 1.53

2. Paragraph (a)(1) of section 192.63 is revised to read as follows:

§ 192.63 Marking of materials.

(a) * * *

(1) As prescribed in the specification or standard to which it was manufactured, except that thermoplastic fitting must be marked in accordance with ASTM D 2513; or

* * * * *

3. Paragraph (c) of section 192.189 is revised to read as follows:

§ 192.189 Vaults: Drainage and waterproofing.

* * * * *

(c) Electrical equipment in vaults must conform to the applicable requirements of Class 1, Group D, of the National Electrical Code, ANSI/NFPA 70.

4. Section 192.625 is amended by revising paragraphs (b)(2)(iv)(C) and (b)(3) and by adding paragraph (b)(4) to read as follows:

§ 192.625 Odorization of gas.

* * * * *

(b) * * *

(2) * * *

(iv) * * *

(C) Reduces the percentage completion of a chemical reaction;

(3) In the case of a lateral line which transports gas to a distribution center, at least 50 percent of the length of that line is in a Class 1 or Class 2 location; or

(4) The combustible gas is hydrogen intended for use as a feedstock in a manufacturing process.

* * * * *

5. Appendix A of Part 192 is amended by revising paragraphs *I.* D, *II.* A (1), (3)

and (4), II. B, *II.* C (3)–(6), and II. E to read as follows:

Appendix A to Part 192—Incorporated by Reference

I. List of organizations and addresses.

* * * * *

D. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

* * * * *

II. Documents incorporated by reference. (Numbers in parentheses indicate applicable editions.)

A. * * *

(1) API Specification 5L ''Specification for Line Pipe (41st edition, 1995).

* * * * *

(3) API Specification 6D ''Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)'' (21st edition, 1994).

(4) API Standard 1104 ''Welding of Pipelines and Related Facilities'' (18th edition, 1994).

B. American Society for Testing and Materials (ASTM):

(1) ASTM Designation: A53 ''Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless'' (A53–95a).

(2) ASTM Designation A 106 ''Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service'' (A 106- 94a).

(3) ASTM Designation: A 333/A 333M ''Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service'' (A 333/A 333M–94).

(4) ASTM Designation: A 372/A 372M ''Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels'' (A 372/A 372M–95).

(5) ASTM Designation: A 381 ''Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems— (A 381–93).

(6) ASTM Designation: A 671 ''Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures'' (A 671–94).

(7) ASTM Designation: A 672 ''Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures'' (A 672–94).

(8) ASTM Designation A 691 ''Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures'' (A 691–93).

(9) ASTM Designation D 638 ''Standard Test Method for Tensile Properties of Plastics'' (D 638–95).

(10) ASTM Designation D 2513 ''Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing and Fittings'' (D 2513–87 edition for § 192.63(a)(1), otherwise D2513–95c).

(11) ASTM Designation D 2517 ''Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings'' (D 2517–94).

C. * * *

(3) ASME Boiler and Pressure Vessel Code, Section I ''Power Boilers'' (1995 edition with 1995 Addenda).

(4) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 ''Pressure Vessels'' (1995 edition with 1995 Addenda).

(5) ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 ''Pressure Vessels: Alternative Rules'' (1995 edition with 1995 Addenda).

(6) ASME Boiler and Pressure Vessel Code, Section IX ''Welding and Brazing Qualifications'' (1995 edition with 1995 Addenda).

* * * * *

E. National Fire Protection Association (NFPA):

(1) ANSI/NFPA 30 ''Flammable and Combustible Liquids Code'' (1993).

(2) ANSI/NFPA 58 ''Standard for the Storage and Handling of Liquefied Petroleum Gases'' (1995).

(3) ANSI/NFPA 59 ''Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants'' (1995).

(4) ANSI/NFPA 70 ''National Electrical Code'' (1996).

PART 193—[AMENDED]

1. The authority citation for Part 193 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60103, 60104, 60108, 60109, 60110, 60113, 60118; 49 CFR 1.53

2. Appendix A to Part 193 is amended by revising paragraphs *II.* C, *II* D (1) and (3), *II.* E, *II.* F, and *II.* G, to read as follows:

Appendix A to Part 193—Incorporation by Reference

* * * * *

II. Documents Incorporated by Reference. (Numbers in Parentheses Indicate Applicable Editions.)

* * * * *

C. American Society of Civil Engineers (ASCE):

1. ASCE 7–95 ''Minimum Design Loads for Buildings and Other Structures'' (1995)

D. * * *

1. API Specification 6D ''Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)'' (21st edition, 1994).

2. * * *

3. API Standard 1104 ''Welding of Pipelines and Related Facilities'' (18th edition, 1994).

E. American Society of Mechanical Engineers (ASME):

1. ASME/ANSI B31.3 ''Chemical Plant and Petroleum Refinery Piping'' (1993 edition with ASME/ANSI B31.3a–1993, B31.b–1994 and B31.c–1995 Addenda).

2. ASME/ANSI B31.5 ''Refrigeration Piping'' (1992 edition with ASME B31.5a–1994 Addenda).

3. ASME/ANSI B31.8 ''Gas Transmission and Distribution Piping Systems'' (1995).

4. ASME Boiler and Pressure Vessel Code, Section I ''Power Boilers'' (1995 edition with 1995 Addenda).

5. ASME Boiler and Pressure Vessel Code, Section IV, ''Heating Boilers'' (1995 edition with 1995 Addenda).

6. ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 ''Pressure Vessels'' (1995 edition with 1995 Addenda).

7. ASME Boiler and Pressure Vessel Code, Section VIII, Division 2, ''Pressure Vessels: Alternative Rules'' (1995 edition with 1995 Addenda).

8. ASME Boiler and Pressure Vessel Code, Section IX, ''Welding and Brazing Qualifications'' (1995 edition with 1995 Addenda).

F. International Conference of Building Officials (ICBU):

1. ''Uniform Building Code'' (UBC) (1994).

G. National Fire Protection Association (NFPA):

1. ANSI/NFPA 30 ''Flammable and Combustible Liquids Code'' (1993)

2. ANSI/NFPA 37 ''Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines'' (1994).

3. ANSI/NFPA 51B ''Standard for Fire Prevention in Use of Cutting and Welding Processes'' (1994).

4. ANSI/NFPA 59A ''Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)'' (1972 edition for § 193.2005(c), otherwise 1996 edition).

5. ANSI/NFPA 70 ''National Electrical Code'' (1996).

* * * * *

PART 195—[AMENDED]

1. The authority citation for Part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; 49 CFR 1.53.

2. Section 195.3 is amended by revising paragraph (b)(6) and paragraphs (c) introductory text and (c) (2) through (5) to read as follows:

195.3 Matter incorporated by reference.

* * * * *

(b) * * *

(6) American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Conshohocken, PA 19428.

* * * * *

(c) The full title for the publications incorporated by reference in this part are as follows. Numbers in parentheses indicate applicable editions:

* * * * *

(2) American Petroleum Institute (API):

(i) API Specification 5L ''Specification for Line Pipe'' (41st edition, 1995).

(ii) API Specification 6D ''Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)'' (21st Edition, 1994).

(iii) API Specification 1104 ''Welding of Pipelines and Related Facilities'' (18th edition, 1994).

(3) American Society of Mechanical Engineers (ASME):

(i) ASME/ANSI B16.9 ''Factory-Made Wrought Steel Buttwelding Fittings'' (1993).

(ii) ASME/ANSI B31.4 ''Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols'' (1992 edition with ASME B31.4a–1994 Addenda).

(iii) ASME/ANSI B31.8 ''Gas Transmission and Distribution Piping Systems'' (1995)

(iv) ASME/ANSI B31G ''Manual for Determining the Remaining Strength of Corroded Pipelines'' (1991).

(v) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 ''Pressure Vessels'' (1995 edition with 1995 Addenda).

(vi) ASME Boiler and Pressure Vessel Code, Section IX ''Welding and Brazing Qualifications'' (1995 edition with 1995 Addenda).

(4) Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):

(i) MSS SP–75 ''Specification for High Test Wrought Butt Welding Fittings'' (1993).

(ii) [Reserved]

(5) American Society for Testing and Materials (ASTM):

(i) ASTM Designation: A 53 ''Standard specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless'' (A 53–95a).

(ii) ASTM Designation: A 106 ''Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service'' (A 106–94a).

(iii) ASTM Designation: A 333/A 333M ''Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service''(A 333/A 333M–94).

(iv) ASTM Designation: A 381 ''Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems'' (A 381–93).

(v) ASTM Designation: A 671 ''Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures'' (A 671–94).

(vi) ASTM Designation: A 672 ''Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures'' (A 672–94).

(vii) ASTM Designation: A 691 ''Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High- Pressure Service at High Temperatures'' (A 691–93).

Issued in Washington, DC on May 16, 1996.

Rose A. McMurray,

Acting Deputy Administrator.

[FR Doc. 96–12843 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–60–P

Federal Railroad Administration

49 CFR Part 212

[FRA Docket No. RSSP–3, Notice No. 5]

RIN AB08

State Safety Participation Regulations; Federal Regulatory Reform

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: In connection with the President's Regulatory Reform Initiative, the FRA has reviewed all of its existing regulations. This review identified a portion of the regulation governing state participation in the Federal Rail Safety Program that can be removed. FRA expects that this final rule will reduce the administrative burden to government and industry, reduce government printing costs, and provide a more concise and useful Title 49, Code of Federal Regulations.

EFFECTIVE DATE: The rule becomes effective June 24, 1996.

FOR FURTHER INFORMATION CONTACT: Cynthia Walters, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–0621 or Mike Calhoun, Transportation Safety Program Specialist, Region 5 Hurst Regional Office, FRA, 8701 Bedford-Euless Rd. Suite 425, Hurst, TX 76053, (817) 284–8142.

SUPPLEMENTARY INFORMATION: On March 4, 1995, the President issued a memorandum directing the heads of federal departments and agencies to conduct a page-by-page review of all agency regulations now in force and eliminate or revise those that are outdated or otherwise in need of reform. FRA has conducted a page-by-page review of all of its regulations and identified the following portion of FRA's state participation regulation, 49 CFR Part 212, Subpart D—Grants in Aid, and corresponding appendices for removal:

FRA's Grants-in-Aid Program, 49 CFR Part 212, Subpart D, was established as part of the State Participation program by the Federal Railroad Safety Act of 1970. The State Participation Program allows states to conduct investigative and surveillance activities to enforce federal railroad safety regulations in conjunction with federal inspection efforts. The Grants in Aid program was intended to provide a transition to a uniform pattern of rail safety regulation and to provide a continuing state role in rail safety regulation. As originally conceived, the program allowed participating states to obtain federal reimbursement of up to 50 percent of a state's allowable cost.

Once the goal of uniform rail safety regulation was realized, Congress elected to eliminate funding. Specifically, FRA's federal funding share of the program declined from the maximum of 50 percent in fiscal year 1985 to 39 percent in fiscal year 1986, 24 percent in fiscal year 1987, and 16 percent in fiscal year 1988, due to dwindling federal resources. There has been no federal funding available for the Grants-in-Aid program, since fiscal year 1989. Despite the lack of federal funds for the program, the State Participation has actually grown. In 1989, there were 110 participating state inspectors and currently there are 137 state inspectors participating in the program. In general, states have continued to participate as active partners in the program.

Appendices A, B, and C are being removed, as well, because they were previously used to determine the levels of inspection effort and reimbursement for Track Safety Standards, Freight Car Safety Standards, and Operating Practices respectively.

Regulatory Impact

Executive Order 12866 and DOT Regulatory Policies

This final rule has been evaluated in accordance with existing regulatory policies. The regulatory document is considered to be a nonsignificant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. This rulemaking has been reviewed under DOT Regulatory Policies and Procedures [44 FR 11034, February 26, 1979] and found to be a nonsignificant rule.

In its regulatory analysis, FRA has determined that this rulemaking presents no substantive issue which it could reasonably expect would produce meaningful public comment since it is merely removing, pursuant to Presidential directive, obsolete regulations, retention of which could serve no useful purpose. Accordingly, pursuant to 5 U.S.C. 553(c) and (d), the Administrative Procedure Act, FRA finds good cause exists to publish this as a final rule without opportunity for public comment.

Federalism

FRA has analyzed this rulemaking in accordance with the principles and

criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities. In reviewing the economic impact of the rule, FRA concluded that it will not have any measurable impact on small entities. There are no direct or indirect economic impacts for small units of government, businesses, or other organizations. Therefore, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

Paperwork Reduction Act

This rulemaking contains no reporting requirements that are subject to OMB approval under 5 CFR Part 1320, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*)

Environmental Assessment

This final rule meets the criteria that establish this as a non-major action for environmental purposes.

List of Subjects in 49 CFR Part 212

Railroad safety, State participation—Grants in aid and corresponding appendices.

Accordingly, for the reasons set forth above, and under the authority of 49 U.S.C. 20103, 20105, 20106, and 20113 (formerly secs. 202, 205, 206, and 208, of the Federal Railroad Safety Act of 1970, and amended (45 U.S.C. 431, 434, 435, and 436); and 49 CFR 1.49, FRA is taking the following action:

PART 212—[AMENDED]

Part 212, is amended by deleting § 212.301 Grant authority; § 212.303 Annual funding process; § 212.305 Reports; § 212.307 Maximum reimbursement levels; and Appendices A, B, and C in their entirety.

Issued in Washington, D.C. on May 16, 1996.

Jolene M. Molitoris,

Administrator, Federal Railroad Administration.

[FR Doc. 96–13047 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 960126016–6121–04; I.D. 051796A]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California; Cape Arago, OR, to Oregon-California Border

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

ACTION: Inseason adjustment.

SUMMARY: NMFS announces that the commercial salmon fishery in the area from Cape Arago, OR, to the Oregon-California border was opened 7 days a week effective midnight, May 18, 1996. This adjustment is intended to provide additional fishing opportunity to commercial fishermen.

DATES: Effective 2400 hours local time, May 18, 1996, through 2400 hours local time, June 30, 1996. Comments will be accepted through June 7, 1996.

ADDRESSES: Comments may be mailed to William Stelle, Jr., Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE., BIN C15700–Bldg. 1, Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the Director, Northwest Region, NMFS (Regional Director).

FOR FURTHER INFORMATION CONTACT: William L. Robinson, 206–526–6140.

SUPPLEMENTARY INFORMATION: In the annual management measures for ocean salmon fisheries (61 FR 20175, May 6, 1996), NMFS announced that the 1996 commercial fishery in the area between Cape Arago, OR, and the Oregon-California border would open on May 1 and fishing would follow a cycle of 4 days open and 3 days closed. The fishery would close the earlier of June 30 or attainment of the 5,300–chinook salmon quota. The open/closure cycle could be modified inseason as necessary to manage the fishery.

The best available information on May 15 indicated that the commercial catch and effort rates were low during the first two open periods (May 1–4 and May 8–11), with catches totaling less than 200 chinook salmon. The preseason objective for the open/closure cycle was to monitor catch levels. Opening the fishing season to 7 days per week would provide additional fishing opportunity to commercial fishermen without exceeding the share allocated to the commercial fishery in this area. Modification of the fishing season is authorized by the annual management measures and the regulations at 50 CFR 661.21(b)(1)(i). All other restrictions that apply to this fishery remain in effect as announced in the annual management measures.

The Regional Director consulted with representatives of the Pacific Fishery Management Council and the Oregon Department of Fish and Wildlife regarding this adjustment. The State of Oregon will manage the commercial fishery in state waters adjacent to this area of the exclusive economic zone in accordance with this Federal action. As provided by the inseason notice procedures of 50 CFR 661.23, actual notice to fishermen of this action was given prior to midnight, May 18, 1996, by telephone hotline number 206–526–6667 or 800–662–9825 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz. Because of the need for immediate action to provide commercial fishermen with additional fishing opportunity, NMFS has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment.

Classification

This action is authorized by 50 CFR 661.21 and 661.23 and is exempt from review under E.O. 12866.

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

Dated: May 20, 1996.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Services Division.

[FR Doc. 96–13154 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 102
Friday, May 24, 1996

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.

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–0927]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is publishing for comment proposed revisions to Regulation Z (Truth in Lending). The revisions would implement the Truth in Lending Act Amendments of 1995 (1995 Amendments), which establish new creditor-liability rules for closed-end loans secured by real property or dwellings consummated on or after September 30, 1995. The 1995 Amendments create several tolerances for accuracy in disclosing the amount of the finance charge, and creditors have no civil or administrative liability if the finance charge or affected disclosures are within the applicable tolerances. The amendments also clarify how lenders must disclose certain fees connected with mortgage loans. In addition, the Board is proposing a new rule regarding the treatment of fees charged in connection with debt cancellation agreements, which would be similar to the existing rule regarding credit insurance premiums, and provide for more uniform treatment of these fees.

DATES: Comments must be received on or before June 24, 1996.

ADDRESSES: Comments should refer to Docket No. R–0927, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. Comments also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding the availability of information.

FOR FURTHER INFORMATION CONTACT: James A. Michaels, Senior Attorney, or Natalie E. Taylor or Michael L. Hentrel, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for users of Telecommunications Device for the Deaf (TDD) only, please contact Dorothea Thompson at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the Truth in Lending Act (TILA) (15 U.S.C. 1601 *et seq.*) is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The act requires creditors to disclose credit terms and the cost of credit as a dollar amount (the finance charge) and as an annual percentage rate (the APR). The TILA requires additional disclosures for loans secured by a consumer's home and permits consumers to rescind certain transactions that involve their principal dwelling. The act is implemented by the Board's Regulation Z (12 CFR Part 226).

II. Proposed Regulatory Provisions

On September 30, 1995, the Congress enacted the Truth in Lending Act Amendments of 1995 (1995 Amendments), Public Law 104–29, 109 Stat. 271. The 1995 Amendments address the concerns of mortgage lenders stemming from a 1994 court decision, *Rodash* v. *AIB Mortgage Co.*, 16 F.3d 1142 (11th Cir. 1994). In that case, the U.S. Court of Appeals affirmed a district court opinion that allowed a consumer to rescind a mortgage loan and recover all fees and finance charges that had been paid, based in part on errors in the creditor's TILA disclosures. Subsequently, a number of class action lawsuits were filed, involving thousands of mortgage loans, alleging similar violations and seeking the remedy of rescission.

In May 1995, in response to mortgage lenders' concerns about their potential liability for finance charge violations that they viewed as minor, the Congress enacted a temporary moratorium on such litigation. The moratorium expired on October 1, 1995, and has been replaced by the 1995 Amendments, which establish new liability rules for loans consummated both before and after September 30. The Board is proposing regulations only regarding loans made after September 30, 1995.

Remarks by the Congressional sponsors, made after enactment of the amendments, reflect their intent to apply the new rules only to closed-end loans secured by real property or dwellings (including manufactured or mobile homes). 141 Cong. Rec. E1918 (daily ed. Oct. 11, 1995) (Statement of Rep. McCollum and Rep. Gonzalez). The 1995 Amendments contain several provisions, however, stating that they apply to any consumer credit transaction.

Sections 2 and 3 of the 1995 Amendments amend section 106 of the TILA, concerning the determination of the finance charge to clarify how creditors must disclose certain fees connected with mortgage loans. The proposed regulation would incorporate the statutory amendments without substantive change. For the most part, the treatment of these fees under the revised regulation is consistent with existing Board interpretations. The only significant departure from current law concerns mortgage broker fees. Under the revised regulation—as mandated by the statutory amendments—all fees charged by a mortgage broker would be included in the finance charge unless it is the type of fee that would be excluded when it is charged by the creditor. Presently, fees charged by a mortgage broker are only included if the creditor requires the use of the broker or retains any part of the fee.

Section 3 of the 1995 Amendments provides that disclosures regarding per diem interest charges will be considered accurate so long as they are based on information known to the creditor when the disclosures are prepared, even if the actual charges differ by the time disclosures are provided to the consumer. This provision would be incorporated in the regulation without change.

The 1995 Amendments also establish several tolerances for accuracy in disclosing the finance charge in connection with closed-end loans secured by real property or dwellings. Previously, the TILA contained no tolerance for finance charge errors, although Regulation Z contains a de

minimis $10 tolerance that will continue to apply to non-mortgage loans. For mortgage loans, the proposed regulation contains a general $100 tolerance for finance charge disclosures. Three separate finance charge tolerances would apply in determining whether a consumer may rescind a mortgage loan on the grounds that the creditor failed to provide accurate disclosures; the tolerance varies depending on the type of loan, amount of credit extended and whether foreclosure proceedings have been initiated.

Sections 5 and 8 of the 1995 Amendments revise section 125 of the TILA, which allows consumers to rescind certain mortgage loans and requires that they receive notice of their rescission rights. Section 5 clarifies that a creditor will not be liable for the form of notice given to the consumer if the creditor has used the appropriate form published by the Board or a comparable notice. Section 8 establishes special rules that apply when the consumer seeks to rescind the loan after foreclosure proceedings have been initiated. The proposed regulation would incorporate these provisions.

While the 1995 Amendments do not explicitly amend the existing tolerance for the annual percentage rate (APR) disclosures, the proposed regulation would establish additional APR tolerances in mortgage transactions where the disclosed APR results from a finance charge that is understated or overstated but within the tolerance established under the amendments. Accordingly, the APR would be considered accurate if it results from a finance charge that would also be considered accurate, even if the disclosed APR falls outside of the existing TILA tolerance of one-fourth or one-eighth of one percent.

The proposed regulation would also provide an additional tolerance for mortgage transactions, to avoid creditor liability for a disclosed APR that is incorrect but is closer to the actual APR than the APR that would be considered accurate under the new statutory tolerance. The purpose of this tolerance is to reduce or eliminate litigation over disclosure errors that are less serious than the errors allowed under the new finance charge tolerance.

The Board is also proposing amendments to Regulation Z regarding the treatment of fees charged in connection with debt cancellation agreements, which provide similar benefits to credit insurance. Public comment was solicited last fall regarding the treatment of these fees under the existing rules, in connection with proposed changes to the Official Staff Commentary (60 FR 62764, December 7, 1995). The comments, mostly from creditors or their trade associations, expressed concern about the need under the current rule to determine, on a state-by-state basis, whether debt cancellation fees should be treated as insurance premiums. In response to the commenters' concerns, the proposed interpretation was withdrawn based on the belief that the issues raised by the commenters would be better addressed in the context of a regulatory amendment (61 FR 14952, April 4, 1996). The proposed revisions to Regulation Z would provide uniform treatment for the disclosure of debt cancellation fees under the TILA, consistent with the existing rule for credit life, health, and accident insurance.

Finally, the Board is proposing a technical amendment to the definition of ''business day.'' The revision clarifies that for purposes of the Board's rules implementing the Home Ownership and Equity Protection Act of 1994 in Subpart E of Regulation Z, the term ''business day'' has the same meaning as in the rules regarding rescission.

The Board expects to adopt a final rule in September 1996. Under the 1995 Amendments, the new rule regarding the treatment of mortgage broker fees will become effective on September 30, 1996, or 60 days after the Board issues a final regulation, whichever is earlier. The other provisions of the 1995 Amendments became effective upon their enactment on September 30, 1995, and the Board believes that its proposed changes to Regulation Z do not impose any additional disclosure requirements beyond those already required under the statute. Accordingly, the Board expects the proposed revisions to Regulation Z (other than the provision regarding the treatment of mortgage broker fees) to become effective 30 days after the final regulation is issued.

III. Section-by-Section Analysis

Subpart A—General

Section 226.2—Definitions and Rules of Construction

2(a) Definitions

2(a)(6)

The definition of the term ''business day'' in paragraph 2(a)(6) would be revised to clarify that for purposes of the rules implementing the Home Ownership and Equity Protection Act of 1994 in Subpart E of Regulation Z, the term ''business day'' has the same meaning as in the rescission rules in sections 226.15 and 226.23. The proposed revision also updates the list of legal public holidays to include the Birthday of Martin Luther King, Jr.

Section 226.4—Finance Charge

4(a)(1) Charges by Third Parties

Proposed paragraph 4(a)(1) reflects the general rule for third party charges currently contained in comment 4(a)–3 of the Official Staff Commentary.

4(a)(2) Special Rule; Closing Agent Charges

Proposed paragraph 4(a)(2) incorporates the substance of section 2(a) of the 1995 Amendments, which excludes from the finance charge, any fees charged by third-party closing agents provided that the creditor does not require the imposition of the charge or provision of the services, and does not retain any portion of the charge. The amendment is consistent with the existing interpretation in comment 4(a)–4 of the Official Staff Commentary.

4(a)(3) Special Rule; Mortgage Broker Fees

Proposed paragraph 4(a)(3) contains a new rule regarding the treatment of mortgage broker fees, to implement section 106(a)(6) of the TILA (15 U.S.C. § 1605(a)(6)). The rule requires that *all* fees charged by a mortgage broker and paid by the consumer be included in the finance charge, without regard to whether the fee is paid to the broker or to the lender for delivery to the broker. A fee charged by a mortgage broker will be excluded from the finance charge only if it is the type of fee that would also be excluded when it is charged by the creditor. Fees paid by the funding party to a broker as a ''yield spread premium,'' that are already included in the finance charge, either as interest or as points, should not be double counted.

4(b) Example of Finance Charge

4(b)(10) Debt Cancellation Fees

Proposed paragraph 4(b)(10) clarifies that fees charged by creditors in connection with debt cancellation agreements are considered finance charges. The conditions under which voluntary debt cancellation fees may be excluded from the finance charge are set forth in proposed paragraph 4(d)(3).

4(c) Charges Excluded From the Finance Charge

4(c)(7) Real-Estate Related Fees

4(c)(7)(ii)

Paragraph 4(c)(7)(ii) would be revised to implement the amendment to section 106(e)(2) of the TILA (15 U.S.C. 1605(e)(2)). Formerly, the TILA excluded fees for preparation of a ''deed, settlement statement, or other

documents'' from the finance charge, and the existing regulation clarified that the exclusion applied only to the preparation of ''similar documents.'' The regulation would be revised to reflect the new statutory language, which further clarifies that the documents must be ''loan-related.'' The Board believes that the amendment does not represent a substantive change from the current rule.

4(c)(7)(iii)

Paragraph 4(c)(7)(iii) would be revised by deleting the reference to appraisal fees, which would be addressed separately in revised paragraph 4(c)(7)(iv).

4(c)(7)(iv)

Paragraph 4(c)(7)(iv) would be redesignated as 4(c)(7)(v). Paragraph 4(c)(7)(iv) would be revised consistent with section 106(e)(5) of the TILA (15 U.S.C. 1605(e)(5)), which clarifies that fees related to property inspections conducted prior to closing, in order to check for pest infestation or flood hazards, may be excluded from the finance charge. The proposed revision is consistent with comment 4(c)(7)–3 of the Official Staff Commentary, which states that excluded fees are those charged solely in connection with the initial decision to extend credit. The exclusion does not apply to fees for services to be performed periodically during the term of the loan.

4(d) Insurance and Debt Cancellation Agreements

The Board proposes to amend Regulation Z by adding a provision regarding the requirements for disclosing the cost of debt cancellation agreements, which provide consumers with benefits similar to credit insurance. Under these agreements, generally in return for a fee, the creditor agrees to cancel all or part of any remaining debt in the event of a certain occurrence, such as the death, disability or unemployment of the consumer or the destruction or theft of goods securing the loan. The creditor may or may not purchase insurance to cover this risk.

During the past year, the Board received a significant number of inquiries concerning the proper treatment of fees paid for a form of debt cancellation agreement known as guaranteed automobile protection or ''GAP,'' which is sold in connection with motor vehicle loans. GAP agreements cancel the remaining debt when the vehicle securing the loan is stolen or destroyed and the settlement payment made by the consumer's primary automobile insurance is insufficient to pay the loan balance.

Debt cancellation fees are not specifically addressed in the existing regulation; however, under the current rules they would not receive uniform treatment in Truth in Lending disclosures. For example, in some states, charges for debt cancellation agreements may be considered credit insurance premiums. Regulation Z currently allows such fees to be excluded from the finance charge only if the agreement insures against the death, disability or loss of income of the borrower and certain disclosures are provided. On the other hand, fees for GAP coverage offered by a creditor, which does not protect against the types of risk covered in sections 226.4(d) (1) and (2), are always included in the finance charge, as are other types of debt cancellation fees in states where the agreements are not considered to be insurance.

Pursuant to its authority under section 105 of the TILA, the Board is proposing a rule that would specifically address debt cancellation fees and provide uniform treatment for their disclosure. The proposed rule would exclude debt cancellation fees from the finance charge if the consumer's purchase of the product is voluntary, the extension of credit is not conditioned on the purchase, and specified disclosures are provided to the consumer. This is consistent with the existing rule for credit life, health, and accident insurance.

4(d)(1) Voluntary Credit Insurance Premiums

Paragraph 4(d)(1)(i) would be modified consistent with existing comment 4(d)–1 of the Official Staff Commentary, to clarify that a disclosure that insurance coverage is not required by the creditor must be in writing.

4(d)(3) Debt cancellation fees

Proposed paragraph 4(d)(3) addresses the treatment of fees paid for GAP coverage and other debt cancellation agreements. The new provision closely follows the existing rule pertaining to credit insurance in section 226.4(d)(1), and would exclude fees for debt cancellation from the finance charge if the specified conditions are met. The provision would apply without regard to whether the debt cancellation agreement is considered to be insurance under state law.

Fees for GAP coverage must be disclosed according to this rule rather than the provisions in paragraph 4(d)(2). Even though GAP coverage is triggered by the loss of or damage to property, GAP agreements do not insure against such loss or damage. Instead they insure against the credit risk that remains if there is a balance due on the obligation after traditional property insurance benefits are exhausted.

4(e) Certain Security-interest Charges

4(e)(3) Taxes on Security Instruments

Proposed paragraph 4(e)(3) would be added consistent with section 106(d)(3) of the TILA (15 U.S.C. § 1605(d)(3)). The new provision would provide that taxes levied on security instruments or on documents evidencing indebtedness (''intangible property taxes''), that must be paid in order to record the security instrument, are excluded from the finance charge. The 1995 Amendments and proposed rule are consistent with existing comment 4(e)–1(i) of the Official Staff Commentary.

Subpart C—Closed-End Credit

Section 226.17—General Disclosure Requirements

17(a) Form of Disclosures

17(a)(1)

Footnote 38 in paragraph 17(a)(1) would be revised to include the disclosures relating to debt cancellation agreements among those that may be made together with or separately from the other required disclosures.

17(c) Basis of Disclosures and Use of Estimates

17(c)(2)

Paragraph 17(c)(2) would be redesignated as 17(c)(2)(i) and modified slightly to reflect the general rule that disclosures must be based on the best information reasonably available to the creditor at the time the disclosures are provided to the consumer. This is consistent with existing comment 17(c)(2)–1 of the Official Staff Commentary, which would be redesignated as comment 17(c)(2)(i)–1.

17(c)(2)(ii)

Proposed paragraph 17(c)(2)(ii) reflects the 1995 amendment to section 121(c) of the TILA (15 U.S.C. 1631(c)), which deals with the disclosure of per diem interest charges collected upon loan consummation.

Per diem interest, also known as ''odd-days interest,'' is the interest that will accrue between consummation and the first regularly-scheduled payment. Previously, the general requirement that TILA disclosures must be accurate at the time the disclosures are provided to consumers applied to the disclosure of per diem interest. Under the 1995 Amendments, a disclosure with respect

to the amount of per diem interest to be collected at consummation will be considered accurate if the disclosure is based on the information actually known to the creditor at the time the disclosure is prepared, even if the actual charges differ by the time disclosures are provided to the borrower. Creditors should exercise reasonable diligence in ascertaining the necessary information when preparing disclosures. This change is intended to eliminate the need to revise the TILA disclosures if a change in the closing date also changes the amount of the per diem interest that is paid at closing.

The 1995 Amendments state that this provision applies to ''any consumer credit transaction,'' although remarks by the Congressional sponsors suggest that it may have been intended to apply only to closed-end mortgage loans. The Board proposes to limit the provision to closed-end loans; the provision does not appear relevant to open-end lines of credit. Accordingly, the amended regulation would apply the new rule to any closed-end loan involving per diem interest charges. Comment is solicited on whether the statutory provision would have any applicability in open-end credit transactions.

17(f) Early Disclosures

Paragraph 17(f) would be revised for clarification and divided into paragraphs 17(f) (1) and (2). As revised, the rule more clearly reflects the interpretation presently contained in comment 17(f)–1 of the Official Staff Commentary. The revisions also clarify that the creditor's duty to provide new disclosures is determined by comparing the APR disclosed under section 226.18(e) with the APR disclosed in the consummated transaction, even though the actual APR determined in accordance with Regulation Z may differ.

Also, a new footnote 41 has been added to cross reference and distinguish this rule from the rule on redisclosures contained in section 226.19(a)(2). Section 226.19(a)(2), which only applies to certain residential mortgage transactions, provides additional leeway by allowing a creditor to make the new disclosures prior to consummation or settlement, whichever occurs later.

Section 226.18—Content of Disclosures

18(d) Finance Charge

Section 106(f) of the TILA (15 U.S.C. § 1605(f)) establishes a new tolerance for accuracy in disclosing the finance charge for closed-end loans secured by real property or dwellings. Section 226.18(d) has been revised and reorganized to incorporate this change.

18(d)(1) Mortgage Loans

Proposed paragraph 18(d)(1) provides a new finance charge tolerance applicable to mortgage loans consummated on or after September 30, 1995. For covered transactions, the disclosed finance charge will be considered accurate if it is understated by $100 or less or if the finance charge is overstated. The new tolerance applies to the disclosed finance charge as well as any disclosure affected by the finance charge, including the annual percentage rate (APR). The effect of the new finance charge tolerance on the disclosed APR is explained in more detail in connection with the proposed revisions to section 226.22(a).

18(d)(2) Other Credit

The existing tolerance for finance charge disclosures, currently in footnote 41, continues to apply to all other closed-end loans consummated on or after September 30, 1995, and has been moved into proposed paragraph 18(d)(2).

18(n) Insurance and Debt Cancellation Agreements

Paragraph 18(n) would be revised to include disclosures made in connection with debt cancellation agreements.

Section 226.19—Certain Residential Mortgage and Variable Rate Transactions

19(a)(2) Redisclosure Required

Paragraph 19(a)(2) would be revised to make it consistent with the revision made to section 226.17(f)(2). The change clarifies that a creditor's duty to provide new disclosures is determined by comparing the APR that was disclosed under section 226.18(e) with the APR disclosed in the consummated transaction.

Section 226.22—Determination of Annual Percentage Rate

22(a) Accuracy of Annual Percentage Rate

Paragraph 22(a) would be revised to add new paragraphs (a)(4) and (a)(5). The TILA contains tolerances for the APR, which are either one-quarter or one-eighth of one percent, depending on the type of transaction. These existing statutory APR tolerances are not altered by the 1995 Amendments, although the amendments create a tolerance for the finance charge disclosed for mortgage loans as well as ''*any disclosure affected by the finance charge.*'' Although this language could be viewed as applying only to numerical amounts for which there is no statutory tolerance (such as the amount financed) the Board is of the view that the 1995 Amendments should be interpreted broadly to include the APR as one of the ''affected disclosures.'' Otherwise, transactions in which the disclosed finance charge is misstated but considered accurate under the new tolerance might be subject to legal challenge based on the disclosed APR, which seems inconsistent with the legislative intent. For closed-end loans secured by real property or dwellings, the proposed revisions would establish two additional tolerances for accuracy in disclosing the APR when the disclosed finance charge is within the tolerances established by the 1995 Amendments.

22(a)(4) Mortgage Loans

Proposed paragraph 22(a)(4) provides an additional tolerance for APR disclosures in transactions where the finance charge is understated or overstated but is considered accurate under the 1995 Amendments. For example, in a secured home-improvement loan, if a creditor improperly omits a $100 fee from the finance charge, the understated finance charge would now be considered accurate under section 226.18(d)(1). Under paragraph 22(a)(4), the APR resulting from the understated finance charge would also be considered accurate, even if the disclosed APR falls outside of the existing tolerance of one-eighth of one percent provided under section 107(c) of the TILA. For purposes of determining a borrower's right to rescind a mortgage loan, an APR resulting from a finance charge that is considered accurate in accordance with the applicable rule in section 226.23(g) or (h)(2), would also be considered accurate.

22(a)(5) Additional Tolerance for Mortgage Loans

In light of the new APR tolerance established under the 1995 Amendments, the Board proposes to adopt an additional APR tolerance (not required by the statute), in section 226.22(a)(5). The purpose would be to avoid the anomalous result of imposing liability on a creditor for a disclosed APR that is incorrect but is *closer* to the actual APR than the APR that would be considered accurate under the statutory tolerance in paragraph 22(a)(4).

For instance, if the omission of a $100 fee from the finance charge would result in understatement of the finance charge and a disclosed APR that is understated by one-half of one percent, that APR would be considered accurate under

paragraph 22(a)(4), even though it is outside of the existing APR tolerance of one-eighth of one percent. Under proposed paragraph 22(a)(5), the disclosed APR would also be considered accurate if it is understated by *less* than one-half of one percent. Thus, if the actual APR in this example was 9.00 percent and the $100 omission would result in an APR of 8.50 that would be considered accurate under paragraph 22(a)(4), a disclosed APR of 8.75 percent would be within the tolerance in paragraph 22(a)(5). Similarly, if an overstated finance charge results in an overstated APR, the creditor would not be liable for an overstatement that is closer to the actual APR.

Under section 105 of the TILA, the Board is authorized to adopt exceptions to the TILA that will facilitate compliance. Proposed paragraph 22(a)(5) would treat as accurate, a disclosed APR that is more accurate than the one resulting from a misstated finance charge that is considered accurate under the 1995 Amendments. The Board believes that this rule will facilitate compliance with the TILA, and prevent disputes over errors that have no greater effect on consumers beyond the effects already contemplated by the statutory tolerances. The Board recognizes that this rule might allow a creditor to disclose an inaccurate APR that is not derived from either the actual or the disclosed finance charge. Presumably, this situation would not be common. On balance, however, the Board believes the proposed rule is consistent with the intent of the 1995 Amendments.

Section 226.23—Right of Rescission

23(b) Notice of Right To Rescind

Proposed paragraph 23(b)(2) implements amendments to TILA section 125 (15 U.S.C. 1635). Under the 1995 amendments, creditors will not be liable for the form of rescission notice they give to the consumer if the creditor uses the appropriate form published by the Board or a comparable notice. Proposed paragraph 23(b)(2) requires proper use of the model form approved by the Board or a comparable form. Creditors properly completing the appropriate form in Appendix H would be deemed in compliance with the regulation for those disclosures. The model form in Appendix H–9 has been revised slightly to ease compliance and clarify that it may be used in loan refinancings with the original creditor, without regard to whether the creditor is the holder of the note at the time of refinancing.

23(g) Tolerances for Accuracy

Proposed paragraph 23(g) would implement section 106(f)(2) of the TILA (15 U.S.C. § 1605(f)(2)), which creates separate finance charge tolerances that apply in determining whether a consumer may rescind a loan based on inaccurate TILA disclosures. These tolerances are intended to limit rescission as a remedy available to consumers for TILA disclosure violations. Under the rescission tolerances, the finance charge and other disclosures affected by the finance charge are deemed accurate if they do not vary from the actual finance charge by more than a certain amount; either one-half of one percent of the total amount of credit extended, or one percent of the total amount of credit extended, depending on the type of transaction.

The Board proposes to apply the rescission in section 106(f)(2) in addition to, rather than in lieu of, the general tolerances in section 106(f)(1). The Board believes that it is unlikely that the Congress intended to allow the rescission remedy to be invoked when the disclosures would otherwise be considered accurate under the general tolerance rules. As a result, when the rescission tolerance based on a percentage of the amount of credit extended is less than $100, the general $100 tolerance in section 106(f)(1) would apply. For example, in the case of a small home improvement loan, the one-half of one percent rescission tolerance would be less than $100 for loans under $20,000. In such cases, the $100 tolerance would apply in determining the borrower's right to rescind the transaction. The Board also proposes to apply the general rule in section 106(f)(1)(B), that overstated finance charges of any amount shall be treated as accurate, as the applicable rule in determining whether a consumer may rescind a loan.

The Board also proposes in paragraph (g), to interpret the statutory phrase ''total amount of credit extended'' to be the ''face amount of the note'' for purposes of calculating the rescission tolerances. For purposes of paragraph (g)(2), the Board interprets the statutory language ''no new consolidation'' to mean that this tolerance applies where the transaction does not involve the consolidation of an existing loan. The Board believes that this promotes ease of compliance and consistency.

23(h) Special Rules for Foreclosures

Proposed paragraph 23(h) implements section 125(i)(2) of the TILA (15 U.S.C. § 1635(i)(2)), which provides special rescission rules after a foreclosure action has been initiated. The Board interprets this provision in its context to apply only to closed-end credit; there does not appear to be any basis for applying it to open-end lines of credit. For example, the 1995 Amendments allow a consumer to rescind a loan in foreclosure if a mortgage broker fee was not properly disclosed; broker fees, however, are not generally associated with open-end lines of credit.

The special tolerances applicable to foreclosures are intended to provide additional consumer protection in light of the new finance charge tolerance that generally limits the consumer's right to rescind a closed-end mortgage loan. Once foreclosure is initiated, the consumer may rescind the loan if the finance charge is understated by more than $35, even though a larger tolerance would apply before foreclosure. Because open-end home equity loans currently have no tolerance for finance charge errors, applying the $35 foreclosure tolerance to open-end loans would result in less protection for consumers. The Board believes this result would be inconsistent with the intent of the special foreclosure rules.

Subpart E—Special Rules for Certain Mortgage Transactions

Section 226.31—General Rules

31(d) Basis of Disclosures and Use of Estimates

Paragraph 31(d) would be revised and reorganized, consistent with the revisions made to section 226.17(c).

31(d)(3)

Proposed paragraph 31(d)(3) would incorporate the new rule regarding the disclosure of per diem interest charges, consistent with the proposed amendment in section 226.17(c)(2)(ii). Under the 1995 Amendments, a disclosure with respect to per diem interest charges collected upon loan consummation will be considered accurate if the disclosure is based on the information actually known to the creditor at the time the disclosure is prepared. In preparing disclosures, creditors are expected to exercise reasonable diligence in ascertaining the necessary information. Proposed paragraph 31(d)(3) would clarify that the same rule applies to a disclosure made pursuant to Subpart E (such as the APR) that would be affected by the per diem interest charge.

31(g) Accuracy of Annual Percentage Rate

Paragraph 31(g) would be revised to clarify that a creditor may rely on the

APR tolerances provided in section 226.22 for purposes of determining whether a transaction is covered under section 226.32(a) and making the disclosures required by section 226.32(c).

Appendix H to Part 226—Closed-end Model Forms and Clauses

H–9 Rescission Model Form

The 1995 Amendments clarify that creditors will not be liable for the form of rescission notice they give to the consumer if the creditor uses the appropriate form published by the Board or a comparable notice. In order to ease compliance, model form H–9 has been revised slightly to clarify that it may be used in loan refinancings with the original creditor, without regard to whether the original creditor is the holder of the note at the time of refinancing. Creditors may, however, continue to use the original forms H–8 and H–9 as appropriate.

Supplement I—Official Staff Interpretations

The proposed revisions would conform the Official Staff Commentary consistent with the proposed amendments to Regulation Z.

IV. Form of Comment Letters

Comment letters should refer to Docket No. R–0927 and, when possible, should use a standard Courier typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text to machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Also, if accompanied by an original document in paper form, comments may be submitted on 3½ inch or 5¼ inch computer diskettes in any IBM-compatible DOS-based format.

The comment period ends on June 24, 1996. Normally, the Board provides a 60-day comment period, in keeping with the Board's policy statement on rulemaking (44 FR 3957, January 19, 1979). The proposed regulatory revisions implement changes in the law made by the 1995 Amendments and with the exception of one provision related to mortgage broker fees, the statutory amendments are already in effect. The amendments regarding the disclosure of mortgage broker fees will become effective on or before September 30, 1996. The Board believes that an abbreviated comment period is desirable to ensure that a final rule is in place as soon as possible to provide guidance to creditors affected by the new rules.

V. Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. § 603), the Board's Office of the Secretary has reviewed the proposed amendments to Regulation Z. Overall, the amendments are not expected to have any significant impact on small entities. The proposed regulatory revisions required to implement the 1995 Amendments clarify the existing disclosure requirements and ease compliance by providing new tolerances. Under the existing rules, fees charged in connection with debt cancellation agreements are generally treated as finance charges; the proposed rule allows creditors to exclude these fees from the finance charge if additional disclosures are provided to the consumer. A final regulatory flexibility analysis will be conducted after consideration of comments received during the public comment period.

VI. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 *et seq.*), the Board has reviewed the proposed amendments under the authority delegated to the Board by the Office of Management and Budget. 5 CFR 1320 Appendix A.1. Comments on the collection or disclosure of information associated with this regulation should be sent to the Office of Management and Budget, Paperwork Reduction Project (7100–0199), Washington, DC 20503, with copies of such comments to be sent to Mary M. McLaughlin, Federal Reserve Board Clearance Officer, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551.

The respondents are individuals or businesses that regularly offer or extend consumer credit. The purpose of the TILA and Regulation Z is to promote the informed use of consumer credit by requiring creditors to disclose its terms and cost. Records must be retained by creditors for 24 months. The revisions to the requirements in this proposed regulation are found in 12 CFR 226.2, 226.4, 226.17, 226.18, 226.19, 226.22, 226.23, and 226.31.

The Board's Regulation Z applies to all types of creditors, not just state member banks. Under the Paperwork Reduction Act, however, the Federal Reserve accounts for the paperwork burden associated with Regulation Z only for state member banks. Any estimates of paperwork burden for institutions other than state member banks that would be affected by the proposed amendments would be provided by the federal agency or agencies that supervise those lenders.

The proposed changes are not expected to increase the ongoing annual burden of Regulation Z. There are 1,042 state member banks with an average frequency of 136,294 responses per bank each year. The current estimated burden for Regulation Z ranges from 5 seconds per response (for disclosures prior to opening a credit card account) to 30 minutes per response (for inclusion of information in an advertisement). The combined annual burden for all state member banks under Regulation Z is estimated to be 1,975,600 hours; based on an hourly cost of $20, the combined annual cost is estimated to be $39.5 million (an average of $37,920 per state member bank). Using the same hourly cost, the Federal Reserve estimates that there would be associated start up cost in the amount of $160 per respondent for changing disclosures (or disclosure-producing software) to include disclosures relating to voluntary debt cancellation agreements.

The disclosures made by creditors to consumers under Regulation Z are mandatory. Since the Federal Reserve does not collect any information, no issue of confidentiality arises. Disclosures relating to specific transactions or accounts are not publicly available.

Comments are invited on: (a) whether the proposed revision to Regulation Z is necessary for the proper performance of the Federal Reserve's functions; including whether the disclosed information has practical utility; (b) the accuracy of the Federal Reserve's estimate of the burden of the proposed disclosures, including the cost of compliance; (c) ways to enhance the quality, utility, and clarity of the information disclosures; and (d) ways to minimize the burden of information disclosures on respondents, including through the use of automated techniques or other forms of information technology.

An agency may not collect or sponsor the collection or disclosure of information, and an organization is not required to collect or disclose information unless a currently valid OMB control number is displayed. The OMB control number for Regulation Z is 7100–0199

List of Subjects in 12 CFR Part 226

Advertising, Banks, banking, Consumer protection, Credit, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

Text of Proposed Revisions

Certain conventions have been used to highlight the proposed revisions to the regulation. New language is shown inside bold-faced arrows, while language that would be deleted is set off with bold-faced brackets.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR Part 226 as follows:

PART 226—TRUTH IN LENDING (REGULATION Z)

1. The authority citation for part 226 continues to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

2. Section 226.2 would be amended by revising paragraph (a)(6) to read as follows:

§ 226.2 Definitions and rules of construction.

(a) *Definitions.* * * *

* * * * *

(6) *Business day* means a day on which the creditor's offices are open to the public for carrying on substantially all of its business functions. However, for purposes of rescission under §§ 226.15 and 226.23, fl and for purposes of § 226.31, fi the term means all calendar days except Sundays and the legal public holidays specified in 5 USC 6103(a), such as New Year's Day, fl the Birthday of Martin Luther King, Jr., fi Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

* * * * *

3. Section 226.4 would be amended as follows:

a. Paragraph (a) would be revised;

b. New paragraph (b)(10) would be added;

c. A heading would be added to paragraph (c)(7), paragraph (c)(7) introductory text would be republished, paragraphs (c)(7)(ii) and (c)(7)(iii) would be revised, paragraph (c)(7)(iv) would be redesignated as paragraph (c)(7)(v) and republished, and a new paragraph (c)(7)(iv) would be added;

d. Paragraph (d) heading would be revised, paragraph (d)(1) heading and introductory text and paragraph (d)(1)(i) would be revised, and a new paragraph (d)(3) would be added.

e. A new paragraph (e)(3) would be added.

The revisions and additions would read as follows:

§ 226.4 Finance charge.

(a) *Definition.* The finance charge is the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit. It does not include any charge of a type payable in a comparable cash transaction.

fl (1) *Charges by third parties.* The finance charge includes fees and amounts charged by someone other than the creditor (unless otherwise excluded under this section) if the creditor requires the use of the third party as a condition of or incident to the extension of credit (even if the consumer can choose the third party) or retains the charge.

(2) *Special rule; closing agent charges.* Fees charged by a third-party closing agent are finance charges only if the creditor requires the particular services for which the consumer is charged or requires the imposition of the charge, or retains any portion of the charge.

(3) *Special rule; mortgage broker fees.* Fees charged by a mortgage broker (including fees paid directly to the broker or paid to the creditor for delivery to the broker) are finance charges even if the creditor does not require the consumer to use a mortgage broker and the creditor does not retain any portion of the charge. fi

(b) *Example of finance charge* * * *

* * * * *

fl (10) *Debt cancellation fees.* Premiums or other charges paid in connection with a debt cancellation agreement, without regard to whether the agreement is insurance under applicable law. fi

(c) *Charges excluded from the finance charge.* * * *

* * * * *

(7) fl *Real-estate related fees.* fi The following fees in a transaction secured by real property or in a residential mortgage transaction, if the fees are bona fide and reasonable in amount:

* * * * *

(ii) Fees for preparing fl loan-related documents, such as fi deeds, mortgages, and reconveyance**[**,**]** fl or fi settlement **[**, and similar**]** documents.

(iii) Notary **[**, appraisal,**]** and credit report fees.

(iv) fl Property appraisal fees, including fees related to any pest infestation or flood hazard inspections conducted prior to closing. fi

fl (v) fi Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the finance charge.

* * * * *

(d) *Insurance* fl *and debt cancellation agreements* fi . (1) fl *Voluntary credit insurance premiums.* fi Premiums for credit life, accident, health or loss of income insurance may be excluded from the finance charge if the following conditions are met:

(i) The insurance coverage is not required by the creditor, and this fact is disclosed fl in writing fi .

* * * * *

fl (3) *Debt cancellation fees.* Charges or premiums paid in connection with an agreement that provides for cancellation of all or part of the debtor's liability for amounts exceeding the value of the collateral securing the debtor's obligation, or in connection with any other debt cancellation agreement, may be excluded from the finance charge, without regard to whether the agreement is insurance, if the following conditions are met:

(i) The agreement or coverage is not required by the creditor, and this fact is disclosed in writing.

(ii) The fee or premium for the initial term of coverage is disclosed. If the term of coverage is less than the term of the credit transaction, the term of coverage also shall be disclosed. The fee or premium may be disclosed on a unit-cost basis only in open-end credit transactions, closed-end credit transactions by mail or telephone under 226.17(g), and certain closed-end credit transactions involving an insurance plan that limits the total amount of indebtedness subject to coverage.

(iii) The consumer signs or initials an affirmative written request for the coverage after receiving the disclosures specified in this paragraph. Any consumer in the transaction may sign or initial the request. fi

(e) *Certain security interest charges.* * * *

* * * * *

fl (3) *Taxes on security instruments.* Any tax levied on security instruments or on documents evidencing indebtedness if the payment of such taxes is a precondition for recording the instrument securing the evidence of indebtedness. fi

* * * * *

4. Section 226.17 would be amended as follows:

a. In paragraph (a)(1), footnote 38 would be revised;

b. Paragraph (c)(2) would be redesignated as paragraph (c)(2)(i) and revised, and paragraph (c)(2)(ii) would be added;

c. Paragraph (f) would be revised.

The revisions and additions would read as follows:

§ 226.17 General disclosure requirements.

(a) *Form of disclosures.* (1)
* * * [38] * * *
* * * * *

(c) *Basis of disclosures and use of estimates.* * * *

(2) fl (i) fi If any information necessary for an accurate disclosure is unknown to the creditor, it shall make the disclosure based on the best information reasonably available fl at the time the disclosure is provided to the consumer, fi and shall state that the disclosure is an estimate.

fl (ii) For a transaction in which a portion of the interest is determined on a per diem basis and collected upon consummation, any disclosure with respect to the per diem interest shall be deemed to be accurate if the disclosure is based on information actually known to the creditor at the time that the disclosure documents are prepared for consummation of the transaction. fi
* * * * *

(f) *Early disclosures.* If disclosures are given before the date of consummation of a transaction and a subsequent event makes them inaccurate, fl before consummation [39] fi the creditor shall disclose [the changed terms before consummation]

fl (1) any changed term that was not based on an estimate in accordance with § 226.17(c)(2) and labelled as such;

(2) all changed terms, fi if the annual percentage rate fl disclosed fi in the consummated transaction varies from the annual percentage rate disclosed under § 226.18(e) by more than ⅛ of 1 percentage point in a regular transaction, or more than ¼ of 1 percentage point in an irregular transaction, as defined in § 226.22(a).
* * * * *

5. Section 226.18 would be amended as follows:

a. Footnote 41 in paragraph (d) would be removed and paragraph (d) introductory text would be republished;

b. New paragraphs (d)(1) and (d)(2) would be added;

c. Footnotes 39 and 40 in paragraph (c) would be redesignated as footnotes 40 and 41 respectively; and

d. Paragraph (n) would be revised.

The revisions and additions would read as follows:

§ 226.18 Content of disclosures.
* * * * *

(d) *Finance charge.* The *finance charge,* using that term, and a brief description such as ''the dollar amount the credit will cost you.'' [[41]]

fl (1) *Mortgage loans.* In a transaction secured by real property or a dwelling, the disclosed finance charge and other disclosures affected by the disclosed finance charge (such as the amount financed and the annual percentage rate) shall be treated as accurate if the amount disclosed as the finance charge:

(i) is greater than the amount required to be disclosed; or

(ii) is understated by no more than $100.

(2) *Other credit.* In any other transaction, the amount disclosed as the finance charge shall be treated as accurate if it is not more than $5 above or below the amount required to be disclosed in a transaction involving an amount financed of $1,000 or less, or not more than $10 above or below the amount required to be disclosed in a transaction involving an amount financed of more than $1,000. fi
* * * * *

(n) *Insurance* fl and debt cancellation agreements fi . The items required by § 226.4(d) in order to exclude certain insurance premiums fl and debt cancellation fees fi from the finance charge.
* * * * *

6. Section 226.19 would be amended by revising paragraph (a)(2) to read as follows:

§ 226.19 Certain residential mortgage and variable-rate transactions.

(a) * * *

(2) *Redisclosure required.* If the annual percentage rate fl disclosed fi in the consummated transaction varies from the annual percentage rate disclosed under § 226.18(e) by more than ⅛ of 1 percentage point in a regular transaction or more than ¼ of 1 percentage point in an irregular transaction, as defined in § 226.22, the creditor shall disclose the changed terms no later than consummation or settlement.
* * * * *

7. Section 226.22 would be amended by adding new paragraphs (a)(4) and (a)(5) to read as follows:

§ 226.22 Determination of annual percentage rate.

(a) *Accuracy of annual percentage rate.* * * *
* * * * *

fl (4) *Mortgage loans.* If the annual percentage rate disclosed in a transaction secured by real property or a dwelling varies from the actual rate determined in accordance with paragraph (a)(1) of this section, the disclosed annual percentage rate shall be considered accurate if:

(i) It is the rate resulting from the disclosed finance charge; and

(ii) The disclosed finance charge would be considered accurate under § 226.18(d)(1) or § 226.23 (g) or (h).

(5) *Additional tolerance for mortgage loans.* In a transaction secured by real property or a dwelling, if the disclosed finance charge is calculated incorrectly but considered accurate under § 226.18(d)(1) or § 226.23 (g) or (h), the disclosed annual percentage rate shall be considered accurate:

(i) If the disclosed finance charge is understated, and the disclosed annual percentage rate is also understated but is closer to the actual annual percentage rate than the rate that would be considered accurate under paragraph (a)(4) of this section;

(ii) If the disclosed finance charge is overstated, and the disclosed annual percentage rate is also overstated but is closer to the actual annual percentage rate than the rate that would be considered accurate under paragraph (a)(4) of this section. fi
* * * * *

8. Section 226.23 would be amended as follows:

a. Paragraphs (b)(1) through (b)(5) would be redesignated as paragraphs (b)(1)(i) through (b)(1)(v);

b. Paragraph (b) would be redesignated as paragraph (b)(1) and republished;

c. A new paragraph (b)(2) would be added; and

d. New paragraphs (g) and (h) would be added.

The revisions and additions would read as follows:

§ 226.23 Right of rescission.
* * * * *

(b) fl (1) fi *Notice of right to rescind.* In a transaction subject to rescission, a creditor shall deliver two copies of the notice of the right to rescind to each consumer entitled to rescind. The notice shall be on a separate document that identifies the transaction and shall clearly and conspicuously disclose the following:

---

[38] The following disclosures may be made together fl with fi or separately from other required disclosures: the creditor's identity under § 226.18(a), the variable rate example under § 226.18(f)(4), insurance fl or debt cancellation agreements fi under § 226.18(n), and certain security interest charges under § 226.18(o).

fl [39] For certain residential mortgage transactions, § 226.19(a)(2) permits redisclosure no later than consummation or settlement, whichever is later. fi

[[41] The finance charge shall be considered accurate if it is not more than $5 above or below the exact finance charge in a transaction involving an amount financed of $1,000 or less, or not more than $10 above or below the exact finance charge in a transaction involving an amount financed of more than $1,000.]

[(1)] fl (i) fi The retention or acquisition of a security interest in the consumer's principal dwelling.

[(2)] fl (ii) fi The consumer's right to rescind the transaction.

[(3)] fl (iii) fi How to exercise the right to rescind, with a form for that purpose, designating the address of the creditor's place of business.

[(4)] fl (iv) fi The effects of rescission, as described in paragraph (d) of this section.

[(5)] fl (v) fi The date the rescission period expires.

fl (2) *Proper form of notice.* To satisfy the disclosure requirements of paragraph (b)(1) of this section, the creditor shall provide a notice that conforms with the model forms in Appendix H of this part, as appropriate, or a notice that is substantially similar. fi

* * * * *

fl (g) *Tolerances for accuracy.* (1) Except as provided in paragraphs (g)(2) and (h)(2) of this section, the finance charge and other disclosures affected by the finance charge (such as the amount financed and the annual percentage rate) shall be considered accurate for purposes of this section if the disclosed finance charge is:

(i) Greater than the amount required to be disclosed; or

(ii) Understated by no more than ½ of one percent of the face amount of the note or $100, whichever is greater.

(2) In a refinancing of a residential mortgage transaction (other than a transaction covered by § 226.32) with a creditor where no new money is advanced and there is no consolidation of an existing loan, the finance charge and other disclosures affected by the finance charge (such as the amount financed and the annual percentage rate) shall be considered accurate for purposes of this section if the disclosed finance charge is:

(i) Greater than the amount required to be disclosed; or

(ii) Understated by no more than one percent of the face amount of the note or $100, whichever is greater.

(h) *Special rules for foreclosures*—(1) *Right to rescind.* After the initiation of a foreclosure on the consumer's principal dwelling which secures the credit obligation, the consumer shall have the right to rescind the transaction if:

(i) A mortgage broker fee was not included in the finance charge, if required by the laws and regulations in effect at the time of consummation; or

(ii) The creditor did not provide the appropriate form of notice, in accordance with Appendix H of this part, or a substantially similar notice.

(2) *Tolerance for disclosures.* After the initiation of foreclosure, the finance charge and other disclosures affected by the finance charge (such as the amount financed and the annual percentage rate) shall be considered accurate for purposes of this section if the disclosed finance charge is:

(i) Greater than the amount required to be disclosed; or

(ii) Understated by no more than $35. fi

9. Section 226.31 would be amended by revising paragraphs (d) and (g) as follows:

§ 226.31 General rules.

* * * * *

(d) *Basis of disclosures and use of estimates.* fl (1) fi Disclosures shall reflect the terms of the legal obligation between the parties.

fl (2) fi If any information necessary for accurate disclosure is unknown to the creditor, the creditor shall make the disclosure based on the best information reasonably available at fl the time the disclosures are provided fi and shall state clearly that the disclosure is an estimate.

fl (3) For a transaction in which a portion of the interest is determined on a per diem basis and collected upon consummation, any disclosure with respect to the per diem interest shall be deemed to be accurate if the disclosure is based on the information actually known to the creditor at the time that the disclosure documents are prepared for consummation of the transaction. fi

* * * * *

(g) *Accuracy of annual percentage rate.* For purposes of § 226.32, the annual percentage rate shall be considered accurate fl , and may be used in determining whether a transaction is covered by § 226.32, fi if it is accurate according to the requirements and within the tolerances set forth in § 226.22.

10. In Part 226, Appendix H is amended by revising the entry for H–9 Rescission Model Form in the contents listing at the beginning of the appendix and the H–9 Rescission Model Form to read as follows:

Appendix H to Part 226—Closed-end Model Forms and Clauses

* * * * *

H–9—Rescission Model Form
(Refinancing[)] fl with Original Creditor) fi (§ 226.23)

* * * * *

H–9—Rescission Model Form
(Refinancing[)] fl with Original Creditor) fi

Notice of Right To Cancel

Your Right To Cancel

You are entering into a new transaction to increase the amount of credit provided to you. [We acquired a [mortgage/lien/security interest] [on/in] your home under the original transaction and will retain that [mortgage/lien/security interest] in the new transaction.] fl Your home is the security for this new transaction. fi You have a legal right under federal law to cancel the new transaction, without cost, within three business days from whichever of the following events occurs last:

(1) The date of the new transaction, which is _____; or

(2) The date you received your new Truth in Lending disclosures; or

(3) The date you received this notice of your right to cancel.

If you cancel the new transaction, your cancellation will apply only to the increase in the amount of credit. It will not affect the amount that you presently owe or the [mortgage/lien/security interest] we already have [on/in] your home. If you cancel, the [mortgage/lien/security interest] as it applies to the increased amount is also cancelled. Within 20 calendar days after we receive your notice of cancellation of the new transaction, we must take the steps necessary to reflect the fact that our [mortgage/lien/security interest] [on/in] your home no longer applies to the increase of credit. We must also return any money you have given to us or anyone else in connection with the new transaction.

You may keep any money we have given you in the new transaction until we have done the things mentioned above, but you must then offer to return the money at the address below. If we do not take possession of the money within 20 calendar days of your offer, you may keep it without further obligation.

How To Cancel

If you decide to cancel the new transaction, you may do so by notifying us in writing, at (creditor's name and business address).

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of _____ (date) (or midnight of the third business day following the latest of the three events listed above).

If you send or deliver your written notice to cancel some other way, it must be

delivered to the above address no later than that time.

I Wish to Cancel

_____

Consumer's Signature

_____

Date

Supplement I—[Amended]

11. In Supplement I to Part 226, under *Section 226.4—Finance Charge*, under *4(a) Definition*, paragraph 3. ii. would be removed.

12. In Supplement I to Part 226, under *Section 226.17—General Disclosure Requirements*, under *17(c) Basis of disclosures and use of estimates, Paragraph 17(c)(2)* would be redesignated as *Paragraph 17(c)(2)(i):*

Supplement I—Official Staff Interpretations

* * * * *

Section 226.17—General Disclosure Requirements

* * * * *

17(c) Basis of Disclosures and Use of Estimates

* * * * *

Paragraph 17(c)(2) fl *(i).* fi

* * * * *

13. In Supplement I to Part 226, under *Section 226.18—Content of Disclosures*, under *18(d) Finance charge*, paragraph 2 would be removed.

14. In Supplement I to Part 226, under *Section 226.23—Right of Rescission*, under *23(b) Notice of right to rescind*, the first sentence of paragraph 3 would be revised to read as follows:

* * * * *

Section 226.23—right of rescission

* * * * *

23(b) Notice of right to rescind.

* * * * *

3. *Content.* The notice must include all of the information outlined in Section 226.23(b)(1) fl (i) through (v) fi [through 5]. * * *

* * * * *

By order of the Board of Governors of the Federal Reserve System, May 15, 1996.

William W. Wiles,

Secretary of the Board

[FR Doc. 96–12685 Filed 5–23–96; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 344

RIN 3064–AB74

Recordkeeping and Confirmation Requirements for Securities Transactions

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is considering whether and how to amend its regulations governing recordkeeping and confirmation requirements for securities transactions by state nonmember banks. The agency's present regulation was adopted in 1979 and has remained essentially unchanged since that time. The FDIC is undertaking a review of this regulation with the goal of modernizing its requirements to, among other things, reflect the supervisory role played by other Federal agencies charged with supervision of securities transactions. The agency is soliciting comment on a number of issues that have been identified. The responses will be used to aid the FDIC in developing a proposed amendment for public comment.

DATES: Comments must be received by June 24, 1996.

ADDRESSES: Comments should be directed to Jerry L. Langley, Executive Secretary, Attention: Room F–402, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments may be delivered to room F–402, 1776 F Street, NW, Washington, DC 20429, on business days between 8:30 am and 5:00 pm or sent by facsimile transmission to FAX number 202/898–3838. Internet: Comments@FDIC.gov. Comments will be available for inspection and photocopying in the FDIC Public Information Center, room 100, 801 17th Street, NW, Washington, DC 20429, between 9:00 am and 5:00 pm on business days.

FOR FURTHER INFORMATION CONTACT: Curtis Vaughn, Examination Specialist, Division of Supervision, (202) 898–6759; John Harvey, Review Examiner (Trust), Division of Supervision (202) 898–6762; Patrick J. McCarty, Counsel, Legal Division (202) 898–8708; or Gerald Gervino, Senior Attorney, Legal Division (202) 898–3723. Federal Deposit Insurance Corporation, 550 17th St., N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Background

Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act)

The FDIC is conducting a systematic review of its regulations and written policies. Section 303(a) of the CDRI Act (12 U.S.C. 4803(a)) requires that each Federal banking agency review its regulations to streamline them to improve efficiency, reduce unnecessary costs and eliminate unwarranted constraints on credit availability. Section 303(a) also requires the Federal banking agencies to work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policies. As part of the section 303 process, the FDIC published in December of 1995 a notice in the Federal Register describing the section 303 requirements and inviting the general public and interested parties to comment on FDIC regulations and policy statements. 60 FR 62345 (December 6, 1995).

On July 24, 1979 the FDIC and the other Federal banking agencies promulgated regulations addressing recordkeeping and confirmation requirements for securities transactions effected by banks. See 44 FR 43261 (July 24, 1979) (FDIC), 44 FR 43252 (July 24, 1979 (OCC) and 44 FR 43258 (July 24, 1979) (FRB). These regulations were, and are, virtually identical. With the exception of two amendments, the FDIC's part 344 has remained unchanged since it was promulgated in 1979. See 45 FR 12777 (February 27, 1980), 60 FR 7111 (February 7, 1995).

The FDIC wishes to review its recordkeeping and confirmation requirements for securities transactions in part 344 with the purposes of section 303 of the CDRI in mind. The Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (FRB) have already proposed amendments to their regulations concerning recordkeeping and confirmation requirements for securities transactions by national and state member banks, respectively. See 60 FR 66517 (December 22, 1995) and 60 FR 66759 (December 26, 1995). Before drafting and publishing a proposed regulation, the FDIC wishes to receive public comment on several basic issues underlying the purposes of part 344. The FDIC requests comments at this stage of regulatory review to assist development of a specific proposal.

Summary of Concerns

Part 344 sets forth the recordkeeping and confirmation requirements with respect to securities transactions effected for the customers of state nonmember banks. State nonmember banks are required to keep four types of records (1) Chronological records of original entry containing an itemized daily record of all purchases and sales, (2) Account records for each customer, (3) Separate order tickets for each transaction, and (4) A record of all broker/dealers used and the commissions paid. Section 344.3(a) through (d). Banks must keep these records for at least three years. Section 344.3.

Part 344 addresses both the ''form'' and ''timing'' of notification to customers for whom the bank has effected a securities transaction. Sections 344.4 through 344.5. Banks may provide one of two different types of notification forms to the customer. Both notification forms are required to contain such basic information as the name of the customer, the identity, price and number of shares or units of the security purchased or sold by the customer, the source and amount of any remuneration to be received by the broker/dealer and the bank (unless such remuneration is determined by a prior written agreement between the bank and the customer), and the name of the broker/dealer used. Banks are again required to retain copies of the notification form which is provided to customers for at least three years. Id.

As a general rule, banks are required to mail the notification form to customers within five business days of the transaction. Section 344.5. If a broker/dealer is used, the bank has 5 business days from the date of receipt of the broker/dealer's confirmation to mail notification to the customer. Id. Banks are permitted, however, to use alternate time of notification procedures depending upon the type of account involved. Section 344.5(a) through (e). The time of notification periods vary greatly from ''as promptly as possible'' after the transaction for periodic plans to annual statements for collective investment funds. Section 344.5(e) and (d), respectively.

Part 344 also requires banks effecting securities transactions for customers to establish written policies and procedures regarding securities trading. Section 344.6 Such policies and procedures must address supervision of officers and employees who place orders and execute transactions, allocation of securities and prices to accounts when orders are received at approximately the same time, the crossing of buy/sell orders, and the reporting of personal securities transactions by bank officers and employees who participate in or make investment recommendations or decisions for customer accounts.

The purpose of the FDIC implementing recordkeeping and confirmation requirements for securities transactions is to ensure that purchasers of securities in transactions effected by an insured nonmember bank are provided adequate information concerning the transactions. The regulations also are designed to ensure that insured nonmember banks maintain adequate records and controls with respect to securities transactions for their customers.

As the financial marketplace has grown, new delivery systems for bank customer's securities transactions have emerged. This array of delivery systems has led to the overlap of jurisdiction between the Federal banking agencies and the Federal securities regulators. The FDIC supports minimizing overlapping jurisdiction through a concept referred to as ''functional regulation''. In order for functional regulation to work properly, it is important that securities transactions do not go unregulated and leave customers unprotected. As currently written, part 344 overlaps existing securities regulation in certain areas. Although this overlap ensures that securities transactions for bank customers are adequately covered in relation to confirmation and recordkeeping requirements, it can create a competitive imbalance for banks, create customer confusion, regulatory uncertainty and additional costs to banks.

Delivery Systems

There are a variety of ways in which banks play a role in delivering securities brokerage services to their customers. Customers of banks may engage in securities transactions by either dealing directly with the bank or by dealing with a third party who has contracted with the bank to conduct securities transactions for, or through, the bank. Third parties may operate on bank premises using their own employees, or use persons who are dual employees of the bank and the third party. Third party providers may operate both on and off the bank's premises with the bank receiving remuneration for transactions originating from the bank. Other third party providers operate solely off bank premises. The bank may or may not receive remuneration for referring customers to the provider.

Categories of third party providers also vary by whether or not the provider is affiliated with the bank and the type of affiliation. Third party providers may be owned by the bank, while in other situations the bank and third party provider are commonly owned or have common officers or directors. In other cases, the bank may be an advisor to a mutual fund sponsored by a third party.

Within the bank itself, the institution may be engaged in retail recommendation and sale of securities, or the bank may be engaging in accommodation transactions only for customers of the bank. A limited number of banks operate municipal and government securities dealer departments separately registered under government securities regulations or regulations of the Municipal Securities Rulemaking Board (MSRB). Where there is sufficient demand, banks may engage in private banking for their higher income customers. In areas where capital markets are not well established, banks may engage in the sale of their own stock or the stock of their affiliates.

Historically banks have been most commonly involved in securities transactions through their Trust Departments. These transactions occur both when the bank has some fiduciary responsibility and when the bank is acting as an agent or custodian. A bank may have no investment discretion, partial investment discretion or full investment discretion over its trust accounts. Trust Departments often sponsor collective investment funds for their customers. They may also act as the customers' agent under a periodic investment plan, such as a stock-purchase plan or a dividend reinvestment plan. Each situation presents different customer needs relative to confirmation and recordkeeping requirements related to securities transactions.

Request for Comment

The FDIC is seeking comment from interested parties concerning the applicability of part 344 to securities transactions conducted under each of these delivery systems. Specifically, if the transactions under a specific delivery system are covered by another regulatory system, what coverage should an FDIC regulation provide, if any? Additionally, the FDIC seeks comment on whether other delivery systems, i.e., dedicated phone lines to broker/dealers and mutual fund complexes, or internet sites, should be considered in deciding on the scope of coverage of part 344. Commenters are asked to identify types of securities transactions which by their unique characteristics should be

exempted, either completely or in part, from the requirements of part 344. The OCC and FRB proposals do not approach the delivery systems and regulatory coverage issues in the same manner as the FDIC.

Effecting a Transaction

The recordkeeping and confirmation requirements of part 344 are generally triggered when a bank effects a securities transaction on behalf of a customer. The regulation does not define the term ''effecting a securities transaction''. The term was borrowed from the Federal Securities laws, where it is quite common but also not defined. See Securities and Exchange Act of 1934, 15 U.S.C. 78o(a)(1), (c)(1)(A) through (B), Government Securities Act, 15 U.S.C. 78o–5(a)(1)(B)(i), (a)(4) and (b)(1), and SEC Rule 10b–10(a), 12 CFR 240.10b–10(a). The FDIC has taken a broad view of the term to include not only those situations in which securities transactions are effected by bank employees but also those situations in which third parties who are located on bank premises conduct the transactions for the bank and the bank receives transaction based compensation in connection with the transactions. This is so even if the transaction takes place off bank premises. The FDIC is considering various alternatives in defining the term ''effecting a securities transaction'' and seeks comment as to how the term should be defined. If securities transactions are conducted by third parties, should such transactions be excluded from the definition? If so, how should such exclusion/exemption be drawn? If specific bank activities or certain types of delivery systems should be exempted from the definition, what factors should be considered in determining which bank activities and delivery systems should be exempted? The OCC and FRB proposals do not address the definition or scope of the term ''effecting a securities transaction'' issue.

Retail Sales Through Trust Departments

As noted above, historically banks have been involved in securities activities through their Trust Departments. Trust Departments have accounting systems, internal controls and investment expertise with respect to securities transactions due to their investment management activities for trust clients. Banks may, however, be directing customers with retail securities transactions to their Trust Departments, even though such customers have no formal trust agreement with the bank. The FDIC specifically requests comment on whether this situation is commonplace in the industry and to what extent the requirements of part 344 should apply to such retail securities transactions for nontrust customers. The OCC and FRB proposals do not specifically address the retail sales through bank Trust Department issue.

Disclosure of the Source and Amount of Remuneration

Members of the public, including bank customers, normally pay commissions or sales loads when buying or selling securities through a registered broker/dealer which has no association with a bank. The securities transactions effected by the bank may be somewhat different in that the bank may share in that commission or load or the bank may charge a fee in addition to the usual commission or load. In order to make this difference clear to those customers who purchase or sell securities through their bank, part 344 requires that the bank disclose the source and amount of its remuneration. The regulation does not distinguish between those commissions or loads which the bank shares with another party (but the total cost to the customers remains the same) and fees which may be added by the bank to those commissions or loads.

As banks have become more heavily involved in effecting securities transactions for their customers, it has come to the FDIC's attention that there are practical problems concerning the timely disclosure of the source and amount of the bank's remuneration. Many insured nonmember banks have entered into what are commonly known as ''networking agreements'' with registered broker/dealers. Under these agreements the broker/dealer typically leases space on the bank's premises to sell securities. In some instances banks receive a fixed monthly payment plus a portion of the commissions which varies depending upon the volume of sales over a given period. The result is that in some situations banks are unable to determine and disclose the total amount of their remuneration within the general 5 business day time frame provided for under § 344.5.

On March 21, 1995, the FDIC Board of Directors granted a limited waiver of the remuneration disclosure requirement contained in § 344.4 based on the timing problem identified above. The waiver extends to any insured state nonmember bank which receives transaction-based compensation on a regular basis with respect to securities transactions effected for customers. The waiver is subject to the provisos that (1) no additional fees are added by the bank other than those described in the prospectus (if the securities are sold under a prospectus); (2) the sale is made by a registered broker/dealer subject to rules and supervision of the National Association of Securities Dealers (NASD) and the Securities and Exchange Commission (SEC); and (3) the sale is conducted in a fashion which meets the requirements of the NASD and SEC. The waiver does not relieve banks of the obligation to disclose the source of their remuneration. Nor does the waiver apply in the case of (1) services provided in a fiduciary capacity, or (2) services for which a flat fee has been paid which includes securities brokerage.

At the time the waiver was granted, the FDIC committed to working with the other Federal banking agencies to find an acceptable solution to the timing of the remuneration disclosure problem. The FDIC's current waiver differs from the position reflected in the OCC's proposal in that the FDIC continues to require that banks disclose the source of their remuneration and that the FDIC waiver extends to all securities transactions and not just to mutual fund transactions.

In attempting to keep customers who purchase securities on the premises of a bank informed of potential conflicts of interest, the FDIC has taken the position that the customer should be aware of the fact that the bank has a financial interest in the transaction. Thus, the FDIC has concluded that in all cases, the source of the remuneration should be disclosed. The timing of that disclosure may be important in determining how much burden this requirement places on the bank.

We note that the SEC's position regarding the disclosure of the source and amount of remuneration is much more limited than that under which the FDIC is currently operating. Pursuant to SEC Rule 10b–10, broker/dealers are required to disclose the source and amount of remuneration at or before completion of a transaction only when the broker/dealer is (1) participating in the distribution of a securities issuance or (2) participating in a tender offer. See 17 CFR 240.10b–10(a)(7)(iv). Otherwise, the broker/dealer is required to provide only a notice which states that the source and amount of other remuneration will be furnished ''upon the written request of the customer.'' Id. With respect to the sale of mutual funds, the SEC is considering changing a long standing no action position on the broker/dealer disclosure of source and remuneration. See Investment Company Institute, SEC No-Action Letter, 1994 WL 131068 (S.E.C.) (March 16, 1994).

Since 1979 the SEC's position has been that a broker/dealer does not need to disclose on confirmations the source and amount of remuneration received on the sale of open end management company shares if a prospectus with current fees, loads and expenses is provided to the customer. See Investment Company Institute, SEC No-Action Letter, [1979] Fed. Sec. L. Rep. (CCH) P82,041 (Mar. 19, 1979). Should the SEC change its position, broker/dealers would be required to provide confirmations which disclose both the source and amount of remuneration received on confirmations rather than relying upon the disclosure provided in the prospectus.

The FDIC specifically requests comments concerning the need for disclosure of the source of remuneration and, if necessary, when that disclosure should be made. In addition, the FDIC requests comment on the circumstances under which a bank should disclose the amount of the remuneration and, if necessary, the timing of these disclosures. If disclosures concerning the amount of remuneration are made, should there be a differentiation concerning disclosure of the bank's portion of loads and commissions normally charged and those fees which may be charged in excess of normal commissions and loads? If FDIC mandated disclosures are necessary, how should these disclosures interrelate with similar disclosures required under the Federal Securities laws? The OCC and FRB proposals do not address all of the issues raised herein.

Definition of Security

In part 344, the term ''security'' is defined in order to determine the scope of the regulation's coverage. Section 344.2(e). The definition is crafted specifically for the purposes of this regulation and does not mirror the definition of ''security'' in the Federal Securities laws. Specifically, there are eight exemptions to the definition of ''security'':

(1) A deposit or share account in a federally insured depository institution;

(2) A loan participation;

(3) A letter of credit or other form of bank indebtedness incurred in the ordinary course of business;

(4) Currency;

(5) Any note, draft, bill of exchange, or bankers acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited;

(6) Units of a collective investment fund;

(7) Interests in a variable amount (master) note of a borrower of prime credit; and

(8) U.S. Savings Bonds.

The FDIC specifically requests comment on the adequacy of the definition of the term ''security'' currently used in part 344 and if there are other exceptions which should be made to the definition. Comment is invited concerning the practicability of using the definition of ''security'' which is used in the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(10).

Other Definitions

The OCC and FRB proposals add definitions of ''asset-backed security'', ''completion of the transaction'', ''crossing of buy and sell orders'', ''debt security'', ''government security'' and ''municipal security'' to their respective regulations. The new definitions are based on definitions contained in the Federal Securities laws and the SEC's confirmation rule, Rule 10b–10, 17 CFR 240.10b–10, and are necessary for applying the proposed confirmation disclosure and three day settlement requirements. Rule 15c6–1, 17 CFR 240.15c6–1. The definitions of the above terms contained in the OCC and FRB proposals are:

''Asset-backed security'' shall mean a security that is serviced primarily by the cash flows of a discrete pool of receivables or other financial assets, either fixed or revolving, that by their terms convert into cash within a finite time period plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to the security holders.

''Completion of the transaction effected by or through a bank'' shall mean:

(1) For purchase transactions, the time when the customer pays the bank any part of the purchase price (or the time when the bank makes the book entry for any part of the purchase price, if applicable), however, if the customer pays for the security prior to the time payment is requested or becomes due, then the transaction shall be completed when the bank transfers the security into the account of the customer; and

(2) For sale transactions, the time when the bank transfers the security out of the account of the customer or, if the security is not in the bank's custody, then the time when the security is delivered to the bank, however, if the customer delivers the security to the bank prior to the time delivery is requested or becomes due then the transaction shall be completed when the bank makes payment into the account of the customer.

''Crossing of buy and sell orders'' shall mean a security transaction in which the same banks acts as agent for both the buyer and the seller.

''Debt security'' shall mean any security, such as a bond, debenture, note or any other similar instrument which evidences a liability of the issuer (including any security of this type that is convertible into stock or similar security) and fractional or participation interests in one or more of any of the foregoing; provided, however, that securities issued by an investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 *et seq.*, shall not be included in this definition.

''Government security'' shall mean:

(1) A security that is a direct obligation of, or obligation guaranteed as to principal and interest by, the United States;

(2) A security that is issued or guaranteed by a corporation in which the United States has a direct or indirect interest and which is designated by the Secretary of the Treasury for exemption as necessary or appropriate in the public interest or for the protection of investors;

(3) A security issued or guaranteed as to principal and interest by any corporation whose securities are designated, by statute specifically naming the corporation, to constitute exempt securities within the meaning of the laws administered by the SEC; or

(4) Any put, call, straddle, option, or privilege on a security as described in paragraph (1), (2), or (3) of this definition other than a put, call, straddle, option, or privilege that is traded on one or more national securities exchanges, or for which quotations are disseminated through an automated quotation system operated by a registered securities association.

''Municipal security'' shall mean a security which is a direct obligation of, or obligation guaranteed as to principal or interest by a State or any political subdivision thereof, or any agency or instrumentality of a State or any political subdivision thereof, or any municipal corporate instrumentality of one or more States, or any security which is an industrial development bond.

The FDIC is considering using identical definitions in revising part 344 and requests comment concerning these definitions. Specifically, the FDIC wishes to know if these definitions should be expanded in any manner or if they exclude transactions which should be covered by the scope of the definition. The FDIC proposal is consistent with the OCC and FRB proposals on the new definitions.

Exceptions

Under the current regulation, certain requirements concerning recordkeeping and securities trading policies and procedures do not apply to banks having an average of less than 200 securities transactions per calendar year for customers over the prior three-calendar-year period, exclusive of transactions in U.S. Government and Federal agency obligations. Section 344.7(a). The FDIC specifically requests comment concerning the continued appropriateness of this exemption and whether the current 200 transaction limit should be raised, and if so, what transaction or dollar limit should be adopted. Commenters are requested to address whether any increase in the threshold would (1) result in any material diminution in the protections to investors, and (2) how the applicability of and compliance with the Department of Treasury's Government Securities Dealer regulations would be affected. The OCC and FRB proposals do not address all the Government Securities trading issues raised herein.

Since part 344 was originally implemented, regulation of government securities has changed as a result of the enactment of the Government Securities Act of 1986 (Government Securities Act). 15 U.S.C. 78o–5. Under this statute, the Department of the Treasury has authority over government securities transactions (including United States Treasury securities and securities issued or guaranteed by Federal government agencies and government-sponsored enterprises). State nonmember banks which are government securities brokers and dealers are not required to follow certain recordkeeping requirements established by the Department of the Treasury regulations because they are subject to part 344. Consistent with the requirements of the Government Securities Act, state nonmember banks that conduct fewer than 500 government securities brokerage transactions per year would not have to comply with certain recordkeeping requirements of part 344 if the exemption contained in the Government Securities Act is carried over to the FDIC's regulation. See 17 CFR 401.3(a). The FDIC specifically requests comment if there is a need to adopt this exemption in its regulations. The FDIC proposal is consistent with the OCC and FRB proposals on this issue.

Safe and Sound Operations

As noted above, both the FRB and the OCC have issued proposed amendments to their regulations relating to recordkeeping and confirmation requirements for securities transactions. Those proposed amendments include a provision concerning safe and sound operations. See proposed § 208.24(h) of the FRB's regulations and § 12.1(c)(3) of the OCC's regulations. The provisions would require that a bank maintain effective systems of records and controls regarding customer securities transactions that reflect accurate information and are sufficient to provide an adequate basis for an audit of the information. The provisions are intended to emphasize the importance of effective internal controls with respect to all securities transactions. The FDIC requests comment on the desirability of adding this type of provision to its regulation.

Settlement of Securities Transactions

In October 1993, the SEC adopted a securities settlement rule, effective June 7, 1995, requiring the payment of funds and delivery of most securities by the third business day after the date of the contract (T+3). Rule 15c6–1, 17 CFR 240.15c6–1. Many banks effecting customer securities transactions use a clearing broker which would be subject to the T+3 rule. In these situations securities transactions for bank customers would routinely settle within three days. However, some banks may clear and settle their securities trades directly. For this reason, the FDIC is considering revising part 344 to include a separate T+3 settlement requirement that tracks the language of the SEC's securities settlement rule. Alternatively, the FDIC could cross-reference the language of the SEC rule.

The FDIC seeks comment on the need for and the effect of adopting the T+3 securities settlement requirement and specifically invites comment on the feasibility of alternate approaches to implement the T+3 settlement cycle. The FDIC's position is consistent with the OCC and FRB proposals on this issue.

Securities Transactions for Banks

The FDIC seeks comment on how part 344 affects small banks which use the services of other banks to buy and sell securities for their own account. Small banks are active buyers and sellers of U.S. Government and Municipal securities for their own accounts. It is not clear what effect, if any, part 344's recordkeeping, disclosure and settlement requirements have had on the banks which are the securities customers of other banks. The FDIC solicits comments from the banks which are consumers of other bank's securities services on what concerns they have and what improvements can be made to part 344. The OCC and FRB proposals do not address the bank as customer issues raised herein.

Sweep Accounts and Confirmations

It has now become commonplace for banks to offer ''sweep accounts'' to retail, commercial and trust customers. These ''sweep accounts'' are cash management services which permit customers to earn interest on otherwise idle cash balances. Sweep accounts automatically ''sweep'' excess cash out of a checking or non interest bearing deposit account into a money market mutual fund as frequently as every day after the close of business at the bank. The ''sweep'' is triggered by the amount of cash in the deposit account, which can be set by the depositor. The ''sweep'' may also be reversed so that shares in the money market mutual fund are redeemed and cash is deposited into the checking or non interest bearing account at certain times or when certain dollar limits are reached. Banks receive a fee for the ''sweep'' service.

The FDIC notes that ''sweep accounts'' bear some similarities to ''periodic plans,'' which is a defined term under part 344. See § 344.1(d). Under the current part 344, banks which are effecting securities transactions under periodic plans are required to provide confirmations to customers ''as promptly as possible after each transaction. * * * '' See § 344.5(e). The SEC permits broker/dealers, under certain conditions, to send confirmations for sweep transactions out of brokerage accounts into money market mutual funds to be provided on a quarterly basis. See 12 CFR § 240.10b–10(b). The OCC and FRB have proposed amending their regulations to permit banks to provide confirmations for periodic plan transactions on a quarterly basis. The FDIC supports such a change, as it will reduce regulatory burden for banks and will harmonize securities and banking regulation.

The FDIC requests comment on whether the definition of ''periodic plans'' in part 344 needs to be revised to specifically include ''sweep accounts'' or whether the term and activity is sufficiently distinct to warrant its own definition. In addition, the FDIC solicits comment regarding whether all ''sweep accounts'' should receive such treatment or just ''sweep accounts'' which invest in certain types of securities, e.g., money market mutual funds, and under certain conditions, e.g., no sales commission is charged for either purchases or sales. The FDIC also requests comment on whether ''sweep

accounts'' raise any issues peculiar to bank Trust Departments. The OCC and FRB proposals do not specifically address the ''sweep account'' issues identified herein.

Reporting of Personal Trading

Part 344 currently requires certain bank officers and bank employees engaged in or aware of the investment decisions or recommendations for customer accounts to provide quarterly reports regarding their personal trading of securities. Section 344.6(d). The regulation does not require reporting of personal trading where the securities transactions aggregate $10,000 or less during the calendar quarter. The SEC has a similar reporting requirement for principal underwriters and investment advisers of registered investment companies under the Investment Company Act of 1940. See SEC Rule 17j–1, 12 CFR 270.17j–1. The SEC Rule does not provide an exemption for securities transactions involving in the aggregate $10,000 or less. The FDIC requests comments on whether the exemption from reporting personal trading by bank officers and employees engaged in or aware of the investment decisions or recommendations for customer accounts in section 344.6(d) is appropriate. Additionally, the FDIC requests comment on whether all bank directors, as opposed to just those bank directors who are also officers or employees of the bank, should be required to report on their personal trading. The OCC and FRB proposals do not address the personal trading issues raised herein.

Additional Comment

The FDIC is interested in receiving any additional comments regarding part 344 which the public feels should be taken into account as the agency undertakes to modernize the regulation.

By Order of the Board of Directors.

Dated at Washington, DC, this 14th day of May, 1996.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 96–12928 Filed 5–23–96; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 801

[Docket No. 95N–0374]

RIN 0910–AA32

Latex Condoms; User Labeling; Expiration Dating

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a proposed regulation that would require the labeling of latex condoms to contain an expiration date based upon physical and mechanical testing performed after exposing the product to varying conditions that age latex. Studies show that latex condoms degrade over time. Such degradation has a significant effect on the product's ability to provide a barrier to sexually transmitted disease (STD) agents, including the human immunodeficiency virus (HIV). This requirement is being proposed in order to provide consumers with essential information regarding the safe use of these products.

DATES: Written comments on this proposed rule by August 22, 1996. Written comments on the information collection requirements should be submitted by June 24, 1996. FDA proposes that any final rule that may be issue based on this proposal become effective 180 days after the date of its publication in the Federal Register.

ADDRESSES: Submit written comments on this proposed rule to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Submit written comments on the information collection requirements to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Donald E. Marlowe, Center for Devices and Radiological Health (HFZ–150), Food and Drug Administration, 12200 Wilkins Ave., Rockville, MD 20852, 301–443–7003.

SUPPLEMENTARY INFORMATION:

I. Background

It is estimated that over 1 million persons in the United States are infected with HIV (Ref. 1). HIV is transmitted primarily through sexual contact; however, nonsexual transmission has occurred in health care settings as a result of contact with infected blood. Additionally, HIV has been isolated from other body fluids in addition to blood. With the prevalence of HIV infection and the risk of transmission of other infections, the importance of the quality of an effective barrier to the transmission of infection is crucial.

Numerous studies in the scientific literature, including the proceedings of a conference on ''Latex as a Barrier Material'' sponsored by FDA in 1989, have addressed and overwhelmingly supported the use of latex membranes, such as condoms and medical gloves, as effective barriers against the transmission of various disease agents, including hepatitis, HIV, and other infections (Ref. 2). The Centers for Disease Control and Prevention (CDC) and the Surgeon General of the Public Health Service have recommended, on the basis of evidence that latex provides a barrier against the transmission of STD's, that latex condoms should be used according to instructions with every act of intercourse for maximum protection against STD's (Ref. 3). Two recent studies involving serodiscordant heterosexual couples (i.e., one partner is HIV positive, the other HIV negative) indicate that using latex condoms substantially reduces the risk of HIV transmission (Refs. 4 and 5). In one study, none of the 123 partners who used condoms consistently became infected while 12 (10 percent) of 122 partners who used condoms inconsistently became infected (Ref. 4). In the second study, 3 (2 percent) of the 171 consistent condom users became infected compared to 8 (15 percent) of 55 inconsistent condom users (Ref. 5).

The effectiveness of latex condoms as a barrier, however, is dependent upon the integrity of the latex material. Degradation of latex film products (e.g., the embrittlement of the latex film, an increase in the porosity of the membrane, or other loss of physical properties) occurs when latex is exposed to various types of environmental conditions (such as elevated temperature, fluorescent lights, or ozone) normally experienced in product use, shipment, or storage situations. Exposure to these environmental conditions degrades the film progressively over time, and may result in bursts, rips, tears or seepage that allows the transmission of infectious agents.

To understand the effects of aging and other storage conditions on latex properties, the State of Washington's Board of Pharmacy initiated an FDA-sponsored study of the material integrity

of latex condoms (the FDA/Washington study) in July 1989 (Ref. 6). This study was designed to investigate the effects of aging on latex condoms by studying burst pressure, burst volume, tensile strength, and elongation at breakage, after storage over different periods of time at varying temperatures. The study examined dry (nonlubricated) condoms and various types of lubricated condoms, produced by the major domestic condom manufacturers. The study consisted of two parts--laboratory testing, which ran for 3 years, and field testing, which is an ongoing study of normal condom aging at eight sites representing varying temperatures, elevations, and humidity conditions.

At the laboratories of the FDA/Washington study, packaged and unpackaged latex condoms were exposed to temperatures of 20 and 30 °C (representing room temperature) for up to 5 years. In order to represent exposure to the upper extreme of environmental temperatures, condoms were exposed for 100 days to a temperature of 45 °C. Also, to accelerate the aging process of the latex, condoms were exposed to temperatures of 70 and 85 °C for up to 100 days (Refs. 7 through 9). The study revealed that exposed condoms (i.e., condoms not protected by packaging) degraded to the point of being unusable within 1 year at room temperature, and at higher temperatures in as little as 10 days. The FDA/Washington study further shows that latex condoms stored in intact plastic packages also degrade over time, though at a much slower rate. The results of the FDA/Washington study demonstrate that aging and other conditions can significantly affect the integrity, strength, and quality of latex essential to maintaining a barrier against the transmission of disease.

At a meeting with the agency, condom manufacturers and FDA agreed that, based upon the American Society for Testing and Materials (ASTM) standards and the FDA/Washington study, two accelerated aging test conditions (i.e., storage for 7 days at 70 °C and storage for 90 days at 40 to 50 °C) properly evaluate aging properties of latex films. Given the evidence that aging affects the latex barrier properties of condoms that prevent the transmission of infectious agents, the agency believes latex condoms should not be used after aging has compromised latex barrier properties. Accordingly, FDA believes that such products should bear expiration dates, based upon appropriate testing, that will inform the user when these products should no longer be used. FDA is therefore proposing that latex condoms bear expiration dates.

Proposed § 801.435(c) would require an expiration date to appear on the primary packaging (i.e., the individual package), as well as higher levels of labeling, such as the case containing individually packaged products to ensure visibility.

To establish the expiration date, FDA is proposing to require manufacturers to subject their products to certain aging condition environments prior to conducting physical and mechanical testing that will demonstrate the product will maintain its barrier properties during the labeled shelf life of the product. The accelerated aging conditions would be based on data and test protocols proposed by the industry, and supported by existing condom standards (Ref. 10), and the findings of the Mandel and FDA/Washington studies (Refs. 7 and 6).

Specifically, FDA in proposed § 801.435(d) would require that a manufacturer, before performing tests on products that demonstrate physical and mechanical integrity of the product, subject products from three discrete and random lots to each of the following conditions: (1) Storage unpackaged for the maximum amount of time the manufacturer allows the product to remain unpackaged after manufacture, followed by storage of the packaged product at 70 °C (plus or minus 2 °C) for 7 days; (2) storage unpackaged for the maximum amount of time the manufacturer allows the product to remain unpackaged after manufacture, followed by storage of the packaged product at 40 to 50 °C (plus or minus 2 °C) for 90 days; and (3) storage unpackaged for the maximum amount of time the manufacturer allows the product to remain unpackaged after manufacture, followed by storage of the packaged product at 15 to 30 °C for the stated shelf life of the product.

Under proposed § 801.435(e), if the latex barrier properties are adequate (i.e., pass the manufacturer's reasonable physical and mechanical integrity tests) after undergoing the 70 °C /7-day and 40 to 50 °C/90-day tests, the product may be labeled with an expiration date of up to 5 years. If the product, after storage at either 7- or 90-day test conditions, fails to meet the manufacturer's physical or mechanical integrity tests, the labeled shelf life of the product would be required to be demonstrated by real-time storage data at 15 to 30 °C. Products that pass the 7- and 90-day test conditions, would be required to undergo confirmation tests after the product has been stored at 15 to 30 °C for the stated shelf life. If the product fails the 15 to 30 °C confirmation test, the product would be required to be relabeled to represent the actual shelf life supported by real time data.

Although FDA would not require manufacturers of currently marketed products to submit new 510(k) submissions prior to marketing condoms with expiration dates, all testing data must be retained in each company's files as required by 21 CFR 820.180, and remain available for FDA inspection. New 510(k) submissions should include data to establish labeled expiration dates.

The agency believes that the proposed 180-day time period between the publication date of the final rule and the effective date of the final rule would be sufficient time to conduct the required tests and ensure that all latex condoms being initially introduced into interstate commerce will bear an expiration date. Latex condoms introduced into interstate commerce after the effective date of a final rule based on this proposal, which do not bear appropriate expiration dates would be considered to be misbranded under sections 201(n), 502(a) and (f)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(n), 352(a) and (f)(1)) in that their labeling fails to contain facts material to the consequences of their use, and fails to bear adequate directions for use.

II. Statement of Law

Section 701(a) of the act (21 U.S.C. 371(a)) authorizes FDA to issue substantive binding regulations for the efficient enforcement of the act. *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973); see also *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645, 653 (1973); *National Ass'n of Pharmaceutical Manufacturers* v. *FDA*, 637 F.2d 877 (2d Cir. 1981); *National Confectioners Ass'n* v. *Califano*, 569 F.2d 690 (D.C. Cir 1978); *National Nutritional Foods Ass'n* v. *Weinberger*, 512 F.2d 688 (2d Cir.) *cert. denied*, 423 U.S. 825 (1975).

Under the proposed rule, any latex condom that is not labeled as required and that is introduced or delivered for introduction into commerce after the effective date of a final rule would be misbranded under sections 201(n) and 502(a) and (f)(1) of the act (21 U.S.C. 321(n) and 352(a) and (f)(1)). Section 502(a) of the act provides that a device is misbranded if ''its labeling is false or misleading in any particular.'' Section 201(n) of the act provides that, in determining whether labeling of a regulated article (such as a device) is misleading:

* * * there shall be taken into account * * * not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling * * * fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling * * * relates * * *.

The shelf life of latex condoms is material information that consumers need in order to safely use latex products. The omission of shelf life would constitute an omission of a material fact and would render latex condoms without an expiration date misbranded within the meaning of section 502(a) of the act. The courts have upheld FDA's authority to prevent false and misleading labeling by promulgating regulations requiring label warnings and other affirmative disclosures, see, e.g., *Cosmetic, Toiletry and Fragrance Association* v. *Schmidt*, 409 F. Supp. 57 (D.D.C. 1976), *aff'd without opinion*, Civil No. 75–1715 (D.C. Cir. August 19, 1977), even in the absence of a proven cause and effect relationship between product usage and harm, *Council for Responsible Nutrition* v. *Goyan*, Civil No. 80–1124 (D.D.C. August 1, 1980).

Section 502(f)(1) of the act provides that a device is also misbranded unless its labeling bears adequate directions for use. Adequate directions for use means adequate directions under which a layperson can use a device safely and for the purpose for which it is intended (see 21 CFR 801.4 and 801.5). Information concerning latex condom shelf life is necessary to allow lay users to use these products safely by avoiding use of products that may have degraded. Failure to include such information would render the products misbranded under section 502(f)(1) of the act.

FDA may impose testing requirements in a labeling regulation issued under its general rulemaking authority. See, e.g., *American Frozen Food Inst.* v. *Mathews*, 413 F. Supp. 548 (D.D.C. 1976), *aff'd per curiam sub nom. American Frozen Food Inst.* v. *Califano*, 555 F.2d 1059 (D.C. Cir 1977); see also *National Nutritional Foods Ass'n* v. *Weinberger*, supra. Thus, FDA may require that all latex condom manufacturers use the same conditions to test aging to ensure that the expiration date reflects the period of time a product can be used safely. A similar requirement is imposed in 21 CFR 801.430(f) for absorbency tests for menstrual tampons, and in 21 CFR 801.420(c)(4) on hearing aid manufacturers and distributors who must determine and state technical data values for hearing aid labeling in accordance with specified test procedures. The hearing aid regulation has been upheld. *American Speech and Hearing Ass'n* v. *Califano*, Medical Devices Report (CCH) No. 77–1327 §§ 15004, 15007 (D.D.C. August 23, 1977), *aff'd* No. 77–1327 (D.C. Cir. Dec. 19, 1977). Food regulations issued under section 701(a) of the act also impose many such specific testing requirements (see, e.g., 21 CFR 113.40 (tests for low-acid canned foods); 21 CFR 155.190(b)(2)(i) (test for determining drained weight of canned tomatoes); 21 CFR 161.190 (method for determining color designation of tuna)).

Consumers must be aware of the potential for degradation of latex condoms in order to safely use such products to provide a barrier from infectious agents. Accordingly, FDA believes that the shelf life is a material fact to the consequences of use of latex condoms. FDA also believes that a shelf life is necessary to provide the consumer with adequate directions for use. After the effective date of the final regulation, FDA will consider latex condoms that do not provide this information to be misbranded under sections 201(n), 502(a) and (f)(1) of the act because they fail to contain facts material to the consequences of their use, and fail to bear adequate directions for use.

III. Preemption

FDA advises that any labeling requirement based upon this proposal would, under section 521(a) of the act (21 U.S.C. 360k(a)), preempt any State or local requirement that is different from, or in addition to, FDA's labeling requirement. Section 521(a) of the act provides that no State or local government may establish any requirement applicable under the act if such requirement is different from, or in addition to, a requirement which is applicable to the device under the act.

In 1991, the State of Washington requested an advisory opinion regarding the preemption of its State requirement that condom labels bear a 3-year expiration date. One condom manufacturer had objected to the State law, on the grounds that its 510(k) clearance included labeling for a 5-year shelf life. The agency determined that the State requirement was not preempted by section 521(a) of the act because, at that time, there was no counterpart Federal requirement with respect to expiration date labeling for condoms. FDA's ''General Guidance for Modifying Condom Labeling to Include Shelf Life'' (Ref. 11) provided premarket notification procedures for manufacturers who choose voluntarily to affix shelf life dates to their condom packages. That document did not establish a ''requirement'' within the meaning of section 521(a) of the act. This proposed rule, when final, however, would constitute a requirement which will preempt any State or local requirement regarding the expiration date labeling of latex condoms which is different from, or in addition to, the final regulation.

IV. Labeling For Other Latex-Film Products

The agency recognizes that the unique packaging of latex condoms (i.e., product sealed individually in air-tight packages) makes it difficult to extrapolate the data relating to latex condoms to other latex-film medical devices that have packaging which may provide a different level of protection from environmental conditions. Given the evidence that aging affects the integrity of latex films, FDA believes that medical devices containing or composed of a latex film should provide information regarding the age of the latex film. In order to address this issue, FDA is initiating a study to determine at what rate latex gloves degrade under various environmental conditions.

Until the agency compiles sufficient data to propose an expiration date for latex devices other than condoms, the agency is considering whether to require devices containing or consisting of latex films, other than latex condoms, to be labeled with the date of manufacture (i.e., the date the latex film was formed by dipping). Although the date of manufacture provides no information about the expected life of the product, it will provide age information. Based upon such age information, consumers may make a more informed choice regarding the use of the product.

Furthermore, as shown in the FDA/Washington study cited above, latex films are far more stable in intact packages than when exposed. Because the normal use of some products (such as nonsterile examination gloves, sold in dispenser boxes of 100), includes storage in opened packages, FDA is also considering additional labeling information requirements for products normally dispensed in open containers, including the statement ''Heat and light accelerate the degradation of latex films. Store opened containers away from heat and light.''

FDA invites advance comments on these issues. Meanwhile, FDA encourages manufacturers to voluntarily provide information to consumers regarding the age of latex film devices, and additional educational materials and ancillary information regarding the

stability and best storage conditions of such products, as appropriate.

V. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(11) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This proposed regulation would require physical and mechanical integrity tests. Because condom manufacturers routinely conduct such tests on their products, the required testing would affect manufacturers only by establishing storage conditions prior to testing such products. This proposed rule would also require a labeling change. The proposed 180-day time period between the publication date and effective date of the final rule based upon this proposal would allow most manufacturers to exhaust their existing supply of labels. Accordingly, for the above-stated reasons, the agency certifies that the proposed rule will not have a significant economic impact on small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

VII. Paperwork Reduction Act of 1995

This proposed rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. The title, description, and respondent description of the information collection are shown below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Labeling Requirements for Latex Condoms—Expiration Date Labeling.

Description: These information collection requirements apply to condom manufacturers. This proposed rule expands the labeling of latex condoms to contain an expiration date. The expiration date must be supported by data from quality control tests demonstrating physical and mechanical integrity of three random lots of the same product which were stored under accelerated and real time conditions. Quality control testing under accelerated conditions must include tests of: (1) Unpackaged bulk product for the maximum amount of time the manufacturer allows the product to remain unpackaged; (2) packaged product stored at a specified temperature for 7 days; and (3) packaged product stored at a specified temperature for 90 days. Quality control testing must also be done under real time conditions, i.e., on packaged product at a specified temperature for the entire expiration period (up to 5 years).

The recording of shelf life testing by condom manufacturers is used to support the inclusion of expiration dating on the labeling of latex condoms. Information concerning latex condom shelf life is necessary to allow lay users to use these products safely by avoiding use of products that may have degraded. The effectiveness of latex condoms as a barrier to the transmission of infectious agents is dependent upon the integrity of the latex material. The shelf life of latex condoms is material information that consumers need in order to safely use latex products.

Condom manufacturers will use the information collected from the testing to establish the expiration date to be printed on the labeling and purchasers will use the information collected to determine likely effectiveness.

Section 510(h) of the act (21 U.S.C. 360(h)) requires that condom manufacturers as device manufacturers be inspected at least once in a 2-year period. During that inspection, FDA inspectors will review the test records used to support the expiration date in order to ensure that the expiration date is accurate.

Description of Respondents: Businesses or other for profit organizations.

Estimated Annual Recordkeeping Burden

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours	Total Capital Costs	Total Operating and Maintenance Costs
801.435(d)	58	1	58	120[1]	6,960[1]	$9,280[2]	$125,280[1]

[1] The annual burden reported here represents a year in which a manufacturer would have conducted testing at 0 days, 7 days, 90 days, and 5 years (in support of a labeled expiration period of 5 years). However, FDA expects that testing at 0 days, 7 days, and 90 days would be conducted during 1 year to justify a 5-year expiration period, and that testing on 5-year-old product would be conducted in another year.

[2] Capital costs are one time start-up costs and consist of a revision of policies and procedures.

As required by section 3507(d) of the Paperwork Reduction Act of 1995, FDA has submitted the collections of information contained in the proposed rule to OMB for review. Other organizations and individuals should submit comments on the information collection requirements by June 24, 1996, and should direct them to the

Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

VIII. Comments

Interested persons may, on or before August 22, 1996, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

IX. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Center for Disease Control and Prevention, ''HIV Prevalence Estimates and AIDS Case Projections for The United States: Report Based Upon a Workshop,'' *Morbidity and Mortality Weekly Report*, vol. 39/No. RR–16, November 30, 1990.

2. Conference on Latex as a Barrier Material, University of Maryland, (sponsored by FDA), May 1989.

3. Center for Disease Control, ''Update: Barrier Protection Against HIV Infection and Other Sexually Transmitted Diseases,'' *Morbidity and Mortality Weekly Report*, vol. 42/No. 30, August 6, 1993.

4. DeVincenzi, L., European Study Group on Heterosexual Transmission of HIV, Heterosexual Transmission of HIV in a European Cohort of Couples (abstract No. WSCO2–1), vol.1, IXth International Conference on AIDS/HIV STD World Congress. Berlin, 83, June 9, 1993.

5. Saracco, A., M. Musicco, A. Nicolosi, et al., ''Man-to-Woman Sexual Transmission of HIV: Longitudinal Study of 343 Steady Partners of Infected Men,'' *Journal of Acquired Immune Deficiency Syndrome*, 6:497–502, 1993.

6. Final Report: Lubricated Latex Condoms—Study of the Effects of Environmental Parameters on Deterioration: Program for Appropriate Technology in Health (PATH), FDA Contract No. 223–88–4285, October 1993.

7. Mandel, J. et al., ''Measurement of the Aging of Rubber Vulcanizates'' *Journal of Research of the National Bureau of Standards*, vol. 63C, No. 2, October-December, 1959.

8. Barker, L. R., Accelerated and Long-Term Ageing of Natural Rubber Vulcanisates: *Journal of Natural Rubber Research*, vol. 2, No. 4, pp. 201–213 (1987).

9. Barker, L. R., Accelerated Long-Term Ageing of Natural Rubber Vulcanisates, Part 2: Results From Ageing Tests at 40 C, *Journal of Natural Rubber Research*, vol. 5, No. 3, pp. 266–274, 1990.

10. ASTM D 3492, Standard Specification for Rubber Contraceptives (Condoms), American Society for Testing and Materials, Philadelphia, PA.

11. ''General Guidance for Modifying Condom Labeling to Include Shelf Life,'' Division of Small Manufacturers Assistance, Center for Devices and Radiological Health, Rockville, MD.

List of Subjects in 21 CFR Part 801

Labeling, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 801 be amended as follows:

PART 801—LABELING

1. The authority citation for 21 CFR part 801 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 507, 519, 520, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 357, 360i, 360j, 371, 374).

2. New § 801.435 is added to subpart H to read as follows:

§ 801.435 User labeling for latex condoms.

(a) This section applies to the subset of condoms as identified in § 884.5300 of this chapter, and condoms with spermicidal lubricant as identified in § 884.5310, which products are formed from latex films.

(b) Data show that the material integrity of latex condoms degrades over time. To protect the public health and minimize the risk of device failure, latex condoms must bear an expiration date which is supported by testing as described in paragraph (d) of this section.

(c) The expiration date, as demonstrated by testing procedures described in paragraph (d) of this section, must be displayed prominently and legibly on the primary packaging (e.g., individual package), and higher levels of packaging (e.g., boxes of condoms), in order to ensure visibility of the expiration date.

(d) The expiration date must be supported by data from reasonable quality control tests demonstrating the physical and mechanical integrity of the product after three discrete and random lots of the same product have been subjected to each of the following conditions:

(1) Storage of unpackaged bulk product for the maximum amount of time the manufacturer allows the product to remain unpackaged, followed by storage of the packaged product at 70 °C (plus or minus 2 °C) for 7 days;

(2) Storage of unpackaged bulk product for the maximum amount of time the manufacturer allows the product to remain unpackaged, followed by storage of the packaged product at a selected temperature between 40 and 50 °C (plus or minus 2 °C) for 90 days; and

(3) Storage of unpackaged bulk product for the maximum amount of time the manufacturer allows the product to remain unpackaged, followed by storage of the packaged product at a monitored or controlled temperature between 15 and 30 °C for the lifetime of the product (real-time storage).

(e) If a product fails the manufacturer's reasonable quality control tests for physical and mechanical integrity after the completion of the accelerated storage tests described in paragraphs (d)(1) and (d)(2) of this section, the product expiration date must be demonstrated by real-time storage conditions described in paragraph (d)(3) of this section. If all of the products tested after storage at temperatures as described in paragraphs (d)(1) and (d)(2) of this section pass the manufacturer's reasonable physical and mechanical integrity tests, the manufacturer may label the product with an expiration date of up to 5 years from the date of product packaging. If the extrapolated expiration date, under paragraphs (d)(1) and (d)(2) of this section, is used, the labeled expiration date must be confirmed by reasonable physical and mechanical integrity tests performed at the end of the stated expiration period as described in paragraph (d)(3) of this section. If the data from tests following real-time storage described in paragraph (d)(3) of this section fails to confirm the extrapolated expiration date, the manufacturer must, at that time, relabel the product to reflect the actual shelf life.

(f) The time period upon which the expiration date is based shall start with the date of packaging.

(g) All testing data must be retained in each company's files, as required by § 820.180 of this chapter, and shall be made available, upon request, for inspection by FDA.

(h) Any latex condom not labeled with an expiration date as required by paragraph (c) of this section, and delivered for introduction into interstate commerce after the effective date of this regulation is misbranded under sections 201(n) and 502(a) and (f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(n), 352(a) and (f)).

Dated: May 17, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–13174 Filed 5–23–96; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FL–5510–2]

Clean Air Act Interim Approval of Operating Permits Program; Delegation of Section 112 Standards; State of Vermont

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes interim approval of the Operating Permits Program submitted by Vermont for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources. EPA is also approving Vermont's authority to implement hazardous air pollutant requirements.

DATES: Comments on this proposed action must be received in writing by June 24, 1996.

ADDRESSES: Comments should be addressed to Donald Dahl, Air Permits, CAP, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203–2211. Copies of the State's submittal and other supporting information used in developing the proposed interim approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 1, One Congress Street, 11th floor, Boston, MA 02203–2211.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, CAP, U.S. Environmental Protection Agency, Region 1, JFK Federal Building, Boston, MA 02203–2211, (617) 565–4298.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

As required under title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (''the Act'')), EPA has promulgated rules which define the minimum elements of an approvable State operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of State operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) Part 70. Title V requires States to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that States develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

B. Federal Oversight and Sanctions

If EPA were to finalize this proposed interim approval, it would extend for two years following the effective date of final interim approval, and could not be renewed. During the interim approval period, the State of Vermont would be protected from sanctions, and EPA would not be obligated to promulgate, administer and enforce a Federal permits program for the State of Vermont. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of interim approval, as does the 3-year time period for processing the initial permit applications [1].

Following final interim approval, if the State of Vermont failed to submit a complete corrective program for full approval by the date 6 months before expiration of the interim approval, EPA would start an 18-month clock for mandatory sanctions. If the State of Vermont then failed to submit a corrective program that EPA found complete before the expiration of that 18-month period, EPA would apply sanctions as required by section 502(d)(2) of the Act, which would remain in effect until EPA determined that the State of Vermont had corrected the deficiency by submitting a complete corrective program. If, six months after application of the first sanction, the State of Vermont still has not submitted a corrective program that EPA finds complete, a second sanction will be required.

If, following final interim approval, EPA were to disapprove the State of Vermont's complete corrective program, EPA would be required under section 502(d)(2) to apply sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the State of Vermont had submitted a revised program and EPA had determined that it corrected the deficiencies that prompted the disapproval. If, six months after EPA applies the first sanction, the State of Vermont has not submitted a revised program that EPA has determined corrected the deficiencies that prompted disapproval, a second sanction will be required.

Moreover, if EPA has not granted full approval to the State of Vermont's program by the expiration of an interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a Federal permits program for the State of Vermont upon interim approval expiration.

II. Proposed Action and Implications

A. Analysis of State Submission

The analysis contained in this document focuses on specific elements of Vermont's title V operating permits program that must be corrected to meet the minimum requirements of 40 CFR part 70. The full program submittal, technical support document (TSD), dated April 19, 1996 entitled ''Technical Support Document—Vermont Operating Permits Program'', which contains a detailed analysis of the submittal, and other relevant materials are available for inspection as part of the public docket. The docket may be viewed during regular business hours at the address listed above.

1. Title V Program Support Materials

Vermont's title V program was submitted by the State on April 28, 1995 (PROGRAM). The submittal was found to be administratively complete on June 12, 1995. The PROGRAM consisted of a Governor's letter, program description, Attorney General's legal opinion, permitting regulations and enabling legislation, and permitting program documentation. Included with the PROGRAM submittal was a draft implementation agreement which will be finalized by EPA and Vermont. The

[1] Note that states may require applications to be submitted earlier than required under section 503(c). See Subchapter X, Section 5–1005 of Vermont's rules.

agreement outlines procedures for EPA oversight, the state's administration of the PROGRAM, and state commitments for implementing future air toxic regulations. On March 6, 1996, Vermont submitted a supplement to their PROGRAM, which included a revised Attorney General Opinion, a revised permit form, and a letter of intention for delegation of standards under sections 111 and 112 of the Clean Air Act.

2. Title V Operating Permit Regulations and Implementation

Vermont's regulations implementing Part 70 include Environmental Protection Regulations, Air Pollution Control Chapter V, Definitions (§ 5–101) and Subchapter X (§§ 5–1001–1016, Operating Permits). The Vermont PROGRAM, including the operating permit regulations, substantially meets the requirements of 40 CFR part 70, including §§ 70.2 and 70.3 with respect to applicability, §§ 70.4, 70.5 and 70.6 with the respect to permit content and operational flexibility, §§ 70.7 and 70.8 with respect to public participation and review by affected states and EPA, and § 70.11 with respect to requirements for enforcement authority. Although the regulations substantially meet Part 70 requirements, there are program deficiencies that are outlined in section II.B. below as Interim Approval issues. Those Interim Approval issues are more fully discussed in the TSD. The ''Issues'' section of the TSD also contains a detailed discussion of elements of Part 70 that are not explicitly contained in Vermont's regulation, but which are satisfied by other elements of Vermont's program submittal and/or other Vermont State law. Also discussed in the TSD are certain elements of Vermont's title V regulation that are in need of a legal interpretation and which EPA is interpreting to be consistent with Part 70 with the understanding that Vermont shares such interpretation. Those elements include: (1) the absence of the language ''[a]ny national ambient air quality standard or increment or visibility requirement under Part C of title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act'' in Vermont's definition of ''applicable requirement''; (2) Section 5–1014 of Vermont's rule relating to ''off-permit'' changes; (3) Vermont's treatment of ''insignificant activities'' under Sections 5–1002 and 5–1006; (4) Vermont's authority to make applicability determinations in Section 5–1003; (5) Vermont's treatment of the stringency of compliance schedules contained in permits as required by 40 CFR 70.5(8)(iii)(C); (6) Vermont's treatment of certain permit content elements required by 40 CFR 70.6; (7) Vermont's method for providing adequate, streamlined, and reasonable procedures for expeditiously processing permit modifications; and (8) Vermont's requirements for the time frames and detailed contents of compliance certifications. EPA understands that Vermont will implement its program consistent with these interpretations, and will base this interim approval on these interpretations unless Vermont comments to the contrary.

Variances. Vermont's Air Quality Variance Board has the authority to issue a variance from requirements imposed by State law. See 10 V.S.A. § 561. The EPA regards Vermont's variance provisions as wholly external to the program submitted for approval under Part 70 and consequently is proposing to take no action on these provisions of State law. The EPA has no authority to approve provisions of State law that are inconsistent with the Act. The EPA does not recognize the ability of a permitting authority to grant relief from the duty to comply with a federally enforceable Part 70 permit, except where such relief is granted through procedures allowed by Part 70. A Part 70 permit may be issued or revised (consistent with Part 70 procedures), to incorporate those terms of a variance that are consistent with applicable requirements. A Part 70 permit may also incorporate, via Part 70 permit issuance or revision procedures, the schedule of compliance set forth in a variance. However, EPA reserves the right to pursue enforcement of applicable requirements notwithstanding the existence of a compliance schedule in a permit to operate. This is consistent with 40 CFR 70.5(c)(8)(iii)(C), which states that a schedule of compliance ''shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.''

3. Permit Fee Demonstration

Section 502(B)(3) of the Act requires that each permitting authority collect fees sufficient to cover all reasonable direct and indirect costs required to develop and administer its title V operating permit program. Each title V program submittal must contain either a detailed demonstration of fee adequacy or a demonstration that the fees collected exceed $25 per ton of actual emissions per year, adjusted from the August, 1989 consumer price index (''CPI''). The $25 per ton was presumed by Congress to cover all reasonable direct and indirect costs to an operating permit program. This minimum amount is referred to as the ''presumptive minimum.''

Vermont has opted to make a presumptive fee demonstration. Vermont has demonstrated that actual emissions emitted from their title V sources was 5079 tons, excluding carbon monoxide. Vermont's permit fee legislation requires that each title V source pay an annual fee based on $800 per facility and $30 per ton. Therefore Vermont will collect $219,375. Using Vermont's application and emission fees, the State will collect $43.19 per ton annually which is above the presumptive minimum adjusted by the CPI.

Therefore, Vermont has demonstrated that the State will collect sufficient permit fees to meet EPA's presumptive minimum criteria. For more information, see section VII of Vermont's title V program documentation.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority and/or Commitments for Section 112 Implementation

Vermont has demonstrated in its title V program submittal adequate legal authority to implement and enforce all section 112 requirements through the title V permit. This legal authority is contained in Vermont's enabling legislation, regulatory provisions defining ''applicable requirements,'' and the requirement that a title V permit must incorporate all applicable requirements. EPA has determined that this legal authority is sufficient to allow Vermont to issue permits that assure compliance with all section 112 requirements and to carry out all section 112 activities. In addition, given Vermont's commitments regarding implementation of the State's title V program, EPA has determined that the State will issue permits that assure compliance with all section 112 requirements, and will carry out all section 112 activities. For further discussion of this subject, please refer to the Technical Support Document, referenced above, and the April 13, 1993 guidance memorandum titled ''Title V Program Approval Criteria for Section 112 Activities,'' signed by John Seitz, Director of the Office of Air Quality Planning and Standards.

b. Implementation of 112(g) Upon Program Approval

On February 14, 1995, EPA published an interpretive notice (see 60 FR 8333) that postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing the

requirements of that provision. The section 112(g) interpretive notice explains that EPA is still considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow States time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of the effective date of section 112(g), Vermont must be able to implement section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations for section 112(g) requirements. EPA believes that Vermont can utilize its preconstruction permitting program to serve as a procedural vehicle for implementing the section 112(g) rule and making these requirements Federally enforceable between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations for section 112(g). For this reason, EPA is proposing to approve Vermont's preconstruction permitting program found in 10 V.S.A. § 5–501 under the authority of title V and Part 70 solely for the purpose of implementing section 112(g) during the transition period between title V approval and adoption of a State rule implementing EPA's section 112(g) regulations.

Since the approval would be for the single purpose of providing a mechanism to implement section 112(g) during the transition period, the approval would be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until State regulations are adopted. Also, since the approval would be for the limited purpose of allowing the State sufficient time to adopt regulations, EPA proposes to limit the duration of the approval to 18 months following promulgation by EPA of its section 112(g) rule.

c. Program for Straight Delegation of Sections 111 and 112 Standards

The part 70 requirements for approval of a State operating permit program, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of the hazardous air pollutant program General Provisions, Subpart A, of 40 CFR parts 61 and 63, promulgated under section 112 of the Act, and MACT standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that a State's program contain adequate legal authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under Part 70. The Vermont Department of Environmental Conservation provided a supplemental request on March 6, 1996, for non-part 70 sources which contained information regarding adequate legal authorities, adequate resources for implementation, and an expeditious compliance schedule. Therefore, EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 of Vermont's mechanism for receiving delegation of section 112 standards for both major and area sources, that are unchanged from the Federal standards as promulgated (straight delegation) and section 112 infrastructure programs such as those programs authorized under sections 112(i)(5), 112(g), 112(j), and 112(r). In addition, EPA is reconfirming the delegation of 40 CFR part 60 standards currently delegated to Vermont as indicated in Table I. Please note EPA has withdrawn delegation of Subpart XX, ''Bulk Gas Terminals'' per Vermont's request. Vermont requested the withdrawal because there currently are no Subpart XX sources in the State.

EPA is proposing to delegate all applicable future 40 CFR parts 60, 61, and 63 standards pursuant to the following mechanism unless otherwise requested by Vermont.[2] Vermont will accept future delegation of standards by checking the appropriate boxes on a standardized checklist. The EPA Regional Office will forward a checklist listing the applicable regulations to Vermont, and Vermont will accept the Federal standard as promulgated by checking the appropriate box and returning it to EPA. The details of this delegation mechanism are set forth in the March 6, 1996 letter containing a Memorandum of Agreement between EPA and Vermont. This program will apply to both existing and future standards. The original delegation agreement between EPA and Vermont was set forth in a letter to Brendan J. Whittaker dated September 30, 1982. In addition, Vermont has indicated that for some section 112 standards it may choose to submit a more stringent State rule or program through section 112(l). EPA will need to take public notice and comment for any section 112 delegation other than straight delegation.

Vermont is implementing this delegation by issuing permits to both major and area/minor sources. Permits issued to area/minor sources are not title V permits and therefore may not be federally enforceable.

d. Implementation of Title IV of the Act

Vermont has stated in Section 5–1008(g) of Subchapter X that the ''Secretary shall implement the requirements and provisions of Title IV of the federal Clean Air Act.''

B. Proposed Action

The scope of Vermont's Part 70 program covers all Part 70 sources within the state of Vermont, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–18 (Nov. 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' *See* section 302(r) of the CAA; *see also* 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources and non-part 70 sources. As discussed above, Vermont's submittal meets the requirements for EPA approval of delegation of section 112 standards. Therefore, the EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 of the State's mechanism for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. Vermont will be issuing permits containing section 112 standards to both major and area/minor sources; therefore, EPA is delegating authority to implement these standards for all sources subject to the standards, not just for part 70 sources.

The EPA is proposing to grant interim approval to the operating permits program submitted by Vermont on April 28, 1995. If promulgated, the State must make the following changes to receive full approval:

[2] The radionuclide National Emission Standards for Hazardous Air Pollutant (NESHAP) is a section 112 regulation and therefore, also an applicable requirement under the State operating permits program for part 70 sources. There is not yet a Federal definition of ''major source'' for radionuclide sources. Therefore, until a major source definition for radionuclide is promulgated, no source would be a major section 112 source solely due to its radionuclide emissions. However, a radionuclide source may, in the interim, be a major source under Part 70 for another reason, thus requiring a Part 70 permit. The EPA will work with the State in the development of its radionuclide program to ensure that permits are issued in a timely manner.

1. Vermont does not allow for ''section 502(b)(10)'' changes at a title V source. In an August 29, 1994 (59 FR 44572) rulemaking proposal, EPA proposed to eliminate section 502(b)(10) changes as a mechanism for implementing operational flexibility. However, the Agency solicited comment on the rationale for this proposed elimination. If EPA should conclude, during a final rulemaking, that section 502(b)(10) changes are no longer required as a mechanism for operational flexibility, then Vermont will not be required to address 502(b)(10) changes in its rule.

2. In Sections 5–1014 and 5–1015(a)(11), the program regulation implementing operational flexibility requirements allows the State the *discretion* to incorporate emission trades into a permit, and does not require that the emissions involved in such trades be quantifiable. EPA's rule states that when a permitting authority agrees to establish an emissions cap in a title V permit independent of otherwise applicable requirements, the permitting authority *must* include emission trading provisions for complying with that cap requested by the permit applicant, as long as those provisions are quantifiable and include the compliance requirements of 40 CFR 70.6 (a) and (c). EPA's rule also requires that the emissions involved in such trades be quantifiable before a title V permit can provide for the trades. See § 70.4(b)(12)(iii). However, if a source requests an emission trade that could violate an underlying state requirement, the State has the discretion to limit any emission trading consistent with the state requirement when issuing the operating permit.

Vermont must therefore adopt regulatory language *requiring* the State to include, upon request by a source, emission trading provisions in a title V permit for the purpose of complying with an emissions cap established in the permit, provided that the emissions involved in such trades are quantifiable. Vermont retains the option to include language in its regulation that would require all such trades to be consistent with state requirements as well as applicable requirements.

3. In Section 5–1008(e)(1), the program regulation states that Vermont has the *discretion* to reopen and reissue a title V permit for cause. In Section 5–1008(e)(4) (i)–(vi), the program regulation enumerates the conditions which would potentially cause Vermont to reopen a permit. EPA's rule *requires* a permitting authority to reopen and reissue a permit when certain conditions exist (or ''for cause'' as defined by the regulation). See 40 CFR 70.7(f). Thus, Vermont must change the word ''may'' to ''shall'' in Section 5–1008(e)(1). Vermont must also include a provision in its rule requiring the State to reopen and reissue a permit (with a remaining term of 3 or more years) *within 18 months* of a source's becoming subject to an additional applicable requirement. See § 70.7(f)(1)(i).

4. Vermont must adopt provisions in Subchapter X which would require that every permit contain certain terms and conditions as specified in section 70.6. Vermont's current permit content section, found at Section 5–1015 of Subchapter X, does not contain all of the terms and conditions in § 70.6. Section 5–1015 of the program rule requires permit terms which generally address applicable requirements, emission monitoring and reporting, and compliance plans. Vermont will need to add the following missing requirements of section 70.6: (a) a source's obligation to report promptly any permit deviations (section 70.6(a)(3)(iii)(B)); (b) a source's obligation to maintain a record when switching between operating scenarios (section 70.6(a)(9)(i)); (c) the State's obligation to separate in a title V permit those permit terms which are enforceable by the State only (and to specifically designate them as such) from those which are enforceable by both the State and EPA (sections 70.6(b) (1) and (2)); and (d) the State's obligation to indicate in a title V permit the origin and authority of all permit terms and conditions, and identify any difference in form as compared to the applicable requirement upon which a permit term or condition is based (section 70.6(a)(1)(i)).

There are several ways Vermont could revise its rule to address the separation of federal and state requirements. One option suggested by EPA's recent ''White Paper Number 2,'' dated March 5, 1996, is to clarify which state requirements are not federally-enforceable in the Findings of Fact section of the draft permit. This separation would identify for all concerned parties the federal applicable requirements and the requirements based solely on State law. If Vermont proposed to consolidate the State and federal requirements in the permit terms and conditions, Vermont would then have to use the most stringent limit as the permit condition in the draft permit. If an applicant objected during the public comment period to the consolidation of federal and State requirements, Vermont would have to separate the permit conditions within the enforceable terms and conditions section of the final permit. Vermont's regulation must clearly provide the permit applicant the authority to require the State to separate out State-only permit terms and conditions.

III. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed interim approval. Copies of the State's submittal and other information relied upon for the proposed interim approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed interim approval. The principal purposes of the docket are:

(1) to allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and

(2) to serve as the administrative record in the event of judicial review. The EPA will consider any comments received by June 24, 1996.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), 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 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 has determined that the action promulgated today does not include a Federal mandate that may result in

estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 6, 1996.

John P. DeVillars,

Regional Administrator, Region I.

Table I to the Preamble

Reconfirmation of Part 60 and 61 Delegations

Part 60 Subpart Categories

Da ELECTRIC UTILITY STEAM GENERATORS
Dc SMALL INDUSTRIAL-COMMERCIAL-INSTITUTIONAL STEAM GENERATING UNITS
E INCINERATORS
I ASPHALT CONCRETE PLANTS
RR TAPE AND LABEL SURFACE COATINGS
OOO NONMETALLIC MINERAL PROCESSING PLANTS
UUU CALCINERS AND DRYERS IN MINERALS INDUSTRY

Part 61 Subpart Categories

M ASBESTOS

[FR Doc. 96–13151 Filed 5–23–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 136

[FRL–5509–7]

Guidelines Establishing Test Procedures for the Analysis of Oil and Grease and Total Petroleum Hydrocarbons: Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; reopening of comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is reopening the comment period for the proposal to amend the Guidelines Establishing Test Procedures under section 304(h) of the Clean Water Act to replace existing gravimetric test procedures for the conventional pollutant ''oil and grease'' with EPA Method 1664, which was published in the Federal Register on January 23, 1996 (61 FR 1730). The public comment period for the proposed rule ended on March 25, 1996.

EPA has received several requests for an extension of time to comment on the proposed rule, on the grounds that several issues that the rule addresses require additional time for a proper evaluation. The Agency has determined that an extension of time is in the public interest, and that an additional 60 days to comment on the proposed rule is reasonable.

DATES: Comments on this proposal will be accepted until July 23, 1996.

ADDRESSES: Send written comments on the proposed rule to ''Method 1664'' Comment Clerk; Water Docket MC–4101; Environmental Protection Agency; 401 M Street, S.W.; Washington, D.C. 20460. Commenters are requested to submit any references cited in their comments. Commenters are also requested to submit an original and 3 copies of their written comments and enclosures. Commenters who want receipt of their comments acknowledged should include a self addressed, stamped envelope. All comments must be postmarked or delivered by hand by July 23, 1996. No facsimiles (faxes) will be accepted.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Honaker, Engineering and Analysis Division (4303), USEPA Office of Science and Technology, 401 M Street, S.W., Washington, D.C., 20460, or call (202) 260–2272.

SUPPLEMENTARY INFORMATION: On January 23, 1996, EPA published a proposed rule at 61 FR 1730 to replace existing gravimetric procedures for the conventional pollutant ''oil and grease'' (40 CFR 401.16) with EPA Method 1664 as part of EPA's effort to reduce dependency on the use of chlorofluorocarbons (CFCs). Method 1664 uses normal hexane (n-hexane) as the extraction solvent in place of 1,1,2-trichloro-1,2,2-trifluoroethane (CFC–113). This proposal would withdraw approval of EPA Method 413.1 and Standard Methods Method 5520B, which use CFC–113 as the extraction solvent. In an effort to provide for the use and depletion of existing laboratory stocks of CFC–113, EPA plans to implement the required use of Method 1664 no sooner than six months after the final rule is published in the Federal Register. Method 1664 was also proposed for the determination of total petroleum hydrocarbons.

This extension of time for comment neither represents any modification of the proposed rule, nor indicates a change in the Agency's interpretation of the existing requirements. The extension of time for receipt of comments simply provides those interested parties an additional 60 days to provide comments to the Agency on the proposed rule. All other requirements stipulated in the initial proposal for receipt of comments still apply.

All written comments submitted in accordance with the instructions in the Notice of Proposed Rulemaking and received by July 23, 1996, including those received between the close of the comment period on March 25, 1996, and the publication of this notice, will be entered into the public record and considered by EPA before promulgation of the final rule.

Dated: May 17, 1996.

Robert Perciasepe,

Assistant Administrator for Water.

[FR Doc. 96–13087 Filed 5–23–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[PP4E4420 and 6E4638/P656; FRL–5370–2]

RIN 2070–AC18

Metolachlor; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish time-limited tolerances for residues of the herbicide metolachlor and its metabolites in or on the raw agricultural commodities pepper, and forage and hay of the grass forage, fodder and hay crop group (excluding Bermudagrass). The proposed regulation to establish maximum permissible levels for residues of the herbicide was requested in petitions submitted by the Interregional Research Project No. 4 (IR-4). The tolerances would expire on December 31, 1998.

DATES: Comments, identified by the docket number [PP 4E4420 and 6E4638/P656], must be received on or before June 24, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Comments and data may also be submitted to OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 4E4420 and 6E4638/P656]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in the ''SUPPLEMENTARY INFORMATION'' section of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information''(CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a .m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petitions (PP) 4E4420 and 6E4638 to EPA on behalf of the named Agricultural Experiment Stations. These petitions request that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.368 by establishing tolerances for combined residues (free and bound) of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide], and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on certain raw agricultural commodities as follows:

1. PP 4E4420. Petition submitted on behalf of the Experimental Stations of Arkansas, Florida, Georgia, Oklahoma, South Carolina, and Texas proposing a time-limited tolerance for pepper at 0.5 part per million (ppm).

IR-4 also proposed that the established tolerances for combined residues of metolachlor and its metabolites on bell pepper at 0.1 ppm, chili pepper at 0.5 ppm, Cubanelle pepper at 0.1 ppm, and tabasco pepper at 0.5 ppm be removed. The established metolachlor tolerances for these varieties of pepper are no longer needed, since the proposed tolerance for pepper will apply to all varieties of pepper. The commodity term ''pepper'' is defined in 40 CFR 180.1(h) to include all varieties of pepper.

2. PP 6E4638. Petition submitted on behalf of the Experimental Station of Oregon proposing time-limited tolerances for forage at 10 ppm and hay at 0.2 ppm of the grass forage, fodder and hay crop group (excluding Bermudagrass). IR-4 proposed the tolerances in support of regional registration for use of metolachlor on grass grown for seed in Idaho, Oregon and Washington. The use of metolachlor on grass grown for seed will be limited to production areas in Idaho, Oregon, and Washington based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above. EPA is establishing these tolerances with an expiration date of December 31, 1998, to allow IR-4 time to submit additional residue data in support of permanent tolerances for pepper and the grass forage, fodder, and hay crop group (excluding Bermudagrass). IR-4 has agreed to provide magnitude of residue data from three additional field trials for bell pepper, and five additional field trials for grass forage and hay.

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include:

1. A 1–year feeding study with dogs fed diets containing 0, 100, 300, or 1,000 ppm (equivalent to 3.5, 9.7 or 32.7 mg/kg/day for males and 3.6, 9.7 or 33.0 mg/kg/day for females) with a systemic no-observed effect level (NOEL) of 300 ppm (9.7 mg/kg/day) based on decreased body weight in females.

2. A 2–year feeding/carcinogenicity study with rats fed diets containing 0, 30, 300, 1,000, or 3,000 ppm (equivalent to 0, 1.5, 15, 50, or 150 mg/kg/day) with a compound related increase in liver adenomas and combined adenomas/carcinomas in female rats at the high dose level. This study, which was performed by Industrial Biotest, was classified as supplemental data due to inadequate clinical chemistry determination and dietary preparation records.

3. A 2–year feeding/carcinogenicity study with rats fed diets containing 0, 30, 300, or 3,000 ppm (equivalent to 0, 1.5, 15, or 150 mg/kg/day) with a systemic NOEL of 300 ppm based on decreased body weight at the 3,000 ppm dose level. A statistically significant increase in liver neoplasia was found in female rats at the 3,000 ppm dose level.

4. A 2–year carcinogenicity study in mice fed diets containing 0, 300, 1,000 and 3,000 ppm (highest dose level equivalent to 428 mg/kg/day) with no treatment related carcinogenic effects observed under the conditions of the study.

5. A second 2–year carcinogenicity study in mice fed diets containing 0, 300, 1,000 or 3,000 ppm with no treatment related carcinogenic effects observed under the conditions of the study.

6. A 2–generation reproduction study in rats fed diets containing 0, 30, 300 or 1,000 ppm with a reproductive NOEL of 300 ppm (equivalent to 23.5 to 26 mg/kg/day) based on reduced pup weights in the F1a and F2a litters at the 1,000 ppm dose level (equivalent to 75.8 to 85.7 mg/kg/day). The NOEL for parental toxicity is equal to or greater than the 1,000 ppm dose level.

7. A developmental toxicity study in rabbits given gavage doses at 0, 36, 120 or 360 mg/kg/day on gestation days 6 through 18. The NOEL for maternal toxicity was established at 120 mg/kg/day based on lacrimation, miosis, reduced food consumption and body weight gain. There was no developmental toxicity observed under the conditions of the study.

8. A second developmental toxicity study in rats given gavage doses of 0, 30, 100, 300, or 1,000 mg/kg/day on gestation days 6-15. The NOEL's for maternal and developmental toxicity were established at 300 mg/kg/day. The NOEL for maternal toxicity was based on deaths, salivation, lacrimation, convulsions, reduced body weight and food consumption at the 1,000 mg/kg/day dose level. The NOEL for developmental toxicity was based on

reduced mean fetal body weight, reduced number of implantations/dam with resulting decreased litter size, and a slight increase in resorptions/dam with resulting increase in post-implantation loss.

9. Metolachlor was not found to be mutagenic in any tests. Mutagenicity data include gene mutation assays in Salmonella and mouse lymphoma cells; structural chromosome aberration tests including an *in vivo* micronucleus assay in Chinese hamsters and a dominant lethal assay in mice; and other genotoxic activity tests including DNA damage/repair assays in rat hepatocytes and in human fibroblasts, and an *in vivo/in vitro* unscheduled DNA synthesis assay.

10. Several metabolism studies have been performed with metolachlor and the available data indicate the compound is readily absorbed after oral dosing and excreted in approximately equal amounts in urine and feces.

Metolachlor was evaluated by the Office of Pesticide Programs' Health Effects Division, Carcinogenicity Peer Review Committee (CPRC) in 1991 and classified as a Group C (possible carcinogen) with a recommendation for the quantification of estimated potential human risk using a linearized low-dose extrapolation (Q*). This recommendation was based on the finding of liver tumors in female rats at the 3,000 ppm dose level in both rat studies and the apparent induction of a small number of nasal turbinate tumors in both sexes of rats at the 3,000 ppm dose level. Nasal turbinate tumors have also been associated with dietary administration of acetochlor and alachlor, structurally related herbicides that are classified as Group B2 carcinogens (probable human carcinogens).

The Carcinogenicity Peer Review Committee's decision was presented to the FIFRA Scientific Advisory Panel on September 18, 1991. The Panel concluded that liver tumors were benign and hyperplasia were evident in rats of both sexes. The Panel also concluded that the occurrence of nasal turbinate tumors in rats was low and not statistically significant, but of concern since metolachlor is structurally related to acetochlor and alachlor. The Panel considered the carcinogenicity evidence to be minimal but sufficient for the classification of metolachlor as a Group C carcinogen.

The CPRC met on July 27, 1994, to revaluate the weight-of-the-evidence on metolachlor, with particular reference to its carcinogenicity, based on newly submitted metabolism and mutagenicity studies. The registrant submitted data to show that the metabolism of metolachlor is substantially different from the metabolism of acetochlor and alachlor. Metolachlor does not metabolize to form a reactive quinone imine, which is presumed to be the carcinogenic metabolite of acetochlor and alachlor. There was also no evidence for mutagenic potential of metolachlor. Based on these data and in consideration of the full weight-of-the-evidence, the CPRC concluded that the classification of metolachlor should remain as a Group C carcinogen, but recommended that the Reference Dose (RfD) should be used for quantification of human risk.

The RfD is established at 0.1 mg/kg of body weight (bwt)/day, based on a NOEL of 9.7 mg/kg/day from the 1–year feeding study with dogs and an uncertainty factor of 100. Available information on anticipated residues and/or percent of crop treated were used to estimate the Anticipated Residue Contribution (ARC) from residues of metolachlor in the human diet. The ARC from established tolerances and the proposed tolerances for pepper and forage and hay of the grass, forage, fodder and hay group is estimated at 0.0006 mg/kg bwt/day and utilizes 0.6 percent of the RfD for the U.S. population. The ARC for non-nursing infants (the subgroup most highly exposed) utilizes 2 percent of the RfD. EPA generally has no concern for exposures below 100 percent of the RfD and concludes that the proposed uses of metolachlor on pepper and grass grown for seed pose negligible dietary cancer risks to humans.

Adequate analytical methods are available for enforcement purposes. The methods are listed in the Pesticide Analytical Manual, Vol. II (PAM II). The qualitative nature of the residues in plants and animals is adequately understood. The established tolerances for milk and meat, fat, kidney, liver and meat byproducts of livestock are adequate to cover secondary residues resulting from the proposed use on grass grown for seed. There are no livestock feed commodities associated with pepper.

There are presently no actions pending against the continued registration of this chemical. The pesticide is considered useful for the purpose for which the tolerances are sought.

Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR part 180 would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket number [PP 4E4420 and 6E4638/P656].

A record has been established for this rulemaking under docket number [PP 4E4420 and 6E4638/P656] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule (1) having an annual effect on the economy of $100

million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

This action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub.L. 104–4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement explaining the factual basis for this determination was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: May 10, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. In § 180.368, by removing ''peppers, bell'' from the table in paragraph (a), by revising the table in paragraph (c) and by adding a new paragraph (d) to read as follows:

§ 180.368 Metolachlor; tolerances for residues.

* * * * *

(c)* * *

Commodity	Parts per million	Expiration date
Onions, dry bulb	1.0	.....
Grass forage, fodder and hay group (excluding Bermudagrass), forage	10	December 31, 1998
Grass forage, fodder and hay group (excluding Bermudagrass), hay	0.2	December 31, 1998

(d) A time-limited tolerance is established for the combined residues (free and bound) of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide], and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in or on the following raw agricultural commodity:

Commodity	Parts per million	Expiration date
Pepper	0.5	December 31, 1998

[FR Doc. 96–13022 Filed 5–23–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I and Part 64

[CC Docket No. 96–98; CC Docket No. 96–112; DA 96–753]

Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Allocation of Costs Associated With Local Exchange Provision of Video Programming Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Common Carrier Bureau released a public notice inviting parties filing comments or reply comments on the Notice of Proposed Rulemaking in CC Docket No. 96–98, regarding implementation of the local competition provisions in the Telecommunications Act of 1996, and the Notice of Proposed Rulemaking in CC Docket No. 96–112, regarding allocation of costs associated with local exchange provision of video programming services, to submit proposed language for rules that the Commission could adopt in these proceedings. Such proposed language will not be counted against the page limits set forth in those notices.

DATES: Comment dates in CC Docket No. 96–98 are May 16, 1996, with reply comments due May 30, 1996, and also May 20, 1996, with reply comments due June 3, 1996. Comments in CC Docket No. 96–112 are due May 28, 1996; reply comments are due June 7, 1996.

ADDRESSES: Comments must be filed with the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D. C. 20554. The complete text of the Notice released by the Commission is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D. C. 20554.

FOR FURTHER INFORMATION CONTACT: Paul Gallant (202/418–1941), Policy and Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION:

Synopsis of Public Notice

On April 19, 1996, the Commission released a Notice of Proposed Rulemaking in CC Docket No. 96–98 to implement the local competition provisions of the Telecommunications Act of 1996. Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Notice of Proposed Rulemaking, FCC 96–182 (Local Competition NPRM) (61 FR 18311, April 25, 1996). Parties are hereby invited to submit, in conjunction with their comments or reply comments, proposed text for rules that the Commission could adopt in this proceeding. Specific rule proposals should be filed as an appendix to a party's comments or reply comments, and will not be counted against the page limits set forth in paragraph 291 of the Local Competition NPRM or the Order released May 7, 1996, modifying those page limits. Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Order, DA 96–700. Such appendices may include only proposed text for rules that would implement proposals set forth in the parties' comments and reply comments in this proceeding, and may not include any comments or arguments. Proposed rules should be provided in the format used for rules in the Code of Federal Regulations, and should otherwise conform to the Comment Filing Procedures set forth in the Local Competition NPRM.

On May 10, 1996, the Commission released a Notice of Proposed Rulemaking in CC Docket No. 96–112. Allocation of Costs Associated with Local Exchange Carrier Provision of Video Programming Services, Notice of Proposed Rulemaking, FCC 96–214 (LEC Video Programming NPRM) (61 FR 25184, May 20, 1996). Parties are hereby invited to submit, in conjunction with their comments or reply comments, proposed text for rules that the Commission could adopt in this proceeding. Specific rule proposals should be attached as an appendix to a party's comments or reply comments, and will not be counted against the page limits set forth in paragraph 66 of the LEC Video Programming NPRM. Such appendices may include only proposed text for rules that would implement proposals set forth in the parties' comments and reply comments in this proceeding, and may not include any comments or arguments. Proposed rules should be provided in the format used for rules in the Code of Federal Regulations, and should otherwise conform to the Comment Filing Procedures set forth in the LEC Video Programming NPRM.

Accordingly, *it is ordered* That parties may file proposed language for rules in this proceeding consistent with the procedures set forth above.

Federal Communications Commission.

Regina M. Keeney,

Chief, Common Carrier Bureau.

[FR Doc. 96–13101 Filed 5–23–96; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 61, No. 102
Friday, May 24, 1996

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

DEPARTMENT OF AGRICULTURE

Forest Service

Willamette Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Willamette PIEC Advisory Committee will meet on Wednesday, June 19 and Thursday June 20, 1996. The meeting on June 20th will be held in Conference Room ''A' of the Grand Manor Inn, 971 Kurse Way (just off Gateway Street); Springfield, Oregon 97477; phone (541) 726–4769 or 1–800–626–1900. The meeting is scheduled to begin at 1:00 p.m. and conclude at approximately 4:00 p.m. Topics tentatively scheduled on the agenda include: (1) Advisory Committee involvement in flood assessment and restoration, (2) Update on activities by agency managers, and (3) a public forum.

The meeting is open to the public and opportunity will be available to address the Advisory Committee during the public forum. Time allotted for individual presentations to the committee will be limited to 3–5 minutes each. Written comments are encouraged and can be submitted prior to the meeting.

On Thursday, June 20th, the Advisory Committee will tour areas on the Eugene District Bureau of Land Management (BLM) and Willamette National Forest. The trip will begin at the Eugene District of the BLM, 2890 Chad Drive; Eugene, Oregon 97401; at 7:45 a.m. and will end at the BLM District Office at about 4:00 p.m. Focus of the field trip will be on watershed restoration projects, impacts of the February flooding, and watershed analysis. Citizens are also welcome to join the June 20th field review but must provide their own transportation. Travel will be on double- and single-lane paved and improved-gravel roads.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Neal Forrester, Designated Federal Official; Willamette National Forest, 211 East Seventh Avenue; Eugene, Oregon 97401; (541) 465–6924.

Dated: May 20, 1996.

Marsha Scutvick,

Administration Officer.

[FR Doc. 96–13126 Filed 5–23–96; 8:45 am]

BILLING CODE 3410–11–M

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: The Rural Housing Service, USDA.

ACTION: Proposed collection; comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to request an extension for a currently approved information collection in support of the program for ''Self-Help Technical Assistance Grants'' (FmHA Instruction 1944–I).

DATE: Comments on this notice must be received by July 23, 1996 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: David J. Adams, Senior Loan Specialist, Single Family Housing Processing Division, RHS, U.S. Department of Agriculture, Ag Box 0783, Washington, D.C. 20250, Telephone (202) 720–1532.

SUPPLEMENTARY INFORMATION:

Title: Self-Help Technical Assistance Grants.

OMB Number: 0575–0043.

Expiration Date of Approval: November 30, 1996.

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

Abstract: This subpart set forth the policies and procedures and delegate authority for providing Technical Assistance funds to eligible applicants to finance programs of technical and supervisory assistance for self-help housing, as authorized under Section 523 of the Housing Act of 1949 loan program under U.S.C. 42, Section 1472. This financial assistance may pay part of all of the cost of developing, administering, or coordinating program of technical and supervisory assistance to aid very low- and low-income families in carrying our self-help housing efforts in rural areas. The primary purpose is to fund organizations that are willing to locate and work with families that otherwise do not qualify as homeowners, are below the 50 percent of median incomes, and living in substandard housing.

RHS will be collecting information from non-profit organizations to enter into grant agreements. These non-profit organizations will give technical and supervisory assistance, and in doing so, they must develop a final application for Section 523 grant funds. This application contain Agency forms that contain essential information for making a determination of eligibility.

Estimate of Burden: Public reporting for this collection of information is estimated to average 1.13 per response.

Respondents: Individual or households.

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondents: 22.9.

Estimated Total Annual Burden of respondents: 2,640.

Copies of this information can be obtained from the Director, Regulations and Paperwork Management Division at (202) 720–9725.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function of RHS, including whether the information will have practical utility; (b) the accuracy of RHS'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 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 the Director, Regulations and Paperwork Management Division, U.S. Department

of Agriculture, Rural Development, Ag Box 0743, Washington, D.C. 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: May 11, 1996.

Maureen Kennedy,

Administrator, Rural Housing Service.

[FR Doc. 96–13137 Filed 5–23–96; 8:45 am]

BILLING CODE 3410–07–M

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to request an extension for a currently approved information collection in support of the program for ''Rural Housing Loans and Grants'' (FmHA Instruction 1944–J).

DATES: Comments on this notice must be received by July 23, 1996 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: David J. Adams, Senior Loan Specialist, Single Family Housing Processing Division, RHS, U.S. Department of Agriculture, Ag Box 0783, Washington, D.C. 20250, Telephone (202) 720–1532.

SUPPLEMENTARY INFORMATION:

Title: Rural Housing Loans and Grants.

OMB Number: 0575–0062.

Expiration Date of Approval: May 31, 1996.

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

Abstract: The rural housing loan program under Section 504 of the Housing Act of 1949, 42 U.S.C. Section 1472, enables very low-income owner/occupants of homes to repair homes in rural areas. The repairs may be used to remove health and safety hazards. Grants are available to owner/occupants 62 years or older.

RHS will be collecting information from owner/occupants of homes in rural areas in need of funds to remove hazards from their home. At this time this information is collected and evaluated by the local RHS County Office. This information is needed by RHS to determine if owner/occupants of homes in rural areas, qualify for a rural housing loan and/or grant. This information is collected for all requests for this type of assistance. The information collected is required for the Agency to make a determination of eligibility. If the information is not collected, RHS would be usable to make an objective determination of eligibility for owner/occupants of homes in rural areas.

Estimate of Burden: Public reporting for this collection of information is estimated to average .08 per response.

Respondents: Individual or households.

Estimated Number of Respondents: 13,000.

Estimated Number of Responses per Respondents: 1.40.

Estimated Total Annual Burden of Respondents: 1,464.

Copies of this information can be obtained from the Director, Regulations and Paperwork Management Division at (202) 720–9725.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function of RHS, including whether the information will have practical utility; (b) the accuracy of RHS'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 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 the Director, Regulations and Paperwork Management Division, U.S. Department of Agriculture, Rural Development, Ag Box 0743, Washington, D.C. 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: May 11, 1996.

Maureen Kennedy,

Administrator, Rural Housing Service.

[FR Doc. 96–13138 Filed 5–23–96; 8:45 am]

BILLING CODE 3410–07–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Telecommunications Act Accessibility Guidelines for Telecommunications Equipment and Customer Premises Equipment

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of appointment of advisory committee members and notice of first meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) is announcing the appointment of members to its Telecommunications Access Advisory Committee (Committee). The Committee will make recommendations to the Access Board on accessibility guidelines for telecommunications equipment and customer premises equipment. These recommendations will be used by the Access Board to develop accessibility guidelines under section 255 (e) of the Telecommunications Act of 1996. The Committee is composed of representatives of manufacturers of telecommunications equipment and customer premises equipment; organizations representing the access needs of individuals with disabilities; telecommunications providers and carriers; and other persons affected by the guidelines. This notice also announces the time and place of the first Committee meeting, which will be open to the public.

DATES: The first meeting of the Committee is scheduled for Wednesday, June 12, 1996 through Friday, June 14, 1996, beginning at 9:30 a.m. each day. Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Notices of future meetings will be published in the Federal Register.

ADDRESSES: The first meeting of the Committee will be held at the American Speech-Language and Hearing Association offices, 10801 Rockville Pike, Rockville, MD 20852. Persons attending the meetings are strongly encouraged to use public transportation since parking is extremely limited. The American Speech-Language and Hearing Association offices are located north of the Grosvenor Metro subway station. Persons who must drive should call Dennis Cannon at the Access Board. The facility is accessible to individuals with disabilities. Sign language interpreters, assistive listening systems and real time transcription will be available.

Subsequent meetings will be held at locations to be announced.

FOR FURTHER INFORMATION CONTACT: Dennis Cannon, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, D.C. 20004–1111. Telephone number (202) 272–5434 extension 35 (Voice); (202) 272–5449 (TTY). Electronic mail address: cannon@access-board.gov. This document is available in alternate formats (cassette tape, braille, large print, or computer disc) upon request.

SUPPLEMENTARY INFORMATION: On March 28, 1996, the Access Board published a notice of intent to establish an advisory committee to make recommendations to the Access Board on accessibility guidelines for telecommunications equipment and customer premises equipment. 61 FR 13813 (March 28, 1996). Under section 255 (e) of the Telecommunications Act of 1996, the Access Board is responsible for developing these guidelines, in conjunction with the Federal Communications Commission. The notice requested nominations for membership on the Committee from manufacturers of telecommunications equipment and customer premises equipment; manufacturers and developers of peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access; organizations representing the access needs of individuals with disabilities affecting hearing, vision, movement, manipulation, speech, and interpretation of information; telecommunications providers and carriers; developers of telecommunications software; and other persons affected by these accessibility guidelines.

Over 60 nominations were submitted. For the reasons stated in the notice of intent, the Access Board has determined that establishing the Committee is necessary and in the public interest. The Access Board has appointed members to the Committee from the following organizations:

AT&T American Council of the Blind
American Foundation for the Blind
Arkenstone
Bay Area Multi Media Technology Consortium
Cellular Telecommunications Industry Association
Consumer Action Network
Consumer Electronics Manufacturers Association
The Council of Organizational Representatives
Deaf and Disabled Telecommunications Program
Digital Equipment Corporation
The Ericsson Corporation
Gallaudet University
Inclusive Technologies
Lucent Technologies
Massachusetts Assistive Technology Partnership Center
NCR Project Freedom
National Association for State Relay Administration
National Federation of the Blind
Northern Telecom
NYNEX Corporation
Pacific Bell
Pennsylvania Citizens Consumer Council
Personal Communications Industry Association
RESNA
Self Help for Hard of Hearing People, Inc.
Siemens Rolm Communications, Inc.
Telecommunications Industry Association
Trace Research and Development Center
United Cerebral Palsy Associations, Inc.
U.S. Society for Augmentative and Alternative Communication
United States Telephone Association
World Institute on Disability

The Access Board regrets being unable to accommodate all requests for membership on the Committee. There were several factors which were important in the Access Board's decision not to add more members. In order to keep the Committee to a size that can be effective, it is necessary to limit membership. It is also desirable to have balance among members of the Committee representing different clusters of interest, such as disability organizations and the telecommunications industry. In addition, it is not essential that every concerned organization is represented, so long as every interest is represented by an appropriate organization. The Committee membership identified above provides representation for each interest affected by issues to be discussed.

Committee meetings will be open to the public and interested persons can attend the meetings and communicate their views. Members of the public will have an opportunity to address the Committee on issues of interest to them and the Committee. Members of groups or individuals who are not members of the Committee may also have the opportunity to participate with subcommittees of the Committee. The Access Board believes that participation of this kind can be very valuable for the advisory committee process.

Additionally, all interested persons will have the opportunity to comment when the proposed accessibility guidelines for telecommunications equipment and customer premises equipment are issued in the Federal Register by the Access Board.

Judith E. Heumann,

Chairman, U.S. Architectural and Transportation Barriers Compliance Board.

[FR Doc. 96–13149 Filed 5–23–96; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted the following collection requirement to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. An emergency clearance is being requested with a response date of no later than May 31, 1996, from OMB.

Agency: International Trade Administration (ITA).

Title: Best Global Practices Award.

Agency Number: None.

OMB Number: None.

Type of Request: New Collection—EMERGENCY PROCESSING REQUESTED. Clearance requested by May 31, 1996.

Burden: 1,000 hours.

Number of Respondents: 50.

Avg Hours Per Response: 20 hours.

Needs and Uses: The Department of Commerce is establishing a ''Best Global Practices Award'' to recognize the programs of U.S. companies exhibiting extraordinary leadership and accomplishment in corporate citizenship in overseas activities. The purposes of this information collection is to accept nominations and evaluate candidates.

Affected Public: Businesses or other for-profit institutions, not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required in order to be considered for this Award.

OMB Desk Officer: Victoria Wassmer, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC's Acting Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed

information collection should be sent to Victoria Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: May 20, 1996

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–13074 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–DR–P

Bureau of the Census

Census Advisory Committee on Agriculture Statistics; Notice of Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice of a meeting of the Census Advisory Committee on Agriculture Statistics. The meeting will be held on June 13, 1996 in the Francis Amasa Walker Conference Center at the U.S. Bureau of the Census, Suitland, Maryland.

The Committee advises the Director, Bureau of the Census, on the conduct of periodic censuses of agriculture and related surveys, and the kind of information that should be obtained from respondents about agriculture production and operations; prepares recommendations regarding the conduct of agriculture data programs and the contents of agriculture reports; and presents the views of major suppliers and users of agriculture statistics on agriculture data programs and products.

The Committee is composed of 21 members. Twenty members are appointed by the presidents of the nonprofit organizations having representatives on the Committee, and one member is a representative from the Department of Agriculture.

The June 13 meeting will begin at 9 a.m. and adjourn at 4:30 p.m. The meeting agenda is: (1) call to order and introduction; (2) introductory remarks by the Director, Bureau of the Census; (3) USDA perspective; (4) status update—Census of Agriculture program, transfer from Census-National Agriculture Statistics Service (NASS); (5) plans for the 1997 Census of Agriculture; (6) mail list development; (7) public questions and comments; (7) Committee recommendations; and (8) election of a chairperson for 1997.

This meeting is open to the public and a brief period is set aside for public comments and questions. Persons with extensive questions or statements must submit them in writing to the Census Bureau official named below at least three days before the meeting.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Census Bureau official named below in advance of the meeting.

Persons wishing additional information regarding this meeting or who wish to submit written statements may contact Ms. Maxine Anderson-Brown, Committee Liaison Officer, Conference Services Office, Bureau of the Census, Room 3039, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, D.C. 20233) Telephone (301) 457–2308—TDD (301) 457–2540, FAX (301) 457–3682.

Dated: May 20, 1996.

Bryant Benton,

Deputy Director, Bureau of the Census.

[FR Doc. 96–13147 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–07–P

Foreign-Trade Zones Board

[Docket 41–96]

Foreign-Trade Zone 202; Los Angeles, CA; Application for Subzone; Minnesota Mining & Manufacturing Company (3M) (Pharmaceutical Products), Los Angeles, CA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Board of Harbor Commissioners of the City of Los Angeles, grantee of FTZ 202, requesting special-purpose subzone status for the pharmaceutical manufacturing facility of the Minnesota Mining & Manufacturing Company (3M), in Los Angeles, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on May 15, 1996.

3M is a global manufacturer of a wide variety of products including tapes, adhesives, abrasives, specialty chemicals, electronic and communications products, medical imaging systems, data storage products, traffic and personal safety products, and health care products. Its 3M Pharmaceuticals Division will operate the proposed subzone site.

The 3M plant (12 buildings/121,000 mfg. sq. ft. on 32.5 acres) is located at 19901 Nordhoff Street, Los Angeles (Los Angeles County), California. The facility (400 employees) primarily produces solid-dose pharmaceutical products such as: antacids, appetite suppressants, muscle relaxants, and products for the treatment of arthritis, skeletal muscle pain, cardiac arrhythmia, asthma and urinary tract infections; controlled-dose inhalers for the treatment of bronchial asthma and vascular headaches; and transdermal patches for hormonal replacement and the treatment of angina pain. The materials for certain products are sourced abroad (accounting for some 30 percent of total material value) and include, aluminum bottles, valves, valve parts and plastic actuators for aerosol delivery systems, orphenadrine citrate, antacid capsules and tablets, epinephrine, flecanide acetate, methenamine hippurate, pirbuterol acetate, theophylline anhydrous, and ethyl oleate. Some 40 percent of production is exported.

Zone procedures would exempt 3M from Customs duty payments on foreign materials used in production for export. On domestic shipments, the company would be able to choose the duty rates that apply to the finished products (duty-free) instead of the rates otherwise applicable to the foreign materials (duty-free to 7.7%). The application indicates that the savings from zone procedures will help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 23, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to August 7, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Room 9200, 11000 Wilshire Blvd., Los Angeles, CA 90024.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: May 16, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–13170 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews and requests for revocation in part.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke one antidumping duty order in part.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 C.F.R. 353.22(a) and 355.22(a)(1994), for administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. The Department also received a timely request to revoke in part the antidumping duty order on certain fresh cut flowers from Mexico

Initiation of Reviews

In accordance with sections 19 C.F.R. 353.22(c) and 355.22(c), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. The Department is not initiating an administrative review of any exporters and/or producers who are not named in a review request because such exporters and/or producers were not specified as required under section 353.22(a) and 355.22(a) (19 CFR 353.22(a) and 355.22(a)). We intend to issue the final results of these reviews not later than April 30, 1997.

	Period to be reviewed
Antidumping Duty Proceedings:	
BANGLADESH: Shop Towels [1] A–538–802	3/1/95–2/29/96
Greyfab (Bangladesh) Ltd., Khaled Textile Mills, Ltd., Shabnam Textiles, Hashem International	
Brazil: Ferrosilicon A–351–820	3/1/95–2/29/96
Companhia Brasileria Carbureto De Calcio [1]	
Japan: Calcium Hypochlorite A–588–401	4/1/95–3/31/96
Nankai Chemical Industry Co., Ltd., Tohoku Tosoh Chemical Co., Ltd.	
Japan: 3.5″ Microdisks and Coated Media Thereof A–588–802	4/1/95–3/31/96
Fuji Photo Film	
Japan: Roller Chain, Other than Bicycle A–588–028	4/1/95–3/31/96
Daido Kogyo, Enuma Chain, Hitachi Metals, Izumi, Pulton Chain, RK Excel (Takasago).	
Mexico: Certain Fresh Cut Flowers A–201–601	4/1/95–3/31/96
Rancho Guacatay, Rancho del Pacifico.	
Taiwan: Color Television Receivers A–583–009	4/1/95–3/31/96
Proton Electronics Industrial Company, Ltd.	
Countervailing Duty Proceedings:	
None.	

[1] Inadvertently omitted from previous initiation notice.

If requested within 30 days of the date of publication of this notice, the Department will determine whether antidumping duties have been absorbed by an exporter or producer subject to any of these reviews if the subject merchandise is sold in the United States through an importer which is affiliated with such exporter or producer.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(l) and 355.22(c)(l).

Dated: May 16, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–13153 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–580–008]

Color Television Receivers From the Republic of Korea; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty-administrative review.

SUMMARY: In response to a request from Samsung Electronics Co., Ltd. (Samsung), respondent in this proceeding, the Department of Commerce (the Department) is conducting an administrative review of the antidmuping duty order on color television receivers (CTVs) from the Republic of Korea. The review covers Samsung and the period April 1, 1994, through March 31, 1995.

We have preliminarily determined that Samsung made no-sales or shipments of subject merchandise to the Untied States during the period of review. Furthermore, because the Department may not revoke an order based on a review in which there were no sales or shipments, we have preliminarily determined to deny Samsung's request for partial revocation.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph Hanley or Zev Primor, Office of Antidumping Compliance, Import Administration, International trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On April 30, 1984, the Department published in the Federal Register (49 FR 18336) the antidumping duty order on CTVs from the Republic of Korea (the order). On April 4, 1995, the Department published (60 FR 17052) a notice of ''Opportunity to Request an Administrative Review'' of the order for the period April 1, 1994, through March 31, 1995 (twelfth review). We received a timely request for review and partial revocation of the order from Samsung.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Scope of the Review

Imports covered by this review include CTVs, complete and incomplete, from the Republic of Korea. This merchandise is currently classified under item numbers 8528.10.08, 8528.10.11, 8528.10.13, 8528.10.17, 8528.10.19, 8528.10.24, 8528.10.28, 8528.10.34, 8528.10.38, 8528.10.44, 8528.10.48, 8528.10.54, 8528.10.58, 8528.10.61, 8528.10.63, 8528.10.67, 8528.10.69, 8528.10.71, 8528.10.73, 8528.10.77, 8528.10.79, 8529.90.03, 8529.90.06, and 8540.11.10 of the Harmonized Tariff Schedule (HTS). Since the order covers all CTVs regardless of HTS classification, the HTS subheadings are provided for convenience and for the U.S. Customs Service purposes. Our written description of the scope of the order remains dispositive. The period of review is April 1, 1994, through March 31, 1995.

Request for Revocation

On April 28, 1995, Samsung submitted, along with its request for an administrative review, a request that the rider be revoked as it applies to Samsung. In its letter, Samsung certified that it did not sell subject merchandise during the twelfth review at less than normal value, and that it will not in the future sell such merchandise at less than normal value. Additionally, Samsung attached to its letter a certificate agreeing to the immediate reinstatement of the order if Samsung is subsequently found to have sold CTVs at less than normal value.

We have preliminarily determined that, because Samsung made no sales of subject merchandise during the period of review, the criteria necessary to revoke an order based on an absence of dumping have not been met. Pursuant to section 353.25(a) of the Department's regulations, we may revoke an order in part if the subject merchandise has been sold at not less than normal value for a period of at least three consecutive years and it is not likely that future sales of the subject merchandise will be made at less than normal value.

Because Samsung did not sell the subject merchandise during the period of review, we have determined that the regulatory requirements listed in sections 353.25 (a) and (b) have not been met. Accordingly, we have preliminarily determined to deny Samsung's request for partial revocation.

Preliminary Results of Review

Sansung reported, and the Department verified through the U.S. Customs Service, that it made no sales or shipments of subject merchandise to the United States during the period of review. Therefore, we preliminarily determine to maintain Samsung's current cash deposit rate. This rate is zero percent because the margin assigned to Samsung in the most recent final results of review in which it made shipments was a *de minimis* rate (0.47 percent).

Furthermore, the following deposit requirements will be effective for all shipments of CTVs 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)(2)(c) of the Act: (1) The cash deposit rate for Samsung will remain zero percent, the rate established in the last review in which it made shipments; (2) For previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) If the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rates will be 13.90 percent, the ''all others'' rate established in the LTFV investigation (49 FR 18336). These deposit requirements will remain in effect until publication of the final results of the next administrative review.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice, and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first work day thereafter. 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 37 days after the date of publication. Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; and (2) a brief summary of the argument. The Department will published the final results of this administrative review, including the results of its analysis of issues raised in any such written arguments.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act.

Dated: May 17, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–13172 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–428–814, A–428–816]

Certain Cut-To-Length Carbon Steel Plate From Germany: Amendment to Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Amendment to Final Results of Antidumping Duty Administrative Review.

SUMMARY: On March 28, 1996, the Department of Commerce published the final results of its administrative review

of the antidumping duty order on certain cut-to-length carbon steel plate from Germany. The review covered one manufacturer/exporter and the period February 4, 1993, through July 31, 1994. Based on the correction of a ministerial error, we are amending the final results.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Nancy Decker or Linda Ludwig, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 1996, the Department of Commerce (the Department) published in the Federal Register the final results of its administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Germany (61 FR 13834). The review covered one manufacturer/exporter, AG der Dillinger Huttenwerke (Dillinger), and the period February 4, 1993, through July 31, 1994.

After publication of our final results, we received a timely allegation from petitioners (Bethlehem Steel Corporation, U.S. Steel Company, a Unit of USX Corporation, Inland Steel Industries, Inc., Geneva Steel, Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, and Lukens Steel Company) that the Department had made a ministerial error in calculating the final results for plate from Germany sold by Dillinger. The respondent filed a timely rebuttal to petitioners' ministerial error allegation.

Petitioners allege that the Department incorrectly applied Dillinger's actual-to-theoretical weight conversion factor in the conversion of gross unit price. The petitioners state that the gross unit price should have been divided, rather than multiplied, by the weight conversion factor. The respondent argues that the error alleged by petitioners does not qualify as a ministerial error under Section 353.28(d) of the Department's regulations (19 CFR 353.28(d) (1995)). Respondent also argues that if the Department, nevertheless, decides to change its methodology, it should also make changes to the conversions of expense related data (conversions of home market inland freight, home market other expenses, home market global credits and debits, and home market credit) to be consistent.

As defined by section 751(f) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1675(f) (1988)), the term ''ministerial error'' includes errors ''in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the [Department] considers ministerial.''

We agree with petitioners' allegation that we should have divided, rather than multiplied, gross unit price by the conversion factor. This type of unintentional error meets the definition of ministerial error contained in the Act. We also agree with respondent's rebuttal that, to be consistent, we should also likewise change the conversions of expense related data (home market inland freight, home market other expenses, home market global credits and debits, and home market credit). We have therefore corrected our analysis to divide (rather than multiply) the following by the applicable weight conversion factor: gross unit price, home market inland freight, home market other expenses, home market global credits and debits, and home market credit.

Amended Final Results of Review

As a result of our correction of the ministerial error, we have determined the following margin exists for the period February 4, 1993, through July 31, 1994:

Manufacturer/exporter	Margin
AG der Dillinger Hüttenwerke	2.61

We will direct the Customs Service to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the final results of this review (61 FR 13834), as amended by this determination.

These deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a reminder to importers of their responsibility under 19 CFR 353.26 of file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period.

Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is published in accordance with section 751(f) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(f)) and 19 CFR 353.28(c).

Dated: May 17, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–13178 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–423–602]

Industrial Phosphoric Acid From Belgium; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from FMC Corporation and Monsanto Company (petitioners), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on industrial phosphoric acid (IPA) from Belgium. The review covers exports by one manufacturer, Société Chimique Prayon-Rupel (Prayon), during the period August 1, 1994 through July 31, 1995.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service (Customs) to assess antidumping duties equal to the difference between the United States price (USP) and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: David Genovese or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–5253.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act)

by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

The Department published in the Federal Register the antidumping duty order on IPA from Belgium on August 20, 1987 (52 FR 31439). The Department published in the Federal Register a notice of ''Opportunity To Request an Administrative Review'' of the antidumping duty order on IPA from Belgium covering the period August 1, 1994 through July 31, 1995, on August 1, 1995 (60 FR 39150). On August 25, 1995, petitioners requested that the Department conduct an administrative review of sales by Prayon. We initiated the review on September 15, 1995 (60 FR 47930). The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

The products covered by this review include shipments of IPA from Belgium. This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2809.20. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

United States Price

We based our margin calculations on export price (EP), as defined in section 772(a) of the Act, because the merchandise was sold to unaffiliated U.S. purchasers prior to the date of importation. We based EP on the delivered price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions for inland and marine insurance, brokerage and handling costs and freight expenses incurred to deliver the merchandise to the first unaffiliated customer in the United States. No other adjustments to EP were claimed or allowed.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Prayon'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)(1)(B) of the Act. Because Prayon's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market provides a viable basis for calculating NV for Prayon, pursuant to section 773(a)(1)(B) of the Act.

Pursuant to section 777A(d)(2), we compared the EPs of individual transactions to the monthly weighted-average price of sales of the foreign like product. We based NV on the delivered or ex-works price at which the foreign like product is first sold to unaffiliated purchasers for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade, and to the extent practicable, at the same level of trade as the export price, as defined by section 773(a)(1)(B)(i) of the Act.

We excluded from our analysis of NV sales to an affiliated home market customer because the weighted-average sales price to the affiliated party was less than the weighted-average sales price to unaffiliated parties.

We reduced NV by freight costs, including inland insurance costs, incurred in the home market, in accordance with section 773(a)(6)(B)(ii). We made a circumstance of sale adjustment to NV to account for any differences between EP and NV due to differences in credit expenses, rebates, and commissions in accordance with 773(a)(6)(C)(iii) of the Act.

Because sales commissions incurred in the home market were paid to an affiliated party, and there is no information on the record to establish that these commissions were at arm's-length, we offset U.S. commissions with the weighted-average of home market indirect selling expenses up to the amount of the commissions paid on U.S. sales in accordance with 19 CFR 353.56(b)(1).

No other adjustments were claimed or allowed.

Preliminary Results

As a result of this review, we preliminarily determine that a margin of 11.36 percent exists for Prayon for the period August 1, 1994, through July 31, 1995.

Parties to this proceeding may request disclosure within five days of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs no later than 30 days after the date of publication. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed no later than 37 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will publish a notice of the final results of the administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Individual differences between USP and NV may vary from the percentage stated above. Upon completion of this review, the Department will issue appraisement instructions directly to Customs.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of IPA from Belgium 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)(2)(C) of the Act: (1) The cash deposit rate for Prayon will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original LTFV investigation or a previous review, the cash deposit will continue to be the rate established for the most recent period for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 14.67 percent, the all-others rate established in the LTFV investigation.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26(b) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act.

Dated: May 17, 1996.

Paul L. Joffe.

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–13173 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–201–017]

Bricks From Mexico; Amended Revocation of the Countervailing Duty Order and Amended Final Results of Countervailing Duty Administrative Review

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

ACTION: Amended Revocation of the Countervailing Duty Order and Amended Final Results of Countervailing Duty Administrative Review.

SUMMARY: On September 6, 1995, the Court of Appeals for the Federal Circuit (the CAFC) held in *Ceramica Regiomontana* v. *United States,* Court No. 95–1026 (Fed. Cir., Sept. 6, 1995) (*Ceramica*) that the Department of Commerce (the Department) lacks statutory authority to impose countervailing duties on dutiable goods imported by Mexico after April 23, 1985, absent an injury determination. On April 18, 1996, pursuant to the *Ceramica* decision, the Court of International Trade (CIT) remanded to the Department the case *Productos De Barro Industrializados, S.A. de C.V.* (Court No. 88–10–00808), which was stayed pending the *Ceramica* decision. In the remand, the court ordered the Department to (1) revoke the countervailing duty order on bricks from Mexico effective April 23, 1985, the date Mexico was designated as a ''country under the Agreement''; and (2) instruct the U.S. Customs Service to refund any estimated countervailing duties at issue in this case that were deposited during the period April 23, 1985 through December 31, 1986. In accordance with the CIT's order, we are hereby amending the revocation of the countervailing duty order on bricks from Mexico to be effective April 23, 1985, instead of August 24, 1986 (54 FR 53163; December 27, 1989).

In addition, pursuant to *Ceramica S.A.* v. *United States,* Slip Op. 96–74, Court No. 59–06–00323 (May 5, 1994), the CIT ordered the Department to recalculate the country-wide rate for entries of bricks from Mexico exported by Productos de Barro Industrializados, S.A. de C.V. (Productos de Barro) that were entered between July 1, 1984 and April 22, 1985, by weight-averaging the benefits received by all companies by their proportion of exports to the United States, inclusive of zero rate firms and *de minimis* firms as well as all other firms with significantly different rates. In accordance with the CIT's remand, we are hereby amending the final results of the countervailing duty administrative review. The recalculated rate applicable to unliquidated entries exported by Productos de Barro is 2.92 percent *ad valorem* for the period July 1, 1984 through December 31, 1984 and 3.10 percent *ad valorem* for the period January 1, 1985 through April 22, 1985.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill at the Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 30, 1989 (53 FR 38314), the Department published the final results of administrative review of the countervailing duty order on bricks from Mexico, covering the review period July 1, 1984, through December 31, 1985. For purposes of the final results, the Department calculated the ''all others'' countervailing duty rate by weight averaging the benefits received by companies, excluding zero rate and *de minimis* firms. The resultant countervailing duty rate applicable to non-*de minimis* firms was 3.32 percent *ad valorem* during July 1, 1984 through December 31, 1984, and 4.21 percent *ad valorem* during January 1, 1985 through December 31, 1985.

On December 27, 1989, the Department published the final results of changed circumstances countervailing duty administrative review and revocation of the countervailing duty order on bricks from Mexico revoking the countervailing duty order as of August 24, 1986.

The respondents challenged the Department's final results of the administrative review in the CIT with respect to (1) the calculation of the country-wide countervailing duty rate, and (2) the effective date of the revocation of the countervailing duty order on bricks from Mexico. The CIT stayed these cases pending the resolution of the identical issues raised in *Ceramica,* a case involving the countervailing duty order on ceramic tile from Mexico.

On September 6, 1995, the CAFC ruled in *Ceramica* that, absent an injury determination by the ITC, the Department may not assess countervailing duties under section 1303(a)(1) on entries from Mexico of dutiable merchandise which occurred on or after April 23, 1985, the date Mexico was designated as a ''country under the Agreement'' for purposes of 19 U.S.C. § 1671. On February 21, 1996, the Department implemented the CAFC's ruling in the case of Mexican ceramic tile. (61 FR 6630) On April 18, 1996, the CIT ordered the Department to apply the CAFC's decision in *Ceramica* to bricks from Mexico. Accordingly, the CIT ordered that the Department (1) Amend the effective date of the revocation of the order on bricks from Mexico to April 23, 1985, and (2) recalculate ''the countervailing duty rate for plaintiff's entries of bricks from Mexico that were entered between July 1, 1984 and April 22, 1985, by weight-averaging the benefits received by all companies by their proportion of exports to the United States, inclusive of zero rate firms and *de minimis* firms as well as all other firms with significantly different rates'' pursuant to the methodology set forth in *Ipsco* v. *United States,* 899 F.2d 1192 (Fed. Cir. 1990).''

Amended Revocation and Final Remand Results

Pursuant to the CIT's order of April 18, 1996, the Department is hereby amending the revocation of the countervailing duty order on bricks from Mexico to be effective for all entries made on or after April 23, 1985. We will instruct the U.S. Customs Service to liquidate all unliquidated entries of the subject merchandise entered or withdrawn from warehouse, for consumption on or after April 23, 1985, without regard to countervailing duties. We will instruct the U.S. Customs Service to refund with interest any estimated countervailing duties collected with respect to those entries. We note that the requirements for a cash deposit of estimated countervailing duties were previously terminated in conjunction with the revocation under section 751 (b) and (c) of the Act.

Furthermore, the Department has complied with the CIT's order and recalculated the ''all others'' countervailing duty rates applicable to entries exported by Productos de Barro by weight-averaging the benefits received by all of the companies, including the *de minimis* or zero rate firms as well as companies with significantly different rates, that were subject to the review covering the period July 1, 1984 through December

31, 1985. The resultant rate for Productos de Barro for the period July 1, 1984 through December 31, 1984 is 2.92 percent *ad valorem*, and for the period January 1, 1985 through December 31, 1985 is 3.10 percent *ad valorem*. Accordingly, we are hereby amending the final results of the administrative review for the period July 1, 1984 through December 31, 1985. However, as discussed above, we will order assessment only on entries through April 22, 1985, the date prior to the effective date of the revocation.

The Department shall determine, and the Customs Service shall assess, countervailing duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

This notice is in accordance with section 516(a)(e) of the Act.

Dated: May 17, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–13169 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–DS-P

[C–535–001]

Cotton Shop Towels From Pakistan; Termination of Countervailing Duty Administrative Review

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

ACTION: Notice of termination of countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is terminating the administrative review of the countervailing duty order on shop towels from Pakistan initiated on April 25, 1996.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 27, 1996, Milliken & Company (Milliken), a domestic producer of shop towels, requested an administrative review of the countervailing duty order on cotton shop towels from Pakistan for the period January 1, 1995 through December 31, 1995, for the producer/resellers Anwar Corporation, Bita Textile Corporation, Eastern Textiles (Pvt) Ltd., Fine Fabrico, Hilal Corporation (Pvt) Ltd., Jawad Brothers, Mehtabi Towel Mills (Pvt) Ltd., Mohain Brothers, Pakistan Textile Corporation (Pvt) Ltd., Quality Linen Supply Corporation, Salimah International, Shaheen Textiles, Shahi Textiles, Sultex Industries, The Khans, and United Towel Exporters. No other interested party requested a review.

On April 25, 1996, the Department published a notice initiating the administrative review for that period with respect to those producers/resellers (61 FR 18378). On May 7, 1996, Milliken withdrew its request for review of the same producer/exporters.

Section 355.22(a)(3) of the Department's regulations provides that the Department may permit a party that requests a review to withdraw its request not later than 90 days after the date of publication of the notice of initiation of the review. Since the withdrawal of Milliken's request was timely submitted, we are accepting Milliken's withdrawal and terminating this review.

This notice is published in accordance with 19 CFR 355.22(a)(3).

Dated: May 16, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–13171 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–201–001]

Leather Wearing Apparel From Mexico; Notice of Termination of the Countervailing Duty Administrative Review and Amendment to the Revocation of the Countervailing Duty Order

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

ACTION: Notice of termination of the countervailing duty administrative review and amendment to the revocation of the countervailing duty order.

SUMMARY: On March 29, 1996, the Department of Commerce (the Department) published in the Federal Register its notice of intent to terminate the countervailing duty administrative review and notice of intent to amend the revocation of the countervailing duty order on leather wearing apparel from Mexico, 61 FR 14076, as a result of the decision by the Court of Appeals for the Federal Circuit (CAFC) in *Ceramica Regiomontana* v. *United States*, Court No. 95–1026 (Fed. Cir., Sept. 6, 1995) (*Ceramica*). In *Ceramica*, the CAFC ruled that absent an injury determination by the International Trade Administration (ITC), the Department may not assess countervailing duties under section 1303(a)(1) on entries of dutiable merchandise which occurred on or after April 23, 1985, the effective date of Mexico's Bilateral Agreement with the United States. Since we received no comments on our notice of intent, we are hereby terminating this administrative review, which covers the period January 1, 1994 through December 31, 1994, and amending the date of the revocation of the countervailing duty order to be effective April 23, 1985.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

The countervailing duty order on leather wearing apparel from Mexico was issued on April 10, 1981 pursuant to section 303 of the Tariff Act of 1930, as amended (the Act). No injury determination was required for cases conducted pursuant to section 303. In the Uruguay Round Agreements Act of 1994 (URAA), which amended the Act, section 303 was repealed because the new Agreement on Subsidies and Countervailing Measures (SCM Agreement) prohibits the assessment of countervailing duties on imports from a member of the World Trade Organization without an affirmative injury determination. The URAA added section 753 to the Act, which provided domestic interested parties an opportunity to request an injury investigation for orders that had been issued pursuant to section 303.

Because no domestic interested parties exercised their right under section 753(a) of the Act to request an injury investigation on Mexican leather wearing apparel, the ITC made a negative injury determination with respect to this order, pursuant to section 753(b)(4) of the Act. As a result, the Department revoked this countervailing duty order, effective January 1, 1995, pursuant to section 753(b)(3)(B) of the Act. *Revocation of Countervailing Duty Orders*, 60 FR 40,568 (August 9, 1995).

However, administrative reviews of periods prior to January 1, 1995 could still be conducted and on April 28, 1995 an administrative review of this order was requested for the period January 1, 1994 through December 31, 1994. 60 FR 25885 (May 15, 1995).

On September 6, 1995, in a case involving the countervailing duty order on ceramic tile from Mexico, *Ceramica,* the CAFC ruled that, absent an injury determination by the ITC, the Department may not assess countervailing duties under section 1303(a)(1) on entries from Mexico of dutiable merchandise which occurred on or after April 23, 1985, the effective date of Mexico's Bilateral Agreement with the United States. On February 21, 1996, the Department implemented the CAFC's ruling in the case of Mexican ceramic tile and amended the effective date of the revocation from January 1, 1995 to April 23, 1985. 61 FR 6630. Because the order on leather wearing apparel is a Mexican order and involves the same set of pertinent facts (i.e., the ITC did not make an injury determination), the CAFC's decision applies to the order on leather wearing apparel from Mexico.

As a result, on March 29, 1996, the Department of Commerce (the Department) published in the Federal Register its notice of intent to terminate the countervailing duty administrative review and to amend the revocation of the countervailing duty order on leather wearing apparel from Mexico to be effective April 23, 1985. We invited interested parties to comment but received no comments. Accordingly, we are terminating the instant review of this countervailing duty order. Also, we are amending the previous revocation of this order, which affects all unliquidated entries, to be effective April 23, 1985, rather than January 1, 1995, in recognition of the *Ceramica* decision.

Scope of the Review

Imports covered by this review are shipments of Mexican leather wearing apparel. These products include leather coats and jackets for men, boys, women, girls, and infants, and other leather apparel products including leather vests, pants, and shorts. Also included are outer leather shells and parts and pieces of leather wearing apparel. This merchandise is currently classifiable under *Harmonized Tariff Schedule* (HTS) item numbers 4203.10.4030, 4203.10.4060, 4203.10.4085 and 4203.10.4095. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Notice of Termination of the Countervailing Duty Administrative Review and Amendment of the Revocation of the Countervailing Duty Order

This notice serves as notification to the public of our termination of the instant administrative review, covering the period January 1, 1994 through December 31, 1994, and amendment of the revocation of the countervailing duty order on Mexican leather wearing apparel to be effective April 23, 1985. This revocation applies to all unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 23, 1985.

We will instruct the U.S. Customs Service to terminate the suspension of liquidation as of the date of publication of this notice and to liquidate all unliquidated entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 23, 1985, without regard to countervailing duties. We will instruct the U.S. Customs Service to refund with interest any estimated countervailing duties collected with respect to those entries. We note that the requirement for a cash deposit of estimated countervailing duties was previously terminated in conjunction with the section 753 determination.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: May 17, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–13167 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–357–403]

Oil Country Tubular Goods From Argentina; Extension of Time Limit for Countervailing Duty Administrative Review

May 20, 1996.

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

ACTION: Notice of extension of time limit for countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for preliminary and final results of the 1994 administrative review of the countervailing duty order on oil country tubular goods from Argentina. This extension is made pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Rick Herring, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, D.C., 20230; telephone: (202) 482–2786.

POSTPONEMENT: Under the Act, the Department may extend the deadline for completion of the preliminary results of an administrative review if it determines that it is not practicable to complete those results within the statutory time limit of 245 days. The Department finds that it is not practicable to complete the preliminary results of the 1994 administrative review of oil country tubular goods from Argentina within this time limit. *See* Memorandum to the File dated May 9, 1996.

In accordance with section 751(a)(3)(A) of the Act, the Department will extend the time for completion of the preliminary results of this review from a 245-day period to no later than a 365-day period.

Dated: May 20, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–13168 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a closed meeting of the Judges Panel of the Malcolm Baldrige National Quality Award on Tuesday, June 11, 1996. The Judges Panel is composed of nine members prominent in the field of quality management and appointed by the Director of the National Institute of Standards and Technology. The purpose of this meeting is to begin the review process of the 1996 Award applicants to be recommended as Award winners. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene June 11, 1996, at 8:30 a.m. and adjourn at 4:00 p.m. on June 11, 1996. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director for Quality Programs, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on March 29, 1996, that the meeting of the Judges Panel will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94–409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: May 17, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–13131 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[I.D. 042996E]

Marine Mammals

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

ACTION: Issuance of photography permit no. 993 (P597).

SUMMARY: Notice is hereby given that Mr. Michael Kundu, Arcturus Adventure Communications, 1026–A 56th Street SE, Everett, WA 98203, has been issued a permit to take by Level B harassment several species of non-threatened, non-endangered marine mammals for purposes of commercial photography.

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

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221); and

Director, Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070 (206/526–6150).

SUPPLEMENTARY INFORMATION: On November 15, 1995, notice was published in the Federal Register (60 FR 57400) that the above-named applicant had submitted a request for a permit to take several species of marine mammals by Level B harassment during the course of commercial photographic activities. The requested permit has been issued, under the authority of section 104(c)(6) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*).

Dated: May 8, 1996.

Ann D. Terbush,

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

[FR Doc. 96–13155 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Extension of an Import Limit for Certain Wool Textile Products Produced or Manufactured in the Former Yugoslav Republic of Macedonia

May 21, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: May 28, 1996.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Pursuant to section 204 of the Agricultural Act of 1956, as amended, the Government of the United States is extending the current limit on Category 434 for an additional one-year period beginning on May 26, 1996 and extending through May 25, 1997 at a level of 8,391 dozen.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 57853, published on November 22, 1995.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 21, 1996.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May

28, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 434, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported during the twelve-month period beginning on May 26, 1996 and extending through May 25, 1997, in excess of 8,391 dozen.

Imports charged to Category 434 for the period May 26, 1995 through May 25, 1996 shall be charged against that level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–13182 Filed 5–23–96; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 24, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Commodities

Stepladder, Fiberglass
5440–01–415–1238
5440–01–415–1240
5440–01–415–1241
NPA: The Oklahoma League for the Blind, Oklahoma City, Oklahoma.

Ribbon, Typewriter
7510–01–219–2309
(40% of the Government's requirement)
NPA: Charleston Vocational Rehabilitation Center, Charleston Heights, South Carolina

Services

Janitorial/Custodial, U.S. Army Armament Research, Development and Engineering Command, Buildings 162 North & South, Picatinny Arsenal, New Jersey.
NPA: Occupational Training Center of Morris County, Cedar Knolls, New Jersey

Janitorial/Custodial, Naval and Marine Corps Reserve Center, 3190 Gilbert Avenue, Cincinnati, Ohio.
NPA: Cincinnati Restoration, Inc. Cincinnati, Ohio.

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–13185 Filed 5–23–96; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 24, 1996.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On February 23, March 29 and April 5, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (61 F.R. 6977, 14088 and 15225) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish

the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Plastic Sheets
8135–00–579–6487
8135–00–579–6489
8135–00–579–6491
8135–00–584–0610
8135–00–584–0619
8135–00–618–1783

Services

Food Service, U.S. Naval Home, Gulfport, Mississippi.

Janitorial/Grounds Maintenance, Department of Energy, Western Area Power Administration, 114 Parkshore Drive, Folsom, California.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–13186 Filed 5–23–96; 8:45 am]

BILLING CODE 6353–01–P

Procurement List Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to the Procurement List a commodity to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 24, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.

2. The action will result in authorizing small entities to furnish the commodity to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity has been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Flag, National, Interment
8345–00–656–1432
(Additional 20% of the Government's requirement)
NPA: Huntsville Rehabilitation Foundation, Huntsville, Alabama
Goodwill Industries of South Florida, Inc., Miami, Florida
North Bay Rehabilitation Services, Inc., San Rafael, California

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–13187 Filed 5–23–96; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Transloading Arms, Ammunition, and Explosives

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Notice.

SUMMARY: This notice supplements the notices published on November 24, 1995 (Federal Register, Vol. 60, No. 226, page number 58054) and published on December 20, 1995 (Federal Register, Vol. 60, No. 244, page number 65640). Both MTMC Freight Traffic Rules Publication No. 1A, Item 48, and MTMC Guaranteed Traffic Rules Publication No. 50, Item 145, are changed as follows:

''Transloading shipments of Division 1.1, 1.2, and 1.3 ammunition and explosives will be conducted as follows:

a. Truckload shipments will not be off-loaded or transferred to another vehicle enroute, except in emergencies (as defined in 49 CFR 390.5).

b. Loading and unloading of less-than-truckload (LTL) shipments of Division 1.1, 1.2, and 1.3 ammunition and explosives will be accomplished only in a carrier terminal. For the purposes of this rule, a carrier terminal is defined as one which is equipped to handle safely the loading and unloading of Division 1.1, 1.2, and 1.3 ammunition and explosives from a commercial motor vehicle. In addition, when the transloading of Divisions 1.1, 1.2, and 1.3 ammunition and explosives occurs at a carrier terminal other than at that of the carrier of record, as indicated on the Government Bill of Lading, prior written approval must be received from a company official or the carrier terminal manager. All Federal, State, and local guidelines for handling Divisions 1.1, 1.2, and 1.3 ammunition and explosives will apply when transloading occurs. The carrier accepts liability for the integrity of the shipments, to include proper blocking and bracing, equal to or exceeding the standard used by the shipper.

c. Transloading of ammunition and explosives shipments on a military installation must be approved by the installation commander.''

DATES: Effective July 23, 1996.

ADDRESSES: Headquarters, Military Traffic Management Command, ATTN: MTOP–T–SR, 629 NASSIF Building, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Mr. Julian Jolkovsky, MTOP–T–SR, (703) 681–3440.

SUPPLEMENTARY INFORMATION: MTMC received comments from one motor carrier, the U.S. Army Industrial Operations Command, and the Naval Ordnance Center. One comment requests clarification of this rule as it pertains to interlining; this clarification is not necessary because interlining does not apply to this rule in today's environment. Another comment is that this rule will give carriers too much latitude while failing to enhance shipment safety and security; this rule does not give carriers any more latitude than necessary to deliver military cargo safely, securely, and efficiently. Because MTMC is responsible to ensure that transloading will be accomplished in the safest manner possible, transloading

is limited to locations that are capable and equipped to deal with these types of shipments. The same comment feels that this rule will invalidate the Motor Vehicle Inspection, DD Form 626. DD Form 626 represents the condition of the equipment at the time of inspection at the origin activity and allows the Government to compare the origin inspection with the destination inspection to establish liability. Once the carrier equipment leaves the activity, the potential for change to the equipment remains, regardless of whether the shipment is transloaded. With this rule, the carrier accepts liability for shipment integrity, to include blocking and bracing. Another comment suggests requiring carriers to notify both origin and destination activities of seal changes. The rules publications allow adequate notification by requiring carriers to annotate seal changes on the Government Bill of Lading. To comply with another comment that this rule should clarify the meaning of ''proper blocking and bracing,'' MTMC will add to the end of the rule the words ''equal to or exceeding the standard used by the consignor.'' MTMC expects that in transloading a shipment, the carrier maintains shipment integrity at a level that is the same as or better than the consignor's. Transloading less-than-truckload shipments is an accepted practice. MTMC has considered all comments carefully and decided to implement the proposed change to its transloading procedures. If there are concerns regarding these procedures, the consignor has the option to select Exclusive Use of Vehicle service.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–13097 Filed 5–23–96; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Notice of Proposed Collection; Headquarters, U.S. Marine Corps

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Marine Corps announces the proposed extension of a previously approved public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 23, 1996.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Commandant of the Marine Corps, (Code OR), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Gunnery Sergeant Hudson at (703) 614–1017.

TITLE, ASSOCIATED FORM, AND OMB NUMBER: Personal Information Questionnaire; NAVMC 10064; OMB Control Number 0703–0012.

NEEDS AND USES: The Personal Information Questionnaire is used to provide Headquarters, U.S. Marine Corps with a standardized method in rating officer program applicants in the areas of character, leadership, ability, and suitability for a service as a commissioned officer.

Affected Public: Individuals; *Annual Burden Hours*: 8,350.

Number of Respondents: 16,700; *Responses per Respondent*: 1.

Average Burden per Response: 30 minutes; *Frequency*: On occasion.

SUPPLEMENTARY INFORMATION: The Personal Information Questionnaire (PIQ) is used by the Marine Corps as a standardized method in assisting Officer Selection Officers, a Board of Officers at District Headquarters and a Board of Officers at Headquarters Marine Corps in determining the personal characteristics of applicants for all Reserve officer programs. The questionnaire is sent to at least six persons to be named by the applicant, for completion and return. All PIQs will be included with the application, and is an attempt to gather specific information about the applicant's character and background. This form provides the Marine Corps with precise data on personal characteristics of applicants which will ensure selection of the highest quality commissioned officer for the Corps. While some objective evaluations can be made from academic records, test results, and employment records, such intangible qualities as personal characteristics can best be evaluated by the objective ratings of those persons who have personal knowledge of the candidate.

Dated May 16, 1996.

M.A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–13193 Filed 5–23–96; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Group, 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 24, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

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 Director of the Information Resources Group publishes this 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 at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: May 20, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: New.

Title: William D. Ford Federal Direct Loan Program Statutory Forbearance Forms.

Frequency: On occasion.

Affected Public: Individuals or households

Annual Reporting and Recordkeeping Hour Burden:

Responses: 10,000.

Burden Hours: 2,000.

Abstract: Qualified borrowers in the William D. Ford Federal Direct Loan Program will use these forms to request statutory forbearances on their loans.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Goals 2000 Parental Assistance Program Performance Report.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 28.

Burden Hours: 980.

Abstract: Recipients of grants under the Parental Assistance Program must submit an annual performance report that establishes substantial progress toward meeting their project objectives in order to receive a continuation award.

[FR Doc. 96–13089 Filed 5–23–96; 8:45 am]

BILLING CODE 4000–01–P

Advisory Committee on Student Financial Assistance; Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of upcoming meeting.

SUMMARY: This notice sets for the schedule and proposed agenda of a forthcoming meeting sponsored by the Advisory Committee on Student Financial Assistance. This notice also describes the functions of the Committee. This document is intended to notify the general public.

DATES AND TIMES: Monday, June 10, 1996, beginning at 9:00 a.m. and ending at approximately 5:00 p.m. and Tuesday, June 11, 1996, beginning at 8:30 a.m. and ending at approximately 12:00 noon.

ADDRESSES: The Ritz-Carlton Hotel, Pentagon City, in Salon I, 1250 South Hayes Street, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Dr. Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, 1280 Maryland Avenue, S.W., Suite 601, Washington, D.C. 20202–7582 (202) 708–7439.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under Section 491 of the Higher Education Act of 1965 as amended by Public Law 100–50 (20 U.S.C. 1098). The Advisory Committee is established to provide advice and counsel to the Congress and the Secretary of Education on student financial aid matters including providing technical expertise with regard to systems of need analysis and application forms, making recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students, conducting a study of institutional lending in the Stafford Student Loan Program and an in-depth study of student loan simplification. The Advisory Committee fulfills its charge by conducting objective, nonpartisan, and independent analyses of important student aid issues. As a result of passage of the Omnibus Budget Reconciliation Act (OBRA) of 1993, Congress assigned the Advisory Committee the major task of evaluating the Ford Federal Direct Loan Program (FDLP) and the Federal Family Education Loan Program (FFELP). The Committee will report to the Secretary and Congress on not less than an annual basis on the operation of both programs and submit a final report by January 1, 1997.

The Advisory Committee will meet in Arlington, Virginia on June 10, 1996, from 9:00 a.m. to approximately 5:00 p.m. and on June 11, from 8:30 a.m. to approximately 12:00 noon.

The proposed agenda will consist of member and panel discussion sessions on the Advisory Committee's activities pertaining to the year two evaluation of the Ford Federal Direct Loan Program (FDLP) and the Federal Family Education Loan Program (FFELP). In addition, other Committee business will be addressed. Space is limited and you are encouraged to register early if you plan to attend. To register, please fax you name, title, affiliation, complete address (including Internet and E-Mail—if available), telephone number, and fax number to the Advisory Committee staff office at (202) 401–3467. If you are unable to fax, please mail your registration information or contact the Advisory Committee staff office at (202) 708–7439. Also, you may register through Internet at Tracy__Jones@ED.Gov or ADV__COMSFA@ED.Gov.The registration deadline is Thursday, June 6, 1996.

Records are kept of all Committee proceedings, and are available for public inspection at the Office of the Advisory Committee on Student Financial Assistance, 1280 Maryland Avenue, S.W., Suite 601, Washington, D.C. from the hours of 9:00 a.m. to 5:30 p.m., weekdays, except Federal holidays.

Dated: May 21, 1996.

Dr. Brian K. Fitzgerald,

Staff Director, Advisory Committee on Student Financial Assistance.

[FR Doc. 96–13146 Filed 5–23–96; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Advisory Committee To Develop On-Site Innovative Technology

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following Advisory Committee Meeting: Federal Advisory Committee to Develop On-Site Innovative Technology (DOIT).

DATES: Saturday, June 22, 1996; 3:00 pm–4:00 pm.

ADDRESSES: Red Lion Inn, (Room To Be Determined), 1616 Dodge Street, Omaha, Nebraska 68102.

FOR FURTHER INFORMATION CONTACT: Dr. CW Frank, DOIT—Designated Federal Officer, Office of Science and Technology (Mail Stop: EM–50), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6382.

SUPPLEMENTARY INFORMATION: The purpose of the DOIT Committee is to make recommendations to the USDOE, USDOD, USDOI, USEPA, and Western States on processes to identify collaborative approaches to save time and money in cleaning up federal sites in the West.

Purpose of the meeting: Review final DOIT Report; adopt final recommendations to expedite the cleanup of federal waste sites through the use of innovative technologies.

Tentative Agenda

June Meeting Topic Order

- (3:00 pm) Call To Order/Welcome: Governor Nelson (Nebraska): Chair DOIT Committee.
- Opening Remarks: Dr. C.W. Frank (USDOE: Office of Science and Technology): DOIT Host Agency Designated Federal Officer.
- DOIT Committee Principals Discuss Final DOIT Report.
- DOIT Committee Principals Finalize DOIT Recommendations.
- Public Comment Period.
- (4:00 pm) Meeting Adjourn.

There will be a media availability of some DOIT Principals following the meeting.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Dr. CW Frank at the address or telephone number listed above. Requests must be received five (5) days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five (5) minues to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avneue, SW, Washington, DC 20585, between 9:00 am and 4:00 pm, Monday through Friday, except Federal holidays. Minutes will also be available by contacting Dr. CW Frank, DOIT—Designated Federal Officer, Office of Science and Technology (Mail Stop: EM–50), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6382.

Issued at Washington, DC on May 21, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–13124 Filed 5–23–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Research

Basic Energy Sciences Advisory Committee; Notice of Open Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is given of a meeting of the Basic Energy Sciences Advisory Committee.

DATES: Thursday, June 27, 1996—9:00 a.m.–5:00 p.m.; Friday, June 28, 1996—9:00 a.m.– 2:00 p.m.

ADDRESS: Hampton Inn, 20260 Goldenrod Lane, Germantown, MD 20876.

FOR FURTHER INFORMATION CONTACT: Dr. Patricia M. Dehmer, Basic Energy Sciences Advisory Committee, U. S. Department of Energy, ER–10, GTN, 19901 Germantown Road, Germantown, MD 20874–1290, Telephone: (301)-903–3081.

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting*: The Committee will provide advice and guidance with respect to the basic energy sciences research program.

Tentative Agenda

June 27, 1996

Introduction of Committee Members and Guests
Overview of the Programs and Activities of the Office of Basic Energy Sciences
Update on Neutron Source Upgrades
Public Comment (10 minute rule)

June 28, 1996

Receipt and Discussion of the BESAC Panel Report on the Value of Basic Science
Discussion on the BESAC Charge for 1996–97
Public Comment (10 minute rule).

Public Participation

The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact Patricia Dehmer at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C. on May 21, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–13122 Filed 5–23–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket Nos. ER96–1461–000 and EL96–49–000]

Cambridge Electric Light Company; Notice of Initiation of Proceeding and Refund Effective Date

May 20, 1996.

Take notice that on May 17, 1996, the Commission issued an order in the above-indicated dockets initiating a proceeding in Docket No. EL96–49–000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL96–49–000 will be 60 days after publication of this notice in the Federal Register.

Lois D. Cashell,

Secretary.

[FR Doc. 96–13069 Filed 5–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1101–002]

Kansas City Power & Light Company; Notice of Filing

May 20, 1996.

Take notice that on January 23, 1996, Kansas City Power & Light Company tendered for filing a letter containing the revised service schedule in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions

or protests should be filed on or before May 29, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–13070 Filed 5–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG96–69–000, et al.]

PanEnergy Lake Charles Generation, Inc., et al.; Electric Rate and Corporate Regulation Filings

May 17, 1996.

Take notice that the following filings have been made with the Commission:

1. PanEnergy Lake Charles Generation, Inc.

[Docket No. EG96–69–000]

On May 15, 1996, PanEnergy Lake Charles Generation, Inc. (''Applicant''), 5400 Westheimer Court, Houston, Texas 77056, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant is an indirect, wholly-owned subsidiary of PanEnergy Corp. Applicant intends to purchase a portion of a generating facility (the ''Facility'') with a nominal capacity of 32 megawatts located in the vicinity of Lake Charles, Louisiana. Applicant's portion of the Facility is an eligible facility as defined under Section 32(a)(2) of the Public Utility Holding Company Act of 1935.

Comment date: May 30, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Western Systems Power Pool, InterCoast Power Marketing, Co., Vitol Gas & Electric, LLC, Rainbow Energy Marketing Corp., Equitable Power Services Company, Destec Power Services, Inc., Western States Power Providers, Inc.

[Docket No. ER91–195–023, Docket No. ER94–6–003, Docket No. ER94–155–013, Docket No. ER94–1061–008, Docket No. ER94–1539–009, Docket No. ER94–1612–007, Docket No. ER95–1459–003 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 30, 1996, Western Systems Power Pool filed certain information as required by the Commission's April 23, 1991 order in Docket No. ER91–195–000.

On April 22, 1996, InterCoast Power Marketing, Company filed certain information as required by the Commission's August 19, 1994 order in Docket No. ER94–6–000.

On May 1, 1996, Vitol Gas & Electric LLC filed certain information as required by the Commission's January 14, 1994 order in Docket No. ER94–155–000.

On May 1, 1996, Rainbow Energy Marketing Corporation filed certain information as required by the Commission's June 10, 1994 order in Docket No. ER94–1061–000.

On April 30, 1996, Equitable Power Services Company filed certain information as required by the Commission's September 8, 1994 order in Docket No. ER94–1539–000.

On April 30, 1996, Destec Power Services, Inc. filed certain information as required by the Commission's January 20, 1995 order in Docket No. ER94–1612–000.

On April 10, 1996, Western States Power Providers, Inc. filed certain information as required by the Commission's October 10, 1995 order in Docket No. ER95–1459–000.

3. Boston Edison Company

[Docket No. ER93–150–008]

Take notice that on April 22, 1996, Boston Edison Company tendered for filing its refund report in the above-referenced docket.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. LG&E Power Marketing Inc.

[Docket No. ER94–1188–011]

Take notice that on May 1, 1996, LG&E Power Marketing Inc. (LPM) filed a notice of change in status to reflect its intention to sell power at retail to potential customers participating in Illinois Power Company's Direct Energy Access Service program.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Carolina Power & Light Company

[Docket No. ER95–1139–001]

Take notice that on May 13, 1996, Carolina Power & Light Company tendered for filing copies of its refund compliance report required by the Commission's order in this proceeding issued on April 11, 1996.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Company of Colorado

[Docket No. ER95–1269–002]

Take notice that on April 15, 1996, Public Service Company of Colorado tendered for filing a revised version of the Statement of Policy and Code of Conduct in the above-referenced docket.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Utilities Service Company

[Docket No. ER96–496–002]

Take notice that on May 6, 1996, Northeast Utilities Service Company tendered for filing copies of its revised compliance filing in the above-referenced docket.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Southern Company Services, Inc.

[Docket No. ER96–780–000]

Take notice that on May 15, 1996, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company filed revised Codes of Conduct as required by the Commission's order issued April 30, 1996 in Docket No. ER96–780–000.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Florida Power & Light Company

[Docket No. ER96–861–000]

Take notice that on May 10, 1996, Florida Power & Light Company filed Supplement No. 1 to Contract for

Purchases and Sales of Power and Energy between FPL and KN Marketing, Inc. FPL requests an effective date of February 1, 1996.

Comment date: May 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Orange and Rockland Utilities, Inc.

[Docket No. ER96–1059–001]

Take notice that on May 9, 1996, Orange and Rockland Utilities, Inc. tendered for filing its compliance filing in the above-referenced docket.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Florida Power & Light Company

[Docket No. ER96–1160–000]

Take notice that on May 10, 1996, Florida Power & Light Company (FPL) filed Supplement No. 1 to Contract for Purchases and Sales of Power and Energy between FPL and Valero Power Services Company. FPL requests an effective date of March 4, 1996.

Comment date: May 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Lisco, Inc.

[Docket No. ER96–1406–000]

Take notice that on April 25, 1996, Lisco, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of New Mexico

[Docket No. ER96–1462–000]

Take notice that on May 7, 1996 and May 10, 1996, Public Service Company of New Mexico tendered for filing amendments in the above-referenced docket.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Ohio Edison Company

[Docket No. ER96–1562–000]

Take notice that on May 3, 1996, Ohio Edison Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Pacific Power Solutions, LLC

[Docket No. ER96–1599–000]

Take notice that on May 8, 1996, Pacific Power Solutions, LLC tendered for filing written notice of the ownership of Pacific Power Solutions, LLC.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Public Service Electric and Gas Company

[Docket No. ER96–1676–000]

Take notice that on April 29, 1996, the Public Power Association of New Jersey (PPANJ) submitted an executed, uncontested Offer of Settlement between PPANJ and Public Service Electric and Gas Company dated April 29, 1996, and an Explanatory Statement in Support of the Offer of Settlement.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Northern States Power Company

[Docket No. ER96–1696–000]

Take notice that on May 7, 1996, Northern States Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Florida Power Corporation

[Docket No. ER96–1712–000]

Take notice that on May 1, 1996, Florida Power Corporation (FPC) tendered for filing an Agreement for Sale and Purchase of capacity and energy between FPC and Seminole Electric Cooperative, Inc. dated October 12, 1995.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Boston Edison Company

[Docket No. ER96–1749–000]

Take notice that on May 2, 1996, Boston Edison Company tendered for filing an executed Settlement Agreement with Massachusetts Municipal.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Portland General Electric Company

[Docket No. ER96–1759–000]

Take notice that on May 8, 1996, Portland General Electric Company (PGE), tendered for filing under FERC Electric Tariff, 1st Revised Volume No. 2, executed Service Agreements for Federal Energy Sales Inc. and Global Petroleum Corporation.

Pursuant to 18 CFR 35.11 and the Commission's order issued July 30, 1993 (Docket No. PL93–2–002), PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the executed Service Agreement to become effective May 1, 1996.

A copy of this filing was served upon Federal Energy Sales Inc. and Global Petroleum Corporation.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Union Electric Company

[Docket No. ER96–1760–000]

Take notice that on May 8, 1996, Union Electric Company (UE), tendered for filing an Interchange Agreement dated May 3, 1996, between UE and Alabama Electric Cooperative, Inc. UE asserts that the purpose of the Agreement is to set out specific rates, terms, and conditions for the types of power and energy to be exchanged.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Ohio Edison Company and Pennsylvania Power Company

[Docket No. ER96–1761–000]

Take notice that on May 8, 1996, Ohio Edison Company, tendered for filing on behalf of itself and Pennsylvania Power Company, an Agreement for Power Transactions with Western Power Services, Inc. This initial rate schedule will enable the parties to purchase and sell capacity and energy in accordance with the terms of the Agreement.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Houston Lighting & Power Company

[Docket No. ER96–1762–000]

Take notice that on May 8, 1996, Houston Lighting & Power Company (HL&P), tendered for filing executed transmission service agreements (TSAs) under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. The filing consists of economy energy and emergency power TSAs with (1) Entergy Power, Inc. (EPT) and (2) Entergy Power Marketing Group (EPMG) providing for the transmission of energy to be scheduled over the East HVDC Interconnection. HL&P has requested an effective date of May 8, 1996.

Copies of the filing were served on EPI and EPMG and the Public Utility Commission of Texas.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. Central Illinois Public Service Company

[Docket No. ER96–1763–000]

Take notice that on May 8, 1996, Central Illinois Public Service Company (CIPS), submitted a Service Agreement dated May 2, 1996, establishing QST Energy Trading Inc. (QST) as a customer under the terms of CIPS' Coordination Sales Tariff CST–1 (CST–1 Tariff).

CIPS requests an effective date of May 2, 1996, for the service agreement and the revised Index of Customers. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon QST and the Illinois Commerce Commission.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. Cinergy Services, Inc.

[Docket No. ER96–1764–000]

Take notice that on May 8, 1996, Cinergy Services, Inc. (Cinergy), on behalf of its affiliate, The Union Light, Heat and Power Company (Union), tendered for filing an amendment to Union's Rate WS–S, Original Volume No. 1, Thirteenth Revised Sheet No. 4 with the City of Williamstown, Kentucky (Williamstown). The amendment would reduce Union's rates to Williamstown in conformance with the Settlement Agreement in Docket No. ER95–625 and EL95–39.

Cinergy requests that the rate decrease filing take effect immediately upon its acceptance for filing by the Commission. A copy of the filing has been served upon the City of Williamstown, Kentucky.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. Mississippi Power Company

[Docket No. ER96–1765–000]

Take notice that on May 9, 1996, Mississippi Power Company, tendered for filing two Service Delivery Point Contracts with East Mississippi Electric Power Association. The contracts were taken pursuant to Mississippi's Electric Tariff, First Revised Volume No. 1. The contracts will permit Mississippi Power to provide wholesale, all-requirements electric service to East Mississippi Electric Power Association at two service delivery points to be known as ''Meridian No. 2'' and ''Briarwood Primary.''

Copies of the filing were served upon East Mississippi Electric Power Association, the Mississippi Public Service Commission, and the Mississippi Public Utilities Staff.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

27. Louisville Gas and Electric Company

[Docket No. ER96–1766–000]

Take notice that on May 9, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

28. Pacific Gas and Electric Company

[Docket No. ER96–1768–000]

Take notice that on May 9, 1996, Pacific Gas and Electric Company (PG&E), tendered for filing, both for itself and on behalf of Southern California Edison Company (Edison), and San Diego Gas & Electric Company (SDG&E) Ruling No. 14. The Ruling tendered for filing was agreed upon by PG&E, Edison and SDG&E in the course of administering the California Power Pool Agreement, dated July 20, 1964. That Agreement has been filed with the Commission as PG&E Rate Schedule FPC No. 27, Edison Rate Schedule FPC No. 24, and SDG&E Rate Schedule FPC No. 13. The purpose of this Ruling is to provide new procedures for the use of operating reserves in partial fulfillment of spinning reserve requirements.

Copies of this filing have been served upon the parties on the service list including the California Public Utilities Commission.

Edison and SDG&E have both provided Certificates of Concurrence to this filing.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

29. Virginia Electric and Power Company

[Docket No. ER96–1769–000]

Take notice that on May 9, 1996, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between South Carolina Public Service Authority and Virginia Power, dated February 15, 1996, under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to South Carolina Public Service Authority under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, and the North Carolina Utilities Commission Regulatory Commission.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

30. The Dayton Power and Light Company

[Docket No. ER96–1772–000]

Take notice that on May 9, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an executed Master Electric Interchange Agreement between Dayton and Morgan Stanley Capital Group (MSCG).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to MSCG power and/or energy for resale.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

31. New York State Electric & Gas Corporation

[Docket No. ER96–1773–000]

Take notice that on May 9, 1996, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to § 35.13 of the Federal Energy Regulatory Commission's Regulations, 18 CFR 35.13, a Supplement to its September 28, 1993, Marcy-South 345 Kv Transmission Facilities Transmission Reinforcement Agreement (Agreement) with the New York Power Authority (NYPA), designated NYSEG Rate Schedule FERC No. 112. The proposed changes would decrease revenues for the twelve month period ending June 30, 1997.

This rate filing is made pursuant to Article No. 2 of the Agreement. The annual charges associated with other taxes, operating expenses, maintenance expenses, working capital, and associated revenue taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve months ended December 31, 1995.

NYSEG requests an effective date of July 1, 1996, and, therefore, requests waiver of the Commission's notice requirements for good cause shown.

Copies of the filing were served upon the New York Power Authority and on the Public Service Commission of the State of New York.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

32. Growth Unlimited Investments, Inc.

[Docket No. ER96–1774–000]

Take notice that on May 9, 1996, Growth Unlimited Investments, Inc. (GUI, Inc.), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waiver and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1.

GUI, Inc. intends to engage in electric power and energy transactions as marketer and a broker. In transactions where GUI, Inc. sells electric energy it proposes to make such sales on rates, term and conditions to be mutually agreed to with the purchasing party. GUI, Inc. is not in the business of generating, transmitting, or distributing electric power.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

33. Illinois Power Company

[Docket No. ER96–1775–000]

Take notice that on May 9, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which InterCoast Power Marketing Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 6, 1996.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

34. Illinois Power Company

[Docket No. ER96–1776–000]

Take notice that on May 9, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Wisconsin Electric Power Company will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of April 24, 1996.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

35. Illinois Power Company

[Docket No. ER96–1777–000]

Take notice that on May 9, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Rainbow Energy Marketing Corporation will take service under Illinois Power Company's Power Sales Tariff. The agreement is based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of April 24, 1996.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

36. Consolidated Edison Company of New York, Inc.

[Docket No. ER96–1778–000]

Take notice that on May 9, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement to provide interruptible transmission service for Pan Energy Power Services, Inc. (Pan).

Con Edison states that a copy of this filing has been served by mail upon Pan.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

37. Central Power and Light Company West Texas Utilities Company Public Service Company of Oklahoma) Southwestern Electric Power Co.)

[Docket No. ER96–1780–000]

Take notice that on May 9, 1996, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the CSW Operating Companies), tendered for filing unexecuted service agreements to certain transmission customers under which they will provide transmission service to certain transmission customers under their point-to-point transmission service tariffs accepted for filing in Docket No. ER96–1046–000. The transmission customers named in such service agreements previously took transmission service under transmission service tariffs that were superseded by the point-to-point transmission service tariffs filed in Docket No. ER96–1046–000.

The CSW Operating Companies state that a copy of the filing has been served on each such transmission customer and on the Public Utility Commission of Texas, the Oklahoma Corporation Commission, the Arkansas Public Service Commission and the Louisiana Public Service Commission.

Comment date: May 31, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–13068 Filed 5–23–96; 8:45 am]

BILLING CODE 6717–01–P

Western Area Power Administration

Sierra Nevada Region 2004 Power Marketing Program Draft Environmental Impact Statement

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Availability and Notice of Public Hearing.

SUMMARY: Western Area Power Administration's (Western) Sierra Nevada Customer Service Region announces that its 2004 Power Marketing Program Draft Environmental Impact Statement (draft EIS) is available for public review and comment. The Sierra Nevada Region will hold a public hearing to receive formal comments on the draft EIS at its Folsom, California office. The Sierra Nevada Region markets approximately 1,480 megawatts (MW) of power from the Central Valley Project (CVP) in California and other sources, and available nonfirm energy from the Washoe Project. All existing long-term CVP power sales contracts expire on December 31, 2004. The Sierra Nevada Region needs to (1) determine the level and character of capacity, energy, and other services that will be marketed beyond 2004, and (2) establish eligibility and allocation criteria for the allocations of electric power resources to be marketed under contracts that will replace those expiring in 2004. The draft EIS has been prepared in compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, et seq.), the Council on Environmental Quality regulations for implementing

NEPA (40 CFR Parts 1500–1508), and the DOE regulations for compliance with NEPA (10 CFR Part 1021) to describe the potential environmental consequences of the range of reasonable marketing plan alternatives.

The Sierra Nevada Region will accept written and oral comments during the public hearing, and a court reporter will record the proceedings. Those wishing to make oral comments will be asked to register at the door prior to the beginning of the hearing. The Sierra Nevada Region will respond to comments in the final EIS. There will be an informal public information session before the hearing to describe the results of the analysis outlined in the draft EIS. Interested persons can discuss aspects of the draft EIS with Sierra Nevada Region representatives at this session.

DATES AND ADDRESSES: The public information session and hearing will be held on June 13, 1996, at the Sierra Nevada Customer Service Region, 114 Parkshore Drive, Folsom, California. The public information session will begin at 9 a.m., and the public hearing will begin an hour later at 10 a.m.

Copies of the draft EIS have been distributed to interested parties on the EIS mailing list and to various reading rooms. Copies of the draft EIS and supporting documents are available for public review at the locations listed below:

Shasta County Public Library, Reference Desk, 1855 Shasta Street, Redding, CA 96001

Sacramento Public Library, Central Branch, Reference Desk, 828 ''I'' Street, Sacramento, CA 95814

Fresno Public Library, Reference Desk, 2420 Mariposa Street, Fresno, CA 93721

University of California, Berkeley, General Library, Berkeley, CA 94720

Washoe Public Library, Reference Desk, 301 South Center Street, Reno, NV 89501

California State Library, Sacramento Branch, 914 Capital Mall, Sacramento, CA 95814

San Francisco Public Library, Civic Center (Main Library), Reference Desk, 100 Larkin Street, San Francisco, CA 94102

Copies of the draft EIS and supporting documents are also available for public review at Western's offices at:

Sierra Nevada Region, 114 Parkshore Drive, Folsom, CA 95630

Corporate Services Office, 1627 Cole Boulevard, Building 19, Room 175, Golden, CO 80401

U.S. Department of Energy, Forrestal Building, Reading Room 1E–190, 1000 Independence Avenue SW, Washington, DC 20585

Referenced material is contained in the official project file located at the Sierra Nevada Regional Office at the above-listed address.

FOR FURTHER INFORMATION CONTACT: The Sierra Nevada Region maintains a mailing list of those interested in the 2004 Power Marketing Program EIS. For further information, to submit written comments, or to request a copy of the draft EIS, please call or write: Jerry W. Toeynes, Project Manager, Western Area Power Administration, Sierra Nevada Customer Service Region, 114 Parkshore Drive, Folsom, CA 95630–4710, (916) 353–4455.

Written comments on the draft EIS may be sent to the Project Manager by July 31, 1996.

For general information on DOE's NEPA review process, or for status on the review of a specific project, please contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue SW. Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: The Sierra Nevada Region currently markets about 1,480 MW of long-term power to approximately 80 preference customers in northern and central California. Sources for this power include CVP powerplants, the Washoe Project powerplant at Stampede Dam, and other suppliers. Washoe Project power is sold as nonfirm energy. On December 31, 2004, all of the Sierra Nevada Region's long-term CVP power sales contracts will expire, along with its current resource integration and transmission contract with Pacific Gas and Electric Company. The Sierra Nevada Region is developing a 2004 Power Marketing Plan to analyze options for replacing the expiring contracts.

The Sierra Nevada Region's power resources are also subject to change. Determination of the electric capacity and energy to be marketed will be influenced by expected generation at reservoirs which have water storage and releases controlled by the Bureau of Reclamation. Pursuant to Title 34 of Public Law 102–575, the CVP Improvement Act of 1992, the Department of the Interior is preparing a programmatic EIS addressing water facilities and potential changes in CVP water operations and allocations.

On August 10 and 13, 1993, Western announced in the Federal Register (58 FR 42536 and 43105) its intent to prepare an EIS on the Sierra Nevada Region's electric power marketing activities extending beyond the year 2004. Following extensive public involvement and analysis, the draft EIS was prepared to analyze and describe the environmental consequences of a range of marketing plan alternatives. The Sierra Nevada Region developed four alternatives for analysis in the draft EIS that are structured around operations of the CVP hydroelectric system. The four alternatives are identified as No Action, Maximize Hydropower Peaking, Baseload, and Renewable Resource Acquisition. Each alternative includes possible power purchase and power cost analysis options. Also, an analysis of allocations to customer groups was done under each alternative to determine the range of impacts that may result from changing the quantity of resources available to different customer groups. The draft EIS evaluates the potential impacts of these alternatives, including no action, on water resources (water quality, temperature, pool fluctuation), biological resources, recreation, cultural resources, socioeconomic resources, air resources, solid wastes, and land use.

The Sierra Nevada Region is actively seeking public input on the draft EIS in order to make a decision on a preferred alternative. No preferred alternative is identified in the draft EIS for this reason. A decision on a preferred alternative will be made after considering comments on the draft EIS, and that alternative will be recommended in the final EIS.

Issued at Golden, Colorado, May 16, 1996.

J.M. Shafer,

Administrator.

[FR Doc. 96–13125 Filed 5–23–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5509–9]

Acid Rain Program: Draft Opt-in Permits and Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft opt-in permits and public comment period.

SUMMARY: The U.S. Environmental Protection Agency is issuing for comment two draft opt-in permits: one for the DuPont-Johnsonville Plant facility (Dupont) in Tennessee and one for the Warrick Power Plant facility (Warrick) in Indiana, in accordance with the Acid Rain Permits and Opt-in regulations (40 CFR parts 72 and 74, respectively).

DATES: Comments on the draft opt-in permits must be received no later than

June 24, 1996 or 30 days after the publication date of a similar notice in local newspapers.

ADDRESSES: Administrative Records. The administrative records for the draft opt-in permits, except information protected as confidential, may be viewed during normal operating hours at the following locations:

For Dupont: EPA Region 4 Library, EPA Region 4, 345 Courtland Street NE, Atlanta, GA 30365.

For Warrick: EPA Region 5, Ralph H. Metcalfe Federal Bldg., 77 West Jackson Blvd., Chicago, IL 60604.

Comments. Send comments to the following addresses:

For Dupont: Winston Smith, Director, Air, Pesticides and Toxics Management Division, EPA Region 4 (address above).

For Warrick: David Kee, Director, Air and Radiation Division, EPA Region 5 (address above).

Submit comments in duplicate and identify the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of the units covered by the permits. All timely comments will be considered, except those pertaining to standard provisions under 40 CFR 72.9 and issues not relevant to the permits.

Hearings. To request a public hearing, state the issues proposed to be raised in the hearing. EPA may schedule a hearing if EPA finds that it will contribute to the decision-making process by clarifying significant issues affecting the draft permits.

FOR FURTHER INFORMATION CONTACT: For Dupont: Jenny Jachim, (404) 347–3555, extension 4166, EPA Region 4; for Warrick: Cecilia Mijares, (312) 886–0968, EPA Region 5.

SUPPLEMENTARY INFORMATION: The Opt-in Program, as part of the Acid Rain Program, is designed to allow certain non-utility units that are otherwise not obligated to participate in the Acid Rain Program (''unaffected'' units) to voluntarily elect to become affected and subject to the requirements of the Acid Rain Program. As such, opt-in units must hold allowances to account for sulfur dioxide emissions, monitor emissions in the same way that other affected sources do, and apply for and obtain an opt-in permit. The U.S. Environmental Protection Agency is issuing for comment draft opt-in permits for the DuPont and Warrick facilities in accordance with the Acid Rain Permits and Opt-in regulations (40 CFR parts 72 and 74, respectively). The draft permit for DuPont specifies the following allowances to be allocated annually by EPA to each boiler (unit) at DuPont: 889 for 1996 and 1,778 for each year 1997 through 1999 to unit JVD–1; 889 for 1996 and 1,778 for each year 1997 through 1999 to unit JVD–2; 889 for 1996 and 1,777 for each year 1997 through 1999 to unit JVD–3; 888 for 1996 and 1,777 for each year 1997 through 1999 to unit JVD–4. These allowances will be transferred annually from the EPA Allowance Tracking System (ATS) accounts for DuPont-Johnsonville Plant, units JVD–1, JVD–2, JVD–3 and JVD–4, into the ATS accounts for Tennessee Valley Authority (TVA)-Johnsonville Plant, units 1, 2, 3, and 4, because the TVA-Johnsonville units are replacing the thermal energy formerly produced at the Dupont-Johnsonville Plant, as specified in the opt-in permit application and Thermal Energy Plan between DuPont-Johnsonville Plant and TVA-Johnsonville Plant in the draft permit. The allowance transfer will be adjusted according to the actual level of replacement documented in the opt-in source's and the replacement units' annual compliance certification report.

The draft permit for Warrick specifies the following allowances to be allocated annually by EPA to each boiler (unit) at Warrick: 15,272 for 1996 and 30,372 for each year 1997 through 1999 to unit 1; 15,895 for 1996 and 30,732 for each year 1997 through 1999 to unit 2; 13,777 for 1996 and 27,668 for each year 1997 through 1999 to unit 3. The 1996 allowance allocation for Warrick units 1–3 is contingent upon the successful completion of monitor system certification under 40 CFR part 75 no later than June 30, 1996.

These opt-in permits do not affect the responsibility of units at DuPont-Johnsonville, TVA-Johnsonville, or Warrick to meet all other existing local, state, and federal requirements related to sulfur dioxide. The designated representatives are J. Michael Edenfield for DuPont-Johnsonville facility, Joseph W. Dickey for TVA-Johnsonville facility, and J. Gordon Hurst for Warrick facility.

Dated: May 20, 1996.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 96–13152 Filed 5–23–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL 5508–7]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement; Request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended, (''Act''), notice is hereby given of a proposed partial consent decree, which was lodged with the United States District Court for the District of Columbia by the United States Environmental Protection Agency (''EPA'') on May 9, 1996, in a lawsuit filed by the Sierra Club Legal Defense Fund. This lawsuit, which was filed pursuant to section 304(a) of the Act, 42 U.S.C. § 7604(a), concerns, among other things, EPA's alleged failure to meet a mandatory deadline under section 112(g) of the Clean Air Act. The proposed partial consent decree provides that EPA shall promulgate the guidance identified in section 112(g) of the CAA, with respect to constructions and reconstructions of major sources of hazardous air pollutants, no later than December 15, 1996.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed partial consent decree from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed partial consent decree if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, following the comment period, that consent is inappropriate, the final partial consent decree will establish a deadline for the promulgation of the guidance provided for in § 112(g).

A copy of the proposed partial consent decree was lodged with the Clerk of the United States District Court for the District of Columbia on May 9, 1996. Copies are also available from Sonja Lee, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (703) 235–5330. Written comments should be sent to Jan M. Tierney at the address above and must be submitted on or before June 24, 1996.

Dated: May 10, 1996.

Scott C. Fulton,

Acting General Counsel.

[FR Doc. 96–13086 Filed 5–23–96; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–5469–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared May 06, 1996 Through May 10, 1996 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 05, 1996 (61 FR 15251).

Draft EISs

ERP No. D–DOE–A09827–00

Rating EC2, Programmatic EIS—Storage and Disposition of Weapon-Usable Fissile Materials, Implementation, Storage of all Plutonium and Highly Enriched Uranium and the Disposition of Surplus Plutonium, Sites Considered: Hanford Site, Idaho National Engineering Lab., Nevada Test Site, Oak Ridge Reservation, Pantex Plant and Savannah River Site.

Summary: EPA requested that DOE provide additional information and clarity concerning several issues common to all the alternatives including accident risk analysis, cumulative impacts, and environmental justice.

ERP No. D–MMS–A02239–00

Rating EC2, Gulf of Mexico and Offshore Alaska Outer Continental Shelf (OCS) Oil and Gas Leasing Program 1997 to 2002 for 16 Lease Sales on Five-Year Leasing Program.

Summary: EPA's review identified potentially signifcant environmental impacts that should be avoided in order to adequately protect the environment, in particular related to the need to include commitments in the EIS to situations to ensure the protection by mitigation for important resources, i.e., live bottom, topographic features, archaeological resources and military areas. EPA also found that the draft does not contain sufficient information to fully assess environmental impacts in such areas as impacts to Canada, environmental justice concerns, and leasing proposals included in one alternative.

ERP No. D–MMS–L02010–AK

Rating LO, 1997 Outer Continental Shelf Oil and Gas Lease Sale 158, Yakutat Planning Area, Implementation, Gulf of Alaska, AK.

Summary: EPA had no objections to the preferred alternative as described in the EIS. No formal comment letter was sent to the preparing agency.

Final EISs

No. F–AFS–K65175–CA

Pilot Creek Watershed Land Management Plan, Implementation, Hayfork Adaptive Management Area, Six Rivers National Forest, Mad River Ranger District, Humboldt and Trinty Counties, CA.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–BLM–L60102–OR

Tucker Hill Perlite Quarry Project, Implementation, Mining Plan of Operation, Approval, Town of Lakeview, Lake County, OR.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–BLM–L61205–OR

Bal'diyaka Interpretive Center Construction and Operation to Present the Natural History of Oregon's Southern Coast; the Cultural Heritage of the Coos, Lower Umpqua and Siuslaw Indians and Local U.S. Coast Guard History, Implementation, Coos Bay District, Gregory Point, Coos County, OR.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–DOE–L05210–00

Resource Contingency Program, Construction and Operation, Site Specific, Hermiston Power Project, Umattilla County, OR.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–DOE–L09804–00

Delivery of the Canadian Entitlement by the United States Entity of Power Benefits, Implementation, WA, OR, ID, MI, WY, CA, NV, AZ and British Columbia.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–GSA–K80037–CA

San Diego—United States Courthouse, Site Selection and Construction within a portion of the Central Business District (CBD), City of San Diego, San Diego County, CA.

Summary: Review of the final EIS was not deemed necessry. No formal comment letter was sent to the preparing agency.

ERP No. F–MMS–L02024–AK

Cook Inlet Planning Area, Alaska Outer Continental Shelf Oil and Gas Sale 149, Leasing Offering, AK.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–SFW–K99027–CA

Stephens' Kangaroo Rat (SKR) Authorization for Incidental Take and Implementation of a Long-Term Habitat Conservation Plan, Western Riverside County, CA.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

Dated: May 21, 1996

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–13183 Filed 5–23–96; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–5469–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167, or (202) 564–7153.

Weekly receipt of Statements Filed May 13, 1996 Through May 17, 1996 Pursuant to 40 CFR 1506.9;

EIS No. 960230, Final Supplement, COE, IL, Sugar Creek Municipal Water Supply Reservoir Construction, Additional Information, COE Section 404 Permit Issuance, City of Marion, Williamson and Johnson Counties, IL, Due: June 17, 1996, Contact: Ronny Sadri (502) 582–5452.

The above EIS should have appeared in the May 17, 1996 Federal Register. The 30 day Wait Period is Calculated from the Intended Federal Register Date of May 17, 1996.

EIS No. 960231, Draft EIS, NPS, CA, Santa Rosa Island Resources Management Plan, Improvements of Water Quality and Conservation of Rare Species and their Habitats, Channel Islands National Park, Santa Barbara County, CA, Due: July 23, 1996, Contact: Allen Schmierer (415) 744–3971.

EIS No. 960232, Draft EIS, FHW, NY, Stutson Street BIN–3317120 Over

Genesee River (PIN 4751.05.121), from the Interchange of the Lake Ontario State Parkway and Latta Road to Lake Shore Boulevard, COE Section 10 and 404 Permit, Bridge and Coast Guard Permits, in the City of Rochester, Towns of Greece and Irondequoit, Monroe County, NY, Due: July 08, 1996, Contact: Harold J. Brown (518) 431–4127.

EIS No. 960233, Final EIS, DOE, WA, Plutonium Finishing Plant (PFP) Stabilization, To Safely Reduced Radiation Exposure to Workers and Environment, Hanford Site, Richland, Benton County, WA, Due: June 24, 1996, Contact: Ben Burton (888) 946–3700.

EIS No. 960234, Draft EIS, FTA, MD, Georgetown Branch Transitway/Trail Corridor, Transportation Improvements, between Bethesda and Silver Spring Central Business Districts (CBDs), Major Investment Study, Montgomery County, MD, Due: July 26, 1996, Contact: Ms. Sandra Balmir (215) 656–6900.

EIS No. 960235, Final EIS, AFS, ID, Salmon River Corridor, Implementation, Sawtooth National Recreation Area (SNRA), Sawtooth Forest Land and Resource Management Plan (FLRMP), Custer County, ID, Due: June 24, 1996, Contact: Lisa Stoeffler (208) 774–3001.

EIS No. 960236, Final Supplement, AFS, CO, Illinois Creek Timber Sale, Timber Harvesting, Implementation, Amended Land and Resource Management Plan, Grand Mesa, Uncompahgre and Gunnison National Forests, Taylor River/Cebolla Ranger District, Gunnison County, CO, Due: June 24, 1996, Contact: Arthur Haines (970) 641–0471.

EIS No. 960237, Draft Supplement, AFS, OR, Eagle Creek Timber Sale and Road Construction, Additional and Updated Information, Implementation, Mt. Hood National Forest, Zigzag and Estacada Ranger District, Clackama County, OR, Due: July 08, 1996, Contact: Janet Anderson (503) 630–6861.

EIS No. 960238, Final EIS, IBR, CA, South Bay Water Recycling Program (SBWRP), Development and Construction, Funding and COE Section 404 Permit, Golden Triangle Area, City of San Jose, Santa Clara County, CA, Due: June 24, 1996, Contact: Mona Jefferies-Soniea (916) 979–2297.

EIS No. 960239, Draft EIS, FTA, NY, Wassaic Extension Project, Expand Metro-North, Funding and Right-of-Way, Dutchess and Litchfield Counties, NY, Due: July 08, 1996, Contact: Anthony Carr (212) 264–8162.

EIS No. 960240, Draft EIS, DOE, NV, CA, Sierra Nevada Region 2004 Power Marketing Program, Implementation, 1,480 megawatts (MW) Power from the Central Valley and Washoe Project, NV and CA, Due: July 08, 1996, Contact: Jerry Toenyes (916) 353–4418.

Dated: May 21, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–13184 Filed 5–23–96; 8:45 am]

BILLING CODE 6560–50–U

[PP 1F3953/PF653; FRL–5367–3]

BASF Corporation; Withdrawal of Pesticide Petition for Sodium Acifluorfen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that BASF Corporation has withdrawn its petition to establish tolerances for Sodium acifluorfen on dry beans and sunflower seed.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller, Product Manager (PM) 23, Registration Division, (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 2801 Jefferson Davis Highway, Arlington, VA 22202, 703–305–6224; e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA announced in a notice of filing published in the Federal Register of April 3, 1991 (56 FR 13641)(PF–544; FRL–3882–5) the filing of pesticide petition (PP) 1F3953 by the BASF Corporation proposing to establish a tolerance for residues of sodium acifluorfen (sodium 5-[2-chloro-4-(trifluoromethyl) phenoxy]-2-nitrobenzoic acid and its metabolites (the corresponding acid, methy ester, and amino analogues) in or on dry beans and sunflower seed at 0.05 parts per million. The BASF Corporation has withdrawn that pesticide petition.

List of subjects

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

Authority: 7 U.S.C. 136a.

Dated: May 13, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–13020; Filed 5–23–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–00426; FRL–5350–4]

Self Certification of Acute Toxicity Studies; Notice of Availability and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is soliciting comments on a proposed policy developed in a draft Pesticide Regulation (PR) Notice entitled ''Self Certification of Acute Toxicity Studies.'' Interested parties may request this document as described in the ADDRESSES unit of this notice.

DATES: Written comments, identified by the docket number ''OPP–00426'' must be received on or before July 23, 1996.

ADDRESSES: The PR Notice is available from Jim Jones: By mail: Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 6th Floor, CS-1, 2800 Crystal Drive North, Arlington, VA, (703) 308–8358, e-mail: jones.jim@epamail.epa.gov.

Submit written comments to: By mail: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number ''OPP–00426.'' No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under the

SUPPLEMENTARY INFORMATION unit of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Jim Jones at the telephone number, office location, or e-mail address listed under the ADDRESSES unit of this document.

SUPPLEMENTARY INFORMATION: EPA is soliciting comments on a proposed policy developed in a draft PR Notice entitled ''Self Certification of Acute Toxicity Studies.'' EPA is proposing to allow registrants to self-certify the results of acute toxicity tests for pesticide products in toxicity categories III and IV. The draft PR Notice describes the eligibility requirements and the conditions of this program. This Federal Register notice announces the availability of the draft PR Notice and solicits comment on the proposed policy. After reviewing public comments received, EPA may make changes to the Policy and revise the draft PR Notice prior to release.

A record has been established for this action docket number ''OPP–00426'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

List of Subjects

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

Dated: May 14, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–13018 Filed 5–23–96; 8:45 am]

BILLING CODE 6560–50–F

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the Export-Import Bank of the United States

SUMMARY: The Advisory Committee was established by P.L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

TIME AND PLACE: Thursday, June 13, 1996, at 9:30 a.m. to 12:00 noon. The meeting will be held at EX-IM Bank in Room, 1143, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

AGENDA: The meeting agenda will include a discussion of the following: Export-Import Bank's Charter Renewal, Competitiveness Report will be presented and other topics.

PUBLIC PARTICIPATION: The meeting will be open to public participation; and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Joyce Herron, Room 1220, 811 Vermont Avenue, N.W., Washington, D.C. 20571, (202) 565–3503, not later than June 1, 1996. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to June 1, 1996, Joyce Herron, Room 1215, 811 Vermont Avenue, N.W., Washington, DC 20571, Voice: (202) 565–3955 or TDD (202) 565–3377.

FOR FURTHER INFORMATION: For further information, contact Joyce Herron, Room 1215, 811 Vermont Avenue, N.W., Washington, D.C. 20571, (202) 565–3503.

Kenneth Hansen,

General Counsel.

[FR Doc. 96–13071 Filed 5–23–96; 8:45 am]

BILLING CODE 6690–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the June 13, 1996 regular meeting of the Farm Credit Administration Board (Board) will not be held and that a special meeting of the Board is scheduled for Tuesday, June 25, 1996 at 9:00 a.m. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: May 21, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–13232 Filed 5–22–96; 9:15 am]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:05 a.m. on Tuesday, May 21, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) reports of the Office of Inspector General, and (2) matters relating to the Corporation's supervisory, corporate, and personnel activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Jonathan L. Fiechter (Acting Director, Office of

Thrift Supervision), concurred in by Director Joseph H. Neely (Appointive), Susan Krause acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii) and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.c. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii) and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: May 21, 1996.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 96–13302 Filed 5–22–96; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public, Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended: Disney Cruise Line, Inc., 210 Celebration Place, Celebration, Florida 34747.

Vessels: Disney Magic and Disney Wonder.

Dated: May 21, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–13189 Filed 5–23–96; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Intrepid Overseas Shipping Corporation, 440 Benmar Drive, Suite 1030, Houston, TX 77060, Officer: James N. Ortego, Director

Neotrade, Inc. d/b/a Dandan, Driscoll & Assoc., 1010 Jorie Blvd., Suite 310, Oak Brook, IL 60521, Officers: Nabil Dandan, President, Eileen Driscoll, Secretary

Tober Group, Inc., 1948 Troutman Street, Ridgewood, NY 11385, Officer: Yonathan Benhaim, President

Dated: May 21, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–13188 Filed 5–23–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 7, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Mary G. Clark Revocable Trust and Mary Gene Clark, as Trustee, both of Windom, Minnesota; to acquire a total of 25.51 percent of the voting shares of Windom State Investment Company, Windom, Minnesota, and thereby indirectly acquire Southwest State Bank, Windom, Minnesota.

Board of Governors of the Federal Reserve System, May 20, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–13132 Filed 5–23–96; 8:45 am]

BILLING CODE 6210–01–F

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. Once the application has been accepted for processing, it will also 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, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

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 June 17, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Fortress Bancshares, Inc., Cresco, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Fortress Bank of Cresco, Cresco, Iowa (in organization).

Board of Governors of the Federal Reserve System, May 20, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–13133 Filed 5–23–96; 8:45 am]

BILLING CODE 6210–01–F

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. Once the application has been accepted for processing, it will also 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, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

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 June 7, 1996.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. KeyCorp, Cleveland, Ohio; to acquire 100 percent of the voting shares of Key Bancorp of New Hampshire, Inc., Albany, New York, and thereby indirectly acquire Key Bank, Bedford, New Hampshire, a *de novo* bank.

In connection with this application Key Bancorp of New Hampshire, Inc., Albany, New York; has applied to become a bank holding company by acquiring 100 percent of the voting shares of Key Bank, Bedford, New Hampshire, a *de novo* bank.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Chester County Bancshares, Inc., Henderson, Tennessee; to acquire 100 percent of the voting shares of Southwest Tennessee Bancshares, Inc., Adamsville, Tennessee, and thereby indirectly acquire Farmers & Merchants Bank, Adamsville, Tennessee.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Lindoe, Inc., Ordway, Colorado; to acquire 10 percent of the voting shares of Pueblo Bancorporation, Inc., Pueblo, Colorado, and thereby indirectly acquire Pueblo Bank and Trust Company, Pueblo, Colorado.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. California Community LLC, Los Angeles, California; to become a bank holding company by acquiring up to 83.3 percent of the voting shares of First Coastal Bank, N.A., El Segundo, California.

Board of Governors of the Federal Reserve System, May 20, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–13134 Filed 5–23–96; 8:45 am]

BILLING CODE 6210–01–F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 7, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Middle Georgia Bankshares, Inc., Unadilla, Georgia; to engage *de novo* through its subsidiary, ProImage, Inc., Macon, Georgia, in a joint venture with First Macon Bank & Trust, Macon, Georgia (First Macon Bank and Trust is not an affiliate of Applicant), and Provesa, Inc., Macon, Georgia, and

thereby engage in data processing activities, pursuant to § 225.25(b)(7) of the Board's Regulation Y. Specifically, ProImage, Inc., will provide check imaging and item processing services to banks.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to engage *de novo* through its subsidiary, Real Estate Financial, Palm Harbor, Florida, in a joint venture, and thereby engage in residential mortgage lending business, pursuant to § 225.25(b)(1) of the Board's Regulation Y. The co-venturers will be Norwest Ventures, Inc., and First in Real Estate Corporate Center, Inc., Palm Harbor, Florida.

Board of Governors of the Federal Reserve System, May 20, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–13135 Filed 5–23–96; 8:45 am]

BILLING CODE 6210–01–F

Board of Governors; Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, May 29, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 22, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–13241 Filed 5–22–96; 10:16 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary, publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. Alternative Models of Personal Assistance Services—NEW—The Office of the Assistant Secretary for Planning and Evaluation is planning a data collection which will compare modes of service delivery used to provide personal care services to the frail, elderly, and disabled persons of all ages. The three main provider modes to be compared are consumer-directed independent providers, supported independent providers, and contract or agency providers. The comparison is intended to further knowledge of the advantages and disadvantages of the alternative provider modes. Respondents: Individuals or households; state or local governments, business or other for-profit, not-for-profit institutions. Burden Information for Client Questionnaire—Responses: 1230; Burden per Response: 45 minutes; Total Burden: 923 hours—Burden for Provider Questionnaire—Responses: 530; Burden per Response: 40 minutes; Total Burden: 353 hours—Burden Information for Case Manager Questionnaire—Responses: 100; Burden per Response: 60 minutes; Total Burden: 100 hours—Burden Information for Client Qualitative Interview—Responses: 100; Burden per Response: 60 minutes; Total Burden: 100 hours—Burden Information for Provider Qualitative Interview—Responses: 150; Burden per Response: 55 minutes; Total Burden: 137 hours—Burden Information for Family Qualitative Interview—Responses: 150; Burden per Response: 45 minutes; Total Burden: 113 hours—Total Burden for Project: 1,726 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street N.W., Washington, D.C. 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue S.W., Washington DC, 20201. Written comments should be received within 30 days of this notice.

Dated: May 15, 1996.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 96–13055 Filed 5–23–96; 8:45 am]

BILLING CODE 4150–04–M

Food and Drug Administration

[Docket No. 94D–0401]

Bioequivalence Guidance, 1996; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the revised guidance document entitled ''Bioequivalence Guidance, 1996'' prepared by the Center for Veterinary Medicine (CVM). The availability of a draft guideline entitled ''Bioequivalence Guideline (Draft) 1994'' was announced in the Federal Register of March 1, 1995 (60 FR 11097) (hereinafter referred to as the 1994 draft guideline). The 1994 draft guideline was a revision of the 1990 version and covered the following areas: General considerations, blood level studies, pharmacologic endpoints, clinical endpoints, and human food safety. The guidance is intended to assist sponsors of new animal drug applications (NADA's) in the design and analysis of in vivo bioequivalence studies. This notice addresses comments submitted on the 1994 draft guideline.

DATES: Written comments on the guidance document may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Bioequivalence Guidance, 1996'' to the Communications and Education Branch (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1755. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food

and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the guidance document and received comments may be seen at the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1643.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of the revised guidance entitled ''Bioequivalence Guidance, 1996''. The guidance may be used by sponsors of NADA's for the design and analysis of in vivo bioequivalence studies.

In a notice published in the Federal Register of March 1, 1995 (60 FR 11097), FDA announced the availability of the 1994 draft guideline entitled ''Bioequivalence Guideline (Draft) 1994''. The 1994 draft guideline was based on an April 1990 bioequivalence guidance and reports from panel presentations at the 1993 Veterinary Drug Bioequivalence Workshop held in Rockville, MD. New topics addressed in the 1994 draft guideline included: Bioequivalence overdose studies, testing for multiple strength solid oral dosage forms, assay considerations, area under the curve and maximum blood concentration as pivotal parameters, and blood level studies with good laboratory practice tissue residue depletion studies for generic products for food animals. Interested persons were given until May 30, 1995, to comment on the 1994 draft guideline.

Comments on the 1994 draft guideline were received from a pharmaceutical company and an industry group. The 1994 draft guideline has been revised as a result of these comments and from internal discussions within CVM. In the following section on received comments and CVM responses, the page numbers and sections refer to those found in the 1994 draft guideline.

1. Section II.E. Dose Selection. The comment objected to the use of the term ''overdose bioequivalence study'' since ''overdose'' has toxicological connotations.

CVM accepts the comments and will change the wording from ''overdose'' to ''higher than approved dose.''

2. Section II.F. Multiple Strengths of Solid Oral Dosage Forms. One comment asked for the rationale for requiring two bioequivalence studies in order to obtain approval when there are more than three strengths of exactly proportional formulations.

CVM accepts the comment and has modified the guidance to allow more flexibility in the determination of the need for more than one bioequivalence study for multiple strengths of solid oral dosage forms. The guidance has been modified to read as follows:

The generic sponsor should discuss with CVM the appropriate *in vivo* bioequivalence testing and *in vitro* dissolution testing to obtain approval for multiple strengths (or concentrations) of solid oral dosage forms.

CVM will consider the ratio of active to inactive ingredients and the *in vitro* dissolution profiles of the different strengths, the water solubility of the drug, and the range of strengths for which approval is sought.

One *in vivo* bioequivalence study with the highest strength product may suffice, if the multiple strength products have the same ratio of active to inactive ingredients and are otherwise identical in formulation.

In vitro dissolution testing should be conducted, using an FDA approved method, to compare each strength of the generic product to the corresponding strength of the reference product.

3. Section II.G. Manufacturing of Pilot Batch (''Biobatch''). One comment requested that terms such as 'pilot' and 'biobatch' need to be precisely defined in this document or reference made to the manufacturing guidelines.

CVM refers the reader to CVM's ''Animal Drug Manufacturing Guidelines, 1994'' for definition of terms.

4. Section III.A. Assay Considerations. One comment requests that CVM should adopt the same guidance as established in the joint industry/academia conference on ''Analytical Methods Validation: Bioavailability, Bioequivalence, and Pharmacokinetics Studies'' published in several journals including the *Journal of Pharmaceutical Sciences*, 81(3), 309–312, 1992.

CVM does not agree with this comment. The substance of CVM's guidance does not differ substantially from those used by CDER. Any difference is the result of CVM's interest in maintaining consistency among its analytical criteria for drug residues in the edible tissues. Drug residue measurement in edible tissues is specific to animal drugs and is not applicable to CDER (human drugs).

5. Section III.C.6.a. Area Under the Curve (AUC) Estimates. One comment questioned whether AUC by the linear trapezoidal rule is the preferred method to estimate AUC, and noted that the method is subject to substantial error when data points are widely spaced (e.g., during the terminal exponential disposition phase).

CVM accepts the comment and will modify the wording in the guidance to acknowledge that methods other than the linear trapezoidal rule may be used for estimating AUC, but the alternative method should be accompanied by appropriate references.

6. Section III.C.6.a. One comment questioned the reason to equate AUC over a dosing interval at steady-state to single-dose AUC zero to infinity. The comment stated that this relationship only holds if pharmacokinetics are linear over the relevant dose range and one of the prime reasons for doing a multiple-dose bioequivalence study is when kinetics are nonlinear.

CVM has modified the guidance to read as follows:

Under steady state conditions, $AUC_{0\text{-}t}$ equals the full extent of bioavailability of the individual dose ($AUC_{0\text{-}INF}$), assuming linear kinetics. For drugs which are known to follow nonlinear kinetics, the sponsor should consult with CVM to determine the appropriate parameters for the bioequivalence determination.

7. Section III.C.6.c. Determination of Product Bioequivalence. One comment requested that the sponsor should be allowed to extend the range of acceptable bioequivalence limits for drugs exhibiting highly variable pharmacokinetics, if adequate justification is provided.

CVM accepts the comment and has modified the guidance to include the following statement:

The sponsor and CVM should agree to the acceptable bounds for the confidence limits for the particular drug and formulation during protocol development. If studies or literature demonstrate that the pioneer drug product exhibits highly variable kinetics, then the generic drug sponsor may propose alternatives to the generally acceptable bounds for the confidence limits.

8. One comment requested that the repeated references to flip-flop kinetics should be replaced by the more general term ''prolonged absorption.''

CVM accepts the comment and has replaced the term ''flip-flop kinetics'' with ''sustained or prolonged absorption.''

9. One comment requested that the Bioequivalence Guidance provide more detail on evaluation of Production Drugs and Short Term Therapeutic Treatments in Feed (Staff Manual Guide 1240.4145).

CVM does not agree with the request to elaborate on combination drugs for use in feed. The focus of the Bioequivalence Guidance is the approval of generic animal drugs, although many of the principles may be applied to blood level studies conducted for other purposes. CVM considers it beyond the scope and intent of this guidance to discuss combination approvals for feeds.

10. Page 1, section I. INTRODUCTION, fifth paragraph. One

comment requested insertion of the following paragraph:

Tissue residue studies will not normally be required if blood concentration curve shape and depletion time through the reference product's withdrawal time are the same for generic and reference products. Tissue residue studies will normally be required where the blood levels cannot be measured prior to the elapse of the reference product's withdrawal period.

CVM does not agree with the change proposed by this comment. The pivotal parameters for the drug concentration versus time curve are AUC and C_{MAX}. CVM does not intend to evaluate curve shape and depletion time as pivotal parameters. For clarity, however, the guidance has been modified to read as follows:

The Center has concluded that the tissue residue depletion of the generic product is not adequately addressed through bioequivalence studies. Therefore, ANADA's for drug products for food-producing animals will generally be required to include bioequivalence and tissue residue studies. A tissue residue study will generally be required to accompany clinical end-point and pharmacologic end-point bioequivalence studies, and blood level bioequivalence studies that can not quantify the concentration of the drug in blood throughout the established withdrawal period.

11. Page 2, section II.A. Selection of Reference Product for Bioequivalence Testing, second paragraph. One comment suggested that the paragraph should read ''but remains eligible to be copied, then the first approved *and available* generic copy of the pioneer should be used * * *.''

CVM accepts the comment and has reworded the paragraph.

12. Page 5, first full paragraph. One comment suggests that multiple bioequivalence studies at different doses should only be required if the pharmacokinetics are not linear.

CVM accepts the recommendation and has modified the guidance to read as follows:

For products labeled for multiple claims involving different pharmacologic actions at a broad dose range (*e.g.*, therapeutic and production claims), a single bioequivalence study at the highest approved dose will usually be adequate. However, multiple bioequivalence studies at different doses may be needed if the drug is known to follow nonlinear kinetics. The sponsor should consult with CVM to discuss the bioequivalence study or studies appropriate to a particular drug.

13. Page 6, section III.A.1. Concentration Range and Linearity. One comment proposed that ''at least 5–8 concentrations'' is vague and suggested ''at least 5 concentrations.''

CVM accepts the comment and has changed the wording to ''at least 5 concentrations.''

14. Page 7, section III.A.4. Specificity. One comment requested that CVM provide further detail on statistical methods for demonstrating ''parallelism and superimposability.'' Analysis of variance is used to compare means but could be used to compare slopes in this case. This is computationally straightforward for linear curves but nonlinear curves (e.g., microbiological assays) pose unique problems.

CVM's response is that the type of statistical procedure used to process data demonstrating parallelism and superimposability of curves depends on the nature of the experimental data. CVM is allowing the sponsor the flexibility to determine the algorithm used to evaluate data. Whatever statistical procedure is used should be justified by the sponsor.

The use of microbiological assays for drug analysis will be addressed in a future CVM guidance.

15. Page 8, sections III.A.5. Accuracy (Recovery) and III.A.6. Precision. One comment requested that ''replicate injections'' be changed to ''replicates.''

CVM accepts the comment.

16. Page 8, section III.A.6. Precision. One comment stated that the suggested coefficient of variation of ± 10 percent for concentrations at or above 0.1 micrograms per milliliter (mL) is too stringent. The comment suggested ±15 percent as an alternative coefficient of variation to target.

CVM does not agree with this comment. In light of today's analytical technology, ±10 percent coefficient of variation is not unreasonable and is consistent with CVM policy in other analytical areas. In addition, CVM does not believe anything is gained by a detailed analysis of the sources of variation in analytical results.

17. Page 8, section III.A.7. Analyte Stability, second paragraph. One comment recommended that stability samples at only two concentrations are necessary, rather than three as suggested in the 1994 draft guideline. It is critically important to validate the assay before conduct of the bioequivalence study. However, analyte stability cannot be done without the use of more animals than required by the bioequivalence study so as to have a valid method in place prior to study initiation. It is impossible to store and begin analyzing stability samples throughout the duration of the bioequivalence study analysis phase unless the method has been validated prior to that study's initiation.

CVM does not agree with this comment. No study should be undertaken until the analytical methods that will be used to develop the data are properly validated and shown to be operating in a state of control in the laboratory. This means that after the method is validated, the laboratory intending to use the method for a study, must practice with the method to assure full familiarization with technical details. CVM does not make any recommendation on how much practice is required. This depends on the complexity of the method and on the experience of the laboratory.

18. Page 8, section III.A.8. Analytical System Stability. One comment stated that it was unclear how the use of standards (of multiple concentrations) repetitively run to assure analytical system stability differs from quality control methods of assuring the same thing.

CVM accepts the comment that the wording on the use of standards may be unclear. The guidance section on ''Assay Considerations'' has been extensively reworded for clarity.

19. Page 9, section III.B.1. Dosing by Labeled Concentration. One comment asked how the assay prior to study will be used to ensure specifications. What actions can the sponsor take if the pioneer assays at -5 percent while the generic assays at +5 percent.

CVM's response is that the pioneer and generic products should be assayed to determine that the particular lots are within specifications. No action can be taken if the pioneer assays at -5 percent while the generic assays at +5 percent.

For clarity, the guidance has been reworded to read as follows: ''To maximize the ability to demonstrate bioequivalence, the Center recommends that the potency of the pioneer and generic lots should differ by no more than ±5% for dosage form products.''

20. Page 10, section III.B.2. Single Dose vs Multiple Dose Studies. One comment questioned whether documentation of flip-flop kinetics is necessary.

CVM agrees with this comment and has modified the guidance to read as follows:

A multiple dose study may also be needed when assay sensitivity is inadequate to permit drug quantitation out to 3 terminal elimination half-lives beyond the time when maximum blood concentrations (C_{max}) are achieved, or in cases where prolonged or delayed absorption[2] exist. The determination of prolonged or delayed absorption (*i.e.*, flip-flop kinetics) may be made from pilot data, from the literature, or from the CVM database on the particular drug or family of drugs.

21. Page 11, section III.B.4. Fed vs Fasted State, last paragraph. One comment stated that it was unclear whether studies in both the fed and fasted states should be required for enteric-coated or sustained release oral

products. If the referenced product is limited to administration either in the fed or the fasted state, then the test formulation should also be administered in the same situation conforming to the reference product's label.

CVM agrees with this comment and has modified the guidance as follows:

If a pioneer product label indicates that the product is limited to administration either in the fed or fasted state, then the bioequivalence study should be conducted accordingly. If the bioequivalence study parameters pass the agreed upon confidence intervals, then the single study is acceptable as the basis for approval of the generic product.

However, for certain product classifications or drug entities, such as enteric coated and oral sustained release products, demonstration of bioequivalence in both the fasted and fed states may be necessary, if the drug is highly variable under feeding conditions, as determined from the literature or from pilot data. A bioequivalence study conducted under fasted conditions may be necessary to pass the confidence intervals. A second smaller study may be necessary to examine meal effects. CVM will evaluate the smaller study with respect to the means of the pivotal parameters (AUC, C_{MAX}). The sponsor should consult with CVM prior to conducting the studies.

22. Page 12, section III.C.2. Protein Binding. One comment stated that it is not clear from the 1994 draft guideline to what extent the protein binding must be nonlinear within the therapeutic dosing range, nor how determination of linearity is to be conducted. If it is a judgment and not a statistical criterion, then the parameters within which that judgment is made need to be determined prior to embarking upon the abbreviated NADA. In addition, the type of blood protein to which the drug binds is only pertinent in very unique situations (i.e., low capacity protein binding situations). These determinations of the type of blood protein to which the drug binds are very tedious, time-consuming and expensive technical studies that may only rarely be relevant, whereas the magnitude of protein binding is critical. The type of blood protein to which the drug binds is only a consideration if prior data indicate it is a concern. There are numerous instances where CVM requires additional studies ''if _____ is known to occur.'' What are the criteria for knowing? This general statement could lead to intractable situations. Specifically for this section, the wording allows CVM to require protein binding studies for all approvals. A proposal would be to first evaluate the blood profiles observed in the pilot studies to see if there is evidence of such binding (multicompartment phenomena). If not, then eliminate the need for further studies. For combination approvals, the necessary fractionation and assessment of matrix effects using micro methods would be a formidable task.

CVM notes that the Bioequivalence Guidance is not intended to address combination drug approvals. The issue of protein binding for generic approvals would be addressed only if literature or pilot data indicate that protein binding is significant to the drug in question. For clarity, however, the guidance has been modified to read as follows:

However, if nonlinear protein binding is known to occur within the therapeutic dosing range (as determined from literature or pilot data), then sponsors may need to submit data on both the free and total drug concentrations for the generic and pioneer products.

23. Page 14, section III.C.4. Cross-over and Parallel Design Considerations, last sentence. One comment proposed that the pilot data be used in support of alternative study designs during discussions with CVM.

CVM agrees with the comment. The guidance statement has been modified to read as follows: ''The use of alternative study designs should be discussed with CVM prior to conducting the bioequivalence study. Pilot data or literature may be used in support of alternative study designs.''

24. Page 15, top paragraph. One comment regarding the duration of washout time was that prolonged tissue binding may not be a consequence if drug concentrations in plasma are less than the limit of detection. The onus is on the sponsor for having a sufficiently long washout period to allow the second period of the cross-over study to be applicable in the statistical analysis. If sequence effects are noted, it must be emphasized that at the very minimum the same data from the first period alone can be evaluated as a parallel design study.

CVM agrees with the comments and has modified the paragraph in the guidance to read as follows:

The washout period should be sufficiently long to allow the second period of the cross-over study to be applicable in the statistical analysis. However, if sequence effects are noted, the data from the first period may be evaluated as a parallel design study.

25. Page 15, section III.C.6.a., AUC Estimate. One comment stated that it is implied from the discussions regarding AUC and C_{MAX} that ratio testing (the ratio of the test versus the reference product) is considered to be the more appropriate comparison rather than the difference between the test and the reference product. This is not universally accepted as the case. The responsibility for whether the difference between the two is used or the ratio of the two is used should be placed upon the sponsor and should be concurred with by CVM prior to conduct of the study.

CVM does not agree with nor completely understand the comment's interpretation of the guidance. CVM has, however, changed the word ''ratio'' to ''comparison'' in the following sentence:

The comparison of the test and reference product value for this noninfinity estimate provides the closest approximation of the measure of uncertainty (variance) and the relative bioavailability estimate associated with $AUC_{0\text{-}INF}$, the full extent of product bioavailability.

26. Page 15, section III.C.6.a. One comment stated that $AUC_{0\text{-}INF}$ is an estimated value and questioned how CVM intends this to be derived using ''model independent methods?''

CVM has added the following statement to the guidance: ''The method for estimating the terminal elimination phase should be described in the protocol and the final study report.''

27. Page 16, section III.C.6.b. Rate of Absorption. One comment requested that the revised guidance define C_{MIN}. The 1994 draft guideline stated that three successive C_{MIN} values should be provided. The comment proposes that to determine a steady state concentration, the values should be regressed over time and the resultant slope should be tested as being different from zero.

CVM agrees with the comment and has modified the guidance to read as follows:

When conducting a steady-state investigation, data on the minimum drug concentrations (trough values) observed during a single dosing interval (C_{MIN}) should also be collected. Generally, three successive C_{MIN} values should be provided to verify that steady-state conditions have been achieved. Although C_{MIN} most frequently occurs immediately prior to the next successive dose, situations do occur with C_{MIN} observed subsequent to dosing. To determine a steady state concentration, the C_{MIN} values should be regressed over time and the resultant slope should be tested for its difference from zero.

28. Page 16, section III.C.6.c. Determination of Product Bioequivalence. One comment states that for multiple dose studies, C_{MAX} and $AUC_{O\text{-}t}$ are applicable only if done at steady state. It is not clear from the current description that these must be steady state values to have the appropriate interpretation for bioequivalence testing.

CVM does not agree with the comment because a multiple dose bioequivalence study could be conducted with a drug that never achieves steady-state. However, the pioneer and generic products C_{MAX} and

AUC_{O-t} should be equivalent at any dosing interval whether or not steady-state is achieved.

29. Page 17, section III.D. Statistical Analysis, second paragraph. The choice of whether to use untransformed data should be made by the sponsor based on whether transformation is necessary to allow for homogeneity of variance. It should not be determined prior to the study because the data should dictate which transformation, if any, is required.

CVM does not agree with this recommendation. The sponsor has the option to use untransformed or log transformed data, but the decision should be made prior to conducting the study.

30. Page 19, section III.D., second from the last paragraph relating to selection of confidence interval. One comment noted that CVM states that in general the confidence interval for untransformed data should be 80 to 120. Firstly, percent should be specified. Secondly, emphasis should be added that these are general rather than the adamant and steadfast specifications of CVM. The opinion of many statisticians with considerable experience in this field is that the ±20 percent interval is entirely too restrictive. In the animal health market, the potential cost to evaluate generics or combinations may be so great as to preclude bringing a useful drug/combination to the market.

CVM has made the requested editorial changes. However, CVM will continue to accept ±20 percent as the acceptable confidence interval for the pivotal parameters. CVM invites sponsors to submit data to justify broadening the confidence interval for a particular drug.

31. Page 20, section IV.B. Statistical Analysis. One comment noted that for pharmacologic endpoint studies as described, it appears that these studies described are evaluating significant differences rather than statistical equivalence. As such, these pharmacological endpoint studies are not as rigorously designed from a statistical standpoint as classic bioequivalence plasma level studies, inasmuch as differences are being evaluated rather than equivalence. The comment suggested that pharmacological endpoint studies should also be evaluating statistical equivalence, rather than significant differences. In fact, a comparable equivalence testing is alluded to on page 22 regarding clinical endpoint studies, studies which would be expected to be less able to prove equivalence than pharmacologic endpoint studies.

CVM agrees with the comment and has modified the guidance to read as follows:

For parameters which can be measured over time, a time *vs* effect profile is generated, and equivalence is determined with the method of statistical analysis essentially the same as for the blood level bioequivalence study.

For pharmacologic effects for which effect vs time curves can not be generated, then alternative procedures for statistical analysis should be discussed with CVM prior to conducting the study.

32. Page 23, section VI. Human Food Safety Considerations. One comment asked if there is a need for determining a full depletion profile for the generic? The sponsor proposed that a single point tissue residue study completed out to the withdrawal time of the pioneer would be sufficient.

The Center does not agree with the use of a single point tissue residue study at the withdrawal time of the pioneer as a general practice.

A traditional tissue residue depletion study has always been required for generic products where bioequivalence is determined with a pharmacological or clinical endpoint study. The need for a traditional tissue residue depletion profile is expanded in the revised guidance to include blood level bioequivalence studies, because the Center has concluded that, with the exception of those examples listed in section VI. of the guidance, the tissue residue depletion of the generic product is not adequately addressed through bioequivalence studies.

The use of the traditional tissue residue depletion study provides the Center with the data needed to compute a withdrawal period for the drug product in question, using our statistical tolerance limit model, whereby the 99th percentile is calculated with 95 percent confidence. Use of a single point tissue residue study ordinarily would not provide the data needed to use our current model, since the single-point study would not contain sufficient information regarding the variability of the residue depletion profile. Additionally, since the analytical methods approved for regulatory purposes can rarely measure the marker residue at the withdrawal time, a single point residue study at the pioneer withdrawal time would be limited by the efficiency of the regulatory analytical method at the drug concentrations typically seen at the pioneer withdrawal time. When the tissue residue values include negative or zero values (i.e., values below the limit of quantitation for the assay), the number of animals needed in the study will depend on the method variance and the number of zero values, and will vary from drug to drug. It is not possible to predict, a priori, the number of animals that will be needed to provide data of sufficient confidence for a single point tissue residue depletion study to obtain the confidence similar to that seen for the pioneer drug using our traditional residue depletion study design.

The Center will consider the use of a single point tissue residue depletion study in those cases where the regulatory analytical method can be validated and demonstrated to measure reliably residues in the treated animals at the pioneer withdrawal time so that a 99th percentile statistical tolerance limit with 95 percent confidence can be calculated.

A person may follow the guidance or may choose to follow alternate procedures or practices. If a person chooses to use alternate procedures or practices, that person may wish to discuss the matter further with the agency to prevent an expenditure of money and effort on activities that may later be determined to be unacceptable to FDA. Although this guidance document does not bind the agency or the public, and it does not create or confer any rights, privileges, or benefits for or on any person, it represents FDA's current thinking on bioequivalence testing for animal drugs. When a guidance document states a requirement imposed by statute or regulation, the requirement is law and its force and effect are not changed in any way by virtue of its inclusion in the guidance.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments on the document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The documents and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 17, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–13106 Filed 5–23–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95N–0212]

Epitope, Inc.; Premarket Approval of OraSure® HIV–1 Oral Specimen Collection Device

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Epitope, Inc., Beaverton, OR, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the OraSure® HIV–1 Oral Specimen Collection Device. FDA's Center for Biologics Evaluation and Research (CBER) notified the applicant, by letter of December 23, 1994, of the approval of the application. A revised approval letter was issued on October 18, 1995.

DATES: Petitions for administrative review by June 24, 1996.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sukza Hwangbo, Center for Biologics Evaluation and Research (HFM–380), 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3524.

SUPPLEMENTARY INFORMATION: On May 9, 1991, Epitope, Inc., Beaverton, OR 97008, submitted to CBER an application for premarket approval of the OraSure® HIV–1 Oral Specimen Collection Device. The device is intended for use in the collection of oral fluid specimens by properly trained individuals for the purpose of testing for the presence of antibodies to human immunodeficiency virus Type 1 (HIV–1). The OraSure® HIV–1 Oral Specimen Collection Device consists of both an absorbent cotton fiber pad treated with a proprietary salt solution and gelatin affixed to a plastic stick, and a preservative solution supplied in a plastic container. OraSure® HIV–1 oral fluid specimens are intended to be used only with the Oral Fluid Vironostika HIV–1 Microelisa System screening test manufactured by Organon Teknika Corp. The device is intended for use with subjects 13 years of age or older.

On December 19, 1992, the premarket approval application (PMA) was referred to the Blood Products Advisory Committee, an FDA advisory committee, for review and recommendation. On June 22, 1994, the PMA was referred to the same advisory committee for discussion of post-approval requirements for surveillance studies.

On December 23, 1994, CBER approved the application by a letter to the applicant from the Acting Director, Office of Blood Research and Review, CBER. In response to additional discussions between the manufacturer and FDA, a revised approval letter was issued on October 18, 1995.

FDA has determined that, to ensure safe and effective use, the device is restricted within the meaning of section 520(e) of the act (21 U.S.C. 360j(e)) under the authority of section 515(d)(1)(B)(ii) of the act (21 U.S.C. 360e(d)(1)(B)(ii)) insofar as: (1) Before shipping the device to any customer, Epitope, Inc., must have on file a ''Letter of Agreement for Physician'' signed by the physician who agrees to assume the outlined responsibilities on behalf of the customer; (2) the administration of the device is restricted to individuals who have been trained in the use of the device according to approved labeling; (3) testing of OraSure® samples for HIV–1 antibodies is restricted to the Oral Fluid Vironostika HIV–1 Microelisa System screening test manufactured by Organon Teknika Corp.; (4) the device is not to be provided to subjects for home use; (5) the device is not to be used to screen blood donors; and (6) prior to specimen collection, a test subject must receive a copy of the subject information sheet. The sale, distribution, and use of the device must not violate sections 502(q) and (r) of the act (21 U.S.C. 352(q) and 352(r)).

A summary of the safety and effectiveness data on which CBER based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CBER's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CBER's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 24, 1996, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.53).

Dated: May 17, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–13176 Filed 5–23–96; 8:45 am]

BILLING CODE 4160–01–F

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current

information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Science Board to the Food and Drug Administration

Date, time, and place. June 13, 1996, 8:30 a.m., Sheraton—Crystal City, Ballroom A, 1800 Jefferson Davis Hwy., Arlington, VA.

Type of meeting and contact person. Open committee discussion, 8:30 a.m. to 2:30 p.m.; open public hearing, 2:30 p.m. to 3:30 p.m., unless public participation does not last that long; open committee discussion, 3:30 p.m. to 5 p.m.; Susan Homire, Office of Science (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3340, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Science Board to the Food and Drug Administration, code 12603. Please call the hotline for information concerning any possible changes.

General function of the board. The board shall provide advice primarily to the agency's Senior Science Advisor, and, as needed, to the Commissioner and other appropriate officials on specific complex and technical issues as well as emerging issues within the scientific community in industry and academia. Additionally, the board will provide advice to the agency on keeping pace with technical and scientific evolutions in the fields of regulatory science; on formulating an appropriate research agenda; and on upgrading its scientific and research facilities to keep pace with these changes. It will also provide the means for critical review of agency-sponsored intramural and extramural scientific research programs.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the board. Those desiring to make formal presentations must notify the contact person before June 6, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, and the names and addresses of proposed participants. Each presenter will be limited in time and not all requests to speak may be able to be accommodated. All written statements submitted in a timely fashion will be provided to the board.

Open board discussion. The board will continue its discussions related to FDA's approach to toxicity, carcinogenicity and biomaterials testing.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: May 20, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–13105 Filed 5–23–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory

committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Ear, Nose, and Throat Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. June 11, 1996, 8:30 a.m., Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD. A limited number of overnight accommodations have been reserved at the Marriott Courtyard Hotel, 2500 Research Blvd., Rockville, MD. Attendees requiring overnight accommodations may contact the hotel at 301–670–6700 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should notify the contact person listed below. The availability of special accommodations cannot be assured unless prior written notification is received.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:45 a.m., unless public participation does not last that long; open committee discussion, 9:45 a.m. to 4 p.m.; closed committee deliberations, 4 p.m. to 5 p.m.; Marilyn N. Flack, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2080, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Ear, Nose, and Throat Devices Panel, code 12522. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 29, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application that seeks to substantiate the safety and effectiveness of a bronchoscope device utilizing autofluorescence to aid in detection of abnormal lung tissue.

Closed committee deliberations. FDA staff will present to the committee trade secret and/or confidential commercial information regarding present and future FDA issues. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Oncologic Drugs Advisory Committee

Date, time, and place. June 13 and 14, 1996, 8:30 a.m., Holiday Inn—Gaithersburg, Walker and Whetstone Rooms, Two Montgomery Village Ave., Gaithersburg, MD.

Type of meeting and contact person. Open public hearing, June 13, 1996, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4:30 p.m.; open committee discussion, June 14, 1996, 8:30 a.m. to 1 p.m.; closed committee deliberations, 1 p.m. to 3:30 p.m.; Jannette O'Neill-Gonzalez, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Oncologic Drugs Advisory Committee, code 12542. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in treatment of cancer.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before June 7, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On June 13, 1996, the committee will discuss: (1) New drug application (NDA) 20–571 Camptosar™ (irinotecan hydrochloride injection, The Upjohn Co.), indicated for the treatment of patients with metastatic carcinoma of the colon or rectum whose disease has recurred or progressed following 5–FU-based therapy; and (2) NDA 20–036/S–011 Aredia® (pamidronate disodium for injection, Ciba-Geigy Corp.), indicated for use in conjunction with standard antineoplastic therapy for treatment of osteolytic bone metastases. On the morning of June 14, 1996, the committee will discuss NDA 20–637, Gliadel Wafer® (polifeprosan 20 with carmustine, Guilford Pharmaceuticals), indicated for use as an adjunct to surgery to prolong survival in patients with a malignant glioma.

Closed committee deliberations. On the afternoon of June 14, 1996, the committee will review trade secret and/or confidential commercial information relevant to pending investigational new drug applications and NDA's. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Blood Products Advisory Committee

Date, time, and place. June 20 and 21, 1996, 8 a.m., Holiday Inn—Bethesda, Versailles Ballrooms II and III, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open committee discussion, June 20, 1996, 8 a.m. to 11 a.m.; open public hearing, 11 a.m. to 11:30 a.m., unless public participation does not last that long; open committee discussion, 11:30 a.m. to 1:30 p.m.; closed committee deliberations, 1:30 p.m. to 2:30 p.m.; open committee discussion, 2:30 p.m. to 3:30 p.m.; open public hearing, 3:30 p.m. to 4 p.m., unless public participation does not last that long; open committee discussion, 4 p.m. to 5:30 p.m.; open committee discussion, June 21, 1996, 8 a.m. to 10:30 a.m.; open public hearing, 10:30 a.m. to 11:30 a.m., unless public participation does not last that long; open committee discussion, 11:30 a.m. to 2:30 p.m.; open public hearing, 2:30 p.m. to 3 p.m., unless public participation does not last that long; open committee discussion, 3 p.m. to 4 p.m.; Linda A. Smallwood, Center for Biologics Evaluation and Research (HFM–350), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3514, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Blood Products Advisory Committee, code 12388. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness, and appropriate use of blood products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before June 14, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On the morning of June 20, 1996, updates on relevant public health issues will be presented and an overview of draft reviewer guidance for blood establishment computer software will be presented and discussed. In the afternoon, there will be discussion of use of hemoglobin solutions in fluid rescuscitation from hemorrhagic shock; in particular, issues in clinical trials. On the morning of June 21, 1996, proposed revisions to the human immunodeficiency virus (HIV) re-entry algorithm will be reviewed and discussed. In the afternoon, the Calypte Laboratories test for anti-HIV in urine will be presented and discussed.

Closed committee deliberations. On June 20, 1996, the committee will review trade secret and/or confidential commercial information relevant to current or pending products. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: May 20, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–13177 Filed 5–23–96; 8:45 am]

BILLING CODE 4160–01–F

Compressed Medical Gas Industry; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) (Office of Regulatory Affairs, Office of the Southeast Region, and the Center for Drug Evaluation and Research) is announcing a free public workshop on FDA regulatory requirements for the compressed medical gas industry. The workshop is designed to assist the industry in complying with regulations for manufacturing and repacking medical gases.

DATES: The public workshop will be held on Tuesday, June 4, 1996, from 8:30 a.m. to 4 p.m.

ADDRESSES: The public workshop will be held at the Rural Development Center, UGA Cooperative Extension Service, U.S. 41 North and I–75 (exit 21), Tifton, GA.

FOR FURTHER INFORMATION CONTACT: Douglas B. Brogden or Jackie M. Douglas, FDA Atlanta District Office, 225 Tift Ave., rm. 107, Tifton, GA 31794, 912–382–5963, FAX 912–386–9610. Those persons interested in attending this meeting should FAX their registration including name(s), firm name, address, telephone and FAX numbers, and any specific questions about the workshop to Douglas B. Brogden or Jackie M. Douglas (address above) by May 15, 1996. There is no registration fee for this workshop. Advance registration is required. Space is limited and all interested parties are encouraged to register early.

SUPPLEMENTARY INFORMATION: FDA's survey of the medical gas industry shows that many medical gas firms are either unaware of applicable regulations and guidelines or not in compliance with applicable requirements. This workshop is designed to assist the medical gas industry in complying with regulations for manufacturing and repacking medical gases. This workshop is free of charge to attendees.

Dated: May 17, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–13104 Filed 5–23–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96D–0133]

Guidance for Industry; The Content and Format for Pediatric Use Supplements; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled ''Guidance for Industry; The Content and Format for Pediatric Use Supplements.'' This guidance was prepared by the Pediatric Subcommittee of the Medical Policy Coordinating Committee (MPCC) of the Center for Drug Evaluation and Research (CDER) in collaboration with the Center for Biologics Evaluation and Research (CBER). The availability of this document is intended to provide guidance on the format and content of ''pediatric use'' labeling supplements to approved applications for drugs and licensed biological products. This labeling information is intended to provide practitioners with sufficient ''pediatric use'' information upon which to base a decision to prescribe a drug for use in pediatric patients.

DATES: Written comments on the guidance may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the guidance entitled ''Guidance for Industry; The Content and Format For Pediatric Use Supplements'' to the Division of Communications Management, Center for Drug Evaluation and Research (HFD–210), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855 or to the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send two self-addressed adhesive labels to assist that office in processing your requests. Persons with access to the INTERNET may request that the guidance document be sent by ''bounce back e-mail'' using the following address: GDEPED@a1.CBER.FDA.GOV. The guidance document may also be obtained through the INTERNET via File Transfer Protocol (FTP). Requesters should connect to the CDER FTP server at ''CDVS2.CDER.FDA.GOV'' and change to the ''guidance'' directory. The ''READ.ME'' file in that subdirectory describes the available documents that may be available as an ASCII text file (*.TXT), or a WordPerfect 5.1 document (*.w51), or both. Further, the guidance document is available via the World Wide Web (WWW) and Gopher. To obtain the guidance document via the WWW requesters should connect to the FDA home page at ''WWW.FDA.GOV'' and go to the CDER ''Human Drugs'' icon. To obtain the guidance document via Gopher requesters should connect to CDER's Gopher server at ''GOPHER.CDER.FDA.GOV'' and select the ''Industry Guidance'' menu option. Finally, the guidance document is available via FAX by calling the Center for Biologics Evaluation and Research Voice Information System at 1–800–835–4709.

Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Regarding human drugs: Terry Martin, Center for Drug Evaluation and Research (HFD–6), Food and Drug Administration, 1451 Rockville Pike, Rockville, MD 20852, 301–594–5460.

Regarding biological products: Elaine Esber, Center for Biologics Evaluation and Research (HFM–30), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–827–0641.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance entitled ''Guidance for Industry; The Content and Format For Pediatric Use Supplements.'' The guidance is intended to provide sponsors with format and content information for submitting ''pediatric use'' labeling supplements to approved applications for drugs or licensed biological products. The guidance provides a general description of the information that should be submitted in a ''pediatric use'' supplement, including draft revised labeling and a marked-up copy of the current labeling, clearly showing all revisions; the appropriate paragraph of § 201.57(f)(9) (21 CFR 201.57(f)(9)) that applies and a justification for the paragraph; a basis for concluding that the course of the disease and the effects of the drug are similar in the pediatric and adult population if changes in labeling fall under § 201.57(f)(9)(iv); the age categories for which pediatric data are being submitted; identification of the kind of pediatric data submitted within

each age category; a summary of the information submitted to support the pediatric labeling statements and an integrated summary of the pediatric safety data with a risk/benefit assessment; and presentation of the data.

Although this guidance does not create or confer any rights for or on any person and does not operate to bind FDA, it does represent the agency's current thinking on how to prepare ''pediatric use'' labeling supplements for submission to FDA.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments on the guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. If written comments demonstrate that changes to the guidance are appropriate, such changes to the guidance will be made.

Dated: May 17, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–13175 Filed 5–23–96; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

Division of Research Grants; 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 Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Clinical Sciences.
Date: May 30, 1996.
Time: 8:30 a.m.
Place: NIH, Natcher Bldg., Bethesda, MD.
Contact Person: Dr. Ronald Suddendorf, Scientific Review Administrator, 6000 Executive Blvd., Room 409, Bethesda, Maryland 20892, (301) 443–2926.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: Biological and Physiological Sciences.
Date: June 4, 1996.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 5146, Telephone Conference.
Contact Person: Dr. Ramesh Nayak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5146, Bethesda, Maryland 20892, (301) 435–1026.

Name of SEP: Biological and Physiological Sciences.
Date: June 17, 1996.
Time: 8:00 a.m.
Place: Bethesda Marriott Hotel, Bethesda, MD.
Contact Person: Dr. Nabeeh Mourad, Scientific Review Administrator, 6701 Rockledge Drive, Room 5110, Bethesda, Maryland 20892, (301) 435–1168.

Name of SEP: Clinical Sciences.
Date: June 19–20, 1996.
Time: 8:00 a.m.
Place: Residence Inn, Bethesda, MD.
Contact Person: Dr. Josephine Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, Maryland 20892, (301) 435–1786.

Name of SEP: Behavioral and Neurosciences.
Date: July 10, 1996.
Time: 8:30 a.m.
Place: Holiday Inn, Bethesda, MD.
Contact Person: Dr. Carl Banner, Scientific Review Administrator, 6701 Rockledge Drive, Room 5182, Bethesda, Maryland 20892, (301) 435–1251.

Name of SEP: Clinical Sciences.
Date: October 23–24, 1996.
Time: 8:00 a.m.
Place: Residence Inn, Bethesda, MD.
Contact Person: Dr. Josephine Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, Maryland 20892, (301) 435–1786.

Purpose/Agenda: To review Small Business Innovation Research.
Name of SEP: Multidisciplinary Sciences.
Date: June 5, 1996.
Time: 1:00 p.m.
Place: Rosslyn Westpark Holiday Inn, Arlington, VA.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 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: May 14, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–13166 Filed 5–23–96; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Special Emphasis Panel II

Pursuant to Pub. L. 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel II in June.

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–4783.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. The discussion may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c) (3), (4), and (6) and 5 U.S.C. App. 2, section 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.
Meeting Date: June 3, 1996.
Place: Parklawn Building—Conference Room ''O'', 5600 Fishers Lane, Rockville, Maryland 20852.
Closed: June 3, 1996, 10:30 a.m.–12:30 p.m.
Contact: Ferdinand W. Hui, Ph.D., Room 17–89, Parklawn Building, Telephone: (301) 443–9912 and FAX: (301) 443–3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: May 20, 1996.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 96–13103 Filed 5–23–96; 8:45 am]

BILLING CODE 4162–20–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR–3669–N–03]

Public and Indian Housing Tenant Opportunities Program Technical Assistance Announcement of Funding Awards for FY 1994

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for Public and Indian Housing Tenant Opportunities Program Technical Assistance Program. This announcement contains the names and addresses of the awardees and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Christine Jenkins or Barbara J. Armstrong, Office of Community Relations and Involvement, Department of Housing and Urban Development, room 4112, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3611 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Public and Indian Housing Tenant Opportunities Program Technical Assistance Program is authorized by section 20, United States Housing Act of 1937 (42 U.S.C. 1437r); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

The Fiscal Year 1994 competition was announced in a NOFA published in the Federal Register on May 13, 1994 (59 FR 25248). The NOFA announced the availability of $25 million to provide assistance to resident grantees, including Resident Councils, Resident Management Corporations, Resident Organizations, National Resident Organizations, Statewide Resident Organizations, to fund training and other tenant opportunities, such as the formation of such entities, identification of the relevant social support needs, and securing of such support for residents of public and Indian housing. Applications were scored and selected for funding based on criteria contained in the Notice.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is hereby publishing the names and addresses of the awardees that received funding under the NOFA, and the amount of funds awarded to each. This information is provided in Appendix A to this document.

Dated: May 21, 1996.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

APPENDIX A.—FISCAL YEAR 1994 PUBLIC AND INDIAN HOUSING

Program Name: Tenant Opportunities Program Technical Assistance Grant; Statute: Public Law 100–42, February 5, 1988 NOFA Date: May 13, 1994

Funding recipient (name and address); applicant, name, contact	Amount awarded
Angel Hampton, Valley Residents for Improvement, Inc., 89 Tacoma St. Worcester, MA 01605, (508) 798–4500	$100,000
Dorothy Harrison, Curwin Circle Resident Council, 174 S. Common, Lynn, MA 01905, (617) 586–9676	60,000
Jackie Finman, Meadow Gardens Tenant Union, 49 Meadow Street, Norwalk, CT 06854, (203) 255–1264	100,000
Angel Williams, Washington Village Tenant Union, 707 Water Street, Norwalk, CT 06854, (203) 853–7569	100,000
Carmen Lozada, Charter Oak Terrace Tenant Association, 32 Golden Age Drive, Hartford, CT 06106, (203) 275–8410	98,500
Mellanee Bennett, Stowe Village Tenant Association, 66 Hampton Street, Hartford, CT 06112, (203) 278–2829	99,100
Janis Mitchell, Dutch Point Tenant Association, 51–A Dutch Point, Hartford, CT 06106, (203) 560–7824	96,400
Mae Riddick, Voices for Residents of City-Wide Public Housing, 61 Webster St., New Haven, CT 06511, (203) 789–0053	100,000
Janine Sheehan, Traverse Square Tenants Association, 35 Traverse Square, Middletown, CT 06457, (203) 347–8145	100,000
Gena Privott, Long River Village Tenants Association, 13 MacArthur Court, Middletown, CT 06457, (203) 347–3647	100,000
Beverly Epps, Winthrop Residents Organization, 48 Crystal Avenue, New London, CT 06320, (203) 443–2640	92,000
Dorothy Waters, Codding Court Resident Management Corporation, 74 Lester Street 1–D, Providence, RI 02907, (401) 273–9795	60,000
Arthur Goodrum, Tenant Leadership Council, Inc., 20 Rensselaer St. 7B, Albany, NY 12202–1637, (518) 426–7780	100,000
Deborah Scarborough, Yates Village Resident Association, E–35 Yates Village, Schenectady, NY 12308, (518) 372–5524	96,000
Beatrice Byrd, Red Hook West Tenants Association, 40 Centre Mall Apt 1A, Brooklyn, NY 11231, (718) 643–0079	98,000
Abigail Javier, Thomas Jefferson Houses Tenant Association, 2205 2nd Avenue, New York, NY 10029, (212) 348–3022	100,000
Bessie Canty, Lehman Village Houses Tenant Association, 70 East 108th Street, New York, NY 10029, (212) 534–8747	100,000
Ruby Kitchen, Martin Luther King Jr. Towers Tenant Association, 41 West 112th, New York, NY 10029, (212) 369–3767	100,000
Sylvia Valesquez, Dewitt Clinton Houses Tenant Association, 1485 Park Avenue Apt. 7A, New York, NY 10029, (212) 722–5576	100,000
Peggy Thomas, Hammel Houses Tenants Association, 81–10 Rockaway Beach, Far Rockaway, NY 11692, (718) 945–4717	100,000
Maria Guzman, WSURA Brownstones' Tenants Association, 19 West 90 St, #3A, New York, NY 10024, (212) 305–9042	100,000
Gwendolyn Hall, United Tenants Council, 345 Main St, 5G, New Rochelle, NY 10801–4029, (914) 632–3995	98,000
Emma Richardson, Tenants Association of Pioneer Homes, 205 Second Street, Elizabeth, NJ 07202–2690, (908) 965–2400	99,835
Dolores Noble, Christopher Columbus Family Development RC, 160 Ward Street, Paterson, NJ 07505–1998, (201) 345–5080	100,000
Jennifer Burton, Schwartz-Robeson Tenants Association, P.O. Box 110, New Brunswick, NJ 08903–1368, (908) 745–5147	99,658
Rosalie Johnson, 101 Union Avenue Tenants Association, 101 Union Avenue, Irvington, NJ 07111–2302, (201) 375–2121	100,000
Bernice Bryant, West Side Court Tenant Association, 205 Seventh Street, Salem, NJ 08079–1040, (609) 935–5022	96,652
Rudoloph Gibson, Salem Garden Tenants Association, 205 Seventh Street Salem, NJ 08079–1040, (609) 935–5022	96,652
Barbara Taylor, Orchard Manor Resident Management Corporation, 907 Griffin Dr. #19, Charleston, WV 25312, (304) 345–8768	60,000
James Deshields, Compton Towers Resident Council, 325 E. 5th St., Wilmington, DE 19801, (302) 654–6432	100,000
Verna Johnson, Resident Council of Eastlake, 920 E. 26th St., Wilmington, DE 19802, (302) 654–2976	100,000
Mattie Flynn, Thomas Herlihy, Jr., Resident Council, 320 E. 5th St. Wilmington, DE 19801, (302) 658–6326	100,000
David Knowland, Electra Arms Resident Council, 1800 N. Broom St., Wilmington, DE 19802, (302) 659–4442	100,000
Virginia Ellegood, Lincoln Towers Resident Council, 1625 Gilpin Ave., Wilmington, DE 19806 (302) 427–9399	100,000
Edralene Williams, Crestview Resident Council, 2700 N. Market, Wilmington, DE 19807, (302) 764–4409	100,000
Martha Berryman, Wilmington Family Resident Council, 2800 Tatnall St., Wilmington, DE 19801, (302) 764–4536	60,000

APPENDIX A.—FISCAL YEAR 1994 PUBLIC AND INDIAN HOUSING—Continued

Program Name: Tenant Opportunities Program Technical Assistance Grant; Statute: Public Law 100–42, February 5, 1988 NOFA Date: May 13, 1994

Funding recipient (name and address); applicant, name, contact	Amount awarded
Gladys Blackwell, Emlen Arms Resident Council, 6733 Emlen St., Philadelphia, PA 19119, (215) 684–5671	100,000
Mary Darby, Norman Blumberg Tenant Council, 2326 W. Oxford St., Philadelphia, PA 19121, (215) 978–5653	100,000
Rosemary Trice, Cambridge Plaza Tenant Council, 1039 Cambridge Mall, Philadelphia, PA 19123, (215) 236–8420	100,000
Lillie Mathies, Glenside Homes Community Services, Inc., 1203 Avenue D, Reading, PA 19601	100,000
Theresa West, Cole Crest Pride Organization, 919 Wood Street, Steelton, PA 17113	100,000
Charles Gennaro, Vine Manor/Vine West Resident Councils, 320 W. Mine St., Hazleton, PA 18201–6193	89,400
Irene Battle, Allegheny Dwellings Tenant Council, 1817 Letche St., #67, Pittsburgh, PA 15210	96,205
Mary Iesulauro, Richard S. Caliguiri/Allentown Tenant Council, 803 Warrington Ave., Pittsburgh, PA 15219	100,000
Erma Johnson, Addison Terrace Resident Council, 2024 Grove Place, Pittsburgh, PA 15219–2068	100,000
Fannie Goodman, Pennsylvania Bidwell High Rise Council, 1014 Sheffield Street, Pittsburgh, PA 15219	100,000
Martha Winterhatter, Daniel Pietragallo, Carrick Regency, 2129 Brownsville Rd., Pittsburgh, PA 15210	100,000
Olivia Doswell, Homewood North Tenant Council, 1208 Nolan Court, Pittsburgh, PA 15208	100,000
Linda Brown, Arlington Heights Tenant Council, 3257 Arlington Ave., Pittsburgh, PA 15210	100,000
Marie Jackson, Kelly St. High Rise Tenant Council, 7030 Kelly Street, Pittsburgh, PA 15219	100,000
Ruth Pittrell, Bedford Dwellings Tenant Management Corp., Inc., 2305 Bedford Avenue, Rearsburgh, PA 15219	100,000
Inez McDonald, Glen Hazel Tenants Council, 895 Johnson Avenue, Pittsburgh, PA 15219	100,000
Bernice Windom, South Hills Terrace Tenant Organization, 119 South Hills Ter, Brownsville, PA 15417	60,900
Ayisha Muhammad, Aqueduct Resident Council, 13228 Aqueduct Dr. #5, Newport News, VA 23602	100,000
Mary Barrett, Arthur Capper Family Resident Council, 909 3d St. SE, Washington, DC 20003	100,000
Dorothea Ferrell, Barry Farm Resident Council, 1326 Stevens Rd. SE, Washington, DC 20020	100,000
Joyce Mallory, Carrollsburg Resident Council, 308 K St. SE, Washington, DC 20003	100,000
Evelyn Brown, East Capitol Resident Council, 12 60th St.,NE, Washington, DC 20019	100,000
Ivory Walters, Eastgate Gardens Resident Council, 5014 Street, SE., Washington, DC 20019	100,000
Martha Barner, Edgewood Terrace Family Resident Council, 425 Edgewood St., NE #C13 Washington, DC 20017	100,000
Wilbur Boone, Edgewood Senior Resident Council, 635 Edgewood St., NE, Washington, DC 20017	100,000
Florence Bean, Fort Lincoln Resident Council, 2855 Bladensburg NE, #304 Washington, DC 20018	100,000
Rosemary Akinmboni, Garfield Terrace Resident Council, 22341 11th St. NW, Washington, DC 20001	100,000
Mary Sessoms, Greenleaf Senior Resident Council, 1200 Delaware Ave. SW, #612 Washington, DC 20024	100,000
Sharon Marbury, Hopkins Apartment Resident Council, 1011 14th St., SE, Washington, DC 20003	100,000
Mary Green, Horizon House Resident Council, 1150 12th St. NW #708, Washington, DC 20005	100,000
Phyllis Martin, James Creek Resident Council, 1263 Half St., SW, Washington, DC 20024	100,000
Mildred Bristol, Kelly Miller/Ledroit Family Resident Council, 233 V Street., NW, Washington, DC 20001	100,000
Valerie Stewart, Kentucky Courts Resident Council, 251 14th St. SE, #12, Washington, DC 20003	100,000
Amanda Green, Knox Hill Senior Resident Council, 2700 Jasper St. SE, Washington, DC 20020	100,000
Geneva Barr, Montana Terrace Resident Council, 1609 Montana Ave. NE, Washington, DC 20019	100,000
Marie Whitfield, Park Morton Resident Council, 615 Morton St. NW #11, Washington, DC 20010	100,000
Thelma Russell, Potomac Gardens Senior Resident Council, 12298 G St. SE. #520, Washington, DC 20003	100,000
Eleanor White, Richardson Resident Council,5524 Banks Place NW, Washington, DC 20019	100,000
Shirley Lambert, Scattered Sites I Resident Council, 740 Princeton Pl. NW, Washington, DC 20010	100,000
Anne Clark, Sibley Plaza Resident Council, 1140 N. Capitol St. #824, Washington, DC 20002	100,000
Viola King, Sursum Corda Resident Council, 55 K St., NW, Washington, DC 20001	100,000
Tracy Hooks, Syphax Gardens Resident Council, 45 P St., SW, # 21, Washington, DC 20024	100,000
Angeline Watson, Woodland Terrace Resident Council, 2770 Bruce Place SE, Washington, DC 20020	100,000
Rebecca Mitchell, Patterson Terrace Residents Association, 323 Lewis Drive, Savannah, GA 31406	100,000
Sallie Long, Georgia Avenue Senior Highrise, 739 W. Peachtree, NE, Atlanta, GA 30365	100,000
Herman Ingber, Marian Road Senior Highrise Resident Association, 760 Sidney Marcus Blvd., Atlanta, GA 30324	100,000
Patricia Tucker, Leila Valley Resident Association, 2425 Leila Lane—Apt 51, Atlanta, GA 30315	100,000
Ruby Alexander, U-Rescue Villa Resident Association, 366 Linden Ave.—#130, Atlanta, GA 30308	100,000
Eva Davis, East Lake Meadows Resident Association, 256 Meadow Lake Dr., Atlanta, GA 30317	100,000
Carl Tolbert, Palmer House Resident Association, 430 Techwood Dr., Atlanta, GA 30313	100,000
Geneva Hill, Westminster Apartments Resident Association, 1422 Piedmont Ave., Atlanta, GA 30309	100,000
Hattie Harrison, Martin Street Plaza Resident Association, 600 Martin St.—Apt L–2, Atlanta, GA 30312	100,000
Renate Kirchgessner, Piedmont Road Resident Association, 3601 Piedmont Rd. #121, Atlanta, GA 30305	100,000
Christine Williams, Jonesboro South Resident Association, 2475 Jonesboro Rd. #160, Atlanta, GA 30315	100,000
Bernice Miller, John O. Chiles Resident Association, 435 Asby St. #1017., Atlanta, GA 30310	100,000
Mary Vaughn, East Lake Meadows SHR Resident Association, 380 East Lake Blvd., Atlanta, GA 30317	100,000
Diane Wright, Hollywood Courts Resident Association, 2530 Hollywood Ct. #53, Atlanta, GA 30318	100,000
Sandra Gates, McDaniel-Glenn Resident Association, 14 Wells Court #1651, Atlanta, GA 30312	100,000
Mary Sanford, Perry Homes Resident Association, 1537 Drew Dr. #982, Atlanta, GA 30318	100,000
James Bradfield, MLK Memorial Senior Resident Association, 525 Whitehall Ter., Atlanta, GA 30367	100,000
Brenda Green, Thomasville Heights Resident Association, 1130 Henry Thomas Dr, Atlanta, GA 30315	100,000
Sabriah Shakoor, Jonesboro North Resident Association, 2291 Jonesboro Rd., Atlanta, GA 30315	100,000
Elenor Jennings, Marietta Road Senior Highrise Resident Association, 2295 Marietta Road, Atlanta, GA 30318	100,000
Elaine Allen, Kimberly Courts Resident Association, 1401 Kimberly Way, Atlanta, GA 30331	100,000
Grant Hallman, Cosby Spear Towers Resident Association, 365 North Ave. #B511, Atlanta, GA 30308	100,000
Christine Hall, Hightower Manor Senior Highrise Resident Association, 2610 MLK Dr. #604, Atlanta, GA 30311	100,000
Johnnie Keith, Grady Homes/Grave Annex Resident Association, 110 Hilliard St #408, Atlanta, GA 30312	100,000
Laurie Johnson, Peachtree Road Resident Association, 2240 Peachtree Rd., Atlanta, GA 30309	100,000
Cherly Laurendeau, Cheshire Bridge Road SR Highrise Resident Assoc., 2170 Cheshire Bridge, Atlanta, GA 30324	100,000

APPENDIX A.—FISCAL YEAR 1994 PUBLIC AND INDIAN HOUSING—Continued

Program Name: Tenant Opportunities Program Technical Assistance Grant; Statute: Public Law 100–42, February 5, 1988 NOFA Date: May 13, 1994

Funding recipient (name and address); applicant, name, contact	Amount awarded
Muriel Franklin, Barge Road Senior Highrise Resident Association, 2440 Barge Road, Atlanta, GA 30331	100,000
Laura Lawson, Herndon Homes Resident Management Corporation, 499 John St. #242, Atlanta, GA 30318	60,000
Thelma Beck, Gilbert Gardens Resident Association, 304 Flynn Rd. #95, Atlanta, GA 30351	100,000
Ola Smith, Roosevelt House Senior HR Resident Association, 582 Techwood Dr #707, Atlanta, GA 30313	100,000
Verna Mobley, University/John Hope Homes, 669 Larkin St. #499, Atlanta, GA 30314	59,000
Ozie Wardrick, Capitol Homes Resident Council, 56 Memorial Dr. #4, Atlanta, GA 30312	100,000
Darryl Turner, Dixi Manor Resident Management Corporation, 3993 Sharon Church R, Pinson, AL 35126	64,670
Vonnie Thomas, Tuskegee HA Resident Council Executive Board, 301–A Gautier Street, Tuskegee, AL 36083	100,000
Patricia Price, Resident Executive Council of the Columbia HA, 205 St. Andrews Ter., Columbia, SC 29210	100,000
Martha Curlee, Southside, Helen Caple, Eastview Terrace (SHE), 1 Jamaica Drive, Lexington, NC 27292	100,000
Joann Shirer, Chapel Hill-Carrboro Resident Council, 345 S. Estes Drive, Chapel Hill, NC 27514	100,000
Thelma McClendon, Monroe Housing Authority Resident Council, 504 Hough Street, Monroe, NC 28112	95,000
Deborah Jackson, Fernwood Resident Council, Ferwood Place #56, Biloxi, MS 39531–3520	100,000
Mary Ann Bishop, Resident Council of the Starkville P.H. Community, 169 Long Street, Starkville, MS 39759	100,000
Linda Hodges, Friendly City Resident Council, 1802 14th Avenue No., Columbus, MS 39701	100,000
Geneva Townsend, South Delta Regional HA Resident Council, Inc., P. O. Box 4563, Greenville, MS 38701	37,400
Leshia McLemore, Turnkey Resident Council, P. O. Box 192, Lumberton, MS 39455	100,000
Veronica Sledge, Ramona Park Resident Management Corporation, Inc., 6750 Ramona Blvd., Jacksonville, FL 32205	100,000
Genaro Molina, Ramon Marin Sola Resident Council, Constitution Ave., Arecibo, PR 00612–0000	92,500
Edwin Velazquez, Padre Rivera Resident Council, Building 1 Apt 10, Humacao, PR 00792–0000	92,500
Milagros Medina Rosado, Hogares de Portugues Resident Council, Bldng H Apt 81, Ponce, PR 00917–0000	92,500
Wanda Mendez, Santiago Iglesias RC, Bldng 28 Apt 231, Ponce, PR 00731–0000	92,500
Brunilda Rodriguez, Villa Navarro Resident Council, Apt 1, Maunabo, PR 00707–0000	98,000
Jose Santiago, Turabo Heights Resident Council, Bldng 16 Apt 1–A, Caguas, PR 00725–0000	98,000
Ada Rodriguez, Dr. Pila Resident Council Extension I, Bldg 15–7 Apt 88, Ponce, PR 00731–0000	92,500
Hector Sanchez Castillo, Villa Evangelina Resident Council, Street 2 #L 107, Manati, PR 00674–0000	100,000
Ruth Gutierrez, Jardines de Montellano Resident Council, Bldg A Apt 326, Cayey, PR 00736–0000	98,000
Jose Silva Gonzalez, Magnolia Gardens Resident Council, Bldg 12 Apt A–1, Bayamon, PR 00956–0000	92,500
Hector Carruib Padin, La Meseta Resident Council, Bldg 2 Apt 52, Arecibo, PR 00612–0000	92,500
Maria De L De Jesus, Cidra Housing Resident Council, 8th St. Apt L–9, Cidra, PR 00739–0000	98,000
Maria Roque, Dr. Pila Resident Council Extension II, Dr. Pila Bldg. 3 Apt 38, Ponce, PR 00731	92,500
Rita Rivera-Ramirez, Lideres Independiente, Pro-Bienestar de Llorens To, Loiza Ave. Apt. 1642, Santurce, PR 00913	99,765
Pedro Ruiz, Extension Caguax Resident Council, Inc., Bldg. 3, Apt. 5 Caguax Caguas, PR 00725	98,000
Carmen Arroyo, Bella Vista Heights Inc., Resident Council, Bldg. G–12, Apt. 3 Bayamon, PR 00957	92,500
Ivonne San-Antonio, Campo Verde Resident Council, Street 2, C–17 Bayamon, PR 00960	92,500
Alfonso Reyes, Dr. Pedro J. Palou Housing Resident Council, Bldg. 3 Apt. 4, Humacao, PR 00792–0000	92,500
Maria del Carmen Nunez-Sierra, Lideres Voluntarios Resident Council, Bldg. 6 Apt. 135, Bayamon, PR 00959	92,500
Noraida Rosado, Virgillo Davila Resident Council, State Rd. ι2, Bayamon, PR 00956	92,500
Willie Burrell, Northeast Scattered Sites Resident Mgmt. Corp., 4700 N. Magnolia, Chicago, IL 60640	100,000
Evelyn Hernandez, It's Time for a Change Resident Management, 862 N Sedgewick #304, Chicago, IL 60610	40,000
Eunice McClain, Acting Scattered Sites Resident Council, 100 S SHERIDAN RD, Peoria, IL 61605–3905	100,000
Cynthia Rivers, Warner Homes Resident Council, 814 W. Brotherson Peoria, IL 61605	100,000
Elizabeth Murphy, Manor Homes Resident Council, 706 26th Avenue, Rock Island, IL 61201	100,000
Diann Houston-Johnson, Valley Homes Resident Council, 1003 25th Street #27, Rock Island, IL 61201	100,000
Andranette Trice, Lebanon Resident Council, 503 S. Plum—Ste A, Lebanon, IL 62254	60,000
Judith Archibold, Bridgewood Resident Council, 702 Bridgewood Lane, Murphysboro, IL 62966	100,000
Jay Arrington, Carver Park Estates Local Advisory Council, 4712 Quincy Ave #2217, Cleveland, OH 44104	100,000
Nell Petite, Woodhill Homes Estate Local Advisory Council, 2474 Baldwin Rd., #E, Cleveland, OH 44106	100,000
Pearlie LeSure, King Kennedy Estates Mothers of Renaissance, 2580 Park Midway #1, Cleveland, OH 44104	100,000
Hattie Jackson, Outhwaite Homes Estates Local Advisory Council, 4461 Woodland #1070, Cleveland, OH 44104	100,000
Julia Kay, Wade Park Apartments Local Advisory Council, 9500 Wade Park #706, Cleveland, OH 44106	100,000
Glennie Patterson, Trumbull Homes, Tenant Organization, 2226 S.Project Dr. S.E., Warren, OH 44484	100,000
Etta McCree, Highland Terrace Tenant Organization, 471 Lane Dr. S.W., Warren, OH 44484	100,000
Sandra Henry, Bardmoor, Estates Resident Council, 6101 Bardmoore, Ashtabula, OH 44004	100,000
William Ross, Bonniewood Resident Council, 3128 Johnson Court, Ashtabula, OH 44004	100,000
Cathy Downton, Allen County Tenant Council, 600 S. Main St., Lima, OH 45804	100,000
Byrd Hall, Logan County Housing Improvement Association, 116 N Everett St., Bellefontaine, OH 43311	100,000
Lois Williams, Edward J. Jeffries Homes Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000
Lena Bivens, Brewster-Douglas Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000
Louis Harvey, Jr., State Fair Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000
Betty Cole, Parkside Homes Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000
Cornell Preston, Woodland Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000
Helen Smith, Smith Homes Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000
Elizabeth Butler, Forest Park Place Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000
Thelma Simpson, Diggs Homes Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000
Mishelle Kennedy, Sojourner Truth Homes Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000
Evelyn Bradshaw, Herman Gardens Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000
Betty Scott, Sheridan II Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000
Aruby Brown, Warren West Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000

APPENDIX A.—FISCAL YEAR 1994 PUBLIC AND INDIAN HOUSING—Continued

Program Name: Tenant Opportunities Program Technical Assistance Grant; Statute: Public Law 100–42, February 5, 1988 NOFA Date: May 13, 1994

Funding recipient (name and address); applicant, name, contact	Amount awarded
Ann Flow, Sheridan I Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000
Clara Shoots, Conner-Waveney Resident Council, 2211 Orleans, Detroit, MI 48207–2780	100,000
Doretha Porter, Saginaw Tenant Organization, 2811 Davenport St., Saginaw, MI 48602–3747	86,000
Jackie McGowan, Mount Clemens Family Housing Resident Council, 50 Church Street, Mt. Clemens, MI 48043–2253	100,000
Patricia Brown, Lansing City-Wide Housing Commission, 310 Seymour Avenue, Lansing, MI 48933	100,000
VI Scott, Hillside Terrace, 637 West Cherry St., Milwaukee, WI 53202	100,000
Alan Moore, Sr., Lac du Flambeau Resident Organization, 554 Chicog Street, P.O. B, Lac du Flambeau, WI 54538	84,700
Gale White, Ho-Chunk Resident Organization, P.O. Box 605, Black River Falls, WI 54615	89,274
Mary Wayka, Menominee Housing Resident Organization, P.O. Box 261, Keshena, WI 54135	60,500
Mary Jane Halpern, Sunset Village Resident Council, 2816 Louden #2, Las Vegas, NM 87701	100,000
Robin Vargas, Vista del Cerro Family Resident Council, 410 Tingley, #26, Truth or Consequence, NM 87901	40,000
Raymond Martinez, Turquoise Trail Resident Council, 111 Sierra Pl. North, Santa Fe, NM 87505	100,000
Maria Vega, Camino De Jacobo Resident Council, 70 Camino De Jacobo, Santa Fe, NM 87505	100,000
Richard Coleman, Waxahachie Resident Council, 208 Patrick # 19, Waxahachie, TX 75165–2918	100,000
Sheila Smith, Irvinton Village Resident Council, 2901 Fulton, Houston, TX 77009	100,000
Bettye Archibald, Bellerive Resident Council, 7225 Bellerive, Houston, TX 77036	100,000
Florence Burleson, 75 Lyerly Resident Council, 75 Lyerly, Houston, TX 77022	100,000
Patsy Cooper, Oleander Homes Resident Council, 5228 Broadway #4C, Galveston, TX 77550	100,000
Patricia Hypolite, Cedar Terrace Resident Council, 724–33rd St. #12–C, Galveston, TX 77550	100,000
Eulalia Watson, Holland House Resident Council, 2810–61st St. #416, Galveston, TX 77550	100,000
Ida Green, Arthur Robinson Resident Council, 516 Burton, Orange, TX 77630	100,000
Illene Pierce, Vidor Complex Resident Council, 125 Vidor Dr. #58, Vidor, TX 77662	100,000
Delois Cole, Sunset Terrace Resident Council, 2800 S. Summit, Little Rock, AR 72202	89,000
Ira Bass, High Rise Developments Joint Resident Councils, 311 East Eighth St., Little Rock, AR 72202	88,000
Theatrice Collier, Highland Park Resident Council, 4801 West 12th St., Little Rock, AR 72202	88,000
Fannie McKnight, St. Thomas Resident Council, 739 St. Andrew St., New Orleans, LA 70130	100,000
Desiree Williams, Florida Resident Council, 2601 Alvar Street, New Orleans, LA 70130	100,000
Pamela Jenkins, Capital Square Resident Council, 700 North 17th St., Baton Rouge, LA 70806–3422	45,190
David Osborn, Phoenix Resident Council, 111 Randolph St., Seminole, OK 74868	100,000
Cindy Curtis, Norman Housing Authority Resident Council, Inc., 700 N. Berry Rd., Norman, OK 73069–0000	60,000
Tommie Martinez, Kingsville Housing Authority Resident Association, 1616 Connell Villa, Kingsville, TX 78363	100,000
Debra Emarthle, New Edition Resident Organization, 2107 Neva, Seminole, OK 74868	100,000
Cindy Anderson, South Side Development Resident Council, 1841 27th Avenue, S., Clinton, IA 52732	34,275
Sue Hayes, Central Iowa Regional Advisory Council, Inc., 402 N. Water St., #3, Madrid, IA 50156	60,000
Alecia Williams, United Presidents Council of Kansas City, Kansas, 1124 North 9th St., Kansas City, KS 66101–2197	76,090
Emily Wallace, Public Housing Resident Council, 405 Paseo, Kansas City, MO 64106–2608	100,000
Stella Brown, Central Resident Council, Bx 4305,Santa Fe Sta, Denver, CO 80204	60,000
Roy Edwards, Hope Resident Council, Boulder County, CO, 450 S Carr, Lafayette, CO 80026	60,000
Tammy Schneider, Rock Springs Resident Council, 2145 Century Blvd., Rock Springs, WY 82901	100,000
Warren Matte, Ft. Belknap RMC, PO Box 1190, Harlem, MT 59526	100,000
John Other Medicine, Crow RO, PO Box 427, Crow Agency, MT 59022	100,000
Harley Texx Lone Bear, Like-A-FishHook Resident Consortium, PO Box 310, New Town, ND 80202–3607	100,000
Harold Tiger, Chante RO, PO Box 611, Eagle Butte, SD 57625	99,640
Zona Loans Arrow, Fort Yates RO, PO Box 484, Fort Yates, ND 58538	99,950
Gary Ortley, Rock Creek RO, PO Box 126, Bullhead, SD 57621	100,000
Richard Howard, Kenel RO, HC1 Box 33, McLaughlin, SD 57642	60,000
Sandra Welch, Bear Soldier, Bos 271, McLaughlin, SD 57642	100,000
Darlene Williamd, Toka Nuwan RO, PO Box 237, Waubay, SD 57273	100,000
Jabez (Jay) Bryce, Wahiawa Terrace Tenants Association, 345–4 Pallm Street, Wahiawa, HI 96786	72,555
Valeria Tariq, Carmelitos Tenants Association, 851 Via Carmelitos, Long Beach, CA 90805	60,000
Luz Tafolla, San Fernando Gardens Resident Advisory Council, 10909 Lehigh Ave, Pacoima, CA 91331	94,000
John Semanas, Siler Homes Resident Council, Inc., P.O. Box 1387, Flagstaff, AZ 86002–1387	60,000
Jim Hoag, A Step Up Resident Organization, 626 I Street #1006, Sacramento, CA 95814	100,000
Hardin Hayes, Comstock/Suttersview Resident Organization, 1725 K Street #501, Sacramento, CA 95814	100,000
Robert Lor, Conway Homes Resident Council, 840 Dallas Avenue, Stockton, CA 95206	100,000
Bonita Perez, Tracy Homes Resident Council, 921 West 9th Street, Tracy, CA 95376	100,000
Demetria Martinez, United Housing Council of Biggs, P.O. Box 738, Biggs, CA 95917	100,000
Juan Ramirez, Chico Housing Council, 13 La Lieta Ct., Chico, CA 95928	100,000
Susana Madera, Independent Residents of Gridley Housing Dev., 1057 Ash Street, Chico, CA 95948	100,000
Theresa Coleman, Ujamaa Westbrook/Hunter's Point Resident Mgmt Cunl, One Harbor Road, San Francisco, CA 94124	100,000
Mary Jones, Westside Courts Tenants' Association, 1414 Baker St. #317, San Francisco, CA 94115	100,000
Willie Carter, Jr., Hunter's View Resident Management Council, Inc., P.O.Box 880577, San Francisco, CA 94188	60,000
Chang Lee, Ping Yuen Resident Improvement Association, 711 Pacific Ave. #14, San Francisco, CA 94133	100,000
Eva Mae Williams, Robert B. Pitts Tenants' Association, 1150 Scott Street, San Francisco, CA 94115	60,000
Freda Moon, Peralta Village Resident Council, 1340 10th Street, Oakland, CA 94607	100,000
David Thompson, Essex Manor Resident Council, 7760 Carlyle Drive, Reno, NV 89506	100,000
Susan Porter, Stead Manor Resident Council, 4960 Cocoa Avenue, Reno, NV 89506	100,000
Janice Mayo, Ernie Cragin Annex #3 Resident Council, 3920 Dake Street, Las Vegas, NV 89110	99,399
George Werito,Bluffview Village Resident Organization, P.O. Box 170, Farmington, NM 87499	100,000

APPENDIX A.—FISCAL YEAR 1994 PUBLIC AND INDIAN HOUSING—Continued

Program Name: Tenant Opportunities Program Technical Assistance Grant; Statute: Public Law 100–42, February 5, 1988 NOFA Date: May 13, 1994

Funding recipient (name and address); applicant, name, contact	Amount awarded
Julia Johnson, T'iis Nit'i', P.O. Box 308, Window Rock, AZ 86515	98,600
Leroy Mitchell, West Mesa, P.O. Box 308, Window Rock, AZ 86515	70,000
Gloria Yazzie, Bittersprings Resident Organization, P.O. Box 308, Window Rock, AZ 86515	70,000
Ronnie Lyons, Gila River Tenant Advisory Council, P.O. Box 528, Sacaton, AZ 85247	100,000
Ricardo Tapia, PY Neighborhood Asso., 7474 S. Camino de, Tucson, AZ 85746	100,000
Shan Paipa, Campo Resident Organization, 36810 Hwy. 94, Campo, CA 91906	31,426
Evelyn Calvert, San Juan Residence Committee, P.O. Box 1336, San Juan Pueblo, NM 87566	100,000
Kathy Kotongan, Park View Manor Residents, Inc., 80l Karluck, #202, Anchorage, AK 99501–0000	40,000
Susan Franks, Columbia Villa/Tamarack Residents Association, 9009 N. Dana, Portland, OR 97203	60,000
Pauline McKinney, Westpark Resident Council, 76 Russell Road, Bremerton, WA 98312	100,000
Cathy Schindler, Resident Council of the HA of Snohomish County, 3425 Broadway, Everett, WA 98201	73,270
Donna Quijance, Seldovia Tenant Council, 350 Alder Street, Seldovia, AK 99663	60,000
Darrel Olsen, Totem Place Townhouse Resident Council, P.O. Box 969 Lake Avenue, Cordova, AK 99574	44,494
Leila Spencer, Umatilla Tribe Housing RC, P.O. Box 1638, Pendleton, OR 97801	100,000

1994 NATIONAL, REGIONAL AND STATEWIDE ORGANIZATIONS

Applicant, name, contact	Amount awarded
Pamela Francis, c/o Pleasant Point Housing Authority, Eastern Indian Housing Authority Association, P.O. Box 339, Perry, Maine 04667	$100,000
Jack Cooper, Massachusetts Union of Public Housing Tenants, Inc., 784 Washington Street, Suite 504, Boston, MA 02124	100,000
George Latham, New York State Association of Public and Subsidized Residents, Inc., 680 Central Avenue, Albany, New York 12206	100,000
Franceine Ferguson, New Jersey Association of Public and Subsidized Housing Resident, Inc., 303–309 Washington Street, Suite 300, Newark, New Jersey 07102	100,000
Jerry Jones, The Acorn Tenant Union, 739 Eighth Street, SE, Washington, DC 20003	100,000
Rex L. LaMore/Nancy Radtke, Michigan State University, Center for Urban Affairs, 1801 W. Main Street, Lansing, MI 48915–1097	100,000
Luis Ortiz Mojica, Advance En Puerto Rico, PMB Depto. 484–HC–01, Box 29030, Caguas, PR 00725–8900	100,000
Richard Coleman, South-Central Acorn Tenant Union, 4415 San Jacinto, Dallas County, Dallas, TX 75204	100,000
Tom McKay, Blackfeet Resident Organization, Box 1209, Browning, Montana 59417	100,000
Ray Wayne Fox, Southern California Resident Management and Initiatives Corporation, 1145 Via Wanda Street, Building 57, Long Beach, CA 90805	100,000

[FR Doc. 96–13181 Filed 5–23–96; 8:45 am]

BILLING CODE 4210–33–P

[Docket No. FR–3778–N–86]

Office of the Assistant Secretary for Community Planning and Development; Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the

opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the Federal Register, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Transportation: Mr. Ronald D. Keefer, Director of Administrative Services and Property Management, Department of Transportation, 400 7th Street, SW., Room 10319, Washington, DC 20590; (202) 366–4246; Navy: Mr. John Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–0474; Air Force: Ms. Barbara Jenkins, Air Force Real Estate Agency, Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332–8020; (202) 767–4184; COE: Mr. Bob Swieconek, Army Corps of Engineers, Civilian Facilities, Pulaski Building, Room 4224, 20 Massachusetts Avenue, NW., Washington, DC 20314–1000; (202) 761–1753; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; Energy: Ms. Marsha Penhaker, Department of Energy, Facilities Planning and Acquisition Branch, Room 6H–058, Washington, DC 20585; (202) 586–1191; (These are not toll-free numbers).

Dated: May 17, 1996.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 05/24/96

Suitable/Available Properties

Buildings (by State)

California

Bldg. 1
Fruit & Vegetable Chemistry Lab
263 South Chester Ave.
Pasadena Co: Los Angeles CA 91106–3108
Landholding Agency: GSA
Property Number: 549610015
Status: Excess Comment: 16,500 sq. ft., most recent use—ofc/library/lab
GSA Number: 9–A–CA–1469.

Bldg. 2
Fruit & Vegetable Chemistry Lab
263 South Chester Ave.
Pasadena Co: Los Angeles CA 91106–3108
Landholdong Agency: GSA
Property Number: 549610016
Status: Excess
Comment: 828 sq. ft., most recent use—isolation operation bldg.
GSA Number: 9–A–CA–1469.

Bldg. 3
Fruit & Vegetable Chemistry Lab
263 South Chester Ave.
Pasadena Co: Los Angeles CA 91106–3108
Landholding Agency: GSA
Property Number: 549610017
Status: Excess
Comment: 624 sq. ft., most recent use—boiler rm/garage/pit house
GSA Number: 9–A–CA–1469.

Bldg. 4
Fruit & Vegetable Chemistry Lab
263 South Chester Ave.
Pasadena Co: Los Angeles CA 91106–3108
Landholding Agency: GSA
Property Number: 549610018
Status: Excess
Comment: 146 sq. ft., most recent use—solvent storage
GSA Number: 9–A–CA–1469.

Bldg. 5
Fruit & Vegetable Chemistry Lab
263 South Chester Ave.
Pasadena Co: Los Angeles CA 91106–3108
Landholding Agency: GSA
Property Number: 549610019
Status: Excess
Comment: 2212 sq. ft., most recent use—green house
GSA Number: 9–A–CA–1469.

Bldg. 6
Fruit & Vegetable Chemistry Lab
263 South Chester Ave.
Pasadena Co: Los Angeles CA 91106–3108
Landholding Agency: GSA
Property Number: 549610020
Status: Excess
Comment: 200 sq. ft., most recent use—secure transformer bldg.
GSA Number: 9–A–CA–1469.

Bldgs. 1406, 1407
Naval Air Weapons Station, China Lake
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 779620030
Status: Excess
Comment: 4800 sq. ft. & 2600 sq. ft. modular bldgs., presence of asbestos/lead paint, most recent use—combined research lab, off-site use only.

Colorado

Motor Pool Facility
3720 Walnut St.
Boulder Co: Boulder CO 80306–
Landholding Agency: GSA
Property Number: 549610013
Status: Excess
Comment: 2520 sq. ft., most recent use—automotive maintenance facility, Colorado zoning restrictions
GSA Number: 7–G–CO–633.

Illinois

Bldg. 33
Argonne National Lab
Argonne Co: DuPage IL 60439–
Landholding Agency: Energy
Property Number: 419620001
Status: Unutilized
Comment: 2280 sq. ft., needs major rehab, presence of asbestos, most recent use—office, off-site use only.

Bldgs. 481 & 481A
Argonne National Lab
Argonne Co: DuPage IL 60439–
Landholding Agency: Energy
Property Number: 419620002
Status: Unutilized
Comment: 4710 sq. ft., needs major rehab, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 828
Argonne National Lab
Argonne Co: DuPage IL 60439–
Landholding Agency: Energy
Property Number: 419620003
Status: Unutilized
Comment: 240 sq. ft., metal, needs major rehab, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 825–7121030057
Argonne National Lab
Argonne CO DuPage IL 60439–
Landholding Agency: Energy
Property Number‘ 419620004
Status: Unutilized
Comment: 440 sq. ft., needs major rehab, presence of asbestos, most recent use—boiler house, off-site use only.

Missouri

District 2 Flag Quarters
16 Chaminade
Creve Coeur Co: St. Louis MO 63141–
Landholding Agency: GSA
Property Number: 54920003
Status: Excess
Comment: 2320 sq. ft. residence
GSA Number: 7–U–MO–0629.

Utah

House
North Utah Highway 16
Randolph Co: Rich UT 84064–
Landholding Agency: GSA
Property Number: 549620001
Status: Excess
Comment: 1148 sq. ft. wooden frame, most recent use—office, septic system on private land
GSA Number: 7–A–UT–0498A.

Land (by State)

Indiana

Portion
Bureau of Prisons Vigo Farm
Linden Twp Co: Vigo IN
Landholding Agency: GSA
Property Number: 549620002
Status: Excess
Comment: 17.65 acres, most recent use—agriculture
GSA Number: 2–J–IN–507C.

Maine

Remote Center Air
Ground Communication Facility
Westford Hill Road
Hodgdon Co: Aroostook ME 04730–
Landholding Agency: GSA
Property Number: 549610014
Status: Excess
Comment: 0.91 acre with 554 sq. ft. bldg and tower, most recent use—unmanned communications facility
GSA Number: 1–ME–624.

Unsuitable Properties

Buildings (by State)

California

Bldg. 893
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189620028
Status: Unutilized
Reason: Secured Area, Extensive deterioration.

Bldg. 3193
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189620029
Status: Unutilized
Reason: Secured Area, Extensive deterioration.

Bldg. 9350
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189620030
Status: Unutilized
Reason: Secured Area, Extensive deterioration.

Bldg. 13003
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189620031
Status: Unutilized
Reason: Secured Area, Extensive deterioration.

Bldg. 13222
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189620032
Status: Unutilized
Reason: Secured Area, Extensive deterioration.

Bldg. 16197
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189620033
Status: Unutilized
Reason: Extensive deterioration.

Missouri

Barn, Longview Lake
Kansas City Co: Jackson MO 64134–
Landholding Agency: COE
Property Number: 319620001
Status: Excess
Reason: Extensive deterioration.

Montana

Bldg. 547
Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189620025
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area.

Bldg. 1709
Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189620026
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area.

Bldg. 1897
Malmstrom AFB
MalmstromAFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189620027
Status: Unutilized
Reason: Secured Area.

New York

Bldg. 222
Fort Wadsworth
Staten Island Co: Richmond NY 10305–
Landholding Agency: DOT
Property Number: 879620003
Status: Unutilized
Reason: Secured Area.

Bldg. 223
Fort Wadsworth
Staten Island Co: Richmond NY 10305–
Landholding Agency: DOT
Property Number: 879620004
Status: Unutilized
Reason: Secured Area.

Bldg. 205
Fort Wadsworth
Staten Island Co: Richmond NY 10305–
Landholding Agency: DOT
Property Number: 879620005
Status: Unutilized
Reason: Secured Area.

North Carolina

Bldg. 080, Camp Lejeune
Greater Sandy Run Training Area
Camp Lejeune Co: Onslow NC 28542–
Landholding Agency: Navy
Property Number: 779620023
Status: Unutilized
Reason: Extensive Deterioration.

Virginia

Bldg. 380B
Naval Weapons Station
Yorktown Co: York VA 23691–
Landholding Agency: Navy
Property Number: 779620022
Status: Unutilized
Reason: Secured Area.

Wyoming

Bldg. 386
F.E. Warren AFB
Cheyenne Co: Laramie WY 82005–5000
Landholding Agency: Air Force
Property Number: 189620021
Status: Unutilized
Reason: Secured Area.

Bldg. 831
F.E. Warren AFB
Cheyenne Co: Laramie WY 82005–5000
Landholding Agency: Air Force
Property Number: 189620022
Status: unutilized
Reason: Secured Area.

Bldg. 832
F.E. Warren AFB
Cheyenne Co: Laramie WY 82005–5000
Landholding Agency: Air Force
Property Number: 189620023
Status: Unutilized
Reason: Secured Area.

Bldg. 833
F.E. Warren AFB
Bheyenne Co: Laramie WY 82005–5000
Landholding Agency: Air Force
Property Number: 189620024
Status: Unutilized
Reason: Secured Area.

[FR Doc. 96–12868 Filed 5–23–96; 8:45 am]

BILLING CODE 4210–29–M

[Docket No. FR–4082–D–01]

Office of the Assistant Secretary for Fair Housing and Equal Opportunity; Revocation and Redelegation of Authority Under Section 504 of the Rehabilitation Act of 1973

AGENCY: Office of Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of revocation and redelegation of authority.

SUMMARY: This redelegation concerns the Department of Housing and Urban Development's (HUD's) enforcement of Section 504 of the Rehabilitation Act of 1973 (the Act), which prohibits discrimination on the basis of disability in programs and activities receiving Federal financial assistance.

Under this Notice, the Assistant Secretary for Fair Housing and Equal

Opportunity redelegates certain authority, to act as the ''responsible civil rights official'' under HUD regulations at 24 CFR Part 8, from the Assistant Secretary for Fair Housing and Equal Opportunity to the Deputy Assistant Secretary for Enforcement and Investigations, the Director of the Office of Program Compliance and Disability Rights, the Director of the Office of Program Standards and Evaluation, the Directors of the Fair Housing Enforcement Centers (FHECs), and the Directors of the Program Operations and Compliance Centers (POCCs).

This redelegation supersedes the redelegations of authority at 56 FR 12302, dated March 22, 1991; at 56 FR 12303, dated March 22, 1991; at 56 FR 56420, dated November 4, 1991; and at 56 FR 56421, dated November 4, 1991. In those documents, certain authority to act as the ''responsible civil rights official'' under 24 CFR Part 8 was redelegated to the General Deputy Assistant Secretary for Fair Housing and Equal Opportunity, the Deputy Assistant Secretary for Enforcement and Compliance, the Regional Office Directors of Fair Housing and Equal Opportunity, the Director of the Office of Investigations, and the Director of the Office of Program Compliance.

EFFECTIVE DATE: May 2, 1996.

FOR FURTHER INFORMATION CONTACT: Cheryl Kent, Director, Disability Rights Division, Office of Program Compliance and Disability Rights, Office of Fair Housing and Equal Opportunity, Room 5240, 451 Seventh Street SW., Washington, D.C. 20410, telephone number (202) 708–2333 (voice), (202) 708–1734 (TTY). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: In a notice published on March 22, 1991, at 56 FR 12302, the Secretary of Housing and Urban Development delegated all authority to act as ''the responsible civil rights official'' under 24 CFR Part 8, to the Assistant Secretary for Fair Housing and Equal Opportunity. That notice also permitted the Assistant Secretary to redelegate the authority.

On March 22, 1991, at 56 FR 12302, and on November 4, 1991, at 56 FR 56420, the Assistant Secretary for Fair Housing and Equal Opportunity redelegated certain powers and authorities to act as the ''responsible civil rights official'' under 24 CFR Part 8, to the General Deputy Assistant Secretary for Fair Housing and Equal Opportunity, the Deputy Assistant Secretary for Enforcement and Compliance, and the Directors of the Regional Offices of Fair Housing and Equal Opportunity. On March 22, 1991, at 56 FR 12303, the Deputy Assistant Secretary for Enforcement and Compliance further redelegated limited powers under 24 CFR Part 8 to the Director of the Office of Program Compliance. On November 4, 1991, at 56 FR 56421, the General Deputy Assistant Secretary for Fair Housing and Equal Opportunity further redelegated limited powers under 24 CFR Part 8 to the Director of the Office of Investigations. The present document revokes all of those redelegations.

In 1994, the Assistant Secretary for Fair Housing and Equal Opportunity reorganized the Offices of Fair Housing and Equal Opportunity located in the Department's Field Offices. The Fair Housing Enforcement Centers (FHEC) replace the former Regional Offices of Fair Housing and Equal Opportunity. The Large Program Operations and Compliance Centers (POCC) replace the former Program Operations Divisions in the Regional Offices of Fair Housing and Equal Opportunity. The Small Program Operations and Complaint Centers replace the former Office of Fair Housing and Equal Opportunity Divisions in Category A Field Offices.

Under the reorganization of HUD's Field Offices, the Fair Housing Enforcement Centers have responsibility for conducting investigations of complaints. Therefore, within the present redelegation, the Assistant Secretary is redelegating to the Directors of the Enforcement Centers, to the Directors of the Large Program Operations and Compliance Centers, and to the Director of the Office of Program Compliance and Disability Rights, the authority to investigate complaints and to issue findings of compliance and noncompliance under Section 504 of the Rehabilitation Act of 1973. Further, the Assistant Secretary is redelegating to the Directors of the Fair Housing Enforcement Centers, the Directors of the Large Program Operations and Compliance Centers, and to the Director, Office of Program Compliance and Disability Rights the authority to issue Letters of Determination where no party to the complaint requests a review of the Letter of Findings. When any party to a complaint requests a review of the Letter of Findings, the Assistant Secretary is redelegating to the Deputy Assistant Secretary for Enforcement and Investigations the authority to issue the Letter of Determination.

The Assistant Secretary is, in this document, redelegating to the Directors of the Large Program Operations and Compliance Centers, to the Director of the Office of Program Compliance and Disability Rights, and to the Director of the Office of Program Standards and Evaluation the authority to conduct compliance reviews and to issue compliance and noncompliance Letters of Findings and Letters of Determination. The Assistant Secretary does not anticipate assigning compliance reviews to the Director of the Office of Program Standards and Evaluation; the authority to conduct compliance reviews, therefore, is granted primarily so that authority may be further redelegated to the Directors of the Small Program Operations and Compliance Centers to conduct specific compliance reviews on a case-by-case basis, as directed by Headquarters officials. Within the present document, the Assistant Secretary directly redelegates to the Directors of the Small Operations and Compliance Centers only the authority to investigate to determine compliance with 24 CFR 8.25(c) with regard to needs assessments, transition plans, and extensions for the completion of structural changes required to provide accessible dwelling units to persons with disabilities.

Accordingly, the Assistant Secretary for Fair Housing and Equal Opportunity redelegates authority as follows:

Section A. Authority Redelegated

The Assistant Secretary retains and redelegates to the Directors of the Fair Housing Enforcement Centers, to the Directors of the Large Program Operations and Compliance Centers, and to the Director of the Office of Program Compliance and Disability Rights the authority in conducting complaint investigations to act as ''the responsible civil rights official'' to:

1. Request, receive, and evaluate the documents maintained by recipients in accordance with 24 CFR 8.51(b).

2. Request, receive and evaluate compliance reports in accordance with 24 CFR 8.55(b).

3. Obtain access to sources of information in accordance with 24 CFR 8.55(c).

4. Waive the time limit for filing a complaint in accordance with 24 CFR 8.56(c)(3).

5. Notify the complainant and the recipient of Federal financial assistance of HUD's receipt of a complaint under 24 CFR 8.56(d); process a complaint in accordance with 24 CFR 8.56(e); and dismiss a complaint under 24 CFR 8.56(f).

6. Investigate complaints and issue Letters of Findings under 24 CFR 8.56 (b) and (g).

7. Resolve a matter through informal means at any stage of processing through a Voluntary Compliance

Agreement in accordance with 24 CFR 8.56(j).

8. Issue a Letter of Determination when no party to the complaint has filed a timely request for review of the Letter of Findings in accordance with 24 CFR 8.56(h)(4).

Section B. Authority Redelegated

The Assistant Secretary retains and redelegates to the Deputy Assistant Secretary for Enforcement and Investigations all authority needed, in conducting complaint investigations, to act as ''the responsible civil rights official'' to issue a Letter of Determination when a party to the complaint has filed a timely request for review of the Letter of Findings in accordance with 24 CFR 8.56(h).

Section C. Authority Redelegated

The Assistant Secretary retains and redelegates to the Director of the Office of Program Compliance and Disability Rights, the Director of the Office of Program Standards and Evaluation, and the Directors of the Large Program Operations and Compliance Centers, the authority in conducting compliance reviews to act as ''the responsible civil rights official'' to:

1. Conduct compliance reviews in accordance with 24 CFR 8.56(a).

2. Request, receive, and evaluate the documents maintained by recipients in accordance with 24 CFR 8.51(b).

3. Request, receive and evaluate compliance reports submitted by recipients and subrecipients in accordance with 24 CFR 8.55(b).

4. Obtain access to sources of information in accordance with 24 CFR 8.55(c).

5. Issue Letters of Findings and Letters of Determination with regard to compliance reviews conducted in accordance with 24 CFR 8.56 (a) and (b).

6. Resolve a matter through informal means at any stage of processing through a Voluntary Compliance Agreement, in accordance with 24 CFR 8.56(j).

Section D. Authority Redelegated

The Assistant Secretary retains and redelegates, to the Directors of Small Program Operations and Compliance Centers, the authority to act as the ''responsible civil rights official'' to:

1. In order to determine compliance with 24 CFR 8.25(c) with regard to needs assessments, transition plans, and extensions of time for the completion of structural changes, conduct an investigation pursuant to 24 CFR 8.56(a) and issue a Letter of Findings.

2. In a matter involving compliance with 24 CFR 8.25(c) with regard to needs assessments, transition plans, and/or extensions of time for the completion of structural changes, resolve the matter through informal means at any stage of processing through a Voluntary Compliance Agreement in accordance with 24 CFR 8.56(j).

Section E. Limited Authority To Further Redelegate

The authority redelegated, to the Directors of the Fair Housing Enforcement Centers, the Directors of the Program Operations and Compliance Centers, the Director of the Office of Program Compliance and Disability Rights, and the Director of the Office of Program Standards and Evaluation, under this redelegation may not be further delegated except as specified in this Notice. The Director, Office of Program Compliance and Disability Rights and the Director, Office of Program Standards and Evaluation may jointly redelegate in writing to the Directors of the Small Program Operations and Compliance Centers all authority specified under Section C, above, to conduct specific compliance reviews. The Deputy Assistant Secretary for Enforcement and Investigations retains the right to redelegate in writing the authority granted to him or her within this redelegation.

Section F. Supersedure

This redelegation supersedes and revokes the following redelegations of authority published in the Federal Register: 56 FR 12302, dated March 22, 1991; 56 FR 12303, dated March 22, 1991; 56 FR 56420, dated November 4, 1991; and 56 FR 56421, dated November 4, 1991.

Authority: Section 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Dated: May 2, 1996.

Elizabeth K. Julian,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 96–13072 Filed 5–23–96; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for Surface Mining in Forest County, Mississippi by Perry County Sand and Gravel, Inc.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Perry County Sand and Gravel, Inc. (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a)(1)(B) of the Endangered Species Act (Act). The permit would authorize the incidental take, for a period of 6 years, the federally listed threatened gopher tortoise (Gopherus polyphemus) during the expansion of an existing surface mining operation in Forest County, Mississippi.

The Service also announces the availability of an Environmental Assessment (EA) and Habitat Conservation Plan (HCP) for the incidental take application. The Applicant's HCP describes Gopherus polyphemus conservation measures to be employed to address the anticipated level of incidental take. The EA prepared by the Service describes the environmental consequences of issuing or denying the Applicant's request for an incidental take permit. As stated in the EA, the Service proposes to issue the requested permit. This proposal is based on a preliminary determination that the Applicant has satisfied the requirements for permit issuance and that the HCP provides conservation benefits to Gopherus polyphemus. This notice also advises the public that the Service has made a preliminary determination that issuing the incidental take permit is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended. The finding of No Significant Impact is based on information contained in the EA and HCP. The final determination will be no sooner than 30 days from the date of this notice. This notice is provided pursuant to Section 10 of the Endangered Species Act, as amended, and National Environmental Policy Act (NEPA) regulations (40 CFR 1506.6).

DATES: Written comments on the permit application must be received on or before June 24, 1996.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Persons wishing to review the EA or HCP may obtain a copy by writing the Regional Office or the Jackson, Mississippi, Field Office. Requests must be in writing to be processed. Documents will also be available for public inspection, by appointment, during normal business hours at the Regional Office or the Field Office. Written data or comments

concerning the application, EA, or HCP should be submitted to the Regional Office. Please reference permit number PRT–814979 in such comments:

Regional Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia (fax 404–679–7081).

Field Supervisor, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Suite A, Jackson, Mississippi 39213. (fax 601–965–4340).

FOR FURTHER INFORMATION CONTACT: Theresa Jacobson, Mississippi Field Office (601–965–4900) or Rick Gooch at the Atlanta, Georgia Regional Office (404–679–7110).

SUPPLEMENTARY INFORMATION:

Background

The gopher tortoise is listed as a threatened species in the western part of its range, from the Tombigbee and Mobile Rivers in Alabama west to southeastern Louisiana. As a native burrowing species of the fire maintained longleaf pine ecosystem, typical gopher tortoise habitat consists of frequently burned longleaf pine or longleaf pine/scrub oak uplands on moderately well drained to xeric soils. About 80 percent of the original habitat for gopher tortoises has been lost due to urbanization and agriculture. Forest management practices involving dense pine stands and infrequent prescribed fire have reduced or eliminated the open forest and sunny forest floor with grasses and forbs that tortoises need for burrowing, nesting, and feeding. Though gopher tortoises are widely distributed in south Mississippi, most populations are fragmented, small in size, and functionally non-viable.

Section 9 of the Act, and implementing regulations, prohibits the take of threatened and endangered species. Take, in part, is defined as an activity that kills, injures, harms, or harasses a listed threatened or endangered species. Section 10(a)(1)(B) of the Act provides an exemption, under certain circumstances, to the Section 9 prohibition if the taking is incidental to, and not the purpose of otherwise lawful activities.

Fourteen tortoise burrows were located and four tortoises are known to inhabit the 89-acre proposed mining site. A tortoise population of up to five tortoises are estimated to reside on the property. The operation of heavy mining equipment can directly kill or injure tortoises by running over them above ground, or by crushing or entombing them in their burrows, or by excavation.

The EA considers the environmental consequences of four alternatives. One alternative, the proposed action, is the issuance of the incidental take permit based upon submittal of the HCP as proposed. The HCP describes measures the Applicant will take to avoid and mitigate such taking. The Applicant plans to relocate all tortoises in the mining area to an 8-acre habitat conservation area. Suitable habitat for gopher tortoises consists of less than 60 percent canopy cover, a sparse understory, and tortoise browse of grasses and forbs. As part of the HCP, the Applicant will maintain and improve the habitat conservation area by thinning and by the use prescribed fire. Without such management, particularly the use of prescribed fire, gopher tortoise habitat would deteriorate via natural succession. The HCP provides for funding all of the mitigation and minimization efforts for the proposed action. Another alternative is no-action, or deny the request for authorization to incidentally take the gopher tortoises. The third alternative is similar to the proposed alternative except the tortoises would be relocated to a smaller, 3-acre conservation habitat area. The last alternative involves relocating all tortoises off the mining site and onto private property owned by the Applicant elsewhere. All surface mining operations and reclamation procedures are regulated and permitted by the Bureau of Geology, Mississippi Department of Environmental Quality.

As stated above, the Service has made a preliminary determination that the proposed action, e.g., issuance of the incidental take permit, is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102 (2)(C) of the National Environmental Policy Act of 1969, as amended. This preliminary information may be adjusted due to public comment received in response to this notice and is based on information contained in the EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

1. Issuance of the incidental take permit will not appreciably reduce the likelihood of survival and recovery of the affected species in the wild or result in the adverse modification of designated critical habitat. This decision is based upon and considers the cumulative impacts of past, present and future issuance of incidental take permits within the historic and current range of each species affected in the permit action.

2. Issuance of an incidental take permit would not have significant effects on the human environment in the project area.

3. The proposed take is incidental to an otherwise lawful activity.

4. The Applicant has ensured that adequate funding will be provided to implement the measures proposed in the submitted HCP.

5. Other than impacts to endangered and threatened species as outlined in the documentation of this decision, the indirect impacts which may result from issuance of the incidental take permit are addressed by other regulations and statutes under the jurisdiction of other government entities. The validity of the Service's incidental take permit is contingent upon the Applicant's compliance with the terms of the permit and all other laws and regulations under the control of State, local, and other Federal governmental entities.

Dated: May 17, 1996.

Noreen K. Clough,

Regional Director, Region 4.

[FR Doc. 96–13121 Filed 5–23–96; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[WY–985–06–0777–72]

Resource Advisory Council Meeting, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the Wyoming Resource Advisory Council.

SUMMARY: This notice sets forth the schedule and agenda for a meeting of the Wyoming Resource Advisory Council (RAC).

DATES: June 24, 1996, from 1:00 p.m. until 5 p.m. and June 25, 1996, from 8:30 a.m. until 12 p.m.

ADDRESSES: Pronghorn Lodge, Monarch Room, 150 East Main, Lander, WY 82520.

FOR FURTHER INFORMATION CONTACT: Terri Trevino, RAC Coordinator, Wyoming Bureau of Land Management, P.O. Box 1828, Cheyenne, WY 82003, (307) 775–6020.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

1. Status of Green River Basin Advisory Committee
2. Finalize draft goals and guidelines on rangelands
3. Public Comment

This meeting is open to the public. Interested persons may make oral

statements to the Council or file written statements for the council's consideration. Anyone wishing to make an oral statement should notify the RAC Coordinator, at the above address by June 17, 1996.

Depending on the number of persons wishing to make oral statements, a time limit, per person, may be established by the Chair of the Resource Advisory Council.

Jerry Jessen,

Acting State Director.

[FR Doc. 96–11994 Filed 5–23–96; 8:45 am]

BILLING CODE 4310–22–M

[OR–084–6310–04–FLOD: GP6–0164]

Emergency Use Restriction on Public Access Road; Linn County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency use restriction on public access road in Linn County, Oregon.

SUMMARY: Notice is hereby given that all forms of public travel, except travel by foot, on Quartzville Access Road east of Trout Creek in Linn County, Oregon, are temporarily restricted from May 20, 1996, through September 30, 1996. This emergency use restriction is made under the authority of 43 CFR 8364.1.

The public road affected by this emergency use restriction is specifically identified as follows: Quartzville Access Road with a beginning point in Section 9, T. 12 S., R. 3 E., Willamette Meridian (Trout Creek crossing) and an ending point in Section 29, T. 11 S., R. 4 E., Willamette Meridian (Canal Creek crossing). The portion of Quartzville Access Road where public use is temporarily restricted under this emergency restriction order will be posted with signs at both the Trout Creek and Canal Creek crossings.

The purpose of this emergency use restriction is to provide for visitor safety while major repairs are made to flood-damaged roads and structures.

EXEMPTIONS: The following persons, operating within the scope of their official duties, are exempt from the provisions of this use restriction order: Bureau of Land Management (BLM) and Forest Service employees; federal, state and local law enforcement and fire protection personnel; the holders of BLM road use permits that include roads accessed by Quartzville Access Road east of Trout Creek; and purchasers of BLM timber accessed by Quartzville Access Road east of Trout Creek, and their employees and subcontractors. Other persons may be allowed to travel Quartzville Access Road east of Trout Creek, by means other than foot, but such use must be approved in advance in writing by the Authorized Officer.

PENALTIES: Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000.00 and/or imprisonment not to exceed 12 months, as well as the penalties provided under Oregon State law.

EFFECTIVE DATE: This use restriction order is effective from May 20, 1996 through September 30, 1996.

ADDRESSES: Copies of the use restriction order and maps showing the location of that portion of Quartzville Access Road where use is restricted are available from the Salem District Office, 1717 Fabry Road S.E., Salem, OR 97306.

FOR FURTHER INFORMATION CONTACT: Richard C. Prather, Area Manager, Cascades Resource Area, Salem District Office, at (503) 375–5646.

Dated: May 14, 1996.

Scott S. Abdon,

Area Manager (Acting), Cascades Resource Area.

[FR Doc. 96–13136 Filed 5–23–96; 8:45 am]

BILLING CODE 4310–33–P

[NM–030–06–1610–00]

Otero County Areas of Environmental Concern (ACECs) for the Caballo Resource Area, New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability and 60-day comment period.

SUMMARY: The BLM, Las Cruces District, Caballo Resource Area announces the availability of a draft Resource Management Plan (RMP) Amendment/preliminary Finding of No Significant Impact and supporting Environmental Assessment (EA). The document discusses the designation of five new ACECs and revision of one existing ACEC in Otero County, south-central New Mexico. Approximately 19,520 acres are identified for designation. In addition to designation, the plan amendment, when approved, will guide BLM programs and management practices within the ACECs.

DATES: Written comments relating to the designation of ACECs, management activities within the ACECs, and the EA will be taken for the next 60 days. Comments must be postmarked on or before July 23, 1996.

ADDRESSES: Comments should be sent to Area Manager, BLM Caballo Resource Area, 1800 Marquess, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Timothy M. Murphy, Area Manager, BLM, Caballo Resource Area at (505) 525–4372, or Mike Howard, Team Leader, Caballo Resource Area at (505) 525–4348, email mhoward @nm0151wp.nmso.nm.blm.gov.

SUPPLEMENTARY INFORMATION: ACECs are land designations unique to the BLM. The purpose of ACECs is to recognize, protect, and manage unique or sensitive resources or potential hazards to the public. Each area receives management or protection based on its unique needs, in consultation and coordination with the public. The Caballo Resource Area has completed an inventory of areas containing unique or sensitive biological resources suitable for designation as ACECs. In addition, the Resource Area has received nominations both internally and from the public to consider several areas as ACECs based on visual, cultural, and biological values.

The draft document discusses three alternatives. Alternative A is the No Action Alternative. Alternative B is BLM's proposal to designate and manage the five proposed ACECs, and redesignate one existing ACEC. These management proposals represent the highest levels of resource protection and continued public use. Alternative B is BLM's preferred alternative. Alternative C contains a lower level of protection designed to address less restrictive management measures for protection of the resources of concern in each proposed ACEC. Some specific proposals in Alternative C may be more restrictive. The following is a summary of the management actions in Alternative B, the BLM preferred alternative, for each proposed ACEC.

The *Three Rivers Petroglyph Site ACEC* is located 30 miles north of Alamogordo, New Mexico. The area was nominated to protect and manage cultural resources. The total area to be considered is approximately 1,036 acres. Management actions proposed in the Preferred Alternative include: acquisition of State trust land through a cooperative land exchange, acquisition of private subsurface mineral estate from a willing seller, issuance of realty actions subject to protective stipulations, closure to mineral entry, improvement and protection of riparian areas, improvement of recreation facilities, limiting offroad vehicle use to existing roads and trails, closing of county road B031, except for

administrative and ranch access following relinquishment by Otero County, management of fire for maximum fire suppression and use of prescribed fire, and fencing of the ACEC boundary.

The *Sacramento Escarpment ACEC* is located 2 miles south of Alamogordo, New Mexico along the west face of the Sacramento Mountains. This area is currently a designated ACEC for the management of visual resources. This RMP Amendment proposes to expand the area to provide for increased protection and management of visual resources and an endangered and sensitive plant community. The existing ACEC would be expanded to encompass 5,245 acres. Management actions proposed in the Preferred Alternative include: limitations or exclusion of new realty actions (2920 permits), exclusion of rights-of-way, acquisition of access easements and private land inholdings within the ACEC from a willing seller, closure to all forms of mineral development, improvement and protection of riparian areas, permitting of existing spring developments, management under Visual Resource Management Classes I and II, limitation of off-road vehicle use to designated roads and trails, closure of approximately 5 miles of redundant roads and trails (including closure of approximately ¼ mile of road in San Andres Canyon, except for administrative and ranch pipeline maintenance access), management of fire for conditional least-cost suppression with no surface disturbance in Visual Class I or arroyo areas. Prescribed fire could be used for vegetation management, if needed.

Cornudas Mountain is located 60 miles southeast of Alamogordo, New Mexico and near the Texas border. The area was nominated to protect and manage visual resources, cultural resources, and sensitive plants. The total area to be considered is approximately 850 acres. Management activities proposed in the Preferred Alternative include: exclusion of the area from authorization of rights-of-way, permitting of other realty actions subject to protective stipulations, closure to all forms of mineral development, closure to vegetation sales, management of barbary sheep, designation of a BLM sensitive species, management as Visual Resource Management Class I, limitation of off-road vehicle use to designated roads and trails, allowing public access to portions of the ACEC by permit, closure to camping, closure to the establishment of new roads and trails, fire management for conditional least-cost suppression with no surface disturbance and no use of slurry or blading in certain areas.

Alamo Mountain is located 61 miles southeast of Alamogordo, New Mexico and near the Texas border. The area was nominated to protect and manage visual and cultural resources. The total area to be considered is approximately 2,210 acres. Management actions proposed in the Preferred Alternative include: exclusion of the area from authorization of rights-of-way, permitting of other realty actions subject to protective stipulations, closure to all forms of mineral development, closure to vegetation sales, management of barbary sheep, designation of a BLM sensitive species, management as Visual Resource Management Class I, closure of the area to off-road vehicle use, establishment of a vehicle parking area, closure to camping in portions of the ACEC, fire management for conditional least-cost suppression with no surface disturbance and no use of slurry or blading in certain areas.

Wind Mountain is located 64 miles southeast of Alamogordo, New Mexico and near the Texas border. The area was nominated to protect and manage visual resources, cultural resources, and unique and sensitive plants and animals. Total area to be considered is approximately 2,706 acres. Management actions proposed in the Preferred Alternative include: exclusion of the area from authorization of rights-of-way, permitting of other realty actions subject to protective stipulations, closure to all forms of mineral development (subject to valid existing rights), closure to vegetation sales, management of barbary sheep, designation of a BLM sensitive species, management as Visual Resource Management Class I, limitation of off-road vehicle use to existing roads and trails, fire management for conditional least-cost suppression with no surface disturbance and no use of slurry or blading in certain areas.

The *Alkali Lakes* area is located 80 miles southeast of Alamogordo, New Mexico and near the Texas border. This area was nominated to protect and manage endangered and sensitive plants and the plant community in which they occur. The total area considered is approximately 6,359 acres. Management actions proposed in the Preferred Alternative include: exclusion of the area from authorization of rights-of-way, permitting of other realty actions subject to protective stipulations, acquisition of State trust land through a cooperative land exchange, closure to all forms of mineral development, closure to vegetation sales, continued management as Visual Resource Management Class IV, limitation of off-road vehicle use to within 30 feet of the center line of designated roads and trails, closure to camping and the use of campfires, fire management for conditional least-cost suppression with no surface disturbance and no use of vehicular equipment off of established roads and trails.

Public participation has occurred throughout the RMP Amendment process. A Notice of Intent was filed in the Federal Register (Vol. 59, No. 73, Page 18151–18152) on April 15, 1994. Since that time, several public meetings, mail-outs, and group briefings were conducted to solicit comments and ideas, or familiarize various groups with the proposal and the BLM planning process. Comments presented throughout the process have been considered in the analysis. Comments received during this 60-day comment period will be considered in preparation of the Proposed White Sands RMP Amendment and supporting EA. Single copies of the draft White Sands RMP Amendment/preliminary FONSI and supporting EA for the Otero County ACECs may be obtained from the BLM Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico 88005. Public reading copies are available for review at the BLM State Office, 1474 Rodeo Rd., Santa Fe, New Mexico, and public and university libraries in Las Cruces, Santa Fe, and Albuquerque, New Mexico, and El Paso, Texas.

Dated: May 20, 1996.

Josie Banegas,

Acting District Manager, Las Cruces.

[FR Doc. 96–13094 Filed 5–23–96; 8:45 am]

BILLING CODE 4310–VC–P

National Park Service

Notice of Intention To Extend Existing Concession Contracts

SUMMARY: Notice is hereby given that the National Park Service intends to extend the following concession contract and permit for a period of approximately two (2) years through December 31, 1998:

Concessioner	Park	Service provided	Contract expiration
Acadia Corporation	Acadia National Park	Full-service restaurant and gift shops	12/31/96
Kentucky Carriage & Livery	Acadia National Park	Stable, carriage rides	12/31/96

SUPPLEMENTARY INFORMATION: The National Park Service does not intend to renew these contracts for an extended period until sufficient planning can be conducted to determine the future direction for concession services at this site. The necessary planning may affect the future of these operations, and may take as long as 2 years to complete. Until planning is completed, it is not in the best interest of the National Park Service to enter into long term concession contracts for these operations. These extensions may be for a lesser period should planning issues be resolved and a renewal process conducted which results in the award of new long term concession contracts. The existing concessioners have performed their obligations to the satisfaction of the Secretary and, pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20) are entitled to preference in the extension of their contracts. This means that the extension will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the extension will be awarded to the existing concessioner. If the existing concessioner does not agree to the terms of the extension, the right of preference shall be considered to have been waived, and the extension will then be awarded to the party submitting the best responsive offer.

Because of the limited term of the proposed extensions, the National Park Service is not encouraging the submission of offers by anyone but the incumbents in response to this proposal, but plans to do so at the time the contracts are renewed for a longer term. However, as required by law, the National Park Service will consider and evaluate all offers received in response to this notice. Anyone interested in obtaining further information about the proposed extensions should contact: Lynne Koser, National Park Service, 15 State Street, Boston, MA 02190; Telephone (617) 223–5209 no later than 15 days following publication of this notice to obtain a prospectus outlining the requirements of the proposed extension.

Dated: May 7, 1996.

Chrysandra L. Walter,

Acting Field Director Northeast Field Area.

[FR Doc. 96–13049 Filed 5–23–96; 8:45 am]

BILLING CODE 4310–70–M

Redwood National and State Parks Environmental Impact Statement/ General Management Plan

SUMMARY: In accordance with § 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91–190), the Redwood National and State Parks are initiating environmental impact analysis processes to identify and assess potential impacts of alternative management concepts for future management of the four Redwood National and State Park units that comprise this park complex. Notice is hereby given that the National Park Service will prepare a draft environmental impact statement and general management plan (DEIS/GMP).

The National Park Service has invited California Department of Parks and Recreation (CDPR) to be a cooperating agency in the DEIS/GMP effort. Following publication of this Notice, CDPR will issue a Notice of Preparation to initiate a complementary draft environmental impact report (EIR) effort. The official responsible for the EIR is Donald W. Murphy, Director, California Department of Parks and Recreation.

The Redwood National and State Parks will jointly identify and analyze a range of alternatives so as to evaluate differing management options for resource protection, visitor use, access, operations, facility development, and land protection for the area. As a conceptual framework for formulating these alternatives, the purposes of the parks and associated significant cultural and natural resources, major visitor experiences, and management objectives will be specified.

COMMENTS: All interested persons, organizations, and agencies wishing to provide initial scoping comments or suggestions on the DEIS/GMP may send such information to the Superintendents, Redwood National and State Parks, 1111 Second Street, Crescent City, CA 95531. All such comments should be received no later than July 23, 1996. All persons who respond will be provided timely information about the complementary California State Park EIR efforts.

In addition, several public scoping sessions will be held after publication of this Notice, affording an additional early comment opportunity. Dates for these meetings (and locations) are: June 17 (Brookings), June 18 (Crescent City), June 19 (Klamath), June 20 (Eureka), and June 21 (Orick). Full details on times and locations of these sessions may be obtained by contacting the Superintendents at the above address or via telephone at (707) 464–6101.

DECISION: The subsequent availability of both the DEIS/GMP and EIR will be announced by formal Notice and via local and regional news media. The DEIS/GMP is anticipated to be completed and available for public review in 1998. The final environmental impact statement and general management plan (FEIS/GMP) are expected to be completed approximately one year later. A Record of Decision will be published in the Federal Register not sooner than thirty (30) days after distribution of the FEIS/GMP documents. The responsible official is Stanley T. Albright, Field Director, Pacific West Area, National Park Service.

Dated: May 10, 1996.

Patricia Neubacher,

Acting Field Director, Pacific West Area.

[FR Doc. 96–13048 Filed 5–23–96; 8:45 am]

BILLING CODE 4310–70–P

Notice of Intent to Repatriate Cultural Items in the Possession of the Hubbell Trading Post National Historic Site, National Park Service, Ganado, AZ

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005 (a)(2), of the intent to repatriate cultural items in the possession of the Hubbell Trading Post National Historic Site, National Park Service, Ganado, AZ which meet the definition of ''sacred objects'' under Section 2 of the Act.

The nineteen items consist of one hide pollen bag; three stone fetishes;

one velvet fetish cover, two projectile points; one crystal; one fossilized shell; one pipe with center hole; two prayer stones; two polished stones; two prayer sticks; two stone figures bundled with yarn and feathers attached; and one coiled Navajo ceremonial basket.

In 1965, the estate of Mr. Ramon Hubbell donated these items to the Hubbell Trading Post National Historic Site. Mr. Hubbell had originally requested the items for his Night Way Chant in 1925 at which he was consecrated to care for and use the items.

Mr. Sherwin Curley, Ramon Hubbell's grandson, has identified the items as necessary for the continued practice of traditional Navajo religion by present-day adherents and has claimed them as a lineal descendent. Representatives of the Navajo Nation and traditional Navajo religious leaders confirm that these items are needed by Ramon Hubbell's descendents for on-going ceremonial and religious traditions.

Based on the above-mentioned information, officials of the National Park Service have determined that, pursuant to 25 U.S.C. 3001 (3)(C), these nineteen cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the National Park Service have also determined, pursuant to 25 U.S.C. 3005 (a)(5)(A), that Mr. Sherwin Curley is the direct lineal descendant of the individual who owned these sacred objects.

This notice has been sent to Mr. Sherwin Curley and officials of the Navajo Nation. Any other lineal descendent who believes him or herself to be culturally affiliated with these objects should contact Nancy Stone, Superintendent, Hubbell Trading Post National Historic Site, National Park Service, P.O. Box 150, Ganado, AZ 86505, telephone (520) 755–3475 before June 24, 1996. Repatriation of these objects to Mr. Sherwin Curley may begin after that date if no additional claimants come forward.

Dated: May 20, 1996.

Francis P. McManamon,

Departmental Consulting Archeologist, Chief, Archeology and Ethnography Program.

[FR Doc. 96–13095 Filed 5–23–96; 8:45 am]

BILLING CODE 4310–70–F

Notice of Intent to Repatriate a Cultural Item in the Possession of the Olmsted County Historical Society, Rochester, MN

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005 (a)(2), of the intent to repatriate a cultural item in the possession of the Olmsted County Historical Society, Rochester, MN, which meets the definition of ''sacred object'' under Section 2 of the Act.

The cultural item is a birchbark scroll with mnemonic symbols.

In 1949, this scroll was donated by Dr. A.U. Desjardins to the Olmsted County Historical Society. Accession records indicate this scroll was made by the Midewiwin Lodge at Cass Lake, on the Leech Lake Reservation, MN. There is no further information regarding Dr. Desjardins' acquisition of this scroll.

Representatives of the Leech Lake Band of Chippewa have stated that this scroll is needed by traditional Native American religious leaders for the practice of traditional Ojibwe religion by present-day adherents.

Based on the above-mentioned information, officials of the Olmsted County Historical Society have determined that, pursuant to 25 U.S.C. 3001(3)(C), this cultural item is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Olmsted County Historical Society have also determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity which can be reasonably traced between these items and the Leech Lake Band of Chippewa.

This notice has been sent to officials of the Leech Lake Band of Chippewa. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Margot L. Ballard, Curator, Olmsted County Historical Society, 1195 County Road 22 SW, Rochester, MN 55902, telephone (507) 282–9447 before June 24, 1996. Repatriation of these objects to the Leech Lake Band of Chippewa may begin after that date if no additional claimants come forward.

Dated: May 16, 1996.

Francis P. McManamon,

Departmental Consulting Archeologist.

Chief, Archeology and Ethnography Program.

[FR Doc. 96–13096 Filed 5–23–96; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–372]

Certain Neodymium-Iron-Boron Magnets, Magnet Alloys, and Articles Containing Same; Notice of Institution of Formal Enforcement Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has instituted a formal enforcement proceeding relating to the consent order issued in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Lyle B. Vander Schaaf, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3107.

SUPPLEMENTARY INFORMATION: In October 1995, the Commission issued a consent order in the above-captioned investigation. The consent order provides that respondents San Huan New Materials High Tech, Inc., Ningbo Konit Industries, Inc., and Tridus International, Inc. (the ''San Huan respondents''):

> shall not sell for importation, import into the United States or sell in the United States after importation or knowingly aid, abet, encourage, participate in, or induce the sale for importation, importation into the United States or sale in the United States after importation of neodymium-iron-boron magnets which infringe any of claims 1–3 of the '439 patent, or articles or products which contain such magnets, except under consent or license from Crucible.

On March 4, 1996, complainant Crucible Materials Corporation (Crucible) filed a complaint seeking institution of formal enforcement proceedings against the San Huan respondents for alleged violations of the consent order. On March 12 and 28, 1996, the San Huan respondents filed letters objecting, *inter alia,* to institution of a formal enforcement proceeding and requesting instead institution of an informal enforcement proceeding.

The Commission, having examined all documents filed with respect to the complaint for formal enforcement proceeding, and having found that the complaint complies with the requirements for institution of a formal enforcement proceeding, determined to institute a formal enforcement proceeding to determine whether San Huan New Materials High Tech, Inc., Ningbo Konit Industries, Inc., and Tridus International, Inc. are in violation of the Commission consent

order issued in the above-captioned investigation and what if any enforcement measures are appropriate.

The following were named as parties to the formal enforcement proceeding: (1) Crucible Materials Corporation, State Fair Boulevard, P.O. Box 977, Syracuse, New York 13201–0977 (complainant in the above-captioned investigation and requester of the formal enforcement proceeding); (2) San Huan New Materials High Tech, Inc., No. 8 South 3rd Street, Zhong Guan Cun Road, Beijing, Peoples Republic of China 100080 (enforcement proceeding respondent); (3) Ningbo Konit Industries, Inc., Ningbo Economic and Technical Development Zone, Zhejiang Province, People's Republic of China (enforcement proceeding respondent); (4) Tridus International, Inc., 8527 Alondra Boulevard, Suite 205, Paramount California 90723 (enforcement proceeding respondent); and (5) a Commission investigative attorney to be designated by the Director, Office of Unfair Import Investigations.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and section 210.75 of the Commission's Rules of Practice and Procedure (19 CFR 210.75).

Copies of the Commission's order and all other nonconfidential documents filed in connection with this enforcement proceeding are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

By order of the Commission.

Issued: May 16, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–13127 Filed 5–23–96; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Judicial conference of the United States, Committee on Rules of Practice and Procedure.

ACTION: Notice of Open Meeting.

SUMMARY: The Committee on Rules of Practice and Procedure will hold a three-day meeting. The meeting will be open to public observation but not participation.

DATES: June 19–21, 1996.

TIME:

June 19, 1:00 p.m.–5:00 p.m.
June 20, 8:30 a.m.–5:00 p.m.
June 21, 8:30 a.m.–5:00 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Federal Judicial Center Classrooms, Concourse Level, One Columbus Circle, N.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, D.C. 20544, telephone (202) 273–1820.

Dated: May 17, 1996.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 96–13082 Filed 5–23–96; 8:45 am]

BILLING CODE 2210–55–M

Hearings of the Judicial Conference Advisory Committee on Rules of Appellate Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Appellate Procedure.

ACTION; Notice of two open hearings.

SUMMARY: The Advisory Committee on Rules of Appellate Procedure is requesting comments to: Preliminary Draft of Proposed Revision of the Federal Rules of Appellate Procedure Using Guidelines for Drafting and Editing Court Rules and Preliminary Draft of Proposed Amendments to Appellate Rules 27, 28, and 32.

Two public hearings will be held on these proposals in: Washington, D.C. on July 8, 1996, at the Thurgood Marshall Federal Judiciary Building, Fourth Floor Conference Room, One Columbus Circle, N.E.; and Denver, Colorado on August 2, 1996, at the Byron White United States Courthouse, Ceremonial Courtroom, 1823 Stout Street.

The Judicial Conference Committee on Rules of Practice and Procedure submits both the proposed revision and the proposed amendments for public comment. All comments and suggestions with respect to them must be placed in the hands of the Secretary at least 30 days before each hearing.

Anyone interested in testifying should write to Peter G. McCabe, Secretary, Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts, Washington, D.C., at least 30 days before each hearing.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, D.C. 20544, telephone (202) 273–1820.

A copy of the proposed revision and proposed amendments can be obtained by contacting John K. Rabiej.

Dated: May 17, 1996.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 96–13083 Filed 5–23–96; 8:45 am]

BILLING CODE 2210–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 95–32]

Ying-Ming Chang, M.D., Revocation of Registration

On February 23, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ying-Ming Chang, M.D., (Respondent), of San Diego, California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BC0495122, under 21 U.S.C. 824(a)(4) and deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f), for the reason that his continued registration was inconsistent with the public interest.

The Respondent filed a timely request for a hearing, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. After a lengthy delay at the request of the Respondent, the hearing was scheduled to commence on March 12, 1996. However, prior to that date, the Government filed a Motion for Summary Disposition, noting that the Respondent's license to practice medicine had been revoked by the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, State of California (Board) by final order effective October 9, 1995, a copy of which was attached to the motion. The Respondent filed a response on October 27, 1995, noting that he had challenged the Board's final order in a pending Writ of Mandamus action in the Superior Court of California, San Diego, California. The Respondent then argued that the Board's final order should not be the basis for granting the motion for summary disposition. The Respondent also argued that an issue of fact remained for determination; whether the Board's

decision was proper. Therefore, he concluded summary disposition of this matter would not be appropriate. However, the Respondent did not deny that his state Physician's and Surgeon's Certificate had been revoked, or that he was, therefore, without authority to hand controlled substances in the State of California.

On November 15, 1995, Judge Bittner issued her Opinion and Recommended Decision, (1) finding that the Board had revoked the Respondent's Physician's and Surgeon's Certificate and that, therefore, the Respondent was without authority to handle controlled substances in California, (2) granting the Government's Motion for Summary Disposition, and (3) recommending that the Respondent's DEA Certificate of Registration be revoked. On December 18, 1995, the Respondent filed a Petition for Reconsideration of Recommendation of Administrative Law Judge to Revoke Respondent's DEA Certificate of Registration, and by ruling dated December 21, 1995, Judge Bittner denied his petition. On January 11, 1996, Judge Bittner transmitted the record of these proceedings and her opinion to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that the parties do not dispute that (1) the Board revoked the Respondent's Physician's and Surgeon's Certificate by an order effective October 9, 1995, and (2) consequently, the Respondent is without authority to handle controlled substances in the State of California.

The Drug Enforcement Administration does not have statutory authority under the Controlled Substances Act to register or maintain the registration of a practitioner who is not duly authorized to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld. See Dominick A. Ricci, M.D., 58 FR 51,104 (1993); James H. Nickens, M.D., 57 FR 59,847 (1992); Roy E. Hardman, M.D., 57 FR 49,195 (1992); Myong S. Yi, M.D., 54 FR 30,618 (1989); Bobby Watts, M.D., 53 FR 11,919 (1988).

Further, the Deputy Administrator finds that Judge Bittner properly granted the Government's motion for summary disposition. Here, the parties did not dispute that the Respondent was unauthorized to handle controlled substances in California.Therefore, it is well-settled that when no question of fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See Dominick A. Ricci, M.D., 58 FR at 51,104 (finding it well-settled that where there is no question of material fact involved, a plenary, adversarial administrative hearing was not required.); see also Phillip E. Kirk, M.D., 48 FR 32,887 (1983), aff'd sub nom *Kirk* v. *McMullen*, 749 F. 2d 297 (6th Cir. 1984); Alfred Tennyson Smurthwaite, M.D., 43 FR 11,873 (1978); *NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO*, 549 F.2d 634 (9th Cir. 1977).

Also, the Deputy Administrator finds that Judge Bittner appropriately denied the Respondent's petition for reconsideration. The Respondent asserted that, since he was licensed to practice medicine in Hawaii, the ''issue of whether [his] DEA registration should be revoked is not moot,'' and that the hearing in this matter should proceed as scheduled. However, as Judge Bittner noted, the Order to Show Cause proposed to revoke the Respondent's registration to handle controlled substances at his California place of business, and thus, the status of the Respondent's licenses in other jurisdictions has no bearing on the pending matter. On that basis, Judge Bittner denied the Respondent's petition, and the Deputy Administrator concurs with her decision.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BC0495122, issued to Ying-Ming Chang, M.D., be, and it hereby is, revoked, and any application to renew this registration is hereby denied. This order is effective June 24, 1996.

Dated: May 17, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–13050 Filed 5–23–96; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 94–36]

Jeffrey Patrick Gunderson, M.D.; Revocation of Registration

On March 11, 1994, the Deputy Assistant Administrator (then Director), Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Jeffrey Patrick Gunderson, M.D., (Respondent) of Brunswick, Georgia, notifying him of an opportunity to show cause as to why DEA should not revoke his Certificate of Registration, BG1368516, under 21 U.S.C. 824(a), and deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f), for the following reasons:

(1) On August 3, 1992, the Respondent was arrested in St. Paul, Minnesota, for felony possession of LSD, a Schedule I controlled substance, and, at the time of his arrest, he had in his possession LSD, marijuana, and Didrex;

(2) On September 9, 1992, the Respondent pled guilty in state court to a felony charge of possession of a controlled substance, and was convicted of this offense in November of 1992;

(3) In April of 1993, the Respondent was observed inhaling cocaine several hours prior to reporting for duty as an emergency room physician;

(4) On several occasions during 1993, the Respondent discussed plans to purchase and distribute cocaine with confidential informants; and

(5) During recent undercover operations, the Respondent was in possession of cocaine and LSD.

On April 15, 1994, the Respondent, through counsel, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Atlanta, Georgia, on October 26, 1994, before Administrative Law Judge Mary Ellen Bittner. At the hearing, both parties called witnesses to testify and introduced documentary evidence, and after the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On October 31, 1995, Judge Bittner issued her Opinion and Recommended Ruling, recommending that the Respondent's DEA Certificate of Registration be revoked and any pending applications for registration be denied. On December 1, 1995, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator, after noting that neither party had filed timely exceptions to her decision. However, on December 20, 1995, Judge Bittner transmitted the Respondent's request for consideration of exceptions filed on December 18, 1995. A copy of Judge

Bittner's letter and the Respondent's exceptions were transmitted to Government counsel, who did not respond.

The Deputy Administrator has considered the record in its entirety, including the Respondent's exceptions, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Findings of Fact Conclusions of Law, and Recommended Ruling of the Administrative Law Judge his adoption is in no matter diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that, pursuant to stipulations made by the parties before Judge Bittner, the following facts are not in dispute: (1) Lysergic acid diethylamide (LSD) is a Schedule I hallucinogenic substance pursuant to 21 CFR 1308.11; (2) Marijuana is a Schedule I hallucinogenic substance pursuant to 21 CFR 1308.11; and (3) Didrex is the trade name for a stimulant containing benzphetamine hydrochloride, a Schedule III substance pursuant to 21 CFR 1308.13.

The Deputy Administrator also finds that the Respondent is primarily an emergency room physician, and that at the time of the events at issue, he lives and worked on St. Simons Island, Georgia. He is licensed to practice his specialty in the State of Georgia. The Respondent is registered with DEA as a practitioner, and he has been assigned DEA registration number BG1368516.

It is undisputed that the Respondent was arrested early in the morning on August 18, 1992, in St. Paul, Minnesota. The relevant portions of the arrest report state that: (1) The arresting officer followed the Respondent because he made a turn over the center median after driving out of a Denny's Restaurant parking lot; (2) the arresting officer noted that when the Respondent got out of his car, his eyes were red and his speech was slurred; (3) arresting officer asked the Respondent to sit in the patrol car because the Respondent had stated he was lost, could not find his hotel, and did not have his driver's license; (4) when the arresting officer asked the Respondent what was in his pockets, the Respondent pulled out, among other things, a bag containing marijuana and a piece of tin foil containing a white sheet of paper with 43 ''hits'' of LSD; and (5) when the arresting office asked what the sheet of paper was, the Respondent replied, ''something I'm not supposed to have,'' and that ''it's some kind of psychedelic drug.'' The Respondent was arrested and charged with felony possession of a controlled substance.

Also, at the time of his arrest, the Respondent had in his possession a prescription bottle containing Didrex with a label noting that the prescription had been written by the Respondent for a third party, LW. The Respondent later explained that LW was his girlfriend, that he had used her suitcase for his trip to St. Paul, and that the prescription bottle was in her suitcase when he borrowed it.

Before Judge Bittner, the Respondent, testified that at the time of his arrest, he was in Minnesota for a reunion of his college football team, that he had been to a party and then to a restaurant, and that he was on his way back to his hotel to get his luggage and to leave for the airport. The Respondent stated that he had found the LSD and the marijuana while cleaning out the rental car prior to turning it in at the airport, that he had put it in his pocket, and that he was arrested with the substances in his pocket. He also testified that the prescription bottle had fallen out of his girlfriend's suitcase, that he had found the bottle while cleaning out the truck of the car, and that he had put it in his pocket.

On September 9, 1992, the Respondent pled guilty to possession of LSD in state court. On November 17, 1992, pursuant to a state statute permitting a stay of adjudication, the Respondent was sentenced to five years' probation, fined more than $4,200.00, and ordered (1) to verify completion of chemical treatment; (2) to abstain from (the consumption of) non-prescription drugs; and (3) to follow all recommendations of the Georgia Professional Licensing Board.

The Respondent testified before Judge Bittner that, after his arrest in Minnesota, he had returned to Georgia and had reported for work. After about a week at work, he told his supervisor and other supervisory hospital staff about his arrest, and he agreed with them that he should voluntarily submit to a screening procedure. The Respondent stated that he went to Willingway Hospital (Willingway) for an evaluation, and that the was advised on the first day of the evaluation that he had a drinking problem and should enter the hospital's twenty-eight day treatment program. The Respondent entered the program and was discharged on October 18, 1992. However, the Respondent testified that after a lengthy delay, Willingway Hospital submitted an inaccurate evaluation report to the Georgia Board of Medical Examiners (Board) in December of 1992.

By letter dated July 15, 1993, the Georgia Department of Law advised the Respondent that the Georgia Attorney General took the position that state statutes required the suspension of his medical license for at least three months because of his entry of a guilty plea for possession of LSD in Minnesota. Further, the letter noted that the Impaired Physician's Committee recommended that the Respondent's license be placed on probation with the usual terms and conditions for an impaired physician. As an alternative, the letter provided that, if the Respondent voluntarily submitted to an evaluation at Anchor Hospital (Anchor), and if Anchor concluded that the Respondent was not impaired, then the Board would not require a probationary period.

According to a discharge summary, the Respondent was evaluated at Anchor from August 30, 1993, until September 2, 1993. The summary concluded that ''no definitive diagnosis of alcohol or substance dependence can be made.''

After notice and a hearing, the Board issued a final decision on July 11, 1994, finding that the Respondent had entered a plea to a felony charge of possession of LSD and was sentenced in Minnesota. The hearing officer noted that pursuant to Minnesota law pertinent to the Board's proceedings, ''conviction'' includes entering a ''plea of guilty * * * regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon * * *.'' Thus, the Respondent's entry of a guilty plea provided grounds for the Board's sanction. Consequently, the Board suspended the Respondent's license to practice medicine in Georgia for three months and then placed his license on probation for four years following the suspension. Also, as part of the terms of the probation, the Respondent (1) was to be subject to random drug screening at the request of the Board, and (2) was to abide by all State and Federal laws relating to drugs. The Respondent testified before Judge Bittner that he was still fulfilling these probationary requirements.

A DEA task force officer (Officer) testified before Judge Bittner, stating that in the Spring of 1993, the Brunswick, Georgia, Police Department initiated an investigation of the Respondent, and that she participated in an undercover capacity. She testified that she had been assigned to the task force for approximately three and a half years. Specifically, the Officer testified that on April 21, 1993, she accompanied

a confidential informant (CI) to a tavern on St. Simon's Island to meet the Respondent, and that several hours later the CI, the Respondent, and the Officer went to the Respondent's residence. The Officer testified that, while there, she observed the Respondent use cocaine approximately two or three times, and she observed him search for some LSD, which he told her he had placed on his kitchen counter. The Officer testified that she saw the Respondent take ''the cocaine out of a plastic bag, pour it into his hand and snort it out of his hand * * *'' She stated she knew the substance was cocaine ''just from the appearance of it, through my experience; the way it was consumed. Also the fact that (the Respondent) did kiss me on the lips and it number out my face.'' Regarding the LSD, the Officer testified that on April 29, 1993, the CI telephone the Respondent, and in that taped conversation, the Respondent stated that he had found the LSD.

The Officer further testified that on July 21, 1993, the CI, wearing a recording device, went to another residence owned by the Respondent, under the surveillance of the Officer and other law enforcement personnel. According to the transcript of this transaction with the Respondent, the CI asked the Respondent if he would be interested in some ''kilos'' for ''17 a key,'' and the Respondent replied that he did not have that much money, and that his friends in the police department had warned him ''to be real careful'' because the police were watching him. The CI said that his source wanted a down payment of $4,000.00, to which the Respondent answered, ''Damn! I wish! I could (sic) I need to make some money, somewhere,'' and that he would think about it. The Respondent also said, ''I know four people that have been busted. I don't know who's turning everybody in but somebody is * * *. I don't do it around nobody anymore.'' The Respondent also informed the CI that he would be in Savannah, Georgia, the next weekend because his son was playing in a baseball game, and he suggested getting together with the CI on Friday night to ''party up there.'' However, before Judge Bittner, the Respondent testified that he did not agree to be involved ''in a kilogram deal * * * of controlled substances with the CI.''

The Officer further testified that on July 23, 1993, the Respondent met with the CI and another informant (Informant), at the Radisson Hotel in Savannah. The transcript of the tape recording made during that meeting revealed that, among other things, the Informant said he had recently ''got a pretty big * * * shipment from Columbia,'' and that the Respondent replied ''we may be able to do something,'' but that he would have to talk to a ''friend,'' and ''I'd like to make some money myself.'' Later, the Respondent expressed concern, stating ''I just can's deal with it with my job and stuff. You know I don't have time to do too much * * *. But, uh, I certainly would like to * * *.'' The Respondent also stated that, ''I'm certainly, uh, not opposed to making some money.'' The respondent also stated that he had connections in Minnesota through his high school and college friends, and he asked the Informant if he would ''be around tonight'' for a drink.

Finally, the Officer testified that in August of 1993, the CI visited the Respondent, and in the course of that conversation, he asked the Respondent if he was going to buy cocaine from the Informant. The Officer testified that the Respondent replied that ''his connection was retired, that he thought he could get cocaine distributed through, and he was no longer in the drug business. And so he had no way of getting rid of the cocaine.'' Significantly, Judge Bittner wrote that ''[the] Officer appeared candid and to exhibit good recall[,] and I therefore credit her testimony.''

The Respondent testified before Judge Bittner, stating that he first met the Officer on April 23, 1993, that he had not seen the CI for almost a year, and that he had invited the CI to his home in the hope of getting him to repay a loan. The Respondent denied using cocaine that evening.

The Respondent also testified that, when he knew the CI before, ''he never talked about drugs * * *'' but ''all of a sudden every time [the CI] called me * * * He was just, I mean, continually talking about drugs and * * I didn't know if he had just changed or what was going on.'' The Respondent also testified concerning the July 23, 1993 conversation, stating that he thought the CI was going to repay a loan, but that, when the Respondent went to the CI's room, he ''realized the position [he] was in—I mean, standing here with some Columbian [the Informant] and I didn't know if he had a gun or what else, he was talking about selling me drugs—all I wanted to do was to get out of the room.'' However, the Respondent testified that later that evening, he went in a cab to a bar with the Informant, and that after the Informant became inebriated, the Respondent left him in the bar. Later the same evening, the Respondent invited the Informant up to his room. The Respondent testified that, while the Informant was in his room, he was trying to ''grab'' his girlfriend, and then the Respondent testified that ''I told him specifically, word for word, I said, I don't know what [the CI] told you why I'm here. I said, I'm here to see my son play baseball and to get the $400.00 from [the CI] and then I threw [the Informant] out of my room.''

Finally, the Respondent testified that in August of 1993, he called a local police officer and told him that the CI had continued to call him and talk about drugs. Also in the record is an affidavit from a sergeant of the Brunswick Police Department, which corroborated the Respondent's testimony concerning his call to the police. The Respondent also testified that from August 18, 1992, until the date of the hearing, he had not purchased, sold, or used any controlled substances.

However, the Deputy Administrator notes Judge Bittner's statement that:

> At the outset, I note that I did not find (the) Respondent to be a credible witness. He did not appear forthright or candid, portions of his testimony are contradicted by the documentary evidence (,) and he appeared primarily concerned with tailoring his testimony to suit his defense. As noted above, I found [the] Officer ( ) to be a credible witness. Consequently, where (the) Respondent's testimony conflicts with that of (the) Officer ( ), I credit the latter.

The Respondent also offered into evidence letters from colleagues, attesting to his professional credentials, and his exemplary abilities as an emergency room physician. Other physicians who had monitored his practice also wrote, stating that he was complying with his conditions of probation. One of these letters was from the medical director of the Respondent's physicians' group, who wrote that ''at *no time* do I feel that (the Respondent) has ever been in an impaired position.'' He also noted that the Respondent had negative drug test results on November 6, 1993, November 19, 1993, January 7, 1994, and February 21, 1994.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending application for registration as a practitioner, if he determines that the continued registration would be inconsistent with the public interest. Further 21 U.S.C. 824(a)(2) provides that conviction of a felony relating to any controlled substance is also grounds for revoking a DEA registration.

First, as to the Respondent's ''conviction'', the Respondent argued that he should not be considered ''convicted'' because, pursuant to his plea bargain, and under Minnesota law, if he successfully completes his

probation, the case will be dismissed. However, the Deputy Administrator agrees with Judge Bittner, who wrote, ''that provision of State law does not determine what is a ''conviction'' within the meaning of the Controlled Substances Act. This agency has previously held that a guilty plea is a conviction for purpose of these proceedings. Eric A. Baum, M.D., 53 Fed. Reg. 47272 (DEA 1988). I therefore find that (the) Respondent's conviction constitutes grounds for revoking his DEA registration pursuant to 21 U.S.C. 824(a)(2).''

Judge Bittner also found that the Respondent's continued registration was contrary to the public interest. In determining the public interest, Section 823(f) provides that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J. Schwarz, Jr., M.D., 54 FR 16422 (1989).

In this case, the Deputy Administrator finds relevant factors one, four, and five in determining whether continuing the Respondent's registration would be inconsistent with the public interest. As to factor one, ''recommendation of the appropriate State licensing board,'' the record contains no direct recommendation from the Board to the DEA on this matter. However, it is significant that, after notification of the Respondent's entry of a guilty plea to possession of LSD in Minnesota, the Board suspended the Respondent's medical license for three months and placed it on probation for an additional four years.

As the factor four, the Respondent's ''(c)ompliance with applicable State, Federal, or local laws relating to controlled substances,'' and factor five, ''(s)uch other conduct which may threaten the public health or safety,'' the Deputy Administrator agrees with Judge Bittner's finding, given her credibility assessment of the Respondent and the Officer, that the Government has shown, by a preponderance of the evidence, that the Respondent consumed cocaine and searched for LSD in the presence of the officer on April 21, 1993. Although the Respondent argued that he would not engage in such conduct, given that he was providing random urine samples for drug screening, the Deputy Administrator finds his argument unpersuasive. The record shows that the first negative drug screening result was reported on November 6, 1993, and that the Board did not even issue its decision ordering random screening until July 11, 1994. Thus, there was no evidence of record showing that the Respondent was required to participate, or was voluntarily participating in, random drug testing on April 21, 1993.

Next, the Respondent testified that he was an unwilling participant in the CI's plan to distribute cocaine. However, the Deputy Administrator finds that the record supports an opposite conclusion. The transcripts of the Respondent's conversation with the CI and the Informant indicate the Respondent's actual desire to participate in the plan. The Respondent's reply to the CI's information concerning the 17 kilogram of cocaine transaction was ''I wish! * * * I need some money * * *'' Such a response showed his willingness to participate, if he had had the resources for the downpayment needed to obtain the controlled substance. Further, the Respondent's conversation with the Informant indicated that he did not participate in this proposed transaction because of a lack of means to distribute the controlled substance. The Deputy Administrator agrees with Judge Bittner's conclusion, that ''(t)hese statements are not those of someone who is uncertain as to why he is a party to a drug-related conversation.''

As to rehabilitation, the Deputy Administrator acknowledges the Respondent's evidence of his professional competency as an emergency room physician. Also, the Deputy Administrator notes that the Respondent argued that rehabilitative evidence exists, such as (1) a lack of positive urinalysis results, (2) the fact that he had never been in trouble before his illegal conduct in Minnesota, (3) the lack of substantiation of the allegations of drug or alcohol abuse, and (4) the Respondent's report of the CI's conduct to the local police. However, the Deputy Administrator also notes Judge Bittner's credibility finding, after observing the Respondent testify before her. Also, although the more recent drug testing evidence may show that the Respondent, while on probation and subject to random drug screening tests, has abstained from personal consumption of illegally obtained controlled substances, the Deputy Administrator is still concerned about the Respondent's willingness to participate in conversations concerning illegal drug transactions to others. Further, the Respondent showed no remorse concerning his prior documented misconduct. Rather, in his testimony before Judge Bittner, the Respondent continued to deny any intentional wrongdoing. In previous cases, when a Respondent failed to admit to the full extent of his involvement in documented misconduct involving controlled substances, the Deputy Administrator has then doubted such a Respondent's commitment to compliance with the Controlled Substances Act in future practice. See, e.g., Prince George Daniels, D.D.S., 60 FR 62,884 (1995). Given the totality of the circumstances in this case, the Deputy Administrator agrees with Judge Bittner's conclusion that he ''Respondent is not in a position to accept the responsibilities inherent in a DEA registration, and that his continued registration would be inconsistent with the public interest.''

The Respondent filed exceptions to Judge Bittner's opinion, taking exception with her finding concerning a felony ''conviction'' in Minnesota. The Deputy Administrator notes the Respondent's concern and made findings accordingly in this order. The remaining exceptions are of record and require no further comment.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823, and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BG1368516, previously issued to the Respondent, be, and it hereby is, revoked, and that any pending applications to renew the same are hereby denied. This order is effective June 24, 1996.

Dated: May 17, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–13051 Filed 5–23–96; 8:45 am]

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Bureau of Justice Statistics

[OJP No. 1080]

RIN 1121–ZA34

National Criminal History Improvement Program (''NCHIP'')

AGENCY: Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

ACTION: Notice of program plan.

SUMMARY: The Bureau of Justice Statistics (BJS) is publishing this notice to announce the continuation of the National Criminal History Improvement Program (NCHIP) in Fiscal Year 1996. The program implements the grant provisions of the Brady Handgun Violence Prevention Act (Brady Act), Pub. L. No. 103–159, 107 Stat. 1536 (1993), codified as amended at 18 U.S.C. 921 *et seq.*, the National Child Protection Act of 1993 (Child Protection Act), Pub. L. No. 103–209, 107 Stat. 2490 (1993), codified as amended at 42 U.S.C. 3759, 5101 note, 5119, 5119a, 5119b, 5119c, those provisions of the Omnibus Crime Control and Safe Streets Act of 1968 (Omnibus Act), Pub. L. No. 90–351, 82 Stat. 197 (1968), codified as amended at 42 U.S.C. 3711 *et seq.*, as amended, and the Violent Crime Control and Law Enforcement Act of 1994 (Violent Crime Control Act), Pub. L. No. 103–322, 108 Stat. 1796 (1994), codified as amended at 42 U.S.C. 13701 *et seq.* which pertain to the establishment, maintenance, or use of criminal history records and criminal record systems.

Under NCHIP, States were asked to submit three year plans in FY 1995. Every State received an award in 1995. Most States received partial funding last year. This program will provide additional funds in FY 1996 to assist States in continuing implementation of their multi-year programs and to address the Child Protection and National Stalker and Domestic Violence Reduction initiatives authorized under the new appropriation. Since the NCHIP program was designed as a multi-year effort, 1996 applications will be less comprehensive than applications in 1995. Applicants are encouraged to use portions of last year's application when appropriate, or to reference the application by topic and page number.

This program announcement describes procedures for awards which will be made under the NCHIP program with FY 1996 funds. Awards may be for up to 12 months. States will have the flexibility to begin activities under the award as early as September 1, 1996 and as late as the summer of 1997. Activities must be completed by June 1, 1998.

Updated guidelines governing use of Byrne Formula funds pursuant to the 5% set-aside established under section 509 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, were issued on February 23, 1995 by the Bureau of Justice Assistance (BJA), in consultation with BJS. The Byrne Guidelines should be considered together with this program announcement in developing a State's program to meet the goals of the Brady Act and the Child Protection Act.

DATES: Eligible states must submit applications on or before July 29, 1996.

ADDRESSES: Applications should be sent to Application Coordinator, the Bureau of Justice Statistics, 633 Indiana Avenue, N.W., 11th Floor, Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Carol G. Kaplan, Chief, Criminal History Improvement Programs, (202) 307–0759. The BJS fax number is (202) 307–5846.

SUPPLEMENTARY INFORMATION:

The National Criminal History Improvement Program

Program Goals

The goal of the NCHIP grant program is to improve the nation's public safety by:

- Facilitating the accurate and timely identification of persons who are ineligible to purchase a firearm;
- Ensuring that persons with responsibility for child care, elder care, or care of the disabled do not have disqualifying criminal records;
- Improving access to protection orders and records of people wanted for stalking and domestic violence; and
- Enhancing the quality, completeness and accessibility of the nation's criminal history record systems.

More specifically, NCHIP is designed to assist States:

- To meet timetables for criminal history record completeness and participation in the Federal Bureau of Investigations (FBI) Interstate Identification Index (III) established for each State by the Attorney General;
- To improve the level of criminal history record automation, accuracy, completeness, and flagging;
- To expand and enhance participation in the FBI's III and the National Instant Criminal Background Check System (NICS);
- To develop and implement procedures for accessing records of persons other than felons who are ineligible to purchase firearms;
- To identify (through interface with the National Incident-Based Reporting System [NIBRS] where necessary) records of crimes involving use of a handgun and/or abuse of children, elderly, or disabled persons;
- To identify, classify, collect, and maintain (through interface with the National Crime Information Center (NCIC) and the III where necessary) protection orders, warrants, arrests, and convictions of persons violating protection orders intended to protect victims of stalking and domestic violence; and
- To ensure that States develop the capability to monitor and assess State progress in meeting legislative and programmatic goals.

To ensure that all NCHIP-funded efforts support the development of the national criminal record system, the program will be closely coordinated with the FBI, BJA, and the Bureau of Alcohol, Tobacco and Firearms (BATF).

Funding under the NCHIP program is available to both those States which are subject to the 5-day waiting period (Brady States) and those States which are operating under an alternative system pursuant to approval of BATF (Brady Alternative States).

Legislative Background

Section 106(b) of the Brady Act, provides that:

> The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used (A) for the creation of a computerized criminal history record system or improvement of an existing system; (B) to improve accessibility to the national instant criminal background system; and (C) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

The provisions of 18 U.S.C. 922 (g) and (n), as amended by the Violent Crime Control Act, prohibit the sale of firearms to an individual who—

(1) Is under indictment for, or has been convicted in any court, of a crime punishable by imprisonment for a term exceeding one year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of, or addicted to, any controlled substance;

(4) Has been adjudicated as a mental defective or been committed to a mental institution;

(5) Is an alien who is illegally or unlawfully in the United States;

(6) Was discharged from the Armed Forces under dishonorable conditions;

(7) Has renounced his United States citizenship; or

(8) Is subject to a court order restraining them from harassing, stalking, or threatening an intimate partner or child.

The latter category was added as part of the Violent Crime Control Act.

The Brady Act, enacted in November 1993 and effective in February 1994, requires that licensed firearm dealers request a presale check on all potential handgun purchasers by the chief law enforcement officer in the purchaser's residence community to determine, based on available records, if the individual is legally prohibited from purchase of the firearm under the provisions of 18 U.S.C. 922 or State law. The sale may not be completed for 5 days unless the dealer receives an approval before that time. The 5 day waiting period requirement terminates by 1998, at which time presale inquiries for all firearms will be made only to the National Instant Criminal Background Check System (NICS). Section 103 of the Brady Act provides that NICS will supply information on ''whether receipt of a firearm * * * would violate (18 U.S.C. 922) or State law.'' As noted above, section 106 (b) of the Brady Act establishes a grant program to assist States in upgrading criminal record systems and in improving access to, and, interface with, the NICS system.

In addition, section 106 (a) of the Brady Act amended section 509 (d) of the Omnibus Act to specifically provide that funds from the 5% set-aside under the Byrne Formula grant program may be spent for ''the improvement of State record systems and the sharing * * * of records * * * for the purposes of implementing * * * (the Brady Act).''

The Child Protection Act, as amended by the Violent Crime Control Act, requires that records of abuse against children be transmitted to the FBI's national record system. The Child Protection Act also encourages States to adopt legislation requiring background checks on individuals prior to assuming responsibility for care of children, the elderly, or the disabled. Section 4 of the Act establishes a grant program to assist States in upgrading records to meet the requirements of the Act. Under the definition set forth in section 5 (3) of the Act, ''child abuse crimes'' include crimes under any law of the State and are not limited to felonies.

Both the Brady and Child Protection Acts required the Attorney General to survey the status of State criminal history records and develop timetables for States to achieve complete and automated records. The survey was conducted during March 1994, and Governors were advised of timetables by the Attorney General in letters of May and June 1994. The letters indicated that compliance with timetable goals assumed availability of grant funds under each Act.

The National Stalker and Domestic Violence Reduction program (Stalker Reduction), section 40602 of the Violence Against Women Act (VAWA) Pub. L. No. 103–322, 108 Stat. 1902–1955 (1994), codified as amended at 42 U.S.C. 14031 which was included in the Violent Crime Control Act, authorized a program to assist States in entering data on stalking and domestic violence into local, State, and national data-bases. The Act emphasizes the importance of ensuring that data on convictions for these crimes are included in databases being developed with Federal funds.

Section 40606 of VAWA authorized technical assistance and training in furtherance of the purposes of the Stalker Reduction program. This section also allows for the evaluation of programs that receive funds under this provision.

The NCHIP program implements the requirements of the programs established in the Brady Act, Child Protection Act, and the Stalker Reduction provision of VAWA.

Appropriation

Section 106 (b) of the Brady Act authorized $200 million for the grant program; the Child Protection Act authorized $20 million; Section 40603 of the Violent Crime Control Act authorized a total of $6 million over three years for the Stalker Reduction program included in VAWA.

An appropriation of $100 million was made to implement section 106(b) of the Brady Act for FY 1995, to be available until expended. No appropriation was made for Child Protection or Stalker Reduction activities in FY 1995.

An appropriation of $25 million was made in FY 1996 to continue implementation of section 106(b) of the Brady Act and to implement section 4 (b) of the Child Protection Act. In addition, an appropriation of $1.5 million was made in FY 1996 for Stalker Reduction. In light of the overlap between Brady, Child Protection, and Stalker Reduction goals, these appropriations are combined under NCHIP.

Program Strategy

The 1995 NCHIP program covered criminal history records improvements. The 1996 program includes criminal history records improvements and expands to incorporate serious misdemeanors against children, the elderly, and the disabled, and improving access to domestic violence protection orders.

The 1996 NCHIP program also permits funds to be used to assist States in providing rapid, inexpensive, reliable background checks on individuals who wish to work with sensitive populations. This will include assisting States in identifying people who commit felony and serious misdemeanor offenses against children, the elderly, and/or the disabled. It also includes supporting background checks, and improving access to domestic violence protection orders.

Consistent with section 40602, the Stalker Reduction program, BJS is allowing funds to be used to help State and local governments improve the process for classifying and entering data regarding stalking and domestic violence into local, State, and national crime information databases.

Application and Award Process

Eligibility Requirements

Only one application will be accepted from each State. The application must be submitted by the agency previously designated by the Governor or by a successor agency designated by the Governor in writing to BJS. A State may, however, choose to submit its application as part of a multi-state consortium or other entity. In such case, the application should include a statement of commitment from each State and be signed by an individual designated by the Governor of each participating State. The application should also indicate specific responsibilities, and include a separate budget, for each State. States may receive successive awards over time, assuming availability of funds.

A grant will be made to each State with funds from the 1996 appropriation. States other than ''priority States'' are eligible to receive funds for criminal records improvement, Child Protection, and Stalker Reduction activities. Priority States, which received three-year awards in FY 1995 for criminal records improvements, should apply for Child Protection and Stalker Reduction activities only.

States may submit an application even though funds remain unexpended under the 1995 award. Applications must contain a start date and end date which fall between September 1, 1996 and June 1, 1998. FY 1996 projects may overlap with FY 1995 projects or the projects may run consecutively.

Program Narrative

In addition to the requirements set forth in Appendix A, the NCHIP

application should include the following four parts:

Part I. Background

This section should include a short update of current efforts relating to criminal history record improvement funded under the BJS NCHIP, Advanced State Award Program (ASAP), and Criminal History Record Improvements (CHRI) programs, and the BJA Byrne 5% set-aside or with State funds over the past year. The discussion should specify the amount of funds received under the BJS and Byrne programs and the funds remaining at the time of application. The section should also briefly describe accomplishments with these funds and the relationship to proposed FY 1996 NCHIP activities.

Part II. Identification of Needs

This part should discuss any recent evaluative efforts undertaken to identify the key areas of weakness in the State's criminal record system. Applications should include a short discussion of the State's ability to identify ineligible firearm purchasers, persons ineligible to hold positions involving children, the elderly, or the disabled, and data on protection orders and people wanted, arrested, or convicted of stalking and/or domestic violence. Among other things, this section may include areas that were either eligible for funds last year, but did not receive funding, or that were not eligible for funds because of the wording of the FY 1995 appropriation. Proposals described in your 1995 NCHIP application may be used or cited.

Part III. NCHIP Effort

This section should describe the activities to be undertaken with NCHIP funds over the 12 month period. Specifically, each application should indicate the activities proceeding, how these activities relate to efforts funded under the 1995 award, and the results that will be achieved from 1996 funding.

Part III of the application should also describe any efforts to be supported to monitor State compliance with legislative or programmatic goals through ongoing audits or other means such as statistical analysis, comparison between Computerized Criminal History (CCH) records and NIBRS or Uniform Crime Reporting (UCR) data. Studies relating to handgun use or sales approval, if proposed, should be described in this section.

In furtherance of the Child Protection Act and the Stalker Reduction program, up to $6.5 million of the funds appropriated in FY 1996 for Brady, Child Protection, and Stalker Reduction may go towards the following Child Protection and Stalker Reduction activities:

- Capturing domestic violence and/or stalking protection orders;
- Flagging of child abuse records and crimes against children, the elderly and the disabled, convictions for domestic violence and/or stalking, and domestic violence protection orders;
- Incorporating serious misdemeanor offenses against children, the elderly and the disabled into existing criminal history records;
- Offsetting the cost to volunteers for background checks, including development and implementation of technological and procedural advances;
- Improving processes for entering data regarding stalking and domestic violence into local, State, and national crime information data bases.

Section 4(b) of the Child Protection Act requires preference to be given to States that have in computerized criminal history files the lowest percentages of charges and dispositions of identifiable child abuse cases as of December 20, 1993. In accordance with this section of the Child Protection Act, the five ''priority States'' with the lowest percentages of charges and dispositions in their computerized criminal history files will be awarded a total of $1 million to be used for the Child Protection and Stalker Reduction activities listed above.

Section 40602(b) of the Violent Crime Control Act states that in order to be eligible to receive a grant under the Stalker Reduction program, a State shall certify that it has or intends to establish a program that enters into the National Crime Information Center the following records:

- Warrants for the arrest of persons violating protection orders intended to protect victims from stalking or domestic violence;
- Arrests or convictions of persons violating protection or domestic violence orders; and
- Protection orders for the protection of persons from stalking or domestic violence.

The Bureau of Justice Statistics will coordinate the Stalker Reduction portion of NCHIP with the Violence Against Women Office (VAWO) at the Department of Justice.

Because funds are limited for FY 1996, not every State which requests funds for Child Protection and/or Stalker Reduction activities may receive funds for these purposes.

In light of the importance of complete and nationally accessible criminal records for the NICS instant check, Child Protection background checks, and to protect society against stalkers and domestic violence offenders, BJS, in reviewing applications requesting funds for Child Protection and Stalker Reduction tasks, will consider the extent to which the State has progressed in developing its State criminal records system and taken steps to achieve participation in the national system.

In order to permit assessment of State progress in meeting grant goals, Part III of all applications should set forth measurable benchmarks or goals for each proposed activity.

Part IV. Coordination Between NCHIP and the Byrne 5% Set-Aside Program

Funds under the Byrne Formula 5% set-aside program are available to support the improvement of record systems and to meet the goals of the Brady and Child Protection Acts.

The Bureau of Justice Statistics and the Bureau of Justice Assistance have jointly agreed that close and continuing coordination between the NCHIP and Byrne 5% set-aside program is critical to meeting the goals of the Brady Act, and the National Child Protection Act. Such coordinated efforts are also necessary to ensure the development of an effective interstate criminal history record system to meet the needs of law enforcement, the criminal justice community and the increasing number of non-criminal justice users of criminal history record information. To achieve this goal, BJS and BJA prepared Guidelines governing use of the Byrne 5% set-aside funds. The Guidelines were issued February 23, 1995, to State Administrative Agencies that receive and distribute Byrne formula grant funds.

BJS expects that program plans for projects to be funded under NCHIP and the Byrne 5% set-aside will be coordinated by the State agencies responsible for these programs in order to avoid overlap and maximize funding effectiveness. Where costs of a proposed activity exceed NCHIP available funds or are unallowable under NCHIP, the State might, for example, use Byrne funds to fill remaining needs. This joint effort, we believe, will maximize the effectiveness of both of these programs.

Award Period

The application may be for up to 12 months. States will have the flexibility to begin activities under the award as early as September 1, 1996 and as late as the summer of 1997. Activities must be completed by June 1, 1998. The budget should provide details for expenses in required categories and by individual task (see Appendix A, Application content). The application

should identify those agencies to receive direct funding and indicate the fiscal arrangements to accomplish fund transfer.

Application Submission and Due Dates

Applications may be submitted at any time after publication of this announcement. Applications must be received by July 29, 1996, to be eligible for FY 1996 funding.

States that submitted applications with multiple year budgets for FY 1995 NCHIP funds and received funding for the first year (extended to two years on February 8, 1996), may re-submit the parts of their proposals which did not receive funds in 1995.

Allocation of Funds

All fifty States, including the District of Columbia, Puerto Rico, American Samoa, and Guam, received NCHIP FY 1995 awards. Certain III States received ASAP FY 1995 awards to assist in the identification of persons other than felons who are prohibited from purchasing firearms. Funds may be available in future years to implement those activities.

Awards under this program announcement may be made from the Brady, Child Protection, and Stalker Reduction appropriations, and from residual FY 1995 funds. The 1996 appropriation is 26.5 percent of the FY 1995 amount. Up to $6.5 million will go for Child Protection and Stalker Reduction activities.

Review Criteria

States should understand that full funding may not be possible for all proposed activities. Allocation of funds will be based on the amount requested and the following factors:

(1) The extent to which the proposed activities will enable the State to meet the timetables established for the State by the Attorney General;

(2) The extent to which improvements in the State system, by virtue of record numbers, levels of technical development, or operating procedures, will have a major impact on availability of records throughout the national system;

(3) The proposed use or enhancement of innovative procedures which may be of value to other jurisdictions;

(4) The technical feasibility of the proposal and the extent to which the proposal appears reasonable in light of the State's current level of system development and statutory framework;

(5) Amount awarded under FY 1995 NCHIP program, including whether the State received funds as a priority State;

(6) Prior activity of the State with funds under the NCHIP, ASAP, Byrne, and CHRI programs;

(7) State commitment to the national record system as evidenced by membership in III, and participation in the FBI's National Fingerprint File (NFF), Felon Identification in Firearms Sales (FIFS) programs, etc., and the current status of development of its CCH;

(8) Reasonableness of the budget;

(9) Evidence of State progress in meeting record improvement and background check goals as measured in terms of audits, and data collection relating to presale firearm checks and background checks on persons seeking positions involving children, the aged and the disabled;

(10) Appropriate focus on criminal history data improvement regarding protection orders and crimes against children, the elderly, and the disabled;

(11) Documentation of a program or intention to establish a system to enter protection orders, and warrants, arrests, and convictions of people violating protection orders intended to protect victims from stalking or domestic violence (for States applying for Stalker Reduction activities);

(12) Nature of the proposed expenditures;

(13) The extent to which the plan reflects constructive interface between relevant components of the State organization and/or multi-state systems; and

(14) The reasonableness of the relationship between the proposed activities and the current status of the State system, in terms of technical development, legislation, current fiscal demands, and future operating costs.

The program does not require either ''hard'' (cash) or ''soft'' (in-kind) match. Indications of State support, however, may be interpreted as expressions of commitment by the State to the program.

All applicants must agree to participate in evaluations sponsored by the federal government. Applicants must also agree to provide data relating to Brady Act activity to the Firearm Inquiry STatistics (FIST) program in the format designated by the FIST program.

Allowable Costs

Allowable expenses are detailed below. All expenses are allowable only to the extent that they directly relate to programs described in the application's program narrative.

(1) Participation in III: This is a key goal, and costs should be related to achieving full participation. Covered costs include, but are not limited to, costs associated with automation of the database (see limitations in (4) below), synchronization of records between State and FBI, and development of necessary software and hardware enabling electronic access on an intrastate or interstate basis.

(2) Database enhancement: Improving the quality, completeness and accuracy of criminal history records is a key goal of the NCHIP effort. Allowable costs include the costs associated with implementing improved record capture procedures, establishing more effective accuracy controls, and ensuring that records of all criminal events that start with an arrest or indictment are included in the database. In addition to felony records, limited funds may be used to capture data on serious misdemeanors, and to ensure that data on persons wanted, arrested, and convicted of stalking and/or domestic abuse are included in the database. Use of funds for capture of data on misdemeanors and persons convicted of stalking will only be approved where the state has, or is actively undertaking efforts to upgrade, the basic elements of the criminal history record system.

(3) Improved disposition capture: Automated interface between the criminal history repository and the courts, prosecutors, and/or corrections agencies is encouraged. Funds provided to courts or prosecutors for these purposes are allowable only to the extent that the function to be supported is related to the capture of disposition or other data relating to the offender record (for example, full costs associated with establishment of court MIS systems are not allowable under the NCHIP program).

(4) Record automation: These are allowable costs only with respect to records where the subject has been arrested, indicted, convicted, or released from confinement within 5 years of the date of automation. As appropriate, allowable costs also include costs associated with system design in States with non-automated systems or in States proposing to enhance system operation to include access to non-CCH databases.

(5) Flagging of records: Upgrading the accessibility of records, through flagging, for presale and preemployment checks is an important activity. Allowable costs include costs of flagging, or algorithms used for flagging, felony records and records of persons with convictions for crimes involving children, the elderly, and/or the disabled, and persons convicted of crimes involving domestic violence and/or stalking. Costs may include the cost of technical record flagging as well as the costs associated with

identification of records to be flagged (see (7) below regarding interface with NIBRS).

(6) AFIS/livescan: Automated Fingerprint Identification System (AFIS)/livescan equipment for local law enforcement agencies is allowable to improve the level of arrest and disposition reporting, but only where—

(1) The State repository system is automated, participating or looking toward participation in III, and has in place the technical capability to accept AFIS transmissions, and

(2) Sufficient traffic can be demonstrated to justify the cost, possibly through the use of regional systems.

AFIS/livescan in squad cars is not allowable since field inquiries are not a factor in checks under either the Brady Act or the Child Protection Act. Additionally, since data are not generally input to the system by the field unit, AFIS in the squad car would not support record improvement or completeness. AFIS/livescan for use in courts is allowable to support record completeness. The same conditions regarding repository capability and levels of traffic are also applicable to costs in this category.

Costs associated with AFIS/livescan communication from the repository to the FBI national system (IAFIS) are allowable but only where the State can demonstrate adequate levels of record completeness (both arrest and disposition) and current membership in III.

States should understand that Byrne 5% set-aside funds are available for AFIS/livescan, and that, accordingly, use of NCHIP funds for AFIS or livescan will only be allowable when justified as appropriate given the overall status of the State system, its participation in the national system and its planned use of Byrne 5% set-aside funds. This is particularly relevant with respect to State proposals to use NCHIP funds to cover costs of local livescan equipment.

(7) Interface with NIBRS: Funds may be used to interface with any State data system which is compatible with NIBRS for purposes of identifying persons convicted of crimes against children, the elderly, or the disabled, involving domestic violence and/or stalking, and/or identification of records involving firearm crimes for operational or research purposes. NCHIP funds are not available, however, to develop the NIBRS database.

(8) Research, evaluation, monitoring, and audits: Costs associated with research or evaluation efforts are allowable to the extent that they are directly associated with a project approved in the application. Costs associated with monitoring State compliance with legislative or programmatic goals, through ongoing or periodic audits or other procedures, are allowable and encouraged. The purchase of equipment such as modems and the necessary communications and data software for storing and transmitting evaluative data between States and to BJS or other designated federal agencies is an allowable expense.

(9) Conversion of juvenile records to the adult system: The Attorney General has recently amended Federal Regulations to allow the FBI to accept juvenile records if submitted by the State or local arresting agency. Expenditures to interface juvenile and adult records are allowable if consistent with relevant State law and undertaken to further the goals of the NCHIP program.

(10) Missing dispositions backlog reduction: These costs are allowable to improve the level of disposition reporting but only where limited to records with arrests within the past 5 years. States must also propose a strategy to prevent future backlogs from developing.

(11) Equipment upgrades: Upgrade costs are allowable where related to improving availability of data and where appropriate given the level of data completeness, participation in III, etc. Replacement costs will be considered but States are encouraged to contribute some portion of the total costs.

(12) Training, participation in seminars and meetings: Limited funds may be used to cover costs of training and participation in State, regional, or national seminars or conferences (including travel, where necessary).

(13) Expenditures related to presale handgun background checks: Funds are allowable to cover costs incurred by a governmental agency for equipment or development of capability required to conduct presale background checks. This ''governmental agency'' limitation may be waived in a very limited number of cases where the State has implemented a functioning background check system and can demonstrate that the vast preponderance of inquiries are made by a limited number of dealers, that technical and procedural safeguards have been established to protect the privacy of potential purchasers, and that the equipment to be provided to dealers would be of use for operation under the permanent system. Waivers will only be considered in States which are participants in III and which have achieved high levels of automation and record completeness. NCHIP funds may not be used to cover costs of conducting presale background checks.

(14) Reducing cost of background checks: States may use funds to develop and implement technologies that lower costs of conducting background checks. These funds may also be used to pay all or part of the cost to the State of conducting background checks on persons who are employed by or volunteer with a public, not-for-profit, or other voluntary organization to reduce the amount of fees charged for such background checks.

The Bureau of Justice Statistics is conducting parallel efforts to develop standard definitions of domestic violence and child abuse. States proposing to use funds for flagging or to interface with NIBRS to identify convictions for domestic violence and/or stalking, domestic violence protection orders, or crimes against children must coordinate their efforts with BJS.

Appendix A—Application and Administrative Requirements

Application Content

All applicants must submit:

* Standard Form 424, Application for Federal Assistance
* Standard Form 424A, Budget Information
* OJP Form 4000/3 (Rev. 1–93), Program Narrative and Assurances
* OJP Form 4061/6 Certifications
* OJP Form 7120/1 (Rev. 1–93), Accounting System and Financial Capability Questionnaire (to be submitted by applicants who have not previously received Federal funds).

Applicants are requested to submit an original and two copies of the application and certifications to the following address: Application Coordinator, Bureau of Justice Statistics, 633 Indiana Avenue, NW, Washington, DC 20531, Phone: (202) 616–3500.

Standard Form 424 (SF–424). The SF–424, a one page sheet with 18 items, serves as a cover sheet for the entire application. This form is required for every application for Federal assistance. No application can be accepted without a completed, signed original SF–424. Directions to complete each item are included on the back of the form.

Standard Form 424A (SF–424A). All applications must include SF–424A, Budget Information for all years of project activity. Applicants should ensure that all appropriate columns and rows balance. Directions to complete this form are found on page 3 of SF–424A.

Detailed budget. Applicants must provide a detailed justification for all

costs including the basis for computation of these costs. For example, the detailed budget would include the salaries of staff involved in the project and the portion of those salaries to be paid from the award; fringe benefits paid to each staff person; travel costs related to the project; equipment to be purchased with the award funds; and supplies required to complete the project.

Budget narrative. The budget narrative closely follows the content of the detailed budget. The narrative should relate the items budgeted to specific tasks and allowable cost categories and should provide a justification and explanation for the budgeted items including the criteria and data used to arrive at the estimates for each budget category. Please note applications that include noncompetitive contracts for the provision of specific services must contain a sole source justification for any procurement in excess of $100,000.

The budget narrative should indicate amounts to be made available to agencies other than the grant recipient (for example, the agency with responsibility for CCH, the courts, local agencies.)

Applicants for grants must submit a budget narrative on separate sheets. The budget narrative should detail by budget category for Federal and non-Federal (in-kind and cash) share. The purpose of the budget narrative is to relate items budgeted to project activities and to provide justification and explanation for budget items, including criteria and data used to arrive at the estimates for each budget category. The following information is provided to assist the applicant in developing the budget narrative.

a. *Personnel Category.* List each position by title (and name of employee if available), show annual salary rate and percentage of time to be devoted to the project by the employee. Compensation paid for employees engaged in Federally-assisted activities must be consistent with that paid for similar work in other activities of the applicant.

b. *Fringe Benefits Category.* Indicate each type of benefit included and explain how the total cost allowable for employees assigned to the project is computed.

c. *Travel Category.* Itemize travel expenses of project personnel by purpose (e.g., faculty to training site, field interviews, advisory group meetings, etc.) and show basis or computation (e.g., ''Five trips for 'x' purpose at $80 average cost—$50 transportation and two days per diem at $15'' or ''Six people to 30 day meeting at $70 transportation and $45 subsistence.''). In training projects where travel and subsistence for trainees is included, this should be separately listed indicating the number of trainees and the unit costs involved.

(1) Identify the tentative location of all training sessions, meetings, and other travel.

(2) Applicants should consult such references as the Official Airline Guide and the Hotel and Motel Redbook in projecting travel costs to obtain competitive rates.

d. *Equipment.* List each type of equipment to be purchased or rented with unit or monthly costs.

e. *Supplies.* List items within this category by major type (office supplies, training materials, research forms, postage) and show basis for computation. Provide unit or monthly estimates.

f. *Contractual Category.* State the selection basis for any contract or subcontract or prospective contract or subcontract (including construction services and equipment).

For individuals to be reimbursed for personal services on a fee basis, list by name or type of consultant or service the proposed fee (by day, week, or hour) and the amounts of time to be devoted to such services.

For construction contracts and organization (including professional associations and education institutions performing professional services), indicate the type of service to be performed and the estimated contract cost data.

g. *Construction Category.* Describe construction or renovation which will be accomplished using grant funds and the method used to calculate cost.

h. *Other Category.* Include under ''other'' such items as rent, reproduction, telephone, and janitorial or security services. List items by major type with basis of computation shown. (Provide square footage and cost per square foot for rent—provide local and long distance telephone charges separately.)

i. *Indirect Charges Category.* The Agency may accept an indirect cost rate previously approved for an applicant by a Federal agency. Applicants must enclose a copy of the approved rate agreement with the grant application.

j. *Program Income.* If applicable, provide a detailed estimate of the amount of program income to be generated during the grant period and its proposed application (to reduce the cost of the project or to increase the scope of the project). Also, describe the source of program income, listing the rental rates to be obtained, sale prices of publications supported by grant funds, and registration fees charged for particular sessions. If scholarships (covering, for example, registration fees) are awarded by the organization to certain conference attendees, the application should identify the percentage of all attendees that are projected as ''scholarship'' cases and the precise criteria for their selection.

Program narrative. All applications must include a program narrative which fully describes the expected design and implementation of the proposed program. OJP Form 4000/3 (Rev. 1–93) provides additional detailed instructions for preparing the program narrative.

The narrative should include a time line of activities indicating, for each proposed activity, the projected duration of the activity, expected completion date, and any products expected.

The application should include a description of the roles and responsibilities of key organizational and/or functional components involved in project activities; and a list of key personnel responsible for managing and implementing the major elements of the program.

Assurances. OJP Form 4000/3 (Rev 1–93) must be included in the application submission. If submitting this form separate from the SF–424, the applicant must sign and date the form to certify compliance with the Federal statutes, regulations, and requirements as cited.

Certification Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace. Applicants should refer to the regulations cited in OJP Form, 4061/6 to determine the certification to which they are required to attest. A copy of OJP Form 4061/6 can be obtained from the BJS Application Coordinator. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 C.F.R. part 69, ''New Restrictions on Lobbying,'' and 28 CFR part 67, ''Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).'' The certifications shall be treated as a material representation of fact upon which reliance will be placed when the U.S. Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

Financial and Administrative Requirements

Discretionary grants are governed by the provisions of OMB Circulars applicable to financial assistance. The circulars, with additional information and guidance, are contained in the ''Financial and Administrative Guide for Grants,'' Office of Justice Programs, Guideline Manual, M7100, available from the Office of Justice Programs. This guideline manual, provided upon request, is intended to assist grantees in the administration of funds and includes information on allowable costs, methods of payment, Federal rights of access to records, audit requirements, accounting systems, and financial records.

Complete and accurate information is required relative to the application, expenditure of funds, and program performance. The consequences of failure to comply with program guidelines and requirements will be determined at the discretion of the Department.

Civil Rights Obligations

All applicants for Federal financial assistance must sign Certified Assurances that they are in compliance with the Federal laws and regulations which prohibit discrimination in any program or activity that receives such Federal funds. Section 809(c), Omnibus Crime Control & Safe Streets Act of 1968, provides that:

No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, or denied employment in connection with any program or activity funded in whole or in part with funds made available under this title.

Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans With Disabilities Act prohibit discrimination on the basis of disability. The applicant agency must discuss how it will ensure nondiscriminatory practices as they relate to:

(1) Delivery of services or benefits—to ensure that individuals will not be denied access to services or benefits under the program or activity on the basis of race, color, religion, national origin, gender, age, or disability;

(2) Employment practices—to ensure that its personnel in the program or activity are selected for employment without regard to race, color, religion, national origin, gender, age, or disability; and

(3) Program participation—to ensure members of any planning, steering or advisory board, which is an integral part of the program or activity, are not excluded from participation on the basis of race, color, religion, national origin, gender, age or disability; and to encourage the selection of such members who are reflective of the diversity in the community to be served.

Audit Requirement

In October 1984, Congress passed the Single Audit Act of 1984. On April 12, 1985, the Office of Management and Budget issued Circular A–128, ''Audits of State and Local Governments'' which establishes regulations to implement the Act. OMB Circular A–128, ''Audits of State and Local Governments,'' outlines the requirements for organizational audits which apply to BJS grantees.

Disclosure of Federal Participation

Section 8136 of the Department of Defense Appropriations Act (Stevens Amendment), enacted in October 1988, requires that, ''when issuing statements, press releases for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.''

Intergovernmental Review of Federal Programs

Federal Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' allows States to establish a process for reviewing Federal programs in the State, to choose which programs they wish to review, to conduct such reviews, and to make their views known to the funding Federal agency through a State ''single point of contact.''

If the State has established a ''single point of contact,'' and if the State has selected this program to be included in its review process, the applicant must send a copy of its letter or application to the State ''single point of contact'' at the same time that it is submitted to BJS. The letter or application submitted to BJS must indicate that this has been done. The State must complete its review within 60 days. The review period will begin on the date that the letter or application is officially received by BJS. If BJS does not receive comments from the State's ''single point of contact'' by the end of the review period, this will be interpreted as a ''no comment'' response.

If the State has not established a ''single point of contact,'' or if it has not selected the BJS statistics development or criminal history improvement programs in its review process, this must be stated in the letter or application.

Jan M. Chaiken,

Director, Bureau of Justice Statistics.

[FR Doc. 96–13091 Filed 5–23–96; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of May, 1996.

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,

(2) that sales or production, or both, of the firm or subdivision 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.

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–31, 984; U.S. Can Co., Saddlebrook, NJ

TA–W–32, 026; Cassemco, Inc. Cookeville, TN

TA–W–32, 022; Campbell & Dann Mfg Co., Inc., Tullahoma, TM

TA–W–32, 125; AT&T Corp., NCR Corp., Viroqua, WI

TA–W–32, 112; E.I. Dupont De Nemours & Co., Inc., Chambers Works Div., Deepwater, NJ

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–32, 096; Kinney Shoe Corp., Beaver Spring, PA

TA–W–32, 010; Northrop Grumman Corp., El Sequndo, CA

TA–W–32, 017; SBS Contracting Corp., Long Island City, NY

TA–W–32, 014; ABB Power T & D Co., Inc., Protective Equipment & Medium Voltage Outdoor Equipment Div., Bloomington, IN

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–32, 258; National Refurbishing Center, Sony Electronics, Inc., Carol Stream, IL

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination reference the impact date for all workers for such determination.

TA–W–32, 236; Salvatric Soe, Inc., Blackshear, GA: March 29, 1995.

TA–W–32, 221; J.C. Decker Co., Inc., Montgomery, PA: March 28, 1995.

TA–W–32, 317; Ampolex (USA), Inc., Denver, CO: April 29, 1995.

TA–W–32, 212; Montana Power Co., Colstrip Project Div., Colstrip, MT: March 27, 1995.

TA–W–32, 054; Norminjil Sportswear Corp., Luzerne, PA: March 1, 1995.

TA–W–32, 029; Western Reserve Products, Visador Div., Jasper, TN: February 27, 1995.

TA–W–32, 001; Royal Mills, Carteret, NJ: February 10, 1995.

TA–W–32, 194; McGill Electric Switch Product Group, A Div. of Therm-O-Disc, Inc., Valaporaiso, IN: April 3, 1995.

TA–W–32, 218; Connors Footwear, Lisbon, NH: March 28, 1995.

TA–W–32, 225; Movie Star, Inc., Sanmark-Stardust & Cinema Etoile Divisions, New York, NY: March 15, 1995.

TA–W–32, 207; Dolphin International Ltd. The Dalles, OR: April 1, 1995.

TA–W–32, 044; Forest Oil Corp., Denver, CO: February 9, 1995.

TA–W–32, 011; C & C Garment Finishers, Sparta, TN: February 20, 1995.

TA–W–32, 283; Apparel Creations of America, Inc., Notasulga, AL: April 15, 1995.

TA–W–31, 943 &A, B, C, D; Doran Textiles, Inc., Salem, NC, Shelby, NC, Esther Mill, Shelby, NC, Doran Yarn Mill Plant #2, Cherryville, NC, Dover Yarn Mill, Clover, SC: January 18.

TA–W–32, 233; Dataproducts Corp., Norcross, GA: April 1, 1995.

TA–W–32, 297; Tedmar, Inc., Newark, NJ: April 18, 1995.

TA–W–32, 106; ABTco, Inc., Hardboard Div., Alpina, MI: March 7, 1995.

TA–W–32, 089; Paper Converting Machine Co., Green Bay, WI: March 3, 1995.

TA–W–32, 120; Kellogg Co., Battle Creek, MI: March 20, 1995.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of May, 1996.

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 or articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in 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 not shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–00904; Steele Manufacturing Co., Steele, MO

NAFTA–TAA–00953; L. Chessler Co., Philadelphia, PA

NAFTA–TAA–00927; Ogden Atlantic Design Poughkeepsie, NY

NAFTA–TAA–00958; Fox Point Sportswear, Inc., Ironwood, MI

NAFTA–TAA–00902; Kinney Shoe Corp., Beaver Springs, PA

NAFTA–TAA–01019; E.I. Dupont De Nemours & Co., Inc., Chambers Works, Deepwater, NJ

NAFTA–TAA–00920; AT&T Corp., NCR Corp., Viroqua, WI

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–00921; General Electric Appliances, Little Rock Distribution Center, Little Rock, AR

NAFTA–TAA–00967; CTS Corporation, Brownsville, TX

NAFTA–TAA–00965; Sony Electronics, National Refurbishing Center—Sony Service Operations, Carol Stream, IL

NAFTA–TAA–00961; Fashion Development Center, Inc., El Paso, TX

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.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–00926; Palm Beach Co., A Div. of Plaid Holding Co., Knoxville, TN; March 14, 1995.

NAFTA–TAA–00968; Hummingbird Communications Ltd. (Formerly Beame & Whiteside, Inc.), Production & Technical Support Div., Raleigh, NC

NAFTA–TAA–00952; Scotts Hill Leisurewear, Inc., A Wholly Owned Subsidiary of I. Appel Corp., Scotts Hill, TN: March 28.

NAFTA–TAA–00957; Cargill, Inc., Beaumont, TX: March 27, 1995.

NAFTA–TAA–00949; Salvatrice Shoe, Inc., Blackshear, GA: March 29, 1995.

NAFTA–TAA–00943; J.C. Decker Co., Inc., Montgomery, PA: March 27, 1995.

NAFTA–TAA–00946; Montana Power Co., Colstrip Project Div., Colstrip, MT, OR: April 1, 1995.

NAFTA–TAA–00929; Elf Atochem North America, Inc., Fine Chemicals—Organic Peroxides, Town of Tonawonda, NY: March 22, 1995.

NAFTA–TAA–00982; Cambridge Industries, Inc., Commercial Truck Group, Ionia, MI: April 9, 1995.

NAFTA–TAA–00997; Thomas & Betts Corp., Amerace Electronic Components, Punta Gorda, AL: April 11, 1995.

NAFTA–TAA–00978; EMC Motor Co., Clearfield, UT: April 12, 1995.

NAFTA–TAA–00937; Eagle Garment Finishing, Inc., El Paso, TX: March 18, 1995.

NAFTA–TAA–00944; Dataproducts Corp., Norcross, GA: April 1, 1995.

I hereby certify that the aforementioned determinations were issued during the month of May 1996. Copies of these determinations are available for inspection in Room C–4318, 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: May 16, 1996.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–13108 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,172]

Bates of Maine, Incorporated Lewiston, Maine; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 8, 1996 in response to a worker petition which was filed on March 27, 1996 on behalf of workers at Bates of Maine, Inc., Lewiston, Maine.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C., this 14th day of May, 1996

Russel T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–13111 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,101]

Breed Technologies, Inc. Breed Automotive, L.P. Brownsville, Texas; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of April 26, 1996, one of the petitioners requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of the subject firm. The denial notice was signed on March 28, 1996, and published in the Federal Register on April 9, 1996 (61 FR 15832).

The petitioner presents evidence that the worker group did not provide a service, but instead produced a product.

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, D.C. this 3rd day of May 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–13117 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,100; TA–W–32,100A]

Cole Haan Manufacturing Division, Lewiston, Maine and Livermore Falls Location, Livermore, 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 March 25, 1996, applicable to all workers of Cole Haan, Cole Haan Manufacturing Division, Lewiston, Maine. The notice was published in the Federal Register on April 9, 1996 (61 FR 15833).

At the request of State Trade Coordinator, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that worker separations have occurred at the subject firms' Livermore, Maine location. The workers are engaged in the production of moccasins for Cole Haan manufacturing facilities.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of moccasins. Accordingly, the Department is amending the certification to cover the workers of Cole Haan, Livermore Falls location, Livermore, Maine.

The amended notice applicable to TA–W–32,100 is hereby issued as follows:

''All workers of Cole Haan, Cole Haan Manufacturing Division, Lewiston, Maine (TA–W–32,100), and Cole Haan, Livermore Falls location, Livermore, Maine (TA–W–32,100A) engaged in employment related to the production of moccasins who became totally or partially separated from employment on or after March 11, 1995 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 10th day of May 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–13110 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,050]

GEOMARTEC, Houston, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 18, 1996 in response to a worker petition which was filed on February 26, 1996 on behalf of workers of Geomartec, Houston, Texas.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 9th day of May, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–13115 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,356; TA–W–31,356F]

Jeld-Wen of Bend/Bend Millwork Including Pozzi Window and Bend Door Company, Bend, Oregon and Jeld-Wen of Arizona, Flagstaff, Arizona; 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 Notice of Certification Regarding Eligibility to

Apply for Worker Adjustment Assistance on September 21, 1995, applicable to all workers of Jeld-Wen of Bend/Bend Millwork, Bend, Oregon. The notice was published in the Federal Register on October 5, 1995 (60 FR 52213). The worker certification was amended October 24, 1995, to include workers at Pozzi Window and Bend Door Company, also located in Bend, Oregon. The amended notice was published in the Federal Register on November 7, 1995, (60 FR 56172).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New finding show that worker separations have occurred at other production facilities of the subject firm in Flagstaff, Arizona. The workers at the Flagstaff plant also produce commodity millwork.

The intent of the Department's certification is to include all workers of Jeld-Wen of Arizona, Flagstaff, Arizona, who were adversely affected by increased imports. Accordingly, the Department is again amending the certification to include all workers of Jeld-Wen of Arizona, Flagstaff, Arizona.

The amended notice applicable to TA–W–31,356 is hereby issued as follows:

''All workers of Jeld-Wen of Bend/Bend Millwork, including Pozzi Window and Bend Door Company, Bend, Oregon (TA–W–31,356), and Jeld–Wen of Arizona, Flagstaff, Arizona (TA–W–31,356F), who became totally or partially separated from employment on or after August 9, 1994, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 7th day of May, 1996.

Russell T. Kile,

Acting Program Manger, Office of Trade Adjustment Assistance.

[FR Doc. 96–13120 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30, 593; TA–W–30,593F]

Pyke Manufacturing Company; Salt Lake City, Utah, New York, New York; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued an Amended Certification of Eligibility to Apply for Worker Adjustment Assistance on April 5, 1995, applicable to all workers at Pyke Manufacturing, located in Salt Lake City, Utah. The notice was published in the Federal Register on April 18, 1995 (60 FR 19416).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The State reports that sales staff of Pyke Manufacturing in New York City were excluded from the worker certification. Accordingly, the Department is amending the worker certification to include workers of the subject firm located in New York, New York.

The intent of the Department's certification is to include all workers of Pyke Manufacturing Company adversely affected by imports.

The amended notice applicable to TA–W–30, 593 is hereby issued as follows:

''All workers of Pyke Manufacturing Company, Salt Lake City, Utah (TA–W–30, 593), and New York, New York (TA–W–30, 593) who became totally or partially separated from employment on or after December 13, 1993, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 9th day of May 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–13112 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–30–M

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 Program Manager of the Office 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 Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than June 3, 1996.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than June 3, 1996.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210.

Signed at Washington, DC this 6th day of May, 1996.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 05/06/96]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
32,289	Red Kap Industries (Wkrs)	Vienna, GA	04/07/96	Work Apparel—Coveralls, Outerwear.
32,290	Keystone Powdered Metal (Wkrs)	St. Marys, PA	04/18/96	Powdered Metal Automotive Parts.
32,291	Swanknit, Inc (UNITE)	Cohoes, NY	04/26/96	Layettes for Infants.
32,292	Quaker State Corp. (Wkrs)	Belpre, OH	04/18/96	Oil and Gas.
32,293	A.H. Schreiber (UNITE)	Cinnaminson, NJ	04/22/96	Bathing Suits.
32,294	Holston Garment Mfg. Co (Co.)	Bristol, TN	04/19/96	Nuns Habits (Blouses & Skirts).
32,295	Mariners Astubeco, Inc. (Wkrs)	Edgewater, NJ	04/08/96	Tubing & Pipes for the Boilers.
32,296	Isenberg Enterprises, Inc (Co.)	Salt Lake City, UT	04/19/96	Ladies' Active Sportswear.

APPENDIX—Continued

[Petitions Instituted on 05/06/96]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
32,297	Tedmar, Inc. (UNITE)	Newark, NJ	04/23/96	Ladies', Men's Coats.
32,298	Tampa Mill Div (Wkrs)	Tampa, FL	04/22/96	Concrete Reinforcing Steel Bars.
32,299	New Trend Sportswear (Wkrs)	Selinsgrove, PA	04/23/96	Ladies' Sweatshirts, Children's Shorts.
32,300	Mallory and Church Corp. (Wkrs)	Chula Vista, CA	04/26/96	Men's Silk Ties.
32,301	Thorngate LTD (UNITE)	Chaffee, MO	04/24/96	Men's Dress Slacks & Suit Pants.
32,302	Elwell Parker Electric Co (IBEW)	Cleveland, OH	04/25/96	Industrial Lift Trucks.
32,303	Shaw Industries, Inc (Wkrs)	Trenton, SC	04/18/96	Carpet Fiber.
32,304	Lanz, LLC (Wkrs)	Culver City, CA	04/10/96	Ladies' Dresses & Sportswear.
32,305	LTNY, Inc. (Wkrs)	Miami, FL	04/17/96	Children's Sportswear.
32,306	B. Braun Medical, Inc. (Co.)	Plymouth, MN	04/25/96	Disposable Plastic Medical Products.
32,307	Nabors Driling Co. (Wkrs.)	Oklahoma City, OK	04/18/96	Provide Services—Petroleum Industries.
32,308	Hanover II (Co.)	Pawtucket, RI	04/16/96	Costume Jewelry.
32,309	Cominco American, Inc. (USA)	Spokane, WA	03/26/96	Fertilizer & Indust. Chemical Warehouse.
32,310	Crown Pacific (TAMAW)	Oldtown, ID	04/22/96	Lumber & Lumber By Products.
32,311	United Technologies Auto (Wkrs)	El Paso, TX	04/19/96	Electrical Harnesses.
32,312	Cambridge Industries (IUE)	Ionia, MI	04/09/96	Automotive Plastic Parts.
32,313	Therm-O-Disc (Wkrs)	Newaygo, MI	03/20/96	Electric Components.
32,314	Madeira Twin Fashions (UNITE)	New Bedford, MA	04/23/96	Ladies' Coats & Raincoats.
32,315	Poughkeepsie Finishing (Wkrs)	Paterson, NJ	04/24/96	Dying of Fabrics.

[FR Doc. 96–13116 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,060; TA–W–32,060A]

Rhubarb Fashions, Jersey City, New Jersey and New York, New York; 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 18, 1996, applicable to all workers at Rhubarb Fashions, located in Jersey City, New Jersey. The notice will soon be published in the Federal Register.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that workers at the showroom of Rhubarb Fashions in New York, New York were inadvertently excluded from the certification. Accordingly, the Department is amending the worker certification to include workers of the subject firm located in New York, New York.

The intent of the Department's certification is to include all workers of Rhubarb Fashions adversely affected by imports.

The amended notice applicable to TA–W–32,060 is hereby issued as follows:

''All workers of Rhubarb Fashions, Jersey City, New Jersey (TA–W–32,060), and New York, New York (TA–W–32,060A) who became totally or partially separated from employment on or after February 28, 1995, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 10th day of May 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–13109 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32, 092]

Superior Garments Inc., Winder, GA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 25, 1996 in response to a worker petition which was filed on February 29, 1996 on behalf of workers at Superior Garments Inc., Winder, Georgia.

All workers were separated from the subject firm on February 2, 1996 more than one year prior to the date of the petition. Section 223 of the Acts specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 13th day of May, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–13113 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,025]

Winona Knitting Mills, Inc. Berwick Knitwear (Formerly Komar & Sons Berwick Knitwear) Berwick, Pennsylvania; Notice of Revised Determination on Reconsideration

On April 27, 1996, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice will soon be published in the Federal Register.

Investigation findings show that the workers produced sweaters. The workers were denied TAA because the ''contributed importantly'' test of the Group Eligibility Requirements of the Trade Act was not met.

New investigation findings on reconsideration show that the articles manufactured by Winona Knitting Mills have been impacted importantly by the high penetration of imports into this market. U.S. import statistics for men's and boys', and women's and girls' sweaters show that the ratio of imports to U.S. shipments was more than 200% in both 1994 and 1995.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the workers of Winona Knitting Mills, Inc. of Berwick, Pennsylvania were adversely affected by increased imports of articles like or directly competitive with sweaters produced at the subject firm.

''All workers of Winona Knitting Mills, Inc., Berwick Knitwear, Formerly Komar & Sons Berwick Knitwear, Berwick

Pennsylvania who became totally or partially separated from employment on or after February 26, 1995 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 3rd day of May 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–13118 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility to Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Program Manager of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment of after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Program Manager of OTAA at the U.S. Department of Labor (DOL) in Washington, D.C. provided such request is filed in writing with the Program Manager of OTAA not later than June 3, 1996.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Program Manager of OTAA at the address shown below not later than June 3, 1996.

Petitions filed with the Governors are available for inspection at the Office of the Program Manager, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of May, 1996.

Russell T. Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received at governor's office	Petition no.	Articles produced
A.H. Schreiber Company, Inc. (UNITE)	Cinnaminson, NJ	04/24/96	NAFTA–00998	Bathing Suits.
Zena Enterprises (Wkrs)	New York, NY	04/16/96	NAFTA–00999	Jeans.
American Olean Tile (USWA)	Lansdale, PA	04/30/96	NAFTA–01000	Ceramic wall tile.
UNISYS; Midwest Operations (IBEW)	Roseville, MN	04/29/96	NAFTA–01001	Computer Sub-Assembly for Mid & Main fram computers
J.P. Apparel, Inc. (Co.)	Hardyville, KY	05/02/96	NAFTA–01002	Ladies Pants.
ASARCO (Co.)	Omaha, NE	05/01/96	NAFTA–01003	Refined lead, bismuth, silver, gold and antimony.
Telex Communications, Inc. (Wkrs)	LeSueur, MN	04/30/96	NAFTA–01004	Audio Equipment.
Lanz, LLC, Inc. (Wkrs)	Culver City, CA	05/03/96	NAFTA–01005	Materials for clothing.
Kenting Apollo Drilling, Inc. (Wkrs)	Mills, WY	05/03/96	NAFTA–01006	Oil and Gas Contractor.
Alcoa Fujikara (Wkrs)	Dearborn Height, MI.	04/16/96	NAFTA–01007	Protoype electrical harnessee.
Big J. Apparel (Co.)	Waco, TX	04/29/96	NAFTA–01008	Blue Jean pants.
Shaw Industries Workers	Dalton, GA	05/06/96	NAFTA–01009	Fibers for carpet.
Mallory and Church Corp. (Wkrs)	Seattle, WA	05/06/96	NAFTA–01010	Ties.
Allied Signal, Inc. (Co.)	Greenville, AL	04/08/96	NAFTA–01011	Seat belt and air bag assembly components.
Red Kap Industries (Wkrs)	Vienna, GA	04/25/96	NAFTA–01012	Coveralls.
Greenfield Research, Inc. (Co.)	Greenfield, OH	05/07/96	NAFTA–01013	Automotive Seat Covers.
VDO Yazaki Corporation (Co.)	Winchester, VA	05/03/96	NAFTA–01014	Automotive Instrumentation.
AUX (Wkrs)	Myrle Beach, SC	05/09/96	NAFTA–01015	Leaded parts.
Thomas and Betts (IUC)	Strongsville, OH	05/03/96	NAFTA–01016	Electrical Construction and Maintenance Components.
PBB USA, Inc. (Wkrs)	Buffalo, NY	05/09/96	NAFTA–01017	Computer software and hardware.
Johnson Controls, Inc.; Systems and Service Division (IAMAW).	Milwaukee, WI	05/08/96	NAFTA–01018	Valve Actuator Assembly.
E.I. DuPont; Chambers Works (CWA)	Deepwater, NJ	03/15/96	NAFTA–01019	Various chemicals.
OZ's Apparel, Inc. (Co.)	Pacoima, CA	05/07/96	NAFTA–01020	Garment.
Bel Aire Bridal, Inc. (Wkrs)	Torrance, CA	05/08/96	NAFTA–01021	Womens apparel, dresses.

[FR Doc. 96–13144 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00838]

Winona Knitting Mills, Inc. Berwick Knitwear (Formerly Komar & Sons Berwick Knitwear) Berwick, Pennsylvania; Notice of Revised Determination On Reconsideration

On April 27, 1996, The Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration for workers of Winona Knitting Mills, Inc., Berwick Knitwear, Formerly Komar & Sons Berwick Knitwear, Berwick, Pennsylvania, to apply for NAFTA-Transitional Adjustment Assistance (NAFTA–TAA). The notice will soon be published in the Federal Register.

Investigation findings show that the workers produced sweaters. The workers were denied NAFTA–TAA because criteria (3) and (4) of the group eligibility requirements in paragraph (a)(1) of Section 250 of the Trade Act of 1974, as amended, were not met. Investigation findings showed that Winona Knitting Mills did not import sweaters from Mexico or Canada, nor did Winona shift production of sweaters to Mexico or Canada.

New investigation findings on reconsideration shows that the articles manufactured by Winona Knitting Mills have been impacted importantly by imports of sweaters from Mexico and Canada. U.S. import statistics for sweaters from Mexico and Canada show imports increased significantly during the time period relevant to the investigation. The quantity of U.S. imports of sweaters increased 65% from 1993 to 1994, and by almost 125% from 1994 to 1995.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the workers of Winona Knitting Mills, Inc. of Berwick, Pennsylvania were adversely affected by increased imports from Mexico and Canada of articles like or directly competitive with sweaters produced at the subject firm.

''All workers of Winona Knitting Mills, Inc., Berwick Knitwear, Formerly Komar & Sons Berwick Knitwear, Berwick Pennsylvania who became totally or partially separated from employment on or after February 26, 1995 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

Signed at Washington, DC this 8th day of May 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–13119 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good causes is hereby found for not utilizing notice and public comment procedure theron prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rate and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' are listed by Volume and State:

Volume I

Maine
ME960042 (MAY 24, 1996)

Volume IV

Indiana
IN960059 (MAY 24, 1996)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Maine
ME960020 (MARCH 15, 1996)
New York
NY960009 (MARCH 15, 1996)

Volume II

Pennsylvania
PA960005 (MARCH 15, 1996)

Volume III

Florida
FL960009 (MARCH 15, 1996)

Volume IV

Illinois
IL960018 (MARCH 15, 1996)
Indiana
IN960016 (MARCH 15, 1996)

Volume V

Iowa
IA960005 (MARCH 15, 1996)
Texas
TX960005 (MARCH 15, 1996

Volume VI

North Dakota
ND960004 (MARCH 15, 1996)
Wyoming
WY960005 (MARCH 15, 1996)

*Note: The dates of publications of general wage determinations reflected in the Federal Register of May 8, 1996 were shown as May 10, 1996. That date should have been March 15, 1996 in every instance.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C., this 17th day of May 1996.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–12808 Filed 5–23–96; 8:45 am]

BILLING CODE 4510–27–M

LEGAL SERVICES CORPORATION

Notice of Availability of 1997 Competitive Grant Funds

AGENCY: Legal Services Corporation.

ACTION: Solicitation for Proposals for the Provision of Civil Legal Services.

SUMMARY: The Legal Services Corporation (LSC or Corporation) is the national organization charged with administering federal funds provided for civil legal services to the poor. Congress has adopted legislation requiring LSC to utilize a system of competitive bidding for the award of grants and contracts for calendar year 1997.

The Corporation hereby announces the availability of competitive grant funds and is soliciting grant proposals from interested parties who are qualified to provide effective, efficient, and high quality civil legal services to eligible clients in the fifty states, the District of Columbia, Guam, Micronesia, Puerto Rico, and the U.S. Virgin Islands. Currently, the amount of available funds and the date, terms and conditions of their availability have not been determined.

DATES: Request for Proposals (RFP) will be available after June 21, 1996. Grant proposals must be received at LSC offices by 5:00 p.m. EST, August 21, 1996.

ADDRESSES: Legal Services Corporation—Competitive Grants, 750 First Street NE, 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Merceria L. Ludgood, Director, Office of Program Services, (202) 336–8800.

SUPPLEMENTARY INFORMATION: LSC is seeking proposals from recipients, other non-profit organizations that have as a purpose the furnishing of legal assistance to eligible clients, private attorneys, groups of private attorneys, or law firms, State or local governments, and substate regional planning and coordination agencies which are composed of substate areas and whose governing boards are controlled by locally elected officials.

The solicitation package, containing the grant application, guidelines, proposal content requirements, and specific selection criteria, is available by contacting the Corporation by letter, phone or FAX. In addition, the solicitation package will be available ''on-line'' and from Handsnet and the LSC Bulletin Board. LSC will not FAX the solicitation package to interested parties; however, solicitation packages may be requested by FAX. The Corporation may be contacted at: (202) 336–8900; FAX (202) 336–7272; HANDSNET: HN 3555; LSC BBS: (202) 336–8950.

Date Issued: May 21, 1996.

Merceria L. Ludgood,

Director, Office of Program Services.

[FR Doc. 96–13139 Filed 5–23–96; 8:45 am]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–263, 50–282, 50–306 and 72–10]

Northern States Power Co.; Monticello Nuclear Generating Plant, Prairie Island Nuclear Generating Plant, Units 1 and 2, and Prairie Island Independent Spent Fuel Storage Installation; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering approval of the transfer of, and issuance of amendments to Facility Operating Licenses Nos. DPR–22, DPR–42, DPR–60, and SNM–2506 issued to Northern States Power Company, (the licensee), for operation of the Monticello Nuclear Generating Plant, located in Wright County, Minnesota, and the Prairie Island Nuclear Generating Plant, Units 1 and 2, and the Prairie Island Independent Spent Fuel Storage Installation (ISFSI) located in Goodhue County, Minnesota.

Environmental Assessment

Identification of the Proposed Actions

The proposed actions would consent to the transfer of control of the operating licenses, and amend them to reflect the transfer of control of the licenses for the Monticello Nuclear Generating Plant, the Prairie Island Units 1 and 2 Nuclear Generating Plants, and the Prairie Island Independent Spent Fuel Storage Installation facility, held by Northern States Power Company (NSP). Following a series of transactions, NSP

will become a wholly owned subsidiary of Wisconsin Energy Corporation (WEC), the parent company of Wisconsin Electric Power Company (WEPCO). WEC will be renamed Primergy Corporation (Primergy) and will own two operating utility subsidiaries: (1) Northern States Power Company, which will be reincorporated in Wisconsin and merged with a newly formed WEC/Primergy subsidiary, and (2) WEPCO, which will be named Wisconsin Energy Company. The merged NSP will continue to operate the same facilities above in the same locations. The proposed action is in accordance with NSP's applications dated October 20, 1995, and December 6, 1995.

The Need for the Proposed Actions

The proposed actions are required to approve and reflect the transfer of control of the licenses discussed above. The transfer and amendments reflecting the transfer of control will have minimal impact on the operation of the facilities by NSP. The transfer and amendment will not affect the facilities' Technical Specifications or license conditions.

Environmental Impacts of the Proposed Actions

The Commission has completed its evaluation of the proposed transfer of control of the licenses and related license amendments and concludes that there will be no changes to the Monticello, Prairie Island Units 1 and 2, and Prairie Island ISFSI facilities, or to the environment as a result of these actions. The transfer of control of the licenses and the associated license amendments will not affect the qualifications or organizational affiliation of the personnel who operate the facilities, as NSP will continue to be responsible for the operation of the Monticello and Prairie Island facilities.

The Commission has evaluated the environmental impact of the proposed actions and has determined that the probability or consequences of accidents would not be increased by the transfer of control and issuance of related amendments, and that post-accident radiological releases would not be greater than previously determined. Further, the Commission has determined that the transfer of control and issuance of related amendments would not affect routine radiological plant effluents and would not increase occupational radiological exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed actions.

With regard to potential nonradiological impacts, the transfer of control and related amendments would not affect nonradiological plant effluents and would have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed actions.

Alternative to the Proposed Actions

Since the Commission has concluded that the environmental effects of the proposed actions are not significant, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative would be to deny the requested approvals. Denial of the applications would result in no change in current environmental impacts. The environmental impacts of the proposed actions and the alternative action are identical.

Alternative Use of Resources

These actions do not involve the use of any resources not previously considered in the Final Environmental Statements for the Monticello Nuclear Generating Plant dated November 22, 1972, the Prairie Island Nuclear Generating Plant dated May 1973, and the Prairie Island ISFSI dated April 1991.

Agencies and Persons Contacted

In accordance with its stated policy, the NRC staff consulted with the Minnesota State official, Mr. Michael McCarthy of the Department of Public Services, on May 6, 1996, regarding the environmental impact of the proposed actions. Mr. McCarthy had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed actions will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed actions.

For further details with respect to the proposed actions, see the licensee's submittals dated October 20 and December 6, 1995, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Md., this 17 day of May 1996.

For the Nuclear Regulatory Commission,

Mark Reinhart,

Acting Director, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–13098 Filed 5–23–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To The Congress of The United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one revised deferral of budgetary resources, totaling $1.4 billion. The deferral affects the International Security Assistance program.

William J. Clinton

The White House,

May 14, 1996.

BILLING CODE 3110–01–M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral No.	ITEM	Budgetary Resources
	Funds Appropriated to the President:	
	International Security Assistance:	
D96-4A	Foreign military financing program	1,385,166
	Total, deferral	1,385,166

BILLING CODE 3110–01–C

Supplemental Report—Report Pursuant to Section 1014(c) of Public Law 93–344

This report updates Deferral No. D96–4, which was transmitted to Congress on February 23, 1996.

This revision increases by $25,853 the previous deferral of $1,385,140,000 in the International Security Assistance, Foreign military financing program, resulting in a total deferral of $1,385,165,853. This increase results from the deferral of funds made available from reimbursements.

BILLING CODE 3110–01–M

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	New budget authority..... $ 3,208,390,000 (P.L. 104- 107)
BUREAU: International Security Assistance	Other budgetary resources... $ * 55,853
Appropriations title and symbol: Foreign military financing program (FMF) 1/ 1161082	Total budgetary resources.... $ 3,208,445,853
	Amount to be deferred: Part of year..... $ * 1,385,165,853
	Entire year..... _____
OMB identification code: 11-1082-0-1-152	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other _____
Type of account or fund: [X] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multi-year: _____ (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other _____

JUSTIFICATION: The President is authorized by the Arms Export Control Act to sell or finance by credit, loan guarantees, or grants, articles and defense services to friendly countries to facilitate the common defense. Under Section 2 of the Act, the Secretary of State, under the direction of the President, is responsible for sales made under this Act. Executive Order 11958 further requires the Secretary of State to obtain prior concurrence of the Secretaries of Defense and Treasury, respectively, regarding consistency of transactions with national security and financial policies.

This action defers funds pending review of specific grants to eligible countries by the Departments of State, Treasury, and Defense. The review process will ensure that in each proposed program the proposed recipients are qualified and that the limits of available funds are not exceeded. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1995 (D95-2).

[FR Doc. 96–13053 Filed 5–23–96; 8:45 am]
BILLING CODE 3110–01–M

Cumulative Report on Rescissions and Deferrals

May 1, 1996.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of May 1, 1996, of 24 rescission proposals and six deferrals contained in six special messages for FY 1996. These messages were transmitted to Congress on October 19, 1995; and on February 21, February 23, March 5, March 13, and April 12, 1996.

Rescissions (Attachments A and C)

As of May 1, 1996, 24 rescission proposals totaling $1.4 billion had been transmitted to the Congress. Congress approved eight of the Administration's rescission proposals in Public Law 104–134. A total of $963.4 million of the rescissions proposed by the President was rescinded by that measure. Attachment C shows the status of the FY 1996 rescission proposals.

Deferrals (Attachments B and D)

As of May 1, 1996, $2,693.2 million in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 1996.

Information From Special Message

The special messages containing information on the rescission proposals and deferrals that are covered by this cumulative report are printed in the editions of the Federal Register cited below:

60 FR 55154, Friday, October 27, 1995

61 FR 8691, Tuesday, March 5, 1996

61 FR 10812, Friday, March 15, 1996

61 FR 13350, Tuesday, March 26, 1996

61 FR 17915, Tuesday, April 23, 1996

Alice M. Rivlin,

Director.

BILLING CODE 3110–01–M

ATTACHMENT A

STATUS OF FY 1996 RESCISSIONS
(in millions of dollars)

	Budgetary Resources
Rescissions proposed by the President.....	1,425.9
Rejected by the Congress.....	-0.1
Amounts rescinded by P.L. 104-134.....	-963.4
Currently before the Congress.....	462.4

ATTACHMENT B

STATUS OF FY 1996 DEFERRALS
(in millions of dollars)

	Budgetary Resources
Deferrals proposed by the President.....	3,689.6
Routine Executive releases through May 1, 1996..... (OMB/Agency releases of $996.6 million, partially offset by cumulative positive adjustment of $4 thousand.)	-996.4
Overturned by the Congress.....	---
Currently before the Congress.....	2,693.2

ATTACHMENT C
Status of FY 1996 Rescission Proposals - As of May 1, 1996
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF AGRICULTURE								
Cooperative State Research, Education, and Extension Service								
Buildings and facilities	R96-8	12,000		3-5-96	12,000	5-6-96		
DEPARTMENT OF DEFENSE								
Procurement								
Aircraft procurement, Army	R96-11	140,000		4-12-96				
Procurement of ammunition, Army	R96-12	47,200		4-12-96				
Other procurement, Army	R96-13	5,800		4-12-96				
Procurement of ammunition, Navy and Marine Corps	R96-15	10,000		4-12-96				
Shipbuilding and conversion, Navy	R96-14	9,200		4-12-96				
Missile procurement, Air Force	R96-1		310,000	2-21-96			310,000	P.L. 104-134
Other procurement, Air Force	R96-2		265,000	2-21-96			265,000	P.L. 104-134
National guard and reserve equipment	R96-16	13,600		4-12-96				
Research, Development, Test, and Evaluation								
Research, development, test, and evaluation Army	R96-4		19,500	2-23-96			19,500	P.L. 104-134
	R96-17	9,600		4-12-96				
Research, development, test, and evaluation Navy	R96-5		35,000	2-23-96			35,000	P.L. 104-134
	R96-18	39,800		4-12-96				
Research, development, test, and evaluation Air Force	R96-3		245,000	2-21-96			245,000	P.L. 104-134
	R96-6		44,900	2-23-96			44,900	P.L. 104-134
	R96-19	58,000		4-12-96				

1/ Funds never withheld from obligation.

ATTACHMENT C
Status of FY 1996 Rescission Proposals - As of May 1, 1996
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF DEFENSE - Continued								
Research, development, test, and evaluation								
Defense-wide	R96-7		40,600	2-23-96			40,600	P.L. 104-134
	R96-20	67,200		4-12-96				
Military Construction								
Military contruction, Army	R96-21	10,000		3-13-96				
Military contruction, Navy	R96-22	8,000		3-13-96				
Military contruction, Air Force	R96-23	15,000		3-13-96				
Military contruction, Defense-wide	R96-24	13,000		3-13-96				
Military contruction, Air National Guard	R96-25	4,000		3-13-96				
GENERAL SERVICES ADMINISTRATION								
Real Property Activities								
Federal buildings fund	R96-9	3,500		3-5-96	1/		3,400	P.L. 104-134
TOTAL RESCISSIONS		**465,900**	**960,000**		**12,000**		**963,400**	

1/ Funds never withheld from obligation.

ATTACHMENT D
Status of FY 1996 Deferrals - As of May 1, 1996
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 5-1-96
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund and International Fund for Ireland	D96-1	75,000		10-19-95					
	D96-1A		1,942,076	2-23-96	889,823			4	1,127,257
Foreign military financing program	D96-4	1,385,140		2-23-96					1,385,140
Foreign military financing loan program	D96-5	64,400		2-23-96					64,400
Agency for International Development									
International disaster assistance, Executive	D96-6	124,625		2-23-96	84,000				40,625
DEPARTMENT OF STATE									
Other									
United States emergency refugee and migration assistance fund	D96-3	40,486		10-19-95					
	D96-3A		50,545	3-5-96	22,546				68,486
SOCIAL SECURITY ADMINISTRATION									
Limitation on administrative expenses	D96-2	7,321		10-19-95					7,321
TOTAL, DEFERRALS		**1,696,972**	**1,992,621**		**996,369**			**4**	**2,693,228**

[FR Doc. 96–13052 Filed 5–23–96; 8:45 am]
BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 21964; 812–9860]

Franklin Templeton Fund Manager, et al.; Notice of Application

May 20, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under the Investment. Company Act of 1940 (the ''Act'').

APPLICANTS: Franklin Templeton Fund Manager (''FTFM''); Franklin Gold Fund; Franklin Premier Return Fund; Franklin Equity Fund; AGE High Income Fund, Inc.; Franklin Custodian Funds, Inc.; Franklin Money Fund; Franklin California Tax-Free Income Fund, Inc.; Franklin Federal Money Fund; Franklin Tax-Exempt Money Fund; Franklin New York Tax-Free Income Fund, Inc.; Franklin Federal Tax-Free Income Fund; Franklin Tax-Free Trust; Franklin California Tax-Free Trust; Franklin New York Tax-Free Trust; Franklin Investors Securities Trust; Institutional Fiduciary Trust; Franklin Value Investors Trust; Franklin Tax-Advantaged International Bond Fund; Franklin Tax-Advantaged High Yield Securities Fund; Franklin Tax-Advantaged U.S. Government Securities Fund; Franklin Strategic Mortgage Portfolio; Franklin Municipal Securities Trust; Franklin Managed Trust; Franklin Strategic Series; Adjustable Rate Securities Portfolios; The Money Market Portfolios; Midcap Growth Portfolio; The Portfolios Trust; Franklin International Trust; Franklin Real Estate Securities Trust; Franklin Templeton Money Fund Trust; Franklin Valuemark Funds; Franklin Government Securities Trust; Franklin Templeton Global Trust (collectively, the ''Franklin Funds''); Franklin Templeton Japan Fund; Templeton Variable Products Series Fund; Templeton Growth Fund, Inc.; Templeton Funds, Inc.; Templeton Smaller Companies Growth Fund, Inc.; Templeton Income Trust; Templeton Real Estate Securities Fund; Templeton Global Investment Trust; Templeton Global Opportunities Trust; Templeton American Trust, Inc.; Templeton Institutional Funds, Inc.; Templeton Developing Markets Trust (collectively, the ''Templeton Funds'') (the Franklin Funds and the Templeton Funds are collectively referred to as the ''Franklin Templeton Group of Funds''); any future open-end investment companies for which Franklin Advisers, Inc. (or any entities controlling, controlled by or under common control with Franklin Advisers, Inc.), Franklin Institutional Services Corporation (or any entities controlling, controlled by or under common control with Franklin Institutional Services Corporation), Templeton, Galbraith & Hansberger Ltd. (or any entities controlling, controlled by or under common control with Templeton, Galbraith & Hansberger Ltd.), Templeton Investment Counsel, Inc. (or any entities controlling, controlled by or under common control with Templeton Investment Counsel, Inc.), or Templeton Investment Management (Singapore) Pte. Ltd. (or any entities controlling, controlled by or under common control with Templeton Investment Management (Singapore) Pte. Ltd.) acts as investment adviser or for which Franklin/Templeton Distributors, Inc. (or any entities controlling, controlled by or under common control with Franklin/Templeton Distributors, Inc.) acts as principal underwriter (the Franklin Funds, the Templeton Funds and such future funds are collectively referred to herein as the ''Funds'' which reference, unless hereinafter designated otherwise, is intended to include series of shares with different investment portfolios offered by such investment companies); and Franklin Advisers, Inc. (''FAI''), Franklin Institutional Services Corporation (''FISCO''), Templeton, Galbraith & Hansberger Ltd., Templeton Investment Counsel, Inc., Templeton Investment Management (Singapore) Pte. Ltd. (collectively, ''Templeton Advisers'') (FAI, FISCO and the Templeton Advisers are collectively referred to as the ''Advisers'' and each is individually referred to as an ''Adviser'') and Franklin/Templeton Distributors, Inc. (''FTDI'' or ''Distributor'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act from section 12(d)(1) of the Act, and under sections 6(c) and 17(b) of the Act from section 17(a) of the Act.

SUMMARY OF APPLICATION: The requested order would permit series of the Franklin Templeton Fund Manager, which will be registered as an open-end management investment company, to invest substantially all of their assets in a combination of Franklin Funds and Templeton Funds.

FILING DATES: The application was filed on November 29, 1995, and amended on March 25, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 14, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Deborah R. Gatzek, Senior Vice President-Legal, Franklin Resources, Inc., 777 Mariners Island Boulevard, San Mateo, CA 94404.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenless, Senior Counsel, at (202) 942–0581, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. FTFM is a newly formed Delaware Business Trust that will be registered under the Act as an open-end management investment company. FTFM intends to offer shares in three open-end series, designated as Series I, II and III (the ''Asset Allocation Series'' or ''Series''). Each Series intends to invest substantially all of its assets in a combination of Franklin Funds and Templeton Funds, each of which is an open-end management investment company, or series thereof (the ''Underlying Funds''). While the Asset Allocation Series currently intends to invest in the Funds listed herein, the Series may also invest in any Fund in the Franklin Templeton Group of Funds currently existing or to be organized in the future.

2. The Asset Allocation Series will be designed for investors who wish to achieve their investment objectives of long-term total return in excess of the inflation rate by investing in one mutual fund that provides for professional asset allocation of investments among various Franklin Funds and Templeton Funds. Such asset allocation and, consequently, the percentage investment in the Underlying Funds, will be related to the investor's specific long-term investment goals.

3. Series I will be targeted to investors with shorter time horizons, including

those in or approaching retirement. Series II will be targeted to investors with medium-term horizons, including employees in mid-career. Series III will be targeted to investors with long-term horizons, including employees in their early career years. The Series would be marketed to both tax-exempt (*i.e.*, 401(k) Plans and IRAs) and taxable accounts as a vehicle for meeting specified investment planning goals, including, in particular, retirement funding.

4. The Underlying Funds are currently offered in a classes structure, either with Class I and Class II shares, or with a single class of shares subject to a pricing structure resembling that of Class I. With the exception of certain Templeton Funds which offer shares with a maximum front-end sales charge of 5.75%, most Class I shares, or shares of Funds offering only one class of shares, carry a maximum front-end sales charge of 4.50% for equity Funds and 4.25% for fixed income funds. The majority of Class I shares, or shares of funds offering only one class of shares, are offered with a Rule 12b–1 fee of a maximum of 0.25% for equity funds, 0.15% for taxable fixed income funds and 0.10% for tax-free fixed income funds, and a limited contingent deferred sales charge (''CDSC'') for certain large purchases.

5. Class II shares carry a 1.00% front-end sales charge, a servicing fee of 0.15% for fixed income funds and 0.25% for equity funds and an asset-based sales charge of 0.50% for fixed income funds and 0.75% for equity funds. In addition, Class II shares carry a CDSC of 1.00% if shares are redeemed within the first eighteen months after purchase.

6. Applicant proposes that the Asset Allocation Series will invest in a third class of shares to be created for each Underlying Fund that currently offers two classes of shares (and a second class to be created for each Underlying Fund that currently offers only one class of shares) (collectively referred to herein as ''Class III shares''). Such Class III shares would be sold to and redeemed by the Asset Allocation Series at net asset value without the imposition of any front-end or deferred sales charge, or redemption fee. In addition, Class III shares would not be subject to distribution fees under a rule 12b–1 plan.

7. It is proposed that the Asset Allocation Series would be created with a classes structure which mirrors the classes structure for the equity Underlying Funds; namely, each Asset Allocation Series would offer Class I and Class II shares, largely as described above. Class I shares of the Asset Allocation Series would be subject to rule 12b–1 distribution fees with a maximum charge of 0.25%. Class II shares of the Asset Allocation Series would be subject to rule 12b–1 plan fees with a servicing fee of 0.25% and an asset-based sales charge of 0.75%.

8. The Asset Allocation Series will bear all of their own expenses and, indirectly, their proportionate share of the expenses of each Underlying Fund. Generally, it is expected that the total expenses of the Asset Allocation Series, both direct and indirect, expressed as a percentage of net assets, will be slightly higher than what a shareholder would pay if he or she invested directly in the same mix of Underlying Funds, but within the range of total expenses incurred by equity funds in the Franklin Templeton Group of Funds.

9. FAI intends to provide advisory services, which include asset allocation advice, to the Asset Allocation Series, and will also provide the Series with administrative services. While the general investment advisory and administrative services will be furnished without charge, it is anticipated that FAI will charge an asset allocation fee of no more than 0.25% of average daily net assets of each Asset Allocation Series. Such fee will be for services that are in addition to, rather than duplicative of, advisory services being provided to the Underlying Funds. If FAI determines to charge an advisory fee for other advisory services, it will do so only in conformity with the requirements of the conditions to the requested order.

10. Franklin Templeton Investor Services, Inc. (''FTISTI'') will serve as the shareholder servicing and transfer agent of the Asset Allocation Series. Bank of New York (''BONY'') likely will serve as the custodian for the Asset Allocation Series. FTISI currently provides such shareholder servicing and transfer agency services to the Underlying Funds.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 6(c) provides that the SEC may exempt persons or transactions if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order under section 6(c) exempting them from section 12(d)(1) to permit the Asset Allocation Series to invest in the Underlying Funds in excess of the percentage limitations of that section.

3. Section 12(d)(1) was intended to mitigate or eliminate actual or potential abuses which might arise when one investment company acquires shares of another investment company. These abuses include the acquiring fund imposing undue influence over the management of the acquired funds through the threat of large-scale redemptions, the acquisition by the acquiring company of voting control of the acquired company, the layering of sales charges, advisory fees, and administrative costs, and the creation of a complex pyramidal structure which may be confusing to investors. Applicants believe that none of these potential or actual abuses are present in their proposed fund of funds structure.

4. FAI would charge only a small asset allocation fee to the Asset Allocation Series. Such fee would be of services that are in addition to and not duplicative of the investment advisory services that are being furnished to the Underlying Funds. Thus, while shareholders of the Asset Allocation Series would pay indirectly their proportional share of the advisory fees paid by the Underlying Funds, applicants believe that there would be no duplication or layering of fees.

5. While the Asset Allocation Series will carry a front-end and deferred load structure, the Class III shares of the Underlying Funds selling to the Asset Allocation Series will not have any sales charges, front-end or deferred or redemption fee. Investors in the Asset Allocation Series, therefore, will not be subject to a ''sales load on a sales load.''

6. Applicants' proposal does not contemplate any duplicative distribution expenses. The Class III shares of the Underlying Funds that will sell their shares to the Asset Allocation Series will not carry Rule 12b–1

distribution fees. The Asset Allocation Series' Class I shares and Class II shares will be subject to Rule 12b–1 fees, in accordance with the normal equity fund Rule 12b–1 fees for funds in the Franklin Templeton Group of Funds. Thus, at all times, there will be no duplication of distribution fees paid by shareholders of FTFM.

7. Applicants assert that redemption threats and a concomitant risk of lost advisory fees are not a problem in the context of a fund of funds structure in which all of the funds are members of the same fund family. FTFM would be part of the same fund complex as the Underlying Funds and will only acquire shares of the Underlying Funds. Because the investment advisers to the Underlying Funds, as well as the Asset Allocation Series, would be affiliated, a redemption by an Asset Allocation Series from one Underlying Fund would simply lead to the placing of the proceeds into another Underlying Fund.

8. In addition to not containing the actual and potential abuses which led to the enactment of section 12(d)(1), applicants believe that the structure of the Asset Allocation Series would provide a number of benefits to its shareholders, including: (a) expense ratios only slightly higher than the weighted average of the expense ratios which an investor would pay were he or she to invest the same amount in a combination of Underlying Funds; (b) immediate and broad diversification resulting from the Asset Allocation Series' shareholders access to the existing investment portfolios of the Underlying Funds; and (c) efficient trading practices resulting from the Underlying Funds' ability to engage in block trading, which would enable them to acquire securities at more favorable prices than would smaller transactions.

B. Section 17(a)

1. Section 17(a) makes it unlawful for an affiliated person of a registered investment company, or an affiliated person of such person, to sell securities to, or purchase securities from, the company. The Asset Allocation Series and the Underlying Funds may be considered affiliated persons because they share common officers and/or directors/trustees. An Underlying Fund's issuance of its shares to the Asset Allocation Series may be considered a sale prohibited by section 17(a).

2. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b).[1]

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. FTFM and each Underlying Fund will be part of the same ''group of investment companies,'' as defined in rule 11a–3 under the Act.

2. No Underlying Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. A majority of the trustees of FTFM will not be ''interested persons,'' as defined in section 2(a)(19) of the Act.

4. Before approving any advisory contract under section 15 of the Act, the Board of Trustees of FTFM, including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19), shall find that advisory fees charged under such contract are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Underlying Fund's advisory contact. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of FTFM.

5. Any sales charges or service fees charged with respect to securities of the Asset Allocation Series, when aggregated with any sales charges or service fees paid by the Asset Allocation Series with respect to shares of the Underlying Funds, shall not exceed the limits set forth in Article III, section 26, of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

6. Applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: monthly average total assets for each FTFM portfolio and each of its Underlying Funds; monthly purchases and redemptions (other than by exchange) for each FTFM portfolio and each of its Underlying Funds; monthly exchanges into and out of each FTFM portfolio and each of its Underlying Funds; month-end allocations of each FTFM portfolio's assets among its Underlying Funds; annual expense ratios for each FTFM portfolio and each of its Underlying Funds; and a description of any vote taken by the shareholders of any Underlying Funds, including a statement of the percentage of votes cast for and against the proposal by FTFM and by the other shareholders of the Underlying Funds. Such information will be provided as soon as reasonably practicable following each fiscal year-end of FTFM (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–13142 Filed 5–23–96; 8:45 am]

BILLING CODE 8010–01–M

[1] Section 17(b) applies to specific proposed transactions, rather than an ongoing series of future transactions. *See* Keystone Custodian Funds, 21 S.E.C. 295, 298–99 (1945). Section 6(c) frequently is used to grant relief from section 17(a) to permit an ongoing series of future transactions.

[Rel. No. IC–21965; 812–10094]

National Equity Trust; Notice of Application

May 20, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: National Equity Trust.

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from section 12(d)(3) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order on behalf of itself and subsequently established series (the ''Series'') to permit each Series to invest up to 10% of its total assets in securities of an issuer that derives more than 15% of its gross revenues in its most recent fiscal year from securities related activities.

FILING DATE: The application was filed on April 22, 1996.

HEARING OR NOTIFICATION OF HEARING; An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 14, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature

of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Prudential Securities Incorporated, One New York Plaza, New York, New York 10292, Attn: Richard R. Hoffmann.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or David M. Goldenberg, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Each Series will be a series of applicant, a unit investment trust registered under the Act. Prudential Securities Incorporated is applicant's depositor (the ''Sponsor''). The Sponsor currently intends (but is not obligated) to offer a new Series at about the beginning of each calendar quarter.

2. Each Series' investment objective is to provide total return through a combination of potential capital appreciation and current dividend income. Each Series will invest approximately 10%, but in no event more than 10.5%,[1] of the value of its total assets in each of the ten common stocks in the Dow Jones Industrial Average (the ''DJIA'') with the highest dividend yields (the ''Selected Ten''). Dividend yields will be calculated by annualizing the last quarterly or semiannual ordinary dividend distributed on a security and dividing the result by the market value of the security at the close of the New York Stock Exchange either on or shortly before such Series' initial date of deposit.

3. The DJIA comprises 30 widely-held common stocks listed on the New York Stock Exchange which are chosen by the editors of *The Wall Street Journal.* The DJIA is the property of Dow Jones & Company, Inc., which is not affiliated with any Series or the Sponsor, and does not participate in any way in the creation of any series or the selection of its stocks.

4. The securities deposited in each Series will be chosen solely according to the formula described above, and will not necessarily reflect the research opinions or buy or sell recommendations of the Sponsor. The Sponsor has no discretion as to which securities are purchased. Securities deposited in a Series may include securities of issuers that derived more than 15% of their gross revenues in their most recent fiscal year from securities related activities.

5. During the 90-day period following the initial date of deposit, the Sponsor may deposit additional securities while maintaining to the extent practicable the original proportionate relationship among the number of shares of each stock in the portfolio. Deposits made after this 90-day period must replicate exactly (subject to certain limited exceptions) the proportionate relationship among the number of shares of the securities comprising the portfolio at the end of the initial 90-day period, whether or not a stock continues to be among the Selected Ten.

6. A Series' portfolio will not be actively managed. Sales of portfolio securities will be made in connection with redemptions and at termination of the trust. The Sponsor has no discretion as to when securities will be sold except that it is authorized to direct the trustee to sell securities upon failure of the issuer of a security in the trust to declare or pay anticipated cash dividends, institution of certain materially adverse legal proceedings, default under certain documents materially and adversely affecting future declaration or payment of dividends, or the occurrence of other market or credit factors that, in the opinion of the Sponsor, would make retention of such securities in the trust detrimental to the interests of the unit holders, and to pay any deferred sales charge. The adverse financial condition of an issuer will not necessarily require the sale of its securities from a Series' portfolio.

Applicant's Legal Analysis

1. Section 12(d)(3) prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1(b) exempts from section 12(d)(3) purchases by an investment company of securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities related activities, provided that, among other things, immediately after such acquisition, the acquiring company has invested not more than 5% of the value of its total assets in securities of the issuer. Notwithstanding the above, rule 12d3–1(c) prohibits any registered investment company from acquiring any security issued by that company's investment adviser, promoter, or principal underwriter, or any affiliated person of such investment adviser, promoter, or principal underwriter.

2. Applicant seeks an exemption under section 6(c) from the provisions of section 12(d)(3) to permit any Series to invest up to approximately 10%, but in no event more than 10.5%, of the value of its total assets in securities of an issuer that derives more than fifteen percent of its gross revenues from securities related activities. Applicant and each Series will comply with all of the provisions of rule 12d3–1, except for the 5% limitation on the amount of assets that may be invested in securities of issuers that derived more than 15% of their gross revenues from securities related activities in their most recent fiscal year.

3. Applicant asserts that section 12(d)(3) was intended to prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses, to prevent potential conflicts of interest, and to eliminate certain reciprocal practices between investment companies and securities related businesses.

4. One potential conflict discussed by applicant could occur if an investment company purchased securities or other interests in a broker-dealer to reward that broker-dealer for selling fund shares. Applicant believes that this concern does not arise in connection with its application because neither applicant nor the Sponsor has discretion in choosing the securities or percentage amount purchased. The security must first be included in the DJIA, which is unaffiliated with applicant or the Sponsor, and must also qualify as one of the Selected Ten as calculated by the objective formula.

5. Applicant also states that the effect of a Series' purchase on the stock of parents of broker-dealers would be *de minimis.* Applicant asserts that the common stocks of securities related issuers represented in the DJIA are widely held, have active markets, and that potential purchases by any Series would represent an insignificant amount of the outstanding common stock and the trading volume of any of these issues. Accordingly, applicant

[1] The Sponsor will attempt to purchase equal values of each of the ten common stocks for a Series' portfolio and may purchase the securities in odd lots in order to achieve this goal. However, it is more efficient if securities are purchased in 100 share lots and 50 share lots. As a result, the Sponsor may choose to purchase securities of a securities related issuer which represent over 10%, but in no event more than 10.5%, of a Series' assets on the initial date of deposit to the extent necessary to enable the Sponsor to meet its purchase requirements and to obtain the best price for the securities.

believes that it is highly unlikely that purchases of these securities by a Series would have any significant impact on the market value of any such securities.

6. Another potential conflict of interest discussed by applicant could occur if an investment company directed brokerage to a broker-dealer in which the company has invested to enhance the broker-dealer's profitability or to assist it during financial difficulty, even though the broker-dealer may not offer the best price and execution. To preclude this type of conflict, applicant and each Series agree, as a condition of this application, that no company held in the portfolio of a Series nor any affiliate thereof will act as broker for any Series in the purchase or sale of any security for its portfolio.

7. Applicant states that the requested relief is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant's Condition

Applicant agrees that the requested exemptive order may be conditioned upon no company held in the portfolio of a Series nor any affiliate thereof, acting as broker for any Series in the purchase or sale of any security for the Series' portfolio.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–13141 Filed 5–23–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37223; File No. SR–NASD–96–17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Definitions of Bona Fide Independent Market and Bona Fide Independent Market Maker

May 17, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 24, 1996, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. 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 herewith filing a proposed rule change to Rule 2720 of the NASD's Conduct Rules to amend the definitions of ''Bona fide independent market'' and ''Bona fide independent market maker.'' Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Conduct Rules

2000. Business Conduct

* * * * *

2700. Securities Distributions

2720. Distribution of Securities of Members and Affiliates—Conflicts of Interest

(a) General

(1) No member or person associated with a member shall participate in the distribution of a public offering of debt or equity securities issued or to be issued by the member, the parent of the member, or an affiliate of the member and no member or parent of a member shall issue securities except in accordance with this Rule.

(2) No member or persons associated with a member shall participate in the distribution of a public offering of debt or equity securities issued or to be issued by a company if the member and/or its associated persons, parent or affiliates have a conflict of interest with the company, as defined herein, except in accordance with this Rule.

(b) Definitions

For purposes of this Rule, the following words shall have the stated meanings:

(1) and (2) No change.

(3) Bona fide independent market—a market in a security which:

(A) Is registered pursuant to the provisions of Sections 12(b) or 12(g) of the Act or issued by a company subject to Section 15(d) of such Act, unless exempt from those provisions;

[(B) Has an aggregate trading volume for the 12 months immediately preceding the filing of the registration statement of at least 100,000 shares;]

[(C) Has outstanding for the entire 12 month period immediately preceding the filing of the registration statement, a minimum of 250,000 publicly held shares; and]

[(D) In the case of over-the-counter securities, has had at least three bona fide independent market makers for a period of at least 30 days immediately preceding the filing of the registration statement and the effective date of the offering.]

(B) Has a market price as of the close of trading on the trade date immediately preceding filing of the registration statement or offering circular of five dollars or more per share, and which has traded at a price of five dollars or more per share in at least 20 of the 30 trading days immediately preceding the filing of the registration statement or offering circular; and

(C) For at least 90 calendar days immediately preceding the filing of the registration statement or offering circular with the Department:

(i) Has been listed on and is in compliance with the requirements for continued listing on a national securities exchange; or

(ii) Has been listed on and is in compliance with the requirements for continued listing on The Nasdaq Stock Market and has had at least two bona fide independent market makers for a period of at least 30 trading days immediately preceding the filing of the registration statement and the effective date of the offering; and

(D) For the 90 calendar day period immediately preceding the filing of the registration statement or offering circular:

(i) Has an aggregate trading volume of at least 500,000 shares; or

(ii) Has outstanding a minimum of 5,000,000 publicly held shares.

(4) Bona fide independent market maker—a market maker which:

[(A) Continually maintains net capital as determined by Rule 15c3–1 under the Act, of $50,000 or $5,000 for each security in which it makes a market, whichever is less;]

[(B) Regularly publishes bona fide competitive bid and offer quotations in a recognized interdealer quotation system;]

[(C) Furnishes bona fide competitive bid and offer quotations to other brokers and dealers on request; and]

((D) Stands ready, willing and able to effect transactions in reasonable amounts, and at his quoted prices, with other brokers and dealers.)

(A) Is registered as a Nasdaq market maker in the security to be distributed pursuant to this Schedule;

(B) Is not an affiliate of the entity issuing securities pursuant to paragraph (c) of this Schedule and, together with its associated persons, does not in the aggregate beneficially own, at the time of the filing of the registration statement and at the commencement of the distribution, five percent or more of the outstanding voting securities of such entity which is a corporation or beneficially own a partnership interest

in five percent or more of the distributable profits or losses of such entity which is a partnership; and

(C) Is not a recipient of any of the net proceeds of the offering.

* * * * *

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

Introduction and Background

Rule 2720 of the NASD's Conduct Rules (the ''Rule'') (formerly, Schedule E to the NASD's By-Laws) addresses the concern that public investors be adequately protected against conflicts of interest regarding the conduct of due diligence and pricing of securities when investing in securities issued by an NASD member, its parent or an affiliate of a member that is going public or by an issuer with which the member has a conflict of interest (''Rule 2720 offering''). The Rule prohibits a member from underwriting or participating in the underwriting or distribution of a Rule 2720 offering of equity or debt unless the price of the equity offering is established no higher, or the yield of the debt offering is established no lower, than the price recommended by a qualified independent underwriter, who shall also participate in the preparation of the registration statement and prospectus, offering memorandum, or similar document, and exercise usual standards of ''due diligence'' regarding the offering. Rule 2720 provides an exception from the qualified independent underwriter requirement for offerings of equity securities for which a bona fide independent market exists. Rule 2720 defines a bona fide independent market as a market in a security which has, among other things, at least three bona fide independent market makers.

The NASD has reviewed the definitions of bona fide independent market and bona fide independent market maker, which were part of the original version of Rule 2720 when it was adopted as Schedule E in 1972. The NASD is proposing to revise the definitions to incorporate new requirements for listing, public float, trading volume, price, number of bona fide independent market makers, and limitations on the relationship of the bona fide independent market maker to the issuer that will significantly improve the criteria used for determining that a market of sufficient depth and duration exists to constitute an efficient pricing mechanism for the securities to be distributed. The NASD believes that the proposed new definitions will permit members, in appropriate situations, to conduct a secondary offering without the burden and expense of engaging a qualified independent underwriter, while ensuring the public that the added protection of a qualified independent underwriter will be required in situations where the market cannot be relied on to price the securities appropriately.

Description of Proposed Amendments

Bona Fide Independent Market Definition

Registration Requirement

The proposed rule change retains the current requirement in the definition of bona fide independent market that it must be a market in a security which is registered pursuant to Sections 12(b) or 12(g) of the Act or issued by a company subject to Section 15(d) of that Act.

Price Requirement

The current definition of bona fide independent market does not contain a price requirement. The NASD is concerned that a public float requirement, as set forth below, without a corresponding standard for the market price of the securities does not establish a valid benchmark for a bona fide independent market. Therefore, the NASD is proposing to adopt a new provision in the definition of a bona fide independent market that would require that the security have a market price of at least $5 a share as of the close of trading on the day immediately preceding the filing of the registration statement or offering circular, and have traded at a price of $5 or more per share on at least 20 of the 30 trading days immediately preceding the date on which the offering circular or registration statement was filed.

Listing and Market Maker Requirement

The current definition of bona fide independent market does not contain a listing requirement. The NASD believes that a listing on a national securities exchange or The Nasdaq Stock Market indicates that the security trades in an efficient, regulated, and active market and would bring to the definition of bona fide independent market the qualitative standards of a regulated trading environment, such as quote transparency and real-time transaction reporting. Therefore, the NASD is proposing to adopt as one of the requirements for the definition of a bona fide independent market that the security, for at least 90 calendar days immediately preceding the filing of the registration statement or offering circular, have been listed on, and is in compliance with, the requirements for continued listing on (i) a national securities exchange, or (ii) The Nasdaq Stock Market so long as such Nasdaq listing has two bona fide independent market makers for a period of at least 30 trading days immediately preceding the filing of the registration statement or offering circular and the effective date of the offering. Securities quoted on the NASD OTC Bulletin Board service and those traded in the general over-the-courter market, such as the ''pink sheets,'' cannot rely on this requirement.

The proposed requirement that the security have at least two bona fide independent market makers for listings on the Nasdaq Stock Market would replace the current requirement of at least three bona fide independent market makers. Given that a security is permitted to be listed on the Nasdaq Stock Market with two market makers, the NASD believes that two market makers are sufficient to demonstrate the presence of a bona fide independent market away from any Rule 2720 affiliate that may also be making a market in the issuer's securities.

Trading Volume and Public Float Requirement

The current definition of bona fide independent market contains independent requirements for trading volume and public float. Under the current rule, a security is considered to have a bona fide independent market if, for the 12 months immediately preceding the filing of the registration statement, it has *both* an aggregate trading volume of at least 100,000 shares *and* a minimum of 250,000 publicly held shares. Under the proposed rule change, the requirements for trading volume and public float will be in the alternative. That is, for a bona fide independent market to exist, the proposed rule would require a security to have for the 90 calendar day period

immediately preceding the filing of the registration statement or offering circular *either* an aggregate trading volume of at least 500,000 shares *or* a minimum of 5,000,000 publicly held shares outstanding.

The NASD believes that raising the current aggregate 12-months trading volume requirement of 100,000 shares to 500,000 shares in the 90-calendar-day period before the filing of the registration statement or offering circular provides a criterion that is more indicative of an active, current and, therefore, efficient market. Such greater price efficiency establishes a better benchmark for justifying an exemption from the requirement that a qualified independent underwriter establish the price of the offering.

The NASD considers the alternative requirement of a five-million-share public float as the minimum necessary to assure that the market for an issuer's securities will not suffer undue volatility from the dilution that occurs when a large number of shares is offered to the public. In this regard, the NASD notes that a typical ''follow-on'' offering[1] of a company's stock adds between one- and two-million shares to the public float, which is equal to a 40 percent dilution at the five-million-share level.

Bona Fide Independent Market Maker Definition

The Rule currently defines a bona fide independent market maker as one which meets certain net capital requirements, publishes bona fide bid and ask quotations in a recognized interdealer quotation system, furnishes such quotes to other brokers and dealers on request, and stands ready, willing and able to effect transactions at quoted prices with other brokers and dealers. The current standards of the definition were developed at the time the Rule was adopted in 1972 as Schedule E and applied to all securities in the over-the-counter market.

The NASD believes that the current standards for the definition of bona fide independent market maker are no longer necessary in light of the proposed requirement of the definition of bona fide independent market that the security be listed on The Nasdaq Stock Market. Market makers for securities listed on The Nasdaq Stock Market are required to meet certain net capital standards, publish bona fide bid and ask quotations in Nasdaq, which is a recognized interdealer quotation system, furnish quotes to other brokers and dealers on request, and stand ready, willing and able to effect transactions at quoted prices with other brokers and dealers. Therefore, the NASD is proposing that the current requirements be incorporated into a single standard requiring that the market maker be registered as a Nasdaq market maker.

The NASD believes that the definition of bona fide independent market maker should also provide investors with greater assurance that the market maker's activities are independent of any influences that may arise when the issuer's ownership of securities or interest in the offering becomes material. Therefore, the NASD is also proposing to adopt as part of the new definition that a bona fide independent market maker (i) must not be a recipient of any of the net proceeds of the offering, (ii) must not be an affiliate of the entity issuing the securities, and, (iii) together with its associated persons, does not in the aggregate beneficially own, at the time of the filing of the registration statement or offering circular, five percent or more of the outstanding voting securities of the entity issuing the securities, if a corporation, or a five percent or more partnership interest in the distributable profits or losses of the entity, if a partnership.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[2] which require that the Association adopt and amend its rules to promote just and equitable principles of trade, and generally provide for the protection of customers and the public interest in that the proposed rule change, by amending the requirements to qualify for the exception to the qualified independent underwriter requirement for an equity security with a bona fide independent market, significantly improves the criteria used for determining the presence of a bona fide independent market for Rule 2720 offerings and reinforces the standard that a bona fide independent market should be stringent enough to assure the public that a market of sufficient depth and duration exists to constitute an efficient pricing mechanism for the securities to be distributed.

(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

The proposed rule change was published for comment in Notice to Members 95–44 (June, 1995) (''NTM 95–44''). Three (3) comment letters were received in response. All 3 commenters were in favor of the proposed rule change; one commenter suggested substantive changes to the proposed rule change.

Sullivan and Cromwell (''S&C'') suggested revisions to clarify the meanings of the definitions of both ''bona fide independent market'' and ''bona fide independent market maker'' and to ease compliance with these requirements.

Bona Fide Independent Market Definition

The term ''listing requirements'' in the version of the definition of ''bona fide independent market'' published for comment in NTM 95–44 would have required compliance with listing requirements on a national securities exchange or the Nasdaq Stock Market. S&C stated it presumed that this requirement referred to maintenance criteria rather than original listing standards since the definition would otherwise exclude various issuers currently in compliance with appropriate maintenance criteria for continued listing but who, for various reasons, no longer meet initial listing standards.

The NASD agrees that the proposed definition of ''bona fide independent market'' was not intended to require continuous satisfaction of initial listing requirements of the Nasdaq Stock Market or national securities exchanges. Therefore, the proposed rule language has been amended to specifically require compliance with the requirements for continued listing on The Nasdaq Stock Market or a national securities exchange.

The NASD also agrees with S&C that the parenthetical ''(Trading Volume Test)'' in Section 2(c)(4)(i) should be deleted since the term is not used again in the rule language.

S&C also stated that the definition of ''bona fide independent market'' appears to require compliance with ''listing requirements'' only on the filing date of the registration statement and not throughout the preceding 90 calendar days. The NASD believes that the literal language of the proposed rule is clear that compliance with the listing requirements is required throughout the 90 calendar days preceding the filing of the registration statement.

[1] The term ''follow-on'' offering refers to a secondary offering of shares by the issuer.

[2] 15 U.S.C. 78*o*–3.

Bona Fide Independent Market Maker Definition

In the version of the proposed rule change published for comment in NTM 95–44, ''bona fide independent market maker'' was defined, in part, as a market maker who is not affiliated with the issuer and, together with its associated persons, does not in the aggregate beneficially own, at the time of the filing of the registration statement, 5% or more of the issuer's outstanding voting securities, common equity, preferred equity, or subordinated debt (''five percent requirement''). The NASD stated in NTM 95–44 that the proposed new standards for the definition of bona fide independent market maker were largely drawn from the current definition of qualified independent underwriter in the Rule and from the current definition of qualified independent underwriter in the Rule and from the reporting requirements imposed on beneficial owners by Section 13 of the Act. S&C objected to the five percent requirement on a number of grounds.

First, S&C stated that there is a fundamental difference between qualified independent underwriters and bona fide independent market makers that makes it inappropriate to apply the same standards to each. In particular, a qualified independent underwriter directly participates in the offering process and is usually a party to an agreement with the issuer outlining each party's responsibilities under the Rule. A registered market maker for a Nasdaq-listed stock, however, might not be a participant in the distribution and thus not a party to any agreement with either the issuer or the managing underwriter. Thus, a market maker could not be compelled, contractually or otherwise, to divulge the information needed for the issuer and managing underwriter to determine whether the market maker qualifies under the five percent requirement as a bona fide independent market maker.

Second, S&C stated that, contrary to the suggestion in NTM 95–44, the issuer and managing underwriter cannot necessarily obtain the required information from filings made by market makers under Section 13 of the Act. Section 13 (d) and (g) filing requirements apply only to acquisitions of equity securities that are ''voting securities'' and do not provide information regarding a market maker's investment in an issuer's non-convertible preferred stock or subordinated debt. Additionally, under Exchange Act Rule 13d–1(b)(1), many market makers which beneficially own more than five percent (but less than ten percent) of an issuer's outstanding voting securities will not be required to file any related disclosure statement under Section 13, thus eliminating the need to file a Schedule 13 regarding registered equity securities acquired by them in the ordinary course of business and not with the purpose or effect of changing or influencing the control of the issuer.

Third, S&C noted that the five percent requirement prohibits a bona fide independent market maker from holding a five percent securities position *either* at the filing date or at the commencement of the distribution. S&C stated that a market maker not participating in the distribution, who would otherwise qualify as a bona fide independent market maker on the filing date, might very well refuse to provide any undertakings to the issuer regarding the securities positions it will hold on the commencement date. Consequently, an issuer may be unable to ensure that a broker-dealer who qualifies as a bona fide independent market maker on the filing date will remain so qualified on the commencement date.

Finally, S&C noted that the definition of bona fide independent market maker proposed in NTM 95–44 requires that securities ownership by the member's associated persons and immediate family members, parents, and affiliates be aggregated for purposes of the five percent limitation, whereas the current definition of qualified independent underwriter does not require such aggregation. S&C stated that it is odd to include such an aggregation requirement in view of the fact that NTM 95–44 stated that the proposed definition of bona fide independent market maker is intended, in part, to conform to the current definition of qualified independent underwriter.

S&C recommended that the NASD either delete the five percent ownership requirement entirely or at least that element of the five percent requirement that requires aggregation of ''associated persons and their immediate family, parents and affiliates.''

The NASD agrees that the nature of Section 13 filing requirements appears to make such reporting an inadequate substitute source of information for ensuring compliance with the definition of bona fide independent market maker proposed in NTM 95–44. Therefore, the NASD has eliminated the requirement that a bona fide independent market maker have no more than a five percent beneficial ownership position in the *non-voting* securities of an issuer including common equity, preferred equity, and subordinated debt, but has retained the five percent ownership requirement with respect to the issuer's *voting* securities. The NASD believes that if a market of sufficient depth and liquidity exists to meet the other stringent requirements of the definition of a bona fide independent market, then the integrity of the pricing of the offering is preserved regardless of whether one or more market makers hold positions in the issuer's non-voting securities.

The NASD also agrees that the requirements for a bona fide independent market maker proposed in NTM 95–44 are more stringent than the current requirements imposed on a qualified independent underwriter under the Rule. Therefore, the NASD has eliminated the requirement to aggregate the ownership of the immediate family, parents and affiliates of the member and its associated persons with any direct ownership by the market maker and its associated persons. However, when a bona fide independent market maker and its associated persons ''beneficially own'' voting securities of the same issuer, the NASD considers aggregation of ownership to be appropriate.[3]

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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

[3] ''Beneficial Ownership'' is defined in the Rule to mean the right to the economic benefits of a security.

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 the file number in the caption above and should be submitted by June 14, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–13143 Filed 5–23–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37229; File No. SR–PHILADEP–95–12]

Self-Regulatory Organizations; The Philadelphia Depository Trust Company; Notice of Filing of a Proposed Rule Change Seeking To Establish a Centralized Office Processing System

May 20, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 19, 1995, the Philadelphia Depository Trust Company (''Philadep'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–PHILADEP–95–12), which Philadep amended on March 20, March 27, March 28, and April 1, 1996,[2] as described in Items I, II, and III below, which items have been prepared primarily by Philadep. 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

Philadep proposes of offer to its participants a customer name safekeeping and branch receive processing service known as the Centralized Office Processing Service (''COPS'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Philadep included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Philadep has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

COPS is a customer name[4] safekeeping and branch receive processing service that Philadep proposes to offer to interested participants for both depository eligible and ineligible securities provided that all such securities have a valid CUSIP number. The primary objective of COPS is to allow Philadep participants to utilize Philadep as a custodial agent for customer name securities.

COPS is designed to offer broker-dealers the opportunity to eliminate a labor intensive, low profit service from the broker-dealers' operations. Philadep believes COPS will serve several functions including relieving Philadep participants from the processing and auditing responsibilities associated with receiving customer name securities, reducing the costs Philadep participants bear in connection with maintaining safekeeping for physical certificates, and centralizing more securities certificates in a depository environment.

Under COPS, deliveries of customer name certificates from Philadep participants will be deposited into Philadep's vault for safekeeping.[5] Upon an appropriate instruction from the submitting participant to withdrawn positions held in customer name or if a participant's customer wishes to sell the securities, Philadep may either (i) send these certificates to the participant or (ii) if the securities are depository eligible and possess all necessary endorsements and stock or bond powers, forward them to the transfer agent for reregistration into Philadep's nominee name and subsequently deposit them into the participant's general Philadep account.[6]

As proposed, COPS also will permit Philadep participants to collect, process, and forward certificates and related documentation directly to Philadep from their branch offices. This enables Philadep to operate as the participants' central processing office. Thus, COPS will eliminate steps in the ordinary certificates routing process by allowing participants' branch offices to forward these documents directly to Philadep. The branch receive processing facility will apply to both customer name safekeeping positions and to ordinary deposits that participants will forward to the depository to be placed in Philadep's nominee name.

The COPS program will require Philadep participants utilizing the new service to send their securities to Philadep through Philadep's Automated Deposit System (''ADS''). This will allow Philadep participants to report their deliveries to Philadep in advance of the physical delivery.[7] Philadep will verify the contents of the incoming deliveries and will provide intraday reconciliation through computer-to-computer capabilities. Philadep will endeavor to resolve with the delivering participant any discrepancies between the ADS transmission and the contents of the packages. If the participant does not properly reconcile its submissions with Philadep or supply the proper instructions regarding these items within thirty days, Philadep will automatically send these exception items back to the respective participant's branch or central office. Philadep has not established fees for COPS; therefore, prior to its implementation, Philadep will file a proposed rule change with the Commission setting forth the fees for COPS.

In connection with providing the COPS service, Philadep believes that it operates as a control location for securities deposited into COPS within the meaning of Section 15(c) of the Act and Rule 15c3–3(c)(5) promulgated thereunder. In accordance with 15c3–3(c)(5), Philadep states (i) it qualifies as

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[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letters from J. Keith Kessel, Esq., Compliance Officer, Philadep, to Peter R. Geraghty, Esq., Senior Counsel, Division of Market Regulation, Commission (March 20, March 22, March 28, and April 1, 1996).

[3] The Commission has modified the text of the summaries submitted by PHILADEP.

[4] Customer name securities refer to securities that are registered in the name of the beneficial owner.

[5] Philadep will segregate all customer name certificates from nominee name certificates in its vault.

[6] For customer name securities that are not depository eligible at the time a transfer request is made, Philadep will perform all necessary due diligence on such securities to make them depository eligible so that the securities can be registered in Philadep's nominee name and subsequently available for book-entry delivery into the participant's general Philadep account.

[7] In addition to reporting incoming deposits prior to physical delivery, ADS will check securities against Philadep's certificate master file to ascertain whether the securities possess a valid CUSIP number.

a bank within the meaning of Section 3(a)(6) of the Act because it is a member of the Federal Reserve System, (ii) COPS is a custody business designed to hold securities in a depository ''free'' position, which will not require payment to return the securities to brokers and dealers, and (iii) securities deposited into COPS will not be subject to any right, charge, security interest, lien, or claim in favor of Philadep or any of its creditors.

Philadep believes the proposed COPS service complies with Section 17A of the Act insofar as it is contemplated to protect investors and the public interest, to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, and to further assure the safeguarding of securities which are in the custody and control of Philadep.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Philadep believes that COPS will foster competition.

(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 with respect to the proposed rule change. However, Philadep has received several oral comments from its participants which support Philadep in developing the services contemplated by the proposed rule change. These comments focus of the benefits of cost reduction and Philadep participants' opportunity costs.

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 Philadep 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of Philadep. All submissions should refer to the file number SR–PHILADEP–95–12 and should be submitted by June 14, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–13140 Filed 5–23–96; 8:45 am]

BILLING CODE 8010–01–M

[8] 17 CFR 200.30–3(a)(12) (1995).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2852; (Amendment #1]

Illinois Declaration of Disaster Loan Area

In accordance with notices from the Federal Emergency Management Agency dated May 9 and May 10, 1996, the above-numbered Declaration is hereby amended to include Lawrence, Madison, and Monroe Counties in the State of Illinois as a disaster area due to damages caused by severe storms and flooding beginning on April 28, 1996 and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Bond, Crawford, Jersey, Macoupin, Montgomery, Richland, and Wabash in Illinois; Jefferson, St. Charles, and Ste. Genevieve Counties in Missouri; and Knox and Sullivan Counties in Indiana may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is July 5, 1996, and for loans for economic injury the deadline is February 6, 1997.

The economic injury number for the State of Indiana is 888900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 16, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–13065 Filed 5–23–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2853]

New Mexico (and Contiguous Counties in Colorado); Declaration of Disaster Loan Area

Taos County and the contiguous counties of Colfax, Mora, and Rio Arriba in the State of New Mexico, and Conejos and Costilla Counties in the State of Colorado constitute a disaster area as a result of damages caused by a wildfire that occurred May 5 through May 10, 1996. Applications for loans for physical damage may be filed until the close of business on July 15, 1996 and for economic injury until the close of business on February 18, 1997 at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, Texas 76155, or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	7.625
Homeowners without credit available elsewhere	3.875
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damage are 285305 for New Mexico and 285405 for Colorado. For economic injury the numbers are 889000 for New Mexico and 889100 for Colorado.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 16, 1996.

Philip Lader,

Administrator.

[FR Doc. 96–13066 Filed 5–23–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending 5/17/96

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–96–1367.
Date filed: May 13, 1996.
Parties: Members of the International Air Transport Association.
Subject: COMP Telex—Reso 024f, Currency Fare Changes—Namibia, Intended effective date: June 1, 1996.

Docket Number: OST–96–1383.
Date filed: May 17, 1996.
Parties: Members of the International Air Transport Association.

Subject:

TC Reso/P 1940 dated May 10, 1996 r1–6
TC2 Reso/P 1041 dated May 10, 1996 r7
TC2 Reso/P 1943 dated May 10, 1996 r8–17
TC2 Reso/P 1944 dated May 10, 1996 r18–21
TC2 Reso/P 1947 dated May 10, 1996 r22–38
TC2 Reso/P 1948 dated May 10, 1996 r39–52
TC2 Reso/P 1949 dated May 10, 1996 r53–61

Within Europe Expedited Resolutions (A summary is attached.)
Intended effective date: expedited June 15/July 1/July 15, 1996.

Paulette V. Twine,
Chief, Documentary Services Division.

[FR Doc. 96–13180 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending May 17, 1996

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–96–1371.
Date filed: May 14, 1996.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 11, 1996.
Description: Application of Delta Air Lines, Inc., pursuant to 49 U.S.C. Sections 41101 and 41108 and Subpart Q of the Regulations, applies for renewal of its Certificate of Public Convenience and Necessity for Route 178, Segment 5, as issued by Order 91–10–54, authorizing Delta to engage in foreign air transportation of persons, property and mail between the terminal point Atlanta, Georgia, via the intermediate points the Azores and Lisbon, Portugal, and the coterminal points Madrid, Barcelona, Malaga and Palma de Mallorca, Spain. Delta's certificate for Route 178, Segment 5 expires on November 28, 1996. Delta requests renewal of its certificate for a term of five years.

Docket Number: OST–96–1384.
Date filed: May 17, 1996.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 14, 1996.
Description: Application of United Parcel Service Co., pursuant to 49 U.S.C. Section 41102 and Subpart Q of the Regulations, requesting a certificate of public convenience and necessity authorizing it to engage in interstate charter air transportation of persons, property and mail.

Docket Number: OST–96–1385.
Date filed: May 17, 1996.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 14, 1996.
Description: Application of United Parcel Service Co., pursuant to 49 U.S.C. Section 41102, Subpart Q of the Regulations, requesting a certificate of public convenience and necessity authorizing it to engage in charter foreign air transportation of persons, property and mail.

Paulette V. Twine,
Chief, Documentary Services Division.

[FR Doc. 96–13179 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–62–P

Coast Guard

[CGD08–96–012]

Lower Mississippi River Waterway Safety Advisory Committee; Solicitation for Membership

AGENCY: Coast Guard, DOT.

ACTION: Notice of solicitation for members.

SUMMARY: The U.S. Coast Guard is seeking applications for appointment to membership on the Lower Mississippi River Waterway Safety Advisory Committee.

DATES: Request for applications should be received no later than June 30, 1996. Completed applications should be returned no later than July 15, 1996.

ADDRESSES: Persons interested in applying should write to Commander, Eighth Coast Guard District (oan), Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396.

FOR FURTHER INFORMATION CONTACT: Mr. Monty Ledet, USCG, Recording Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander Eighth Coast Guard (oan) Room 1209, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone number (504) 589–4686).

SUPPLEMENTARY INFORMATION: The Committee shall consist of twenty-four members, who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels on the waters of the Lower Mississippi River.

(1) Five members representing River Port Authorities between Baton Rouge, Louisiana, and the head of passes of the Lower Mississippi River, of which one member shall be from the Port of St. Bernard and one member from the Port of Plaquemines.

(2) Two members representing vessel owners or ship owners domiciled in the State of Louisiana.

(3) Two members representing organizations which operate harbor tugs or barge fleets in the geographical area covered by the Committee.

(4) Two members representing companies which transport cargo or passengers on the navigable waterways in the geographical area covered by the Committee.

(5) Three members representing State Commissioned Pilot organizations, with one member each representing the New Orleans/Baton Rouge Steamship Pilots Association, the Crescent River Port Pilots Association, and the Associated Branch Pilots Association.

(6) Two at-large members who utilize water transportation facilities located in the geographical area covered by the Committee.

(7) Three members representing consumers, shippers, or importers/exporters that utilize vessels which utilize the navigable waterways covered by the Committee.

(8) Two members representing those licensed merchant mariners, other than pilots, who perform shipboard duties on those vessels which utilize navigable waterways covered by the Committee.

(9) One member representing an organization that serves in a consulting or advisory capacity to the maritime industry.

(10) One member representing an environmental organization.

(11) One member representing the general public.

To achieve the balance of membership required by the Federal advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women.

The purpose of the committee is to provide local expertise on such matters as communications, surveillance, traffic control, anchorages, aids to navigation, and other related topics dealing with navigation safety in the Lower Mississippi River area as required by the Coast Guard. The committee normally meets four times a year. Members serve voluntarily, without compensation from the Federal Government for salary, travel, or per diem. Term of membership will be from October 1, 1996 to October 1, 1998.

Dated: May 16, 1996.

R.C. North,

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

[FR Doc. 96–13161 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of a new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given a new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Stewart R. Miller, Manager, Transport Standards Staff, ANM–110, FAA, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Ave. SW., Renton, WA 98055–4056, telephone (206) 227–2190, fax (206) 226–1320.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is Transport Airplane and Engine issues. These issues involve the airworthiness standards for transport category airplanes in 14 CFR parts 25, 33, and 35 of the FAR and parallel provisions in 14 CFR parts 121 and 135 of the FAR. The corresponding European airworthiness standards for transport category airplanes are contained in Joint Aviation Requirements (JAR)–25, JAR–E, and JAR–P, respectively. The corresponding Canadian Standards are contained in Chapters 525, 533 and 535 respectively.

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following harmonization task:

System Design and Analysis Harmonization and Technology Update. Review § 25.1309, JAR paragraph 25.1309, the associated Advisory Circular 25.1309–1A, and Advisory Circulars Joint Numbers 1 through 8. In light of this review, recent experience in applying §/paragraph 25.1309 of the FAR and of the JAR, and the implications of new technology, harmonize §/paragraph 25.1309 and revise the associated guidance material in Advisory Circular 25.1309–1A, Advisory Material Joint 25.1309, and Advisory Circulars Joint Numbers 1 through 8 as necessary. In addition to the general task of harmonizing the wording and application of §/paragraph 25.1309, attention should be given to airplane level safety assessment, instructions for continued airworthiness of fault tolerant systems, use of operational factors in the safety assessment process, and acceptable methods for showing compliance with §/paragraph 25.1309. Review wording and application of §/paragraph 25.1301 and revise if necessary, such that non-safety related equipment, such as passenger entertainment devices, etc. are not required to meet their specifications for intended function.

The FAA has also asked that ARAC determine if rulemaking action (e.g., NPRM, supplemental MPRM, final rule, withdrawal) should be taken, or advisory material should be issued or revised. If so, ARAC has been asked to prepare the necessary documents, including economic analysis, to justify and carry out its recommendation(s).

ARAC Acceptance of Task

ARAC has accepted this task and has chosen to assign it to the existing Systems Design and Analysis Harmonization Working Group. The working group will serve as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. IF ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Activity

The System Design and Analysis Harmonization Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommended a work plan for completion of the tasks, including rationale supporting such a plan, for consideration at the meeting of ARAC to consider Transport Airplane and Engine Issues held following publication of this notice.
2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in items 3 below.
3. For each task, draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations.
4. Provide a status report at each meeting of ARAC held to consider Transport Airplane and Engine Issues.

Participation in the Working Group

The Systems Design and Analysis Harmonization Working Group is composed of experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the tasks, and stating the expertise he or she would bring to the working group. The request will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory

Committee Act. Meetings of the Systems Design and Analysis Harmonization Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on May 14, 1996.

Chris Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 96–13158 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of a new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of a new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Stewart R. Miller, Manager, Transport Standards Staff, ANM–110, FAA, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Ave. SW., Renton, WA 98055–4056, telephone (206) 227–2190, fax (206) 226–1320.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is Transport Airplane and Engine issues. These issues involve the airworthiness standards for transport category airplanes in 14 CFR parts 25, 33, and 35 of the FAR and parallel provisions in 14 CFR parts 121 and 135 of the FAR. The corresponding European airworthiness standards for transport category airplanes are contained in Joint Aviation Requirements (JAR)–25, JAR–E and JAR–P, respectively. The corresponding Canadian Standards are contained in Chapters 525, 533 and 535 respectively.

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following harmonization task:

Fuselage Doors. Review the current standards of § 25.783 and corresponding JAR–25.783 concerning doors and any related advisory material. Review also any relevant service experience, National Transportation Safety Board recommendations A–89–092, A–89–093, A–89–094 and A–92–21, and recommendations made by the Air Transport Association door review team. In light of this review, recommend changes to harmonize § 25.783 and JAR–25.783, recommend new harmonized standards, and develop related advisory material as necessary.

The FAA has also asked that ARAC determine if rulemaking action (e.g., NPRM, supplemental NPRM, final rule, withdrawal) should be taken, or advisory material should be issued or revised. If so, ARAC has been asked to prepare the necessary documents, including economic analysis, to justify and carry out its recommendation(s).

ARAC Acceptance of Task

ARAC has accepted this task and has chosen to assign it to the existing General Structures Harmonization Working Group. The working group will serve as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Activity

The General Structures Harmonization Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the tasks, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider Transport Airplane and Engine Issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.

3. For each task, draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations.

4. Provide a status report at each meeting of ARAC held to consider Transport Airplane and Engine Issues.

Participation in the Working Group

The General Structures Harmonization Working Group is composed of experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter with wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the tasks, and stating the expertise he or she would bring to the working group. The request will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the General Structures Harmonization Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on May 14, 1996.

Chris Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 96–13159 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Port Columbus International Airport, Columbus, OH

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of intent to rule on applications.

SUMMARY: The FAA proposes to rule and invites public comment on the

application to impose and use the revenue from a PFC at Port Columbus International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 24, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Larry Hedrick, Executive Director of the Columbus Municipal Airport Authority at the following address: Port Columbus International Airport, 4600 International Gateway, Columbus, Ohio 43219.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Columbus Municipal Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary W. Jagiello, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (313) 487–7296. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Port Columbus International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On May 14, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by Columbus Municipal Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 21, 1996.

The following is a brief overview of the application.

PFC Application No.: 96–05–C–00–CMH

Level of the PFC: $3.00

Actual charge effective date: October 1, 1992

Proposed charge expiration date: September 1, 1997

Total estimated PFC revenue: $9,437,955

Brief description of proposed project(s): Runway 10L–28R Improvements

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application at the Columbus Municipal Airport Authority.

Issued in Des Plaines, Illinois on May 17, 1996.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96–13160 Filed 5–23–96; 8:45 am]

BILLING CODE 4910–13–M

Surface Transportation Board [1]

[STB Finance Docket No. 32901]

H. Peter Claussen and Linda C. Claussen—Continuance in Control Exemption—Lexington & Ohio Railroad Co., Inc.

H. Peter Claussen and Linda C. Claussen, noncarrier individuals (Applicants), have filed a notice of exemption to continue in control of Lexington & Ohio Railroad Co., Inc. (L&O), upon L&O's becoming a Class III rail carrier.

The transaction was expected to be consummated on or after May 10, 1996.

This proceeding is related to *Lexington & Ohio Railroad Co., Inc.—Acquisition and Operation Exemption—Norfolk Southern Railway Company,* STB Finance Docket No. 32900, wherein L&O seeks to acquire and operate certain rail lines from the Norfolk Southern Railway Company.

Applicants own and control eight existing Class III common carriers by rail: Live Oak, Perry & Georgia Railroad Company, Inc., operating in Florida and Georgia; Georgia & Florida Railroad, Co., Inc., operating in Florida and Georgia; Albany Bridge Company, operating in Georgia; Gulf & Ohio Railways, Inc., operating under the trade name of Mississippi Delta Railroad in Mississippi and under the trade name of Atlantic & Gulf Railroad in Georgia; Wiregrass Central Railroad Company, Inc., operating in Alabama; H&S Railroad, Inc., operating in Alabama; Piedmont & Atlantic Railroad, Inc., operating in North Carolina; and Rocky Mount & Western Railroad Co., Inc., operating in North Carolina.

Applicants state that: (i) The railroads will not connect with each other or any railroad in their corporate family; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the nine railroads with each other or any railroad in their corporate family; and (iii) 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).

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 and 11325 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 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. 32901, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Paul C. Oakley, Weiner, Brodsky, Sidman & Kider, P.C., Suite 800, 1350 New York Avenue, N.W., Washington, DC 20005–4797.

Decided: May 17, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–13129 Filed 5–23–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323–24.

Surface Transportation Board [1]

[STB Finance Docket No. 32905]

CSX Transportation, Inc.—Acquisition—Certain Rail Lines of Indiana Hi-Rail Corporation in Henderson, KY, and Evansville, IN

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of acceptance of application.

SUMMARY: The Board accepts for consideration the application filed April 25, 1996, by CSX Transportation, Inc. (CSXT), and Indiana Hi-Rail Corporation (IHRC) (collectively referred to as applicants) for CSXT to acquire from IHRC approximately 8.2 miles of rail line located in Indiana and Kentucky.[2] In accordance with 49 CFR 1180.4(b)(2)(iv), the Board finds that this is a minor transaction as described in 49 CFR 1180.2(c).

DATES: This decision is effective on May 24, 1996. Written comments, including comments from the Secretary of Transportation and the Attorney General of the United States, must be filed with the Board no later than June 24, 1996. The Board will issue a service list shortly thereafter. Copies of the comments must be served on all parties of record within 10 days after the Board issues the service list and must be confirmed by certificate of service filed with the Board indicating that all designated individuals and organizations on the service list have been properly served. Applicants' reply is due July 15, 1996.

ADDRESSES: Send an original and 10 copies of pleadings referring to STB Finance Docket No. 32905 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, send one copy of all pleadings to applicants' representatives: (1) Paul R. Hitchcock, 500 Water St.-J150, Jacksonville, FL 32202; and (2) Charles H. White, Galland, Kharasch, Morse & Garfinkle, P.C., Canal Square, 1054 Thirty-First Street, N.W., Washington, DC 20007–4492.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–7513. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Applicants seek approval under 49 U.S.C. 11323–25 for CSXT to acquire certain rail lines of IHRC and, as part of the transaction, for IHRC to discontinue certain trackage rights over portions of CSXT track, all in Indiana and Kentucky.

Applicants state that this is a minor transaction as defined in 49 CFR part 1180, the regulations that implemented former 49 U.S.C. 11343–45. The ICCTA revised those statutory provisions and reenacted them as 49 U.S.C. 11323–25. Because the proposed transaction does not involve the merger or control of two Class I railroads, it is subject to the standards of 49 U.S.C. 11324(d). Also, as discussed below, because we have determined that the transaction is not of regional or national significance, the procedural schedule set out at 49 U.S.C. 11325(d) applies. Under section 204(a) of the ICCTA, all ICC rules in effect on the date of enactment of the ICCTA ''shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Board * * * or operation of law.'' While the standards and procedures of former sections 11343–45 and current sections 11323–25 are substantially similar, insofar as minor transactions are concerned, the procedures of current section 11325(d) differ slightly from those at 49 CFR 1180.4 and shall govern. Otherwise, the use of the regulations at 49 CFR part 1180 for this proceeding appears proper.

CSXT, a Class I rail carrier wholly owned by CSX Corporation (a noncarrier), operates approximately 19,000 miles of track in 19 states, the District of Columbia, and Ontario, Canada. IHRC, a Class III rail carrier, operates eight rail lines, comprising approximately 283 miles of track, in Indiana, Illinois, Ohio, and Kentucky. CSXT proposes to purchase from IHRC approximately 7.8 miles of branch line and 0.4 miles of siding track, for a total of 8.2 miles, as follows: (1) A 5.8-mile line segment, located in Henderson, KY, extending from CSXT milepost H–312.63 to the end of IHRC's track, the site of the Henderson County Port Authority; (2) a 1-mile line segment, located in Henderson, extending from CSXT milepost H–312.90 to the end of IHRC's track;[3] and (3) a 1-mile line segment, located in Evansville, IN, extending from CSXT milepost OZA–285.22 to the end of IHRC's track.[4] IHRC will also transfer its one-half ownership interest in two unused siding tracks, No. 277 and No. 279, that are jointly owned with CSXT; they are located at CSXT milepost H–312.79, and each is approximately 0.2 mile in length.

Additionally, as part of this transaction, IHRC will discontinue its trackage rights between Evansville and Henderson over CSXT's main service lane connecting Chicago, IL, and Nashville, TN.[5] Also, IHRC's trackage rights over a portion of CSXT track in Evansville (the ''Evansville Belt'' and the ''running track'') will be discontinued.

IHRC is in bankruptcy. The U.S. Bankruptcy Court, Southern District of Indiana, Indianapolis Division, has approved the transaction subject only to our approval. In an order dated March 5, 1996, in Case No. IP94–08502–RLB–11, the court authorized the sale and approved the closing of the transaction in escrow, with Board approval as the basic condition to take the transaction out of escrow.

Applicants maintain that the proposed transaction will not result in any substantial lessening of competition in any affected market or region. Only 8.2 miles, or 2% of IHRC's track, are involved, and, for the most part, the track is used for switching operations. Instead of lessening competition, applicants argue that the proposed transaction will serve the public interest by reducing their costs, improving the quality and competitiveness of rail service, and strengthening IHRC's ability to provide rail service on the remainder of its system.

The line segments connect with CSXT's system and assertedly fit well into its network. On the other hand, IHRC can only reach the three Henderson line segments via the trackage rights over CSXT's main line. Thus, traffic originating or terminating on these line segments must be handled in interchange service, which is

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to a railroad acquisition that is subject to Board jurisdiction pursuant to 49 U.S.C. 11323–25.

[2] CSXT seeks to acquire from IHRC and operate 8.2 miles of track, and the application is styled accordingly. However, we note that CSXT does not require separate authority to operate. When a rail carrier sought to purchase a rail line from another rail carrier in a transaction governed by former 49 U.S.C. 11343 of the Interstate Commerce Act, the ICC would approve or exempt the operation of the line, if requested, but the authority or exemption to operate was not necessary. The purchaser's status as a carrier, coupled with the acquisition of the line, constituted sufficient authority to conduct operations. Similarly, a purchase by a carrier of a line under current 49 U.S.C. 11323–25 provides the purchaser with the authority to conduct rail service over the line.

[3] The application identifies three rail-served industries on this line segment, CPS, J-Ron, and Bakery Feeds.

[4] The operating plan and map accompanying the application identify one rail-served industry (Modern Maid) on the Evansville line segment.

[5] The trackage rights include a single-track bridge over the Ohio River, seemingly a point of congestion.

inherently more costly and results in delay to shippers.

Moreover, the trackage rights operations place schedules at risk and otherwise threaten significant disruptions with a line characterized by applicants as ''the backbone of CSXT's Chicago to Nashville Service Lane * * * one of CSXT's heaviest trafficked lines on its system.'' Operations over this line reportedly are conducted using a highly successful corridor concept that decentralizes many aspects of operational management and instead emphasizes scheduled operations based on a preexisting plan that accounts for essential operational inputs by time and location.

Overall, applicants maintain the proposed transaction will result in rail service becoming even more competitive with motor carriage in the affected area. By replacing the bankrupt IHRC with CSXT, applicants contend that the shippers served by these line segments will receive improved rail service. Also, they state that service reliability will improve for hundreds of other customers shipping via CSXT's Chicago-Nashville main line. The uncertainty engendered by IHRC's trackage rights will be eliminated, giving CSXT the greater measure of control it seeks over operations in this service-critical corridor.

Additionally, applicants state that the proposed transaction will help IHRC to restructure for its future survival, and the shipping public will benefit as a result. By enabling IHRC to retire a substantial amount of debt, they contend that the transaction will reduce IHRC's monthly fixed costs and strengthen both its financial situation and its ability to serve customers on its remaining lines.

Applicants state that the proposed transaction will have only a slight effect on employees. Additional work, switching cars to industries located on the line segments, will be created for CSXT employees, and only two IHRC train crewmen, the ones who operate the line segments for IHRC, will be affected. The IHRC employees have system-wide seniority, and the Trustee anticipates that they will be reassigned to other work on IHRC's system. An implementing agreement has already been negotiated with their representatives, and applicants anticipate that employees will be protected under the conditions set forth in *New York Dock Ry.—Control—Brooklyn East. Dist.*, 360 I.C.C. 60 (1979), as clarified in *Wilmington Terminal RR, Inc. Co.—Pur. & Lease—CSX Transp., Inc.*, 6 I.C.C.2d 799 (1990), modified, 7 I.C.C.2d 60 (1990), *aff'd sub nom. Rail Labor Executives' Ass'n* v. *ICC*, 930 F.2d 511 (6th Cir. 1991).

Under 49 CFR part 1180, we must determine whether a proposed transaction is major, significant, or minor. The proposed transaction, which involves the purchase by a single Class I carrier of only short line segments belonging to a bankrupt Class III carrier, has no regional or national significance and will clearly not have any anticompetitive effects. Accordingly, we find the proposal to be a minor transaction under 49 CFR 1180.2(c), as now defined under 49 U.S.C. 11325(a). Because the application substantially complies with the applicable regulations governing minor transactions, we are accepting it for consideration.

The application and exhibits are available for inspection in the Public Docket Room at the Offices of the Board in Washington, DC. In addition, they may be obtained upon request from applicants' above named representatives.

Interested persons, including government entities, may participate in this proceeding by submitting written comments. Any person who files timely comments will be considered a party of record if the person so requests. No petition for leave to intervene need be filed.

Consistent with 49 CFR 1180.4(d)(1)(iii), written comments must contain:

(a) the docket number and title of the proceeding;

(b) the name, address, and telephone number of the commenting party and its representative upon whom service shall be made;

(c) the commenting party's position, i.e., whether it supports or opposes the proposed transaction;

(d) a statement whether the commenting party intends to participate formally in the proceeding, or merely comment on the proposal;

(e) if desired, a request for an oral hearing with reasons supporting this request; the request must indicate the disputed material facts that can be resolved only at a hearing; and

(f) a list of all information sought to be discovered from the applicant carriers.

Because we have determined that this proposal is a minor transaction, no responsive applications will be permitted. The time limits for processing this transaction are set forth at 49 U.S.C. 11325(d).

Discovery may begin immediately. We admonish the parties to resolve all discovery matters expeditiously and amicably.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This application is accepted for consideration under 49 U.S.C. 11323–25 as a minor transaction under 49 CFR 1180.2(c).

2. The parties shall comply with all provisions stated above.

3. This decision is effective on May 24, 1996.

Decided: May 20, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–13130 Filed 5–23–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board[1]

[STB Finance Docket No. 32900]

Lexington & Ohio Railroad Co., Inc.—Acquisition and Operation Exemption—Norfolk Southern Railway Company

Lexington & Ohio Railroad Co., Inc. (L&O), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 14.9 miles of rail line owned by Norfolk Southern Railway Company from milepost 23.9LL in Lexington, KY, to milepost 9.0LL in Versailles, KY, in Fayette and Woodford Counties, KY.

The transaction was expected to be consummated on or after May 10, 1996.

This proceeding is related to *H. Peter Claussen and Linda C. Claussen—Continuance in Control Exemption—Lexington & Ohio Railroad Co., Inc.*, STB Finance Docket No. 32901, wherein H. Peter Claussen and Linda C. Claussen have concurrently filed a verified notice to continue to control L&O, upon its becoming a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding 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.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32900, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Paul C. Oakley, Weiner, Brodsky, Sidman & Kider, P.C., Suite 800, 1350 New York Avenue, N.W., Washington, DC 20005–4797.

Decided: May 17, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–13128 Filed 5–23–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

May 14, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0803.

Form Number: IRS Form 5074.

Type of Review: Extension.

Title: Low-Income Housing Credit for Federally-Assisted Buildings.

Description: Form 5074 is used by U.S. citizens or residents as an attachment to Form 1040 when they have $50,000 income from U.S. sources and $5,000 from Guam or Northern Mariana Islands. The data is used by IRS to allocate income tax due to Guam or CNMI as required by 26 U.S.C. 7654.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 50

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—2 hr., 57 min.

Learning about the law or the form—7 min.

Preparing the form—42 min.

Copying, assembling, and sending the form to the IRS—17 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 203 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340 Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–13075 Filed 5–23–96; 8:45 am]

BILLING CODE 4830–01–U

Submission for OMB Review; Comment Request

May 14, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Special Request: In order to begin the survey described below by the May 29, 1996 start-up date, the Department of Treasury is requesting Office of Management and Budget (OMB) review and approve this information collection by May 21, 1996. To obtain a copy of this survey, please contact the IRS Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.

Project Number: MS:PC:V 96–013–G.

Type of Review: Revision.

Title: Internal Revenue Service 1996 Survey of ''On-Line Filing'' Users.

Description: This survey will allow IRS to determine the level of satisfaction with various elements of the On-Line Filing Program process; the overall level of satisfaction with the survey; areas for improvement; and where it should devote resources in making the largest gains in customer satisfaction.

Respondents: Individuals or households.

Estimated Number of Respondents: 1,335.

Estimated Burden Hours Per Respondent:

Type of contact	Time per contact	Total minutes
Advance Letter	2	2,670
Initial Mailing:		
—Intro Letter	2	2,670
—Questionnaire	10	7,350
Postcard Reminder	1	600
Second Mailing:		
—Intro Letter	2	1,200
—Questionnaire	10	3,330

Frequency of Response: Other.

Estimated Total Reporting Burden: 297 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–13076 Filed 5–23–96; 8:45 am]

BILLING CODE 4830–01–U

Submission for OMB Review; Comment Request

May 16, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Departmental Office/Office of Foreign Assets Control

OMB Number: 1505–0143.

Form Number: None.

Type of Review: Extension.

Title: Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations.

Description: Regulation of financial transactions and trade involving the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnia Serbs. Submissions provide USG with information to be used in administering and enforcing sanctions against these parties.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 100.

Estimated Burden Hours Per Response: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 100 hours.

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–13077 Filed 5–23–96; 8:45 am]

BILLING CODE 4810–25–P

Submission to OMB for Review; Comment Request

May 16, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0879.

Regulation ID Number: IA–195–78 Final.

Type of Review: Extension.

Title: Certain Returned Magazines, Paperbacks, or Records.

Description: The regulations provide rules relating to an exclusion from gross income for certain returned merchandise. The regulations provide that in addition to physical return of the merchandise, a written statement listing certain information may constitute evidence of the return. Taxpayers who receive physical evidence of the return may, in lieu of retaining physical evidence, retain documentary evidence of the return. Taxpayers in the trade or business of selling magazines, paperbacks, or records, who elect to use a certain method of accounting, are affected.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 19,500.

Estimated Burden Hours Per Recordkeeper: 25 minutes.

Frequency of Response: Other.

Estimated Total Recordkeeping Burden: 8,125 hours.

OMB Number: 1545–1393.

Regulation ID Number: EE–14–81 NPRM.

Type of Review: Extension.

Title: Deductions and Reductions in Earnings and Profits (or Accumulated Profits) with respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or by Foreign Branches of Domestic Corporations.

Description: The regulation provides guidance regarding the limitations on deductions and adjustments to earnings and profits (or accumulated profits) for certain foreign deferred compensation plans. Respondents will be multinational corporations.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 1.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 1 hour.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–13078 Filed 5–23–96; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register
Vol. 61, No. 102
Friday, May 24, 1996

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.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Ethics Training for Registrants

Correction

In rule document 96–10730, beginning on page 20127, in the issue of Monday, May 6, 1996, make the following correction:

On page 20128, in the first column, under **EFFECTIVE DATE:** ''applicable date shall be August 6, 1996.'' should read ''applicable date shall be July 5, 1996.''.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 173 and 180

Correction

Proposed rule document 96-12454, beginning on page 24904 in the issue of Friday, May 17, 1996, was inadvertently published in the Rules and Regulations section. It should have appeared in the Proposed Rule section.

BILLING CODE 1505–01–D

federal register

Friday
May 24, 1996

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Marbled Murrelet; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC33

Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Marbled Murrelet

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service originally proposed to designate critical habitat for the marbled murrelet (*Brachyramphus marmoratus marmoratus*) in Washington, Oregon, and California on January 27, 1994 (59 FR 3811). Based on comments received on the original proposal and additional information, the Service published a supplemental proposed designation of critical habitat for the marbled murrelet on August 10, 1995 (60 FR 40892).

The marbled murrelet is listed as a threatened species under the Endangered Species Act (Act). It is a small seabird of the Alcidae family that forages in the near-shore marine environment and nests in large trees in coniferous forests. Located primarily on Federal land, and to a lesser extent on State, county, city, and private lands, this final critical habitat rule would provide additional protection requirements under section 7 of the Act with regard to activities that are funded, authorized, or carried out by a Federal agency. Section 4 of the Act requires the Service to designate critical habitat for listed species on the basis of the best scientific information available and to consider the economic and other relevant impacts of including particular areas in the designation.

EFFECTIVE DATE: June 24, 1996.

ADDRESSES: The complete file for this rule is available at the U.S. Fish and Wildlife Service, Oregon State Office, 2600 S.E. 98th Avenue, Suite 100, Portland, Oregon 97266. The file for this rule will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Russell D. Peterson, State Supervisor, U.S. Fish and Wildlife Service, see ADDRESSES section or telephone 503–231–6179 or FAX 503–231–6195.

SUPPLEMENTARY INFORMATION:

Background

Previous Federal Actions

On January 15, 1988, the U.S. Fish and Wildlife Service (Service) received a petition to list the North American subspecies of the marbled murrelet (*Brachyramphus marmoratus marmoratus*) in Washington, Oregon, and California as a threatened species under the Endangered Species Act. On October 17, 1988, the Service published a finding that the petition had presented substantial information to indicate that the requested action may be warranted (53 FR 40479). Because of the increased research effort and new information available, the status review period was reopened, with the concurrence of the petitioners, from March 5, 1990, through May 31, 1990 (55 FR 4913).

On June 20, 1991, the Service published a proposal to list the marbled murrelet in Washington, Oregon, and California as a threatened species (56 FR 28362). The comment period was reopened for 30 days on January 30, 1992, to gather the most updated information about the species (57 FR 3804). On October 1, 1992, following an order by the U.S. District Court for the Western District of Washington denying a 6-month extension, the Service published the final rule listing the marbled murrelet in Washington, Oregon, and California as a threatened species (57 FR 45328). In February 1993, the Service appointed a Recovery Team to develop a recovery plan for the marbled murrelet.

On November 2, 1993, the U.S. District Court for the Western District of Washington granted a motion by the plaintiffs in *Marbled Murrelet v. Babbitt* to compel a proposed designation of critical habitat. In the ruling, the court ordered the Secretary of the Interior to propose designating critical habitat for the marbled murrelet no later than January 21, 1994, and to make a final designation of critical habitat as soon as reasonably possible under applicable law.

On January 27, 1994, the Service published a proposed rule for the designation of critical habitat for the marbled murrelet (59 FR 3811). Public comment was due by April 27, 1994. On March 14, 1994, the Service received a request for a public hearing. To allow additional comment, the public comment period was reopened for 30 days on May 9, 1994. The public hearing was conducted on May 24, 1994, in North Bend, Oregon.

Based on comments received from the Marbled Murrelet Recovery Team, other commenters, and additional information, the Service significantly amended its proposed critical habitat designation and published a supplemental proposed rule on August 10, 1995 (60 FR 40892). The Service held five public hearings on the supplemental proposed rule in Washington, Oregon, and California during the public comment period. Public comment was accepted through October 10, 1995.

Based on the Service's interpretation of Public Law 104–6 as prohibiting the expenditure of funds for making a final determination of critical habitat, the record was closed and the comments archived at the end of the public comment period. On February 29, 1996, Judge Rothstein denied a motion to vacate her previous order on completion of the designation of critical habitat and ordered the Service to complete the final designation by May 15, 1996. This rule complies with that order.

Ecological Considerations

The marbled murrelet is a small seabird of the Alcidae family. The North American subspecies ranges from the Aleutian Archipelago in Alaska, eastward to Cook Inlet, Kodiak Island, Kenai Peninsula and Prince William Sound, south along the coast through the Alexander Archipelago of Alaska, British Columbia, Washington, and Oregon to central California. Some wintering birds are found in southern California. A separate subspecies (*Brachyramphus marmoratus perdix*) occurs in Asia. Though recent genetic analysis indicates that the two subspecies may warrant full specific status (Friesen *et al.* 1994), a status change has not yet been recognized.

Marbled murrelets spend most of their lives in the marine environment where they feed primarily on small fish and invertebrates in near-shore marine waters. They forage by pursuit diving in waters generally up to 80 meters (260 feet) deep and 0.3 to 2 kilometers (0.2 to 1.2 miles) off-shore. Pairs are often seen diving simultaneously, which researchers suggest may increase foraging efficiency (Strachan *et al.* 1995). Courtship behaviors have been observed at sea although copulation rarely has been witnessed. Marbled murrelets also aggregate, loaf, preen, and exhibit wing-stretching behaviors on the water.

Marbled murrelets nest inland in Washington, Oregon, and California, typically in large-diameter old-growth trees in low-elevation forests with multi-layered canopies (Hamer and Nelson 1995b). Marbled murrelets have been found occasionally on rivers and

inland lakes (Carter and Sealy 1986; Strachan *et al.* 1995).

Dispersal mechanisms are not well understood, however, social interactions may play an important role. The presence of marbled murrelets in a forest stand may attract other pairs to currently unoccupied habitat within the vicinity. This may be one of the reasons marbled murrelets have been observed in habitat not currently suitable for nesting, but in close proximity to known nesting sites (Hamer and Cummins 1990, Hamer *et al.* 1991, Suddjian 1995). Although marbled murrelets appear to be solitary in their nesting habits, they are frequently detected in groups in the forest (Nelson and Peck 1995; USFWS 1995a). Two nests discovered in Washington during 1990 were located within 46 meters (150 feet) of each other (Hamer and Cummins 1990), and two nests discovered in Oregon during 1994 were located within 33 meters (100 feet) of each other (S. K. Nelson, Oregon Cooperative Wildlife Research Unit, pers. comm. 1995). Therefore, unoccupied habitat in the vicinity of occupied habitat may be more important for recovering the species than suitable habitat isolated from occupied habitat (USFWS 1995a). Similarly, murrelets are more likely to discover newly developing habitat in proximity to occupied sites.

Nesting occurs over an extended period from late March to late September (Carter and Sealy 1987; Hamer and Nelson 1995b). During the breeding period, the female marbled murrelet lays a single egg in a tree containing a suitable nesting platform (e.g., large or forked limbs, dwarf mistletoe (*Arceuthobium* spp.) infections, witches' brooms, deformities, etc. (Hamer and Nelson 1995b). Both sexes incubate the egg in alternating 24-hour shifts for approximately 30 days, and the young fledge after an additional 27 to 40 days (Simons 1980; Hirsch *et al.* 1981; Singer *et al.* 1991; Hamer and Nelson 1995a; Nelson and Hamer 1995a). Adults feeding young fly from ocean feeding areas to nest sites at all times of the day, but most often at dusk and dawn (Nelson and Hamer 1995a). Chicks are fed at least once a day. The adults usually carry only one fish at a time to the young (Hamer and Cummins 1991; Singer *et al.* 1992; Nelson and Hamer 1995a). The young are semi-precocial. Before leaving the nest, the young molt into a distinctive juvenile plumage. A fledgling's first flight is from the nest directly to the marine environment (Hamer and Cummins 1991).

Marbled murrelets have been observed at some inland sites during all months of the year (Paton *et al.* 1987; Naslund 1993). Attendance at breeding sites during the non-breeding season may enhance pair bond maintenance, facilitate earlier breeding, or reinforce familiarity with flight paths to breeding sites (Naslund and O'Donnell 1995; O'Donnell *et al.* 1995).

With respect to critical habitat, the Service considered two components of marbled murrelet habitat that are biologically essential—(1) terrestrial nesting habitat and associated forest stands, and (2) marine foraging habitat used during the breeding season. Forested areas with conditions that support nesting marbled murrelets are referred to as ''suitable nesting habitat.'' Marine areas with conditions that support foraging marbled murrelets are referred to as ''suitable foraging habitat.'' Because only terrestrial habitat is being designated as critical habitat, the primary focus of this description will be on the terrestrial environment.

Throughout the forested portion of the species' range, marbled murrelets typically nest in forested areas containing characteristics of older forests (Binford *et al.* 1975; Hamer and Cummins 1991; Quinlan and Hughes 1990; Kuletz 1991; Singer *et al.* 1991, 1992; Hamer *et al.* 1994; Hamer and Nelson 1995b; Ralph *et al.* 1995a). The marbled murrelet population in Washington, Oregon, and California nests in most of the major types of coniferous forests in the western portions of these states, wherever older forests remain inland of the coast. Although marbled murrelet nesting habitat characteristics are somewhat variable throughout the range of the species, some general habitat attributes are characteristic throughout its range, including the presence of nesting platforms, adequate canopy cover over the nest, landscape condition, and distance to the marine environment.

Individual tree attributes that provide conditions suitable for nesting include large branches (average of 32 centimeters (13 inches), range of 10 to 81 centimeters (4 to 32 inches) in Washington, Oregon, and California) or forked branches, deformities (e.g., broken tops), dwarf mistletoe infections, witches' brooms, or other structures large enough to provide a platform for a nesting adult murrelet (Hamer and Cummins 1991; Singer *et al.* 1991, 1992; Hamer and Nelson 1995b). These structures are typically found in old-growth and mature forests, but may be found in a variety of forest types including younger forests containing remnant large trees.

Northwestern forests and trees typically require 200 to 250 years to attain the attributes necessary to support marbled murrelet nesting, although characteristics of nesting habitat sometimes develop in younger coastal redwood (*Sequoia sempervirens*) and western hemlock (*Tsuga heterophylla*) forests. Forests with older residual trees remaining from previous forest stands may also develop into nesting habitat more quickly than those without residual trees. These remnant attributes can be products of fire, wind storms, or previous logging operations that did not remove all of the trees (Hansen *et al.* 1991; McComb *et al.* 1993). Other factors that may affect the time required to develop suitable nesting habitat characteristics include site productivity and microclimate.

Through the 1995 nesting season, at least 95 active or previously used tree nests had been located in North America, including 9 in Washington, 41 in Oregon, and 12 in California (S. K. Nelson, pers. comm. 1996; W. Ritchie, Washington Dept. of Fish and Wildlife, pers. comm. 1996; Binford *et al.* 1975; Quinlan and Hughes 1990; Hamer and Cummins 1990, 1991; Kuletz 1991; Singer *et al.* 1991, 1992; Hamer and Nelson 1995b). All of the nests for which data are available in Washington, Oregon, and California were in large trees that were more than 81 centimeters (32 inches) diameter at breast height (dbh) (Hamer and Nelson 1995b). Of the 37 nests for which data were available, 70 percent were on a moss substrate and 30 percent were on litter, such as bark pieces, conifer needles, small twigs, or duff. Fifty-nine percent of the nests were on large or deformed branches, 16 percent were on forked limbs, 6 percent were on a limb where it attached to the tree bole, 11 percent were on dwarf mistletoe, and 8 percent were on other structures (Hamer and Nelson 1995b; T. Hamer, Hamer Environmental, pers. comm. 1995).

More than 94 percent of the nests for which data were available were in the top half of the nest trees, which may allow easy nest access and provide shelter from potential predators and weather. Canopy cover directly over the nests was typically high (average 84 percent; range 5 to 100 percent) in Washington, Oregon, and California (Hamer and Nelson 1995b; T. Hamer, pers. comm. 1995). This cover may provide protection from predators and weather. Such canopy cover may be provided by trees adjacent to the nest tree, and/or by the nest tree itself. Canopy closure of the nest stand/site varied between 12 and 99 percent and averaged 48 percent (Hamer and Nelson 1995b; T. Hamer, pers. comm. 1995).

Nests have been located in forested areas dominated by coastal redwood, Douglas-fir (*Pseudotsuga menziesii*), mountain hemlock (*Tsuga mertensiana*), Sitka spruce (*Picea sitchensis*), western hemlock, and western redcedar (*Thuja plicata*) (Binford *et al.* 1975; Quinlan and Hughes 1990; Hamer and Cummins 1991; Singer *et al.* 1991, 1992; Hamer and Nelson 1995b). Individual nests in Washington, Oregon, and California have been located in Douglas-fir, coastal redwood, western hemlock, western redcedar, and Sitka spruce trees.

For nesting habitat to be accessible to marbled murrelets, it must occur close enough to the marine environment for murrelets to fly back and forth. The farthest inland distance for a known occupied site is 84 kilometers (52 miles) in Washington. The farthest known inland occupied sites in Oregon and California are 61 and 56 kilometers (38 and 35 miles), respectively. Occupied sites are defined as forest stands where marbled murrelets have been observed exhibiting behaviors associated with nesting. Additionally, detections (not occupied sites) have been documented farther inland in Oregon (S. K. Nelson, pers. comm. 1995) and California.

Marbled murrelet nests are difficult to locate for several reasons—(1) nests are generally located high in the canopy; (2) adults and juveniles have cryptic plumage during most of the nesting season; (3) adults are often (but not always) extremely quiet in the vicinity of nests (Nelson and Peck 1995); and (4) adults may show activity near the nest only once per day, usually under low light conditions. Therefore, identification of occupied sites and suitable nesting habitat are the best indicators of potential nest sites. Indicators of occupied habitat include active nests; egg shell fragments; young found on the forest floor; marbled murrelets seen flying through the forest beneath the canopy, landing in trees, circling above the canopy, and calling from a stationary perch; or large numbers of murrelets heard calling from in and around a forest stand.

Inland, marbled murrelets are generally easier to detect at high-use sites during the spring and late summer when breeding activities peak (Paton and Ralph 1988; Nelson 1989). Inland detections of the species are less frequent during the early fall when murrelets have presumably completed breeding and are undergoing a flightless molt at sea. Similarly, murrelets may be more difficult to detect in areas that support low numbers of reproducing pairs, perhaps because birds occurring in lower densities appear to be less vocal (Rodway *et al.* 1993; Dillingham *et al.* 1995).

Marbled murrelets spend most of their lives in the marine environment where they consume a diversity of prey species. Areas that support populations of prey species juxtaposed with nesting areas are essential to maintaining successfully reproducing marbled murrelet populations (Burkett 1995). Murrelets often aggregate near local food concentrations, resulting in a clumped distribution in the marine environment (Sealy and Carter 1984). Prey breeding areas (e.g., near-shore kelp beds, sand or gravel beaches, sand banks, etc.) and areas where prey may concentrate (e.g., near-shore upwellings, waters at the mouths of bays and coastal rivers, eddies in the vicinity of headlands, river mouths and associated plumes, and tidal rips, etc.) are likely the most important features determining murrelet foraging opportunities (Ainley *et al.* 1995; Hunt 1995). Human-caused disturbances (e.g., intense commercial or recreational fishing) may affect prey density or accessibility.

Most of the information available about prey species of marbled murrelets is from the Gulf of Alaska and British Columbia, and is summarized by Burkett (1995). Marbled murrelets generally forage in near-shore marine waters at distances of 0.3 to 2 kilometers (0.2 to 1.2 miles) from shore; however, they occur at distances up to 24 kilometers (14 miles) from shore in reduced numbers. Marine systems producing sufficient prey to support marbled murrelets provide suitable foraging habitat for the species.

Marbled murrelets have been reported feeding on a wide variety of small fish and invertebrates, indicating their flexibility and capability to use alternative prey sources. Prey include Pacific sandlance (*Ammodytes hexapterus*), Pacific herring (*Clupea harengus*), northern anchovy (*Engraulis mordax*), osmerids, sea perch (*Cymatogaster aggregata*), euphausiids (*Euphausia pacifica* and *Thysanoessa spinifera*), mysids (*Neomysis* spp.), and amphipods, among others (Sealy 1975; Sanger 1987; Sanger and Jones 1981; Carter and Sealy 1990; Strong *et al.* 1993; Burkett 1995). Fish are an important component of the diet during the summer, which coincides with the nestling and fledgling periods, while euphausiids, mysids, and amphipods seem to be more important in the winter and spring in some areas (Munro and Clemens 1931; Sealy 1975; Krasnow and Sanger 1982; Sanger 1983, 1987; Carter 1984; Carter and Sealy 1990; Vermeer 1992; Burkett 1995).

Prior to euroamerican settlement in the Pacific Northwest, nesting habitat for the marbled murrelet was well-distributed, particularly in the wetter portions of its range in Washington, Oregon, and California. This habitat was generally found in large, contiguous blocks (Ripple 1994) as described under the Management Considerations section of this rule. The Recovery Team and others (Ralph *et al.* 1995b) considered the loss of nesting habitat to be one of the primary factors limiting current population size from British Columbia to California.

Areas where marbled murrelets are concentrated at sea during the breeding season are likely determined by a combination of terrestrial and marine conditions. However, nesting habitat appears to be the most important factor affecting marbled murrelet distribution and numbers. Recent marine survey data confirm earlier conclusions (60 FR 40892) that marine observations of murrelets during the nesting season generally correspond to the largest remaining blocks of suitable forest nesting habitat (Nelson *et al.* 1992; Ralph *et al.* 1995b; Ralph and Miller 1995; Strong 1995; Varoujean *et al.* 1994). For example, suitable nesting habitat data from aggregated GIS databases (S. Holzman, U.S. Fish and Wildlife Service, pers. comm. 1996) were overlain on the aerial survey data provided by Varoujean *et al.* (1994) and the boat survey data provided by Strong (1995). Highest densities of murrelets seen in 1992, 1993, 1994, and 1995 closely corresponded with the presence of large blocks of suitable nesting habitat on the coasts of northern coastal Washington and central and southern coastal Oregon.

Consistent with Varoujean *et al.*'s (1994) 1993 and 1994 aerial surveys, Thompson (1996) found murrelets to be more numerous along Washington's northern outer coast and less abundant along the southern coast. He reported that this distribution appears to be correlated with (1) proximity of old growth forest, (2) the distribution of rocky shoreline/substrate versus sandy shoreline/substrate, and (3) abundance of kelp; his analysis of these variables is continuing. In British Columbia, Rodway *et al.* (1995) observed murrelets aggregating on the water close to breeding areas at the beginning of the breeding season and, for one of their two study areas, again in July as young were fledging. Burger (1995) reported that the highest at-sea murrelet densities in both 1991 and 1993 were seen immediately adjacent to two tracts of old-growth forest, while areas with very

low densities of murrelets were adjacent to heavily logged watersheds.

In contrast, where nesting habitat is limited in southwest Washington, northwest Oregon, and portions of California, few marbled murrelets are found at sea during the nesting season (Ralph and Miller 1995; Ralph *et al.* 1995b; Strong 1995; Varoujean and Williams 1995; Thompson 1996). The area between the Olympic Peninsula in Washington and Tillamook County in Oregon (160 kilometers (100 miles)) has few occupied sites or sightings at sea of marbled murrelets. In California, approximately 480 kilometers (300 miles) separate the large breeding populations to the north in Humboldt and Del Norte Counties from the southern breeding population in San Mateo and Santa Cruz Counties. Currently this reach contains few marbled murrelets during the breeding season; however, the area likely contained significant numbers of marbled murrelets before extensive logging (Paton and Ralph 1988, Larsen 1991).

In addition to the proximity of suitable nesting habitat, it is likely that marine factors such as prey abundance influence the local distribution of breeding murrelets (Ralph and Miller 1995; Strachen *et al.* 1995; Strong 1995). The influence of prey distribution and abundance on the distribution of other alcids has been well documented (Bradstreet and Brown 1985). In general, nesting murrelets, which must return to their nest at least once per day, must balance the energetic costs of foraging trips with the benefits for themselves and their young (Skutch 1979; Ydenberg 1989; USFWS 1995a). Therefore, breeding adults are energetically justified in taking relatively long foraging trips only when they can gain access to high quality foraging areas (Bradstreet and Brown 1985; Gaston 1985; Carter and Sealy 1990). Breeding murrelets are known to cover large areas at sea to take advantage of foraging opportunities (Carter and Sealy 1990; Ralph and Miller 1995; Rodway *et al.* 1995). Therefore, use of marine habitat is constrained during the breeding season by its distance from nesting habitat and the quality of forage resources available. This is consistent with the observed juxtaposition of suitable nesting habitat and distribution of murrelets during the breeding season described above, and it may explain the differences observed in marine distribution patterns between murrelets and other non-forest nesting seabirds (Varoujean *et al.* 1994). During years of low prey availability, the distance from nesting areas to adequate foraging areas is probably a critical determinant of reproductive success (USFWS 1995a).

Marbled murrelets can be adversely affected by impacts to their nesting habitat, marine foraging habitat, and food supply, as well as direct mortality from human activities such as oil spills and gillnet fisheries. These impacts, and the resulting decline from historical population levels, formed the basis for the listing of the species as threatened in 1992 (57 FR 45328). Based on an analysis of likely ranges of fecundity and survivorship of this species, Beissinger (1995) developed a population model that estimated that marbled murrelets in Washington, Oregon, and California may be declining at a rate between 4 and 6 percent per year. These results are consistent with the evidence of a long-term decline from historical populations.

This decline may be a result of several factors. In addition to habitat loss and fragmentation, which may reduce nesting success, declines may be exacerbated by high mortality rates of the young of the year prior to reaching the ocean, and high mortality rates of juveniles and adults in the marine and terrestrial environments.

Marbled murrelets are believed to be highly vulnerable to predation when on the nesting grounds, and the species has evolved a variety of morphological and behavioral characteristics indicative of selection pressures from predation (Ralph *et al.* 1995b). For example, plumage and eggshells exhibit cryptic coloration, and adults fly to and from nests by indirect routes and often under low-light conditions (Nelson and Hamer 1995a). Potential nest predators include the common raven (*Corvus corax*), Steller's jay (*Cyanocitta stelleri*), American crow (*Corvus brachyrhynchos*), gray jay (*Perisoreus canadensis*), great horned owl (*Bubo virginianus*), sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), northern goshawk (*Accipiter gentilis*), raccoon (*Procyon lotor*), marten (*Martes americana*), Townsend chipmunk (*Eutamias townsendii*), northern flying squirrel (*Glaucomys sabrinus*), Douglas squirrel (*Tamiasciurus douglasi*), and fisher (*Martes pennanti*) (Marzluff *et al.* 1996). Ravens, Steller's jays, and possibly great horned owls are known predators of eggs or chicks (Nelson and Hamer 1995b).

From 1974 through 1993, of those marbled murrelet nests in Washington, Oregon, and California where success/failure was documented, approximately 64 percent of the nests failed. Of those nests, 57 percent failed due to predation (Nelson and Hamer 1995b). The relatively high predation rate could be biased because nests near forest edges may be more easily located by observers and more susceptible to predation and because observers may attract predators. Hamer and Nelson (1995b) believed that researchers had minimal impacts on predation in most cases because the nests were monitored from a distance and relatively infrequently, and precautions were implemented to minimize predator attraction.

Several possible reasons exist for the high observed predation rates of marbled murrelet nests. The first possibility is that these high predation rates are normal, although it is unlikely that a stable population could have been maintained under the predation rates presently being observed (Beissinger 1995).

Another reason could be that populations of marbled murrelet predators such as corvids (jays, crows, and ravens) and great horned owls are increasing in the western United States, largely in response to habitat changes and food sources provided by humans (Robbins *et al.* 1986; Rosenberg and Raphael 1986; Johnson 1993; Marzluff *et al.* 1994, 1996; National Biological Service 1996), resulting in increased predation rates on marbled murrelets. It has also been proposed that creation of excessive forest edge habitat may increase the vulnerability of murrelet nests to predation and ultimately lead to higher rates of predation. Edge effects have been implicated in increased forest bird nest predation rates for other species of birds (Chasko and Gates 1982; Yahner and Scott 1988).

The potential relationship between forest fragmentation, edge, and adverse effects on forest nesting birds has received increased attention during the last few decades. In a comprehensive review of the many studies on this topic, Paton (1994) concluded that ''strong evidence exists that avian nest success declines near edges.'' Small patches of habitat have a greater proportion of edge than do large patches of the same shape (Schieck *et al.* 1995). However, Paton (1994) noted that many of these studies involved lands where forests and agricultural or urban areas interface, or they involved experiments with ground nests that are not readily applicable to canopy nesters such as marbled murrelets. Paton (1994) therefore stressed the need for studies specific to forests fragmented by timber harvest in the Pacific Northwest and elsewhere.

Some research on this topic has been conducted in areas dominated by timber production and using nests located off the ground (Ratti and Reese 1988;

Rudnicky and Hunter 1993; Marzluff *et al.* 1996; Vander Haegen and DeGraaf in press). Vander Haegen and DeGraaf (in press) found that nests in shrubs less than 75 meters from an edge were three times as likely to be depredated than nests greater than 75 meters from an edge. Likewise, Rudnicky and Hunter (1993) found that shrub nests on the forest edge were depredated almost twice as much as shrub nests located in the forest interior. They also observed that shrub nests were taken primarily by avian predators such as crows and jays, which is consistent with the predators believed to be impacting murrelets, while ground nests were taken by large mammals such as raccoons and skunks. Ratti and Reese (1988) did not find the edge relationship documented by Rudnicky and Hunter (1993), Vander Haegen and DeGraaf (in press), and others cited in Paton (1994). However, Ratti and Reese (1988) did observe lower rates of predation near ''feathered edges'' compared to ''abrupt'' edges (e.g., clearcut or field edges), and suggested that the vegetative complexity of the feathered edge may better simulate natural edge conditions than do abrupt edges. These authors also concluded that their observations were consistent with Gates and Gysel's (1978) hypothesis that birds are poorly adapted to predator pressure near abrupt artificial edge zones.

Studies of artificial and natural nests conducted in Pacific Northwest forests also indicate that predation of forest bird nests may be affected by habitat fragmentation, forest management, and land development (Hansen *et al.* 1991; Vega 1993; Bryant 1994; C. Chambers, Oregon State University, pers. comm. 1994; Nelson and Hamer 1995b; Marzluff *et al.* 1996). Nelson and Hamer (1995b), in the only direct measure of marbled murrelet reproductive success, found that successful murrelet nests were further from edge than unsuccessful nests. Marzluff *et al.* (1996) are conducting the only experimental predation study that uses simulated marbled murrelet nests, and they have documented predation of artificial murrelet nests by birds and arboreal mammals. Although the study is still continuing, preliminary results indicate that proximity to human activity and landscape contiguity may interact to determine rate of predation (J. Marzluff, pers. comm. 1996). Interior forest nests in contiguous stands far from human activity appear to experience the least predation (Marzluff *et al.* 1996).

In addition to studies of edge effects, some research has been initiated to look at the importance of stand size. Among all Pacific Northwest birds, the marbled murrelet is considered to be one of the most sensitive to forest fragmentation (Hansen and Urban 1992). Murrelet nest stand size in Washington, Oregon, and California varied between 3 and 1,100 hectares (7 and 2,717 acres) and averaged 206 hectares (509 acres) (Hamer and Nelson 1995b). Nelson and Hamer (1995b) found that successful murrelets tended to nest in larger stands than did unsuccessful murrelets, but these results were not statistically significant. Miller and Ralph (1995) compared murrelet survey detection rates among four stand size classes in California. Recording a relatively consistent trend, they observed that a higher percentage of large stands (33.3 percent) had occupied detections when compared to smaller stands (19.8 percent), while a greater percentage of the smallest stands (63.9 percent) had no presence or occupancy detections when compared to the largest stands (52.4 percent) (Miller and Ralph 1995). However, these results were not statistically significant, and the authors did not conclude that murrelets preferentially select or use larger stands. The authors suggested the effects of stand size on murrelet presence and use may be masked by other factors such as stand history and proximity of a stand to other old-growth stands. Schieck *et al.* (1995) found that murrelet presence and abundance was positively correlated with old-growth stand size in British Columbia, but their data were not statistically significant. Rodway *et al.* (1993) recommended caution when interpreting murrelet detection data, such as that used by Miller and Ralph (1995) and Schieck *et al.* (1995), because numbers of detections at different sites may be affected by variation caused by weather, visibility, and temporal shifts.

In addition to stand size, general landscape condition may influence the degree to which marbled murrelets nest in an area. In Washington, marbled murrelet detections increased when old-growth/mature forests comprised more than 30 percent of the landscape (Hamer and Cummins 1990). Hamer and Cummins (1990) found that detections of marbled murrelets decreased in Washington when the percentage of clear-cut/meadow in the landscape increased above 25 percent. Additionally, Raphael *et al.* (1995) found that the percentage of old-growth forest and large sawtimber was significantly greater within 0.8-kilometer (0.5-mile) of sites (203-hectare (501-acre) circles) that were occupied by murrelets than at sites where they were not detected. Raphael *et al.* (1995) suggested tentative guidelines based on this analysis that sites with 35 percent old-growth and large sawtimber in the landscape are more likely to be occupied. In California, Miller and Ralph (1995) found that the density of old-growth cover and the presence of coastal redwood were the strongest predictors of murrelet presence.

Although ongoing research should shed more light on the specific factors that affect murrelet nest predation and stand size preferences, the best available information strongly suggests that marbled murrelet reproductive success may be adversely affected by forest fragmentation associated with certain land management practices. Based on this information, the Service concludes that the maintenance and development of suitable habitat in relatively large contiguous blocks as described in this rule and the draft Marbled Murrelet (Washington, Oregon, and California Population) Recovery Plan (draft Recovery Plan) (USFWS 1995a) will contribute to the recovery of the marbled murrelet. These blocks of habitat should contain the structural features and spatial heterogeneity naturally found at the landscape level, the stand level, and the individual tree level in Pacific Northwest forest ecosystems (Hansen *et al.* 1991; Hansen and Urban 1992; Ripple 1994; Bunnell 1995; Raphael *et al.* 1995; Schieck *et al.* 1995).

In addition to predation at the nest, adult and juvenile murrelets are vulnerable elsewhere in the terrestrial and marine environments. For example, in the terrestrial environment adult marbled murrelets have been preyed upon by sharp-shinned hawks, peregrine falcons (*Falco peregrinus*), bald eagles (*Haliaeetus leucocephalus*), and possibly merlins (*F. columbarius*) (Marks and Naslund 1994).

In the marine environment, oil spills and commercial net fisheries adversely affect marbled murrelets. Clean water is important for survival and completion of the murrelet's life cycle and for the conservation of the species. Clean, unpolluted water is essential for maintaining the health of individual marbled murrelets and prey species, and for providing areas for social interactions and other behaviors.

Marbled murrelets have a high vulnerability to oiling, and oil spills have had catastrophic effects when large spills have occurred in the vicinity of murrelet concentrations. Impacts have been particularly severe in Prince William Sound in Alaska, western Washington, and central California (Carter and Kuletz 1995). The 45 marbled murrelets recovered after the

Tenyo Maru spill in 1991 at the mouth of the Strait of Juan de Fuca in Washington was the greatest number of murrelets recovered in any oil spill, with the exception of the *Exxon Valdez* oil spill, and represented a significant portion of the local population (Carter and Kuletz 1995). Oil spills may also affect forage fish populations (Irons 1992; Oakley and Kuletz 1994; Piatt and Anderson In press), reduce reproductive success, and disrupt breeding activity (Carter and Kuletz 1995). Chronic oil pollution can cause mortality through oiling and ingestion of oil. Other forms of pollution may also affect birds directly through toxic effects on their food supply.

Mortality of marbled murrelets from entanglement and drowning in fishing nets has declined in recent years in Washington, Oregon, and California, as fishing effort has declined and regulations to reduce mortality have been implemented. However, mortality is still a concern, particularly in Washington. Gillnet fisheries are most significant as a threat to murrelets in the marine environment in Washington, although closures of some areas, specifically to protect marbled murrelets, were implemented in the 1995 season (USFWS 1995b, 1995c). Gillnet fisheries no longer occur in Oregon, with the exception of those in the Columbia River. In California, fishing regulations protect most murrelets from this type of mortality (Carter *et al.* 1995).

Gillnet fisheries may occur at the mouth of the Columbia River, in Willapa Bay, Grays Harbor, the Strait of Juan de Fuca, and Puget Sound, although fishing efforts in coastal fisheries have been greatly reduced because of depressed salmon (*Oncorhynchus* spp.) runs. An observer program in 1994 in the all-citizens and Tribal sockeye salmon (*Oncorhynchus nerka*) drift gillnet fishery of north Puget Sound, which is the most significant fishery in Puget Sound, estimated an entanglement of 15 murrelets, with a range of 2 to 59 murrelets (Pierce *et al.* 1996). A National Marine Fisheries observer program for marine mammals on the outer coast fisheries of Washington, where low numbers of marbled murrelets are present, did not document marbled murrelet mortality (Jeffries and Brown 1993). However, a number of entangled birds of the Alcidae family were not identified to species. Entanglement in other Washington drift net and set gillnet fisheries has also been documented (Speich and Wahl 1989; Craig and Cave 1994; BIA 1994; J. Grettenberger, USFWS, pers. comm. 1995). Observer programs in 1993 and 1994 in Puget Sound salmon purse seine fisheries indicated that entanglement rates of marbled murrelets were much lower with this gear type (Natural Resources Consultants 1995). To date, there has not been any documented murrelet mortalities from gillnet fisheries at the mouth of the Columbia River.

It is likely that marbled murrelets, like many other seabirds, are affected by fluctuations in marine environmental conditions such as El Niño events (USFWS 1995a). In general, increased mortality of adult seabirds and decreased reproductive efforts have been linked with El Niño episodes when food supplies are depressed (Schrieber and Schrieber 1984; Hodder and Graybill 1985; Boekelheide *et al.* 1990), although there may be marked differences in effects across regions and among species with different foraging styles (Hatch 1987). Marbled murrelets are relatively opportunistic foragers and probably have a great flexibility in prey choice (USFWS 1995a). This capability may enable them to respond, to some degree, to changes in prey availability caused by fluctuating environmental conditions (USFWS 1995a). In general, unfavorable conditions can result in adult mortality and reduced productivity. However, a seabird's relatively long life span is an adaptation which allows an individual to reproduce successfully despite adverse conditions during its lifetime. This life history strategy serves to maintain a population despite environmental fluctuations (USFWS 1995a). However, cumulative impacts (including nest habitat loss, oil spills, etc.), in addition to repeated El Niño events in localized areas over a short time period could cause serious population declines or extirpations (USFWS 1995a).

Management Considerations

Marbled murrelets are found in forests containing a variety of forest structure, which is in part the result of varied management practices and natural disturbance (Hansen *et al.* 1991; McComb *et al.* 1993). In many areas, management practices have resulted in fragmentation of the remaining older forests and creation of large areas of younger forests that have yet to develop habitat characteristics suitable for marbled murrelet nesting (Hansen *et al.* 1991). Past and current forest management practices have also resulted in a forest age distribution skewed toward younger even-aged stands at a landscape scale (Hansen *et al.* 1991; McComb *et al.* 1993).

In many portions of the range of the marbled murrelet during the last 50–70 years, forest management has concentrated on clear-cut logging (Hansen *et al.* 1991). After forests are clear-cut, the sites are traditionally replanted to a single or few tree species and maintained as even-aged stands for maximum wood-fiber production. Site-preparation and management activities may further decrease species diversity (Hansen *et al.* 1991). These methods include prescribed burning and the use of herbicides or mechanical methods to control competing vegetation.

Prior to the widespread application of clearcut timber harvest, historical logging practices in some portions of the species' range consisted of more selective timber harvest, leaving remnant patches of forests of varying ages with older forest characteristics. The uneven-aged management practices used in these areas usually resulted in more diverse forests that may currently provide some nesting habitat where a few trees containing suitable marbled murrelet nesting structure remain (Hansen *et al.* 1991).

Current and historic loss of marbled murrelet nesting habitat is generally attributed to timber harvest and land conversion practices, although, in some areas, natural catastrophic disturbances such as forest fires have caused losses (Hansen *et al.* 1991; Ripple 1994; Bunnell 1995). Reduction of the remaining older forest has not been evenly distributed in western Washington, Oregon, and California. Timber harvest has been concentrated at lower elevations and in the Coast Ranges (Thomas *et al.* 1990), generally overlapping the range of the marbled murrelet.

Habitat for marbled murrelets has been generally declining since the arrival of European settlers. Bolsinger and Waddell (1993) estimated that old-growth forest in Washington, Oregon, and California has declined by two-thirds statewide during the last five decades. Information specific to the range of the marbled murrelet is not available. Historic forest conditions have been estimated for western Washington and Oregon by several authors. Marbled murrelet habitat represents a significant portion of area included in these estimates; therefore, trends in habitat are assumed to follow the same general pattern identified for the larger area.

Although the extent of mature and old-growth forest before the 1800s is difficult to quantify, western Washington and Oregon are estimated to have been covered by approximately 9.7 to 12.8 million hectares (24 to 32 million acres) of forest at the time of euroamerican settlement in the early to

mid-1800s, of which about 5.6 to 7.9 million hectares (14 to 20 million acres) (60 to 70 percent) are estimated to have been old-growth (Society of American Foresters Task Force 1983; Spies and Franklin 1988; Morrison 1988; Norse 1988; Booth 1991; Ripple 1994). As of 1991, there were approximately 1.4 million hectares (3.4 million acres) of old-growth forest remaining in western Washington and Oregon, an 82 percent reduction from estimated prelogging levels (Booth 1991).

Estimates for a similar time period in northwestern California are not as precise, but suggest there were between 526,000 and 1.3 million hectares (1.3 and 3.2 million acres) of old-growth Douglas-fir/mixed conifer forest and approximately 890,000 hectares (2.2 million acres) of old-growth coastal redwood forest (Society of American Foresters Task Force 1983; Laudenslayer 1985; Fox 1988; California Department of Forestry and Fire Protection 1988; Morrison 1988). Currently there are approximately 28,000 hectares (70,000 acres) of old-growth coastal redwood forest remaining in California (Larsen 1991).

Some of the forests that were affected by past natural disturbances, such as forest fires and windthrow, currently provide suitable nesting habitat for marbled murrelets because they retain scattered individual or clumps of large trees that provide structure for nesting (Hansen *et al.* 1991; McComb *et al.* 1993; Bunnell 1995). This is particularly true in coastal Oregon where extensive fires occurred historically. Marbled murrelet nests have been found in remnant old-growth trees in mature forests in Oregon.

Forests providing suitable nesting habitat and nest trees generally require 200 to 250 years to develop characteristics that supply adequate nest platforms for marbled murrelets. This time period may be shorter in redwood and western hemlock forests and in areas where significant remnants of the previous stand remain. Intensively managed forests in Washington, Oregon, and California have been managed on average cutting rotations of 70 to 120 years (USDI 1984; USDA 1988). Cutting rotations of 40 to 50 years are common for some private lands. Timber harvest strategies on Federal lands and some private lands have emphasized dispersed clear-cut patches and even-aged management. Forest lands that are intensively managed for wood fiber production are generally prevented from developing the characteristics required for marbled murrelet nesting. Suitable nesting habitat that remains under these harvest patterns is highly fragmented.

Previous Management Efforts

Since 1990, several different approaches to management of older forests and their associated species (including marbled murrelets) have been developed through various Federal efforts. These include the Interagency Scientific Committee's Conservation Strategy for the Northern Spotted Owl (Thomas *et al.* 1990), the Scientific Panel on Late Successional Forest ecosystems commissioned by the U.S. House of Representatives (Johnson *et al.* 1991), the designation of spotted owl critical habitat by the Service (57 FR 1796), and the U.S. Forest Service's (Forest Service) Scientific Analysis Team Report (Thomas *et al.* 1993). All of these efforts would have provided some level of protection to marbled murrelets but most did not address murrelets specifically or provide a framework for a specific marbled murrelet management strategy.

In July 1993, the Service, Forest Service, U.S. Bureau of Land Management, National Park Service, National Marine Fisheries Service, and U.S. Environmental Protection Agency released the Report of the Forest Ecosystem Management Assessment Team (FEMAT Report) (USDA *et al.* 1993a). Information from this report was used in developing the Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl (USDA *et al.* 1993b) and the Record of Decision for Amendments to the Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl (ROD). This ROD is referred to as the Northwest Forest Plan (USDA and USDI 1994). The FEMAT report and ROD provide a specific marbled murrelet management strategy for Federal lands.

Within the range of the marbled murrelet, the Northwest Forest Plan designates a system of Late-Successional Reserves, which provides large areas expected to eventually develop into contiguous, unfragmented forest. In addition to Late-Successional Reserves, the Northwest Forest Plan designates a system of Adaptive Management Areas, where efforts focus on answering management questions, and matrix areas, where most forest production occurs. Administratively withdrawn lands, as described in the individual National Forest or Bureau of Land Management land use plans, are also part of the Northwest Forest Plan.

Specific measures in the Northwest Forest Plan protect *all* occupied murrelet sites on Federal lands outside of the Federal reserve system. These measures include surveys prior to activities that may affect habitat and protection of contiguous marbled murrelet nesting and recruitment habitat (stands capable of becoming suitable nesting habitat within 25 years) within 0.8-kilometer (0.5-mile) of areas occupied by murrelets.

An assessment of population viability of marbled murrelets was conducted by the FEMAT. The assessment group concluded that ''We believe there is only about a 60 percent likelihood (with a range of 50 to 75 percent) that the marbled murrelet population on Federal lands would be stable and well distributed after 100 years, regardless of which option is selected.'' An additional assessment based only on the projected habitat condition at 100 years concluded that there was an 80 percent likelihood that nesting habitat would be well distributed on Federal lands at 100 years under the option most similar to the current Northwest Forest Plan.

The Service recognizes the value of the Northwest Forest Plan (USDA and USDI 1994) and acknowledges its integral role in marbled murrelet conservation. The Northwest Forest Plan complements this critical habitat designation by stressing the need for protection of large, unfragmented areas of suitable nesting habitat that are well-distributed throughout the species' range, with special emphasis on areas close to the marine environment.

Concurrently with the implementation of the Northwest Forest Plan, the Marbled Murrelet Recovery Team continues to work on a Recovery Plan that will outline a strategy for recovering the species. The Recovery Plan, which builds on the Northwest Forest Plan, also addresses management needs on non-Federal lands and in the marine environment.

The Marbled Murrelet Recovery Team is completing a final Recovery Plan that will outline a strategy for recovering the species. The draft Recovery Plan (USFWS 1995a) suggested the establishment of six Marbled Murrelet Conservation Zones where viable populations of murrelets should be maintained in Washington, Oregon, and California. The Recovery Team would designate the Marbled Murrelet Conservation Zones to address differing needs for recovery actions in portions of the marbled murrelet's range and to maintain well-distributed populations. The zones are generally described as follows: (1) the Puget Sound Conservation Zone includes all the waters of Puget Sound, the eastern waters of the Strait of Juan de Fuca and

associated inland habitat extending 80 km (50 miles) from eastern Puget Sound and bisecting of the Olympic Peninsula; (2) the Western Washington Coast Range Conservation Zone includes the outer coast of Washington, the western waters of the Strait of Juan de Fuca and associated inland habitat extending inland to the midpoint of the Olympic Peninsula and in southwest Washington as far as 80 km (50 miles) from the Pacific Ocean shoreline; (3) the Oregon Coast Range Conservation Zone includes most of the coastal waters of Oregon (between the Columbia River and Coos Bay) within 2 km (1.2 miles) of the shoreline and associated inland habitat extending inland a distance of 56 km (35 miles); (4) the Siskiyou Coast Range Conservation Zone includes a portion of the coastal waters of Oregon and California (between Coos Bay, Oregon and the southern boundary of Humboldt County, California) within 2 km (1.2 miles) of the shoreline and associated inland habitat extending inland a distance of 56 km (35 miles) from the Pacific Ocean shoreline; (5) the Mendocino Conservation Zone includes a portion of the California coastal waters (from the Humboldt County line to the mouth of San Francisco Bay) within 2 km (1.2 miles) of the shoreline and associated inland habitat extending inland a distance of up to 40 km (25 miles) from the Pacific Ocean shoreline; and (6) the Santa Cruz Mountains Conservation Zone includes a portion of the central California coastal waters (from the mouth of San Francisco Bay to Point Sur, Monterey County) within 2 km (1.2 miles) of the shoreline and associated inland habitat extending inland a distance of up to 24 km (15 miles) from the Pacific Ocean shoreline (USFWS 1995a).

In the marine environment, several laws apply that benefit murrelets directly or indirectly. The Oil Pollution Act of 1990 addresses the development of a national planning and response system for spills in marine and freshwater environments. A variety of planning efforts are underway that address responses to worst-case discharges of oil or hazardous substances, and mitigation or prevention of a substantial threat of discharge from a vessel, offshore facility, or onshore facility. Planning efforts include the development of a national contingency plan, regional area contingency plans, and local geographic response plans. The Service has worked extensively with the U.S. Coast Guard, industry representatives, local response communities, and other State, Federal, and Tribal natural resource trustees to develop area contingency plans and geographic response plans for Pacific coastal areas. These plans address mechanical recovery, use of dispersants, in-situ burning, shoreline cleanup, protection of sensitive areas, and protection, rescue, and rehabilitation of fish and wildlife. These planning efforts and associated spill exercises should help prevent or minimize the impact of spills on natural resources.

Several other marine laws address threats to murrelets. These include the Clean Water Act, which regulates the discharge of pollution into marine waters and establishes National Contingency plans to minimize damage from oil spills; the Coastal Zone Management Act, which establishes the Coastal Nonpoint Source Pollution Control Program; the Marine Protection, Research and Sanctuaries Act, which restricts ocean dumping of waste, including dredged materials, and establishes marine sanctuaries; and the Outer Continental Shelf Act, which regulates offshore oil development.

Mortality of marbled murrelets in commercial net fisheries in Washington is being addressed through changes in State and Tribal regulations. In 1995, the State of Washington and the Tribes instituted area closures in a number of areas with high densities of marbled murrelets to reduce the potential for entanglement. In 1995, the first year of a 2-year study to evaluate modified gillnets designed to reduce seabird entanglement was completed, and the initial results were encouraging (Melvin and Conquest 1996). Research was also conducted in 1995 to evaluate the extent of fisheries/murrelet overlap and factors that affect entanglement. Educational programs have been implemented that provide material to fishermen on marbled murrelet identification and distribution. As a result of section 7 consultation, observer programs were required in 1993 and 1994 to evaluate and quantify the extent of marbled murrelet mortality in purse seine and gillnet salmon fisheries (USFWS 1995b, 1995c).

Finally, the Forest Service published the ''Ecology and Conservation of the Marbled Murrelet,'' a compilation of original studies and literature reviews that represents the most current treatise on marbled murrelets (Ralph *et al.* 1995a). The document is particularly valuable for management, because it has assembled and synthesized most of what is known about the marbled murrelet.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as ''(i) the specific areas within the geographical area occupied by the species, at the time it is listed * * * on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed * * * upon a determination * * * that such areas are essential for the conservation of the species.'' 16 U.S.C. 1532(5)(A). The term ''conservation,'' as defined in section 3(3) of the Act, means ''* * * to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary * * *'' 16 U.S.C. 1532(3).

Role in Species Conservation

The use of the term ''conservation'' in the definition of critical habitat indicates that its designation would include habitat essential to a species' eventual recovery and delisting. However, when critical habitat is designated at the time a species is listed or before a recovery plan is completed, the Service frequently does not know all of the habitat areas that are essential for a species' recovery. Thus, the Act provides that critical habitat designations may be revised from time to time (16 U.S.C. 1533(a)(3)(B)).

The designation of critical habitat is only one of several measures available to contribute to the conservation of a listed species. Critical habitat helps focus conservation activities by identifying areas that contain essential habitat features (primary constituent elements), thus alerting Federal agencies and the public to the importance of an area in the species' conservation. Critical habitat also identifies areas that may require special management or protection. The identification of these areas may be helpful in planning federally regulated land use activities. The added emphasis on these areas for conservation of the species may shorten the time needed to achieve recovery.

Critical habitat receives consideration under section 7 of the Act with regard to actions carried out, authorized, or funded by a Federal agency. As such, designation may affect non-Federal lands only where such a Federal nexus exists. Federal agencies must insure that their actions are not likely to result in destruction or adverse modification of critical habitat. Aside from this added consideration under section 7, the Act does not provide any additional protection to lands designated as critical

habitat. Designating critical habitat does not create a management plan for the areas; does not establish numerical population goals or prescribe specific management actions (inside or outside of critical habitat); and does not have a direct effect on areas not designated as critical habitat. Specific management recommendations for critical habitat are addressed in recovery plans, management plans, and in section 7 consultation.

In Washington, specific State Forest Practices rules are triggered by Federal critical habitat designation covering private lands. Under Forest Practices rules, a forest management activity within designated critical habitat is classified as a ''Class IV—special'' forest practice. The applicant for the forest practices permit must submit, in addition to the usual information for the Forest Practices permit, an environmental checklist under the State Environmental Policy Act (SEPA). This checklist covers all resources, not just the species or critical habitat in question. The Washington Department of Natural Resources (WDNR) then makes a threshold determination from this information. The WDNR may make a determination of nonsignificance, mitigated determination of nonsignificance, or a determination of significance. If a determination of nonsignificance or mitigated determination of nonsignificance is reached, the action can proceed. If a determination of significance is made, preparation of an Environmental Impact Statement is required. This includes public involvement, and may involve significant time delays and costs. However, the State Forest Practices Board has the option to exclude any Federal critical habitat from this designation under a Class IV special. State regulations exclude from critical habitat, and Class IV—Special review requirements, areas covered by a conservation plan and permit approved the Service. State agencies are required to conduct SEPA review on all State land projects, so the designation of critical habitat designation will have less effect on their process.

In Oregon, State laws and regulations do not recognize critical habitat. Therefore, no effect can be attributed to Federal critical habitat through Oregon State law for critical habitat designated on non-federal land.

In California, the California Endangered Species Act (CESA) contains a similar concept to critical habitat called essential habitat. The State does not necessarily designate essential habitat in terms of mapped and described areas, as does critical habitat. Laws and regulations do not specifically defer to or recognize Federal critical habitat. California Department of Fish and Game biologists, in their normal CESA and California Environmental Quality Act (CEQA) review of proposed activities, may be aware of critical habitat and consider it in lieu of essential habitat. However, there is no requirement to do so, nor any prescribed manner for treating critical habitat. In the absence of critical habitat, State biologists continue to consider the concept of essential habitat. While State biologists may use Federal critical habitat during CESA and CEQA reviews, the impact is not expected to exceed impacts under the above laws in the absence of critical habitat.

Primary Constituent Elements

A designation of critical habitat begins by identifying areas essential to conservation of a species. In determining which areas to designate as critical habitat, the Service considers those physical and biological features essential to a species' conservation and that may require special management considerations or protection. Such physical and biological features, as stated in 50 CFR 424.12, include, but are not limited to, the following:

(1) Space for individual and population growth, and for normal behavior;

(2) Food, water, air, light, minerals or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The Service is required to base critical habitat designations on the best scientific data available (16 USC 1533(b)(2)). In designating critical habitat for the marbled murrelet in Washington, Oregon, and California, the Service has reviewed its overall approach to the conservation of the species. For a thorough discussion of the ecology and life history of this subspecies, see the Service's Biological Report (Marshall 1988); the final listing rule published in the Federal Register on October 1, 1992 (57 FR 45328); The Status and Conservation of the Marbled Murrelet in North America (Carter and Morrison 1992); the Biology of the Marbled Murrelet: Inland and at Sea (Nelson and Sealy 1995); the draft Recovery Plan (USFWS 1995a); the Ecology and Conservation of the Marbled Murrelet (Ralph *et al.* 1995a); and the Ecological Considerations section of this rule.

The Service has determined that the physical and biological habitat features (referred to as the primary constituent elements) associated with the terrestrial environment that support nesting, roosting, and other normal behaviors are essential to the conservation of the marbled murrelet and require special management considerations.

Within areas essential for successful marbled murrelet nesting, the Service has focused on the following primary constituent elements: (1) individual trees with potential nesting platforms, and (2) forested areas within 0.8 kilometers (0.5 miles) of individual trees with potential nesting platforms, and with a canopy height of at least one-half the site-potential tree height. This includes all such forest, regardless of contiguity. These primary constituent elements are essential to provide and support suitable nesting habitat for successful reproduction of the marbled murrelet.

Individual nest trees include large trees, generally more than 81 centimeters (32 inches) dbh with the presence of potential nest platforms or deformities such as large or forked limbs, broken tops, dwarf mistletoe infections, witches' brooms, or other formations providing platforms of sufficient size to support adult murrelets. Because marbled murrelets do not build nests, moss or detritus may be important to cushion or hold the egg. Platforms should have overhead cover for protection from predators and weather, which may be provided by overhanging branches, limbs above the nest area, or branches from neighboring trees. Based on current information from Washington, Oregon, and California, nests have been found in Douglas-fir, coastal redwood, western hemlock, western redcedar, or Sitka spruce (Hamer and Nelson 1995b).

On a landscape basis, forests with a canopy height of at least one-half the site-potential tree height in proximity to potential nest trees are likely to contribute to the conservation of the marbled murrelet. These forests may reduce the differences in microclimates associated with forested and unforested areas (Chen *et al.* 1992; Chen *et al.* 1993), reduce potential for windthrow during storms (Chen *et al.* 1992), and provide a landscape that has a higher probability of occupancy by marbled murrelets (Raphael *et al.* 1995). The site-potential tree height is the average maximum height for trees given the local growing conditions, and is based on species-specific site index tables. Nest trees may be scattered or clumped

throughout the area. Potential nesting areas may contain fewer than one suitable nesting tree per acre.

Within the boundaries of designated critical habitat, only those areas that contain one or more primary constituent element are, by definition, critical habitat. Areas without any primary constituent elements are excluded by definition.

Criteria Used To Identify Critical Habitat

Several qualitative criteria were considered in the selection of specific areas for inclusion in critical habitat. These criteria are similar to criteria used in the development of several recent Federal management proposals, such as the Scientific Panel (Johnson *et al.* 1991) and Northwest Forest Plan (USDA and USDI 1994). The following is a description of the criteria considered:

Suitable Nesting Habitat: The presence of suitable nesting habitat as defined in the previous section. Suitable habitat was located through the use of specific site knowledge, GIS data, remote sensing data, and aerial photos.

Survey Data: Information about presence/absence and occupancy were used to indicate murrelet use areas. Critical habitat units include most of the known sites occupied by marbled murrelets on Federal, State, county, and private lands. However, known occupied sites may represent only a small portion of the population due to the limited coverage of past survey efforts.

Proximity to Marine Foraging Habitat: During the nesting season, marbled murrelets forage in the marine environment and return to the nest at least once daily carrying a prey item to their young. Foraging and nesting habitat areas must be juxtaposed within the flight capabilities and energetic limits of the species. Critical habitat units were designated taking into account the distance of murrelet detections from the marine environment in a given area.

Large, Contiguous Blocks of Nesting Habitat: In response to the problems of fragmentation of suitable habitat, potential increases in predation, and reduced reproductive success, the Service concentrated on defining critical habitat units in terms of large, contiguous blocks of late-successional forest. The Service used the Late-Successional Reserve system identified in the Northwest Forest Plan (USDA and USDI 1994) to the extent possible to provide large blocks of habitat. Marbled murrelet locations and habitat were considered in the development of these reserves. State, county, private, and city lands were included where large blocks of Federal reserve areas were insufficient or not available, but where critical habitat was crucial to retaining distribution of the species.

Rangewide Distribution: To maintain the current distribution of the species and reduce the impact of catastrophic losses of habitat or murrelets, critical habitat units were identified throughout the range of the species in the three states. Well distributed critical habitat reduces the probability that a natural or human-caused catastrophe would threaten the survival or recovery of the species in Washington, Oregon, and California. Catastrophes that might threaten the species include wildfires, windstorms or oil spills. Given the intense site fidelity of many alcid species, maintaining rangewide distribution may also be needed to provide potential source populations for the recolonization of future habitat.

Adequacy of Existing Protection and Management: The Service considered the existing legal status of lands in designating areas as critical habitat. Areas with permanent legal protection of wildlife, such as congressionally designated wilderness areas, National Parks, and National Wildlife Refuges are not proposed unless specific threats were identified that are not addressed by existing management and protection. State park regulations vary, but are often more recreation oriented, and less restrictive or protective of wildlife.

Designated Areas Identified by Applying Criteria

Application of the foregoing criteria and consideration of comments and information received as a result of the supplemental proposal has resulted in the designation of most of the Late-Successional Reserves (LSR), as described in the Northwest Forest Plan, on Federal lands within the range of the marbled murrelet in Washington, Oregon, and California. These areas, as managed under the Northwest Forest Plan, should develop into large blocks of suitable murrelet nesting habitat given sufficient time. However, LSRs are plan-level designations with less assurance of long-term persistence than areas designated by Congress. Designation of LSRs as critical habitat compliments and supports the Northwest Forest Plan and helps to ensure persistence of this management directive over time. In some areas, these large blocks of Federal land can provide the necessary contribution for recovery of the species. In other areas, Federal ownership is limited and Federal lands alone cannot meet recovery needs to reverse the current population decline in marbled murrelets and maintain a well-distributed population.

The FEMAT report recognized the limited ability of Federal agencies to recover this species on Federal lands alone. ''Although the Forest Ecosystem Management Assessment was designed to address only Federal lands within the range of the northern spotted owl, the marbled murrelet is an example of a species whose life history requirements cannot be accommodated only on Federal lands. The marbled murrelet is a seabird that nests inland and therefore is influenced by both the marine and terrestrial environments. Its nesting range in the three-state area includes land that is south of the range of the northern spotted owl. In addition, several areas that are considered key to the recovery of the marbled murrelet involve private and state lands'' (FEMAT Report at IV–151 and IV–152, USDA *et al.* 1993a).

Based on information provided in public comments, including the recommendations of the Marbled Murrelet Recovery Team in the draft Recovery Plan (USFWS 1995a), the Service is designating selected non-Federal lands that meet the requirements identified in the Criteria for Identifying Critical Habitat section, where Federal lands alone are insufficient to provide suitable nesting habitat for the recovery of the species.

Non-Federal lands are designated as critical habitat where Federal lands are limited or nonexistent, and where non-Federal lands are essential for maintaining marbled murrelet populations and nesting habitat. State lands are particularly important in southwestern Washington, northwestern Oregon, and California south of Cape Mendocino. Small segments of county lands are also included in northwestern Oregon and central California. This is consistent with the Memorandum of Understanding between the Service and the State of California signed in 1991.

Some private lands are being designated as critical habitat because they provide essential elements and occur where Federal lands are very limited, although habitat availability on private land is typically much more limited than on public lands. These areas include the Arlecho Basin, which supports occupied sites in the lowlands of northern Washington; land supporting known occupied sites in southwestern Washington and in the Siletz River drainage in Oregon; nesting habitat and occupied sites for the at-sea murrelet population in the southern portion of the Draft Recovery Plan's proposed Marbled Murrelet Conservation Zone 4 in California,

including the Headwaters Forest area; and nesting habitat for the central California population. State, county, city, and private lands contain the last remnants of nesting habitat for the southern-most population of murrelets, which is the smallest, most isolated, and most susceptible to extirpation.

Areas Not Designated

Not all suitable nesting habitat is included in the designated critical habitat units. Emphasis has been placed on those areas considered most essential to the species' conservation in terms of habitat, distribution, and ownership. That does not mean that lands outside of designated critical habitat units are not important to the marbled murrelet. Some Federal lands outside of designated critical habitat will receive additional protection from the marbled murrelet conservation measures outlined in the Northwest Forest Plan. Under the ROD, *all* marbled murrelet habitat will be surveyed prior to removal or degradation of habitat, and *all* occupied sites will be protected. The Adaptive Management Areas, matrix lands, and administratively withdrawn lands contain areas of occupied habitat that would be protected from timber harvest.

Some areas outside this critical habitat designation may prove to contain elements important to the recovery of the species. This includes several areas recommended in public comment (see Issue 26). However, under the Administrative Procedure Act (5 U.S.C. 553), the Service cannot finally designate areas which were not included in a proposed rule; and the Service was under court order to finalize this designation by May 15, 1996. The Service will consider these areas for potential inclusion in any future revisions of marbled murrelet critical habitat.

In considering whether tribal lands would be designated as critical habitat, the Service gave particular attention to the Federal government's trust responsibilities to Native Americans. The Hoopa Valley Indian Reservation (Reservation) was considered but not designated as critical habitat because no occupied sites have been documented after 3 years of surveys on various portions of the Reservation. The Reservation contains only a small quantity of fragmented marbled murrelet habitat and is surrounded by Federal lands. Some of those Federal lands contain high quality habitat supporting occupied sites and are either designated as critical habitat or protected as a Congressionally Withdrawn Area.

Three other areas of Tribal land were considered for inclusion in critical habitat, including portions of the Quinault and Makah Indian Reservations in Washington and lands owned by the Siletz Tribe in Oregon. The Makah Indian Reservation was not designated because little suitable habitat remains in this area. The Siletz lands support marbled murrelets and contain suitable habitat. However, because these parcels are small, isolated, and relatively few, they have limited ability to contribute to recovery, especially considering the proximity of Federal land in the area. Many of these tribal lands contain murrelet occupied sites and activities on these areas undergo section 7 consultation through the Bureau of Indian Affairs, providing an option for achieving essential conservation contributions. Therefore, the Siletz lands were not included in the supplemental proposed rule, for any future revisions to critical habitat for the marbled murrelet.

The Quinault lands are considered important to the conservation of the marbled murrelet. The North Boundary Area of the Quinault Indian Reservation contains large blocks of contiguous, old-growth habitat. Much of this habitat currently supports marbled murrelets. However, the Quinault lands were not included in the supplemental proposed rule after consideration of the Federal government's trust responsibilities and the options for achieving essential conservation contributions through other alternatives. The Service is still considering the appropriateness of designating critical habitat on Quinault lands, for any future revisions to critical habitat for the marbled murrelet.

The Service considered including five marine areas in critical habitat. Clean water and accessible foraging opportunities are important life history requirements for the marbled murrelet. These five areas support the highest concentrations of murrelets during the breeding season in Washington, Oregon, and California. One area consisted of the waters of Puget Sound and the Strait of Juan de Fuca in Washington, including the waters surrounding the San Juan Islands. The Service also considered near shore waters (within 2 km (1.2 mi) of the shore) along the Pacific coast from Cape Flattery to Point Grenville in Washington, from Newport Bay to Coos Bay in Oregon, from the California State border to Cape Mendocino in northern California, and from Pillar Point to Davenport in central California.

While these marine areas are very important to the conservation of marbled murrelets, the Service does not believe that they require special management consideration or protection at this time beyond that provided by the existing Federal laws and regulations discussed in the Previous Management Efforts section. These laws and regulations specifically address reducing the threats identified in the marine environment.

While the draft Recovery Plan clearly indicates that marine habitat is important to the survival of marbled murrelets, it also indicates that the primary concern with respect to declining murrelet populations is loss of nesting habitat. The Service's evaluation of the effects of actions in the terrestrial environment focuses on the impacts to the species' nesting habitat, although take of murrelets is also addressed. With respect to the marine environment the Service is primarily concerned with mortality issues.

Activities or events that adversely affect marbled murrelets at sea seem to be more associated with the mortality of individual birds than with long-term destruction or adverse modification of habitat. For example, gillnet fisheries result in incidental capture of murrelets, but may not significantly adversely affect the prey base. Murrelets appear to forage opportunistically on available fish, and are likely able to respond to minor changes in fish abundance and location.

Murrelets are also adversely affected by spills of oil and other pollutants. Although these events undoubtedly harm the murrelet prey base, their principal adverse impact is the death of birds in the area of the event. The effects of these events on the murrelet prey base are somewhat more difficult to predict than are the effects on any murrelets that happen to be in the area. The Service's assessments of these events typically relies upon an assessment of the mortality issue rather than an assessment of habitat issues such as prey base.

Many of the threats specifically result in the loss of individuals through death or injury. Such effects related to projects authorized, funded, or carried out by a Federal agency can and should be considered under section 7 of the Act. The Service will continue to monitor marine threats and may propose marine critical habitat in the future if warranted.

Changes From the Supplemental Proposal

The Service reviewed public comments, information on forest stands provided by landowners during the public comment period, aerial photographs, and updated GIS data. The Service dropped areas and corrected

area descriptions accordingly. Generally, the corrections were relatively minor adjustments to boundary lines.

A number of proposed units in southwest Washington on private and State lands were reduced in size if it was determined that: (1) primary constituent elements were not present or, (2) the area removed was not considered necessary for the conservation of the species. The north portion of Capital Forest (WA–04–a) was removed because of the lack of primary constituent elements, coupled with high levels of motorized recreational use that further reduce habitat potential.

In Oregon, the Elliott State Forest was originally proposed for designation as critical habitat. The State of Oregon has since completed the Elliott State Forest Habitat Conservation Plan that includes provisions for the marbled murrelet and received an incidental take permit. This permit describes how the area will be managed for murrelets. Therefore, the Service has removed this area from the final designation.

On Federal lands in Oregon, the Service included approximately 100 acres and deleted approximately 300 acres of land on the Siuslaw National Forest at the request of the Forest Service. This change reflects a land exchange intended to protect marbled murrelet occupied sites. The Service deleted areas managed by the Siskiyou National Forest (portions of subunits OR–07–e and OR–07–f); and the Eugene, Roseburg and Medford Districts of the Bureau of Land Management (subunits OR–04–h, and portions of subunits OR–06–d, OR–04–f, and OR–04–I) based on survey information provided by the agencies during the public comment period. Survey information included the location and results (positive and negative) of murrelet surveys in the eastern portion of these areas. The survey locations were based on planned timber sales and habitat-based surveys in many areas, rather than a statistically designed study to determine the inland distribution of marbled murrelets. Therefore, the Service was only able to utilize the survey information in critical habitat units where the survey effort was greatest. The Service interprets lack of detections or occupied sites, when coupled with habitat information, to indicate that these areas are currently likely to support much lower densities of murrelets than areas closer to the coast. The Service does not consider these survey data to be sufficient at this time to define the full inland distribution of murrelets in these areas and does not propose to change the murrelet zones used in the Northwest Forest Plan.

In California, some portions of proposed critical habitat on private and Federal lands in the Siskiyou Coast Range Zone (unit CA–10–b and the east half of unit CA–10–a) and on city and state lands in the Santa Cruz Mountains Zone were dropped based on information provided by the landowners and land management agencies or other new information available to the Service. These areas were dropped because the Service determined that they did not contain the primary constituent elements or were not considered essential to the conservation of the species. All of Golden Gate National Recreation Area was dropped based on information provided by the National Park Service indicating that the Federal government owns the timber rights to any potentially suitable murrelet habitat within the area. After reviewing this information, the Service has determined that Federal lands within the Golden Gate National Recreation Area do not require special management.

Portions of primary constituent element (3) from the supplemental rule (forested areas of at least one-half the site-potential tree height regardless of the presence of potential nest platforms) have been incorporated into primary constituent element (2) in the final rule, and the remainder dropped. Forested areas surrounding nest trees were retained because they likely contribute to successful reproductive efforts by providing the microclimate suitable for maintaining nest tree characteristics and potentially reducing predation. The contribution of forested areas to successful reproduction likely decreases with increasing distance from the nest tree and at some distance the contribution becomes indistinguishable. Raphael *et al.* (1995) found an increased chance of occupancy in landscape conditions with increased amounts of large saw timber and old growth components within a 0.8 km (0.5 mile) radius circle. Specific studies are lacking to document the value of forested conditions to marbled murrelet nesting beyond the 0.8 km (0.5 mile) radius. Therefore, until these studies are completed, it is the best professional judgement of Service biologists that forested conditions within 0.8 km (0.5 mile) of a potential nest tree contribute more significantly to successful reproduction than those beyond this area and the Service has changed the primary constituent elements accordingly.

Congressionally Withdrawn Areas

Congressionally Withdrawn Areas (e.g., wilderness areas and national parks) are limited in the range of the marbled murrelet in Washington, Oregon, and California. Few wilderness areas are within the flight distance of marbled murrelets from the marine environment, although those that are provide crucial contributions to the conservation of the species. Wilderness areas and national parks contain approximately 302,000 hectares (747,000 acres) of marbled murrelet nesting habitat, representing 29 percent of the suitable nesting habitat on Federal lands in the range of the marbled murrelet. However, a substantial portion of the remainder of these areas is incapable of producing marbled murrelet nesting habitat because of forest composition, lack of forest cover, elevation, and other constraints. By themselves, Congressionally Withdrawn Areas are incapable of supporting stable and interactive populations of marbled murrelets.

Marbled murrelet habitat in congressionally designated wilderness areas, national parks, national monuments (natural areas), and national wildlife refuges is generally managed by statutory requirements to protect natural ecosystems and for the benefit of wildlife. Thus, habitat in these areas does not require special management consideration or protection. For example, a potential highway realignment through the Redwood National Park in northern California could result in the removal of occupied habitat. The Park's statutory authority and general management goals, however, are considered adequate to conserve the species without the additional designation of critical habitat.

However, not all Congressionally Withdrawn Areas are managed in this manner. For example, some national recreation areas may not be managed to maintain older forest habitats or may face external actions (e.g., outside ownership of mineral or timber rights) which may threaten marbled murrelet habitat within the area. One congressionally withdrawn area in California, the Golden Gate National Recreation Area, was proposed for designation. Area staff indicated that potential marbled murrelet habitat within the area might still be subject to timber harvest and loss, because the National Park Service does not control rights to the standing timber on some parts of the recreation area. During the public comment period the National

Park Service was able to verify that any lands where timber rights may not be secure do not contain potentially suitable marbled murrelet habitat. Therefore the Recreation Area was dropped from designation because murrelet habitat within the area no longer needs special management consideration or protection beyond the area's existing statutory requirements.

Several other congressionally designated areas were considered important to recovery of the marbled murrelet because of their location within the range of the species and presence of suitable nesting habitat, but are not designated because they do not require special management in light of their existing statutory requirements. These include: (1) North Cascades, Olympic, and Mount Rainier National Parks; Willapa National Wildlife Refuge; Mount Saint Helens National Volcanic Monument; Mount Baker, Noisy Diobsud, Glacier Peak, Boulder River, Henry M. Jackson, Alpine Lakes, Clearwater, Norse Peak, Glacial View, Tatoosh, Buckhorn, The Brothers, Mount Skokomish, Wonder Mountain, and Colonel Bob Wilderness Areas in Washington; (2) Drift Creek, Cummins Creek, Rock Creek, Grassy Knob, Wild Rogue, and Kalmiopsis Wilderness Areas in Oregon; and (3) the Kalmiopsis, Siskiyou, and Trinity Wilderness Areas; Muir Woods National Monument and Point Reyes National Seashore in California. Portions of the Smith River National Recreation Area in California were not included because they did not contain high-quality nesting habitat. External threats in these areas are very limited, management goals are generally adequate to conserve the species, and these areas do not require special management consideration or protection beyond their individual statutory authorities.

Economic Analysis Summary

Section 1(b)(2) of the Act requires the Service to consider the economic and other relevant impacts of specifying any particular area as critical habitat. The Secretary may exclude areas from critical habitat if the benefits of exclusion outweigh the benefits of including the area in critical habitat, unless failure to designate a specific area would result in extinction of the species. The Service contracted with ECONorthwest, a consulting firm in Eugene, Oregon, to conduct an economic analysis of the potential economic effects of designating critical habitat for the marbled murrelet. As required by the Act, the report addresses only the incremental economic consequences of the proposed critical habitat. It does not address the consequences of listing the species or other actions that have been proposed or taken to protect marbled murrelets prior to this designation.

The habitat covered by the designation plays a complex role in the regional economy by producing multiple, valuable goods and services, including: the marbled murrelet itself; other species, including salmon; fresh water; recreational opportunities; and timber. The data regarding the designation's impacts on some of these goods and services are not sufficient to support a detailed conclusion about whether the proposed designation would result in net economic benefits or costs. Evidence indicates, however, that the designation's economic benefits largely offset, and may even outweigh, its economic costs. The overall net effect is expected to be close to zero.

The designation will have few immediate and direct impacts on the economy. The primary effect of critical habitat is through the section 7 requirement for Federal agencies to avoid the destruction or adverse modification of critical habitat through actions they fund, permit, or carry out. The Service, with information provided by the cooperating Federal agencies, has determined that the designation of critical habitat for the marbled murrelet is not likely to significantly restrict the activities of any Federal agency, whether on Federal or non-federal lands. In particular, although the designation will reinforce the efforts of the Forest Service and Bureau of Land Management to protect and enhance the terrestrial habitat of the marbled murrelet, it will not cause these agencies to manage Federal lands in a manner that will have immediate, direct impacts on the flow of timber and other goods and services from these lands.

For non-federal landowners with lands included in this designation, the primary potential for an impact of critical habitat will be on actions that require a Federal permit or involve Federal funding. One of these activities is the issuance of incidental take permits under section 10(a) of the Act. The Service works with landowners, at their request, in the development of the HCP required for issuance of the permit to allow activities to proceed while minimizing and mitigating for impacts to listed species. The Service consults under section 7 on the issuance of the permit, to ensure the permit will not jeopardize the species or adversely modify critical habitat. The Service has defined critical habitat for marbled murrelets to exclude lands covered by a legally-operative incidental take permit for the species, including marbled murrelet incidental take permits that may be issued subsequent to the designation. Other permitting or funding agencies have indicated that they do not expect critical habitat to have a significant effect on permits or funding.

The designation may, however, lead to changes in the actions of the Washington Department of Natural Resources (WDNR), which is required by State regulations to take Federal critical habitat designations into account when assessing applications for permits to conduct logging and other activities. These regulations require WDNR to scrutinize more thoroughly the potential impacts on all aspects of the environment—natural, recreational, cultural, and infrastructural—when a proposed activity will occur inside designated critical habitat. However, marbled murrelet critical habitat is defined to exclude areas covered by marbled murrelet incidental take permits. Washington State Forest Practices regulations exclude areas covered by a marbled murrelet incidental take permit from this requirement.

The economy most directly affected by the designation—western Washington, western Oregon, and northwestern California—is highly diversified and growing rapidly. Any potential loss of jobs should be compensated for by other employment opportunities as has happened over the last 15 years in this area. Markets are expected to respond quickly, whatever the designation's impacts on the timber industry. The designation is unlikely to cause any change in the prices of timber and derivative products.

Summary of the Exclusion Process

Under section 4(b)(2) of the Act, the Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusions outweigh the benefits of specifying such areas as part of the critical habitat, unless he determines that the failure to designate such areas will result in the extinction of the species concerned. To determine whether to include or exclude an area, the Service has analyzed the economic and conservation benefits of retaining or excluding critical habitat areas, and weighed those benefits.

The economic analysis focused on Federal agencies because the primary impact of critical habitat occurs through a Federal nexus. For the supplemental proposed rule, the Service contacted all Federal agencies operating within the range of the murrelet in Washington, Oregon, and California. The Service

discussed the potential effects of critical habitat and the various regulatory activities of the agencies, to assist in determining whether the proposed designation would have a potential to affect the agency's actions, including funding and permitting activities on non-federal lands. Each agency contact was sent a questionnaire requesting information on the potential impacts of the designation on any projects or activities funded, permitted, or carried out by their agency, followed by personal contact. Follow-up contacts were made with the various agencies to answer any additional questions. For the final rule, updates were requested.

Several portions of critical habitat were dropped from the proposed rule due to new information made available to the Service during the public comment period. Because the effects of critical habitat designation vary by ownership and State regulation, the Service evaluated the effect of the designation on areas defined by state and ownership, beginning with critical habitat areas on Federal land in the three States. Federal lands are managed under the same requirements, through the Northwest Forest Plan. Therefore, potential effects of critical habitat are similar for all these lands. Baseline condition of Federal lands was established in the Northwest Forest Plan.

Within each state, the Service examined the potential effects of critical habitat on the various ownerships and areas defined by differences in the baseline condition. Effects examined included any potential effects where Federal permits or funding were involved. In addition, any effects of state regulations that tier to Federal critical habitat were examined.

Based on the impacts revealed by the economic analysis summarized above, and careful examination of the conservation benefits of the critical habitat units, the Service has determined that the overall conservation and other benefits to be gained from the designation outweigh the benefits of excluding any remaining areas. Therefore, the Service did not exclude any areas during this process and has made a final determination to designate critical habitat for the marbled murrelet. A copy of the economic analysis and description of the exclusion process with supporting documents are included in the Service's administrative record.

Effects of the Designation

This designation of critical habitat for the marbled murrelet identifies 32 critical habitat units encompassing approximately 1,573,340 hectares (3,887,800 acres) of Federal and non-Federal lands based on information available in the Interagency Geographic Information System (GIS). Twenty-two critical habitat units include State, county, city, or private lands. See Table 1.

TABLE 1.—DESIGNATED CRITICAL HABITAT BY STATE, OWNERSHIP, AND LAND ALLOCATION

	Hectares	Acres
Washington:		
Federal Lands:		
Congressionally Withdrawn Lands	740	1,800
Late-Successional Reserves	485,680	1,200,200
Non-Federal Lands:		
State Lands	172,720	426,800
Private Lands	1,020	2,500
Oregon:		
Federal Lands:		
Late-Successional Reserves	541,530	1,338,200
Non-Federal Lands:		
State Lands	70,880	175,100
County Lands	440	1,100
Private Lands	350	900
California (Northern):		
Federal Lands:		
Late-Successional Reserves	193,150	477,300
Non-Federal Lands:		
State Lands	71,040	175,500
Private Lands	16,360	40,400
California (Central):		
State Lands	14,080	34,800
County Lands	3,230	8,000
City Lands	400	1,000
Private Lands	1,720	4,200

Some small areas of naturally occurring or human-created unsuitable habitat (i.e., areas that have never been or will likely never be marbled murrelet nesting habitat, such as alpine areas, water bodies, serpentine meadows, lava flows, airports, roads, buildings, parking lots, etc.) are inside the boundaries of critical habitat units but are not affected by the designation because they do not contain primary constituent elements. Where possible, these areas were not included within the critical habitat boundaries and acreage totals were adjusted to reflect the exclusion of this non-suitable habitat. However, many of these areas are small and could not be physically identified on the GIS maps. Current mapping information does not allow precise identification of the location of all forest areas containing primary constituent elements. This is particularly true for potential nest trees. These trees are often a small component of the forest stands and are not recorded on many timber-oriented data systems. The Service used the best existing data to locate the forest areas most likely to contain the primary constituent elements. Where possible in the time frame available, the Service refined the boundaries of the critical habitat units to eliminate significant identified areas that do not contain one or more of the primary constituent elements based on the best data available.

Efforts by Federal agencies to survey for marbled murrelets have been concentrated in areas of proposed

timber sales or limited research locations. A small fraction of suitable nesting habitat has been surveyed to date, and surveys have not been uniformly spread throughout the range of the species. Therefore, known occupied sites provide only a partial indication of the areas used by the species. In addition, there are a significant number of known occupied sites within Redwood National Park that are not currently on the database and are therefore not reported here. The designated critical habitat includes 695 (86 percent) of the 807 known occupied sites on Federal lands.

The Service had limited information about the amount of suitable nesting habitat or habitat containing one or more of the primary constituent elements on non-Federal lands within the species' range. The Service relied on analysis of satellite imagery that does not identify small features such as potential nest trees. The Service is aware of at least 354 known occupied sites on non-Federal lands, of which 218 (61 percent) are included within critical habitat. Several of the occupied sites outside of critical habitat are within the Elliott State Forest, which is operating under an active incidental take permit for murrelets. The Service did receive specific and detailed information in the public comments from some non-Federal landowners relative to the forest condition on their lands. Based on this information, the Service has removed from the designation lands that are unlikely to contain either primary constituent element.

Available Conservation Measures

Two of the principal purposes of the Act, as stated in section 2(b), are to provide a means to conserve the ecosystems upon which endangered and threatened species depend and to provide a program for the conservation of listed species. The Act mandates the conservation of species through several different mechanisms, such as section 7 (requiring Federal agencies to ensure that their actions will not likely jeopardize the continued existence of the listed species or result in the destruction or adverse modification of critical habitat); section 9 (prohibition of taking of listed species); section 10 (habitat conservation plans); and section 6 (cooperative State and Federal grants).

Recovery Planning

Designation of critical habitat does not offer specific direction for managing marbled murrelet nesting or foraging habitat and does not provide a management or conservation plan for the species. Guidance for conservation is generally provided in recovery plans, which usually include management recommendations for designated critical habitat. The Service continues to work closely with the Marbled Murrelet Recovery Team relative to critical habitat.

Recovery planning is an ''umbrella'' that guides conservation activities under the Act and promotes a species' conservation. Recovery plans provide guidance, which may include population goals and identification of areas that are in need of protection or special management. Recovery plans also include management recommendations for areas proposed or designated as critical habitat. Critical habitat promotes recovery by highlighting areas that should be given additional consideration in local planning processes. Critical habitat helps focus conservation activities by identifying areas that contain essential habitat features (primary constituent elements) and that may require special management or protection. Critical habitat complements recovery plans by providing a regulatory mechanism when a Federal nexus is present to increase immediate protection of primary constituent elements and essential areas and preserve options for the long-term conservation of the species.

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to destroy or adversely modify designated critical habitat. This Federal responsibility accompanies, and is in addition to, the requirement in section 7(a)(2) of the Act that Federal agencies insure that their actions are not likely to jeopardize the continued existence of any listed species. A Federal agency must consult with the Service if its proposed action may affect a listed species or critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR 402.

Destruction or adverse modification of critical habitat is defined as ''* * * a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.'' 50 CFR 402.02. Jeopardy is defined at 50 CFR 402.02 as any action that would be expected to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild. The scope of analysis for evaluating the impacts of an activity on marbled murrelet critical habitat is the broadly defined unit and conservation zone, not each individual acre. The designation of critical habitat does not create de facto wilderness or prohibit all human activities within the boundaries. Many activities may take place in critical habitat without resulting in the destruction or adverse modification of the critical habitat.

Section 10 Incidental Take Permits (Habitat Conservation Plans)

Section 10(a) of the Act authorizes the Service to issue permits for the taking of listed species incidental to otherwise lawful activities. Incidental take permit applications must be supported by a habitat conservation plan (HCP) that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the requested incidental take. The issuance of an incidental take permit is a Federal action and is subject to the consultation requirements of section 7 of the Act. The Service cannot issue an incidental take permit if the HCP would jeopardize any listed species, or destroy or adversely modify any critical habitat.

The Service expects that critical habitat may be used as a tool to help identify areas within the range of the murrelet most critical for the conservation of the species and the Service will encourage development of HCPs for such areas on non-federal lands. The Service considers HCPs to be one of the most important methods through which non-Federal landowners can resolve endangered species conflicts. The Service provides technical assistance and works closely with applicants throughout the development of HCPs to help identify special management considerations for the murrelet. Several HCP efforts are currently underway in areas designated as murrelet critical habitat in Washington, Oregon, and California.

HCPs, coupled with Federal management under the Northwest Forest Plan, provide an opportunity to develop a package of sufficient management considerations that meet or enhance the conservation of the species. Thus, they may remove the need for special management consideration or protection, thereby removing the need to designate such areas as critical habitat. Therefore, any lands within critical habitat that are covered by a legally-operative incidental take permit for marbled murrelets based on an approved HCP that addresses conservation of the marbled murrelet are excluded from the critical habitat

while the permit is active. The State of Oregon is currently operating under an incidental take permit for murrelets on the Elliott State Forest, therefore this area has been excluded from critical habitat.

Basis for Section 7 Analysis

Designation of critical habitat focuses on the primary constituent elements within the designated habitat units and their contribution to the species' survival and recovery. The evaluation of actions that may affect critical habitat for the marbled murrelet would consider the effects of a Federal action on any of the factors that were the basis for determining the habitat to be critical, including the primary constituent elements of potential nest trees and surrounding forest.

The range of the marbled murrelet has been subdivided by the Recovery Team into six Marbled Murrelet Conservation Zones (USFWS 1995a), as discussed in the Previous Management Efforts section. These subdivisions were not based on identification of separate populations of marbled murrelets, but rather on the need for potentially different recovery actions in various portions of the marbled murrelet's range, and the need to maintain well-distributed populations. Marbled murrelets within the conservation zones are likely to interact across zone boundaries at some level.

For a wide-ranging species such as the marbled murrelet, where multiple critical habitat units are designated, each unit has a regional (conservation zone) and range-wide role in contributing to the conservation of the species. The basis for an adverse modification opinion would be whether a proposed action appreciably reduces the ability of critical habitat to function in achieving the regional conservation zone goals. In evaluating the effect of a proposed action, the Service will analyze the impacts to individual units in light of their overall contribution to the survival and recovery of murrelets in the conservation zone described in the Previous Management Efforts section, and the overall range of the marbled murrelet in Washington, Oregon, and California. Thus, an adverse modification finding would be based upon a broader inquiry than the mere assessment of adverse effects at the local unit level. The loss of populations throughout one or more conservation zones, or even a major part of a conservation zone, could lead to genetic and demographic isolation of parts of the population.

Examples of Proposed Actions

Section 4(b)(8) of the Act requires, for any proposed or final regulation concerning critical habitat, a brief description and evaluation of those activities (public or private) that may adversely modify such habitat or may be affected by the critical habitat designation. Regulations found at 50 CFR 402.02 define destruction or adverse modification of critical habitat as a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.

A variety of ongoing or proposed activities that disturb or remove primary constituent elements may adversely affect, though not necessarily ''adversely modify'' marbled murrelet critical habitat as that term is used in section 7 consultations. Examples of such activities include, but are not limited to, (1) forest management activities which greatly reduce stand canopy closure, appreciably alter the stand structure, or reduce the availability of nesting sites; (2) land disturbance activities such as mining, sand and gravel extraction, construction of hydroelectric facilities and road building, and (3) harvest of certain types of commercial forest products (e.g. moss). These activities have the following effects on the primary constituent elements of murrelet critical habitat:

(1) Removal or degradation of individual trees with potential nesting platforms, or the nest platforms themselves, that results in a significant decrease in the value of the trees for future nesting use. Moss may be an important component of nesting platforms in some areas.

(2) Removal or degradation of trees adjacent to trees with potential nesting platforms that provide habitat elements essential to the suitability of the potential nest tree or platform, such as trees providing cover from weather or predators.

(3) Removal or degradation of forested areas with a canopy height of at least one half the site-potential tree height and regardless of contiguity, within 0.8 km (0.5 mile) of individual trees containing potential nest platforms. This includes removal or degradation of trees currently unsuitable for nesting that contribute to the structure/integrity of the potential nest area (i.e., trees that contribute to the canopy of the forested area). These trees provide the canopy and stand conditions important for marbled murrelet nesting.

For a proposed action to result in the destruction or adverse modification of critical habitat, it must appreciably diminish the value of critical habitat for both the survival and recovery of a listed species in the affected conservation zone. Each proposed action requiring a section 7 consultation must be evaluated individually, in light of the baseline condition of the critical habitat unit and conservation zone, unique history of the area, and effect of the impact on the critical habitat unit in light of its regional and range-wide role in the conservation of the species. Activities that are acceptable in one critical habitat unit or conservation zone may cause serious effects in another, due to differences in current condition and conservation needs. Therefore, the Service cannot provide, in this rule, a detailed description of the threshold for future actions that would result in the destruction or adverse modification of critical habitat applicable throughout the range of the species.

A variety of activities would not affect the primary constituent elements and therefore would not adversely modify critical habitat. Such activities would include, but are not limited to, certain recreational use and personal-use commodity production (e.g., mushroom picking, Christmas tree cutting, rock collecting, recreational fishing along inland rivers) and certain commercial commodity production (e.g., mushroom picking, brush picking). Actions that affect forest stands not within 0.8 km (0.5 miles) of individual trees with potential nesting platforms (are not primary constituent elements) also would not adversely modify critical habitat, even if they are within the boundaries of the area designated as critical habitat.

Activities that do not affect the primary constituent elements in the forests are unlikely to be affected by the designation. However, even though an action may not adversely modify critical habitat, it may still affect marbled murrelets (e.g. through disturbance) and may, therefore, still be subject to consultation under section 7 of the Act.

Activities conducted according to the standards and guidelines for Late-Successional Reserves, as described in the ROD for the Northwest Forest Plan would be unlikely to result in the destruction or adverse modification of marbled murrelet critical habitat. Activities in these areas would be limited to manipulation of young forest stands that are not currently marbled murrelet nesting habitat. These forest management activities would be

conducted in a manner that would not slow the development of these areas into future nesting habitat, and should speed the development of some characteristics of older forest.

Summary of Comments and Recommendations on the Supplemental Proposed Rule

In the August 10, 1995, supplemental proposed rule for designation of marbled murrelet critical habitat, the Service requested all interested parties to submit information and comments concerning the proposal. Additional comments were received at five public hearings held on the supplemental proposed rule in Washington, Oregon, and California.

During the public comment period, the Service received 339 written comments. In addition, 60 people testified at the public hearings. All comments received are part of the record for this designation and are available for public review. Issues raised during the public comment period that were not addressed in the body of the final rule are discussed next.

Legal/Policy

Issue 1: Two commenters questioned whether the language of a temporary injunction granted by Judge Chesney of the United States District Court for the Northern District of California expanded the scope of activities subject to consultation under section 7 of the Act, and therefore the impact of critical habitat on non-federal lands.

Service Response: Judge Chesney ruled that there was a serious question as to whether the Service's advice to a timber company, that proposed logging would not result in take of the marbled murrelet in violation of section 9 of the Act, was an action subject to section 7 consultation. On May 7, 1996, the U.S. Court of Appeals for the Ninth Circuit reversed Judge Chesney's ruling and concluded that the Service's advice to a private entity on compliance with section 9 is not an action subject to section 7. *Marbled Murrelet* v. *Babbitt*, No. 95–16945 (9th Cir.).

A Federal nexus refers to a situation where a Federal agency authorizes, funds, or carries out an action.

Issue 2: One commenter questioned whether the acceptance of Federal funding for a project on a portion of a State forest would create a Federal nexus for all activities on the forest.

Service Response: The Federal nexus would apply only to the funded activity and related actions. Actions that are interrelated and interdependent with the federally-funded activity would be considered in the biological opinion and could be subject to modification. Any modifications suggested by the Service would, for a non-jeopardy/non-adverse modification action, be confined to ''minor'' changes which would still allow the goals and intent of the project to be met. Other unrelated actions would not be covered in the consultation.

Issue 3: Several commenters questioned the statement that critical habitat designation would not affect activities on State, local, or private lands unless there is a Federal permit, license, or funding involved, citing potential impacts of the designation through State laws.

Service Response: During the public comment period, the Service sought and received additional information on the potential impact of critical habitat designation resulting from State laws and regulations. The potential impacts vary by state. See the *Role in Species Conservation* section for a detailed discussion of the effects by state.

Issue 4: Several commenters recommended that the Service postpone issuing a final rule until additional studies are conducted and better information on the species' biology and threats is available. Other commenters suggested that the Service should seek new information before adopting a final rule.

Service Response: The Service is required to use the best available information in designating critical habitat. The Service is under court order to complete the designation of murrelet critical habitat by May 15, 1996. The Service did solicit new biological data and public participation during the comment period and public hearings on the revised proposed rule. The Service will continue to monitor and collect new information and may revise the critical habitat designation in the future if new information supports a change.

Issue 5: Several commenters raised issues already addressed in the supplemental proposed rule for the designation of critical habitat for the marbled murrelet (60 FR 40892). These include issues related to the listing of the species, the potential for critical habitat to result in the ''take'' of private lands, access across critical habitat, the need for an Environmental Impact Statement, and questions on the prehistorical condition of habitat in the Oregon Coast Ranges.

Service Response: The Service incorporates by reference its responses to these issues contained in the supplemental proposed rule (60 FR 40892). No new information was provided that would result in any significant changes to the responses in the supplemental proposed rule.

Issue 6: One commenter maintained that the Service failed to distinguish recovery objectives from the designation of critical habitat.

Service Response: In the revised proposed rule, the Service provided information on the link between recovery and critical habitat. The areas designated as murrelet critical habitat conform to the Act's requirements for critical habitat designations. Critical habitat includes the areas ''essential to the conservation of the species'' (16 USC 1532(5)(A)). Conservation is defined in the Act as actions necessary to promote recovery of the species (16 USC 1532(3)). Therefore, critical habitat is linked to recovery.

The commenter also confused the issuance of a ''no jeopardy'' biological opinion on the Northwest Forest Plan with conservation of the murrelet throughout three-state range. The biological opinion on the Northwest Forest Plan addressed only the impacts on Federal lands. Conservation of the murrelet has to be analyzed more broadly.

Issue 7: One commenter maintained that the Service failed to provide reasoned explanation for changes between the first and second proposals.

Service Response: The Service addressed the basis and rationale for the differences in the supplemental proposed rule (60 FR 40892). In the first proposal, the Service had indicated that some revisions might be necessary and had requested information to assist the Service in making changes.

Issue 8: One commenter suggested that the Service provide a method to correct legal descriptions without going through the formal rule-making process. Other commenters suggested that the Service specify that lands traded from public to private ownership be excluded from critical habitat once the trade is complete. Several commenters believed that failure to exclude traded areas would effectively halt the land exchanges.

Service Response: A rule designating critical habitat is required to contain a sufficient description of areas designated to allow persons to determine whether a particular segment of land is included or excluded. If corrections or clarifications become necessary, the Service will make them.

Areas were chosen because of their value to the conservation of the marbled murrelet. The Service conducts section 7 consultation on any land exchange that may affect critical habitat. During the consultation process, the Service considers the conservation value of the

areas acquired, as well as the potential effects of the lands traded in determining whether the action as a whole would destroy or adversely modify critical habitat. Even in the event that a proposed exchange would result in the destruction or adverse modification of critical habitat, the Service will work with the action agency and any applicants to craft reasonable and prudent alternatives that would allow the action to proceed.

Changes in ownership do not by themselves change an area's status as critical habitat. If a portion of land is moved from Federal to non-Federal ownership, the effects of the designation may change. Regardless of the original ownership, activities on non-Federal lands are likely to be affected by the designation only when there is a Federal nexus or where State law is triggered by the Federal designation.

Issue 9: One commenter charged that the Service did not use the best scientific information. The commenter interpreted the Act to allow and require the use of only data, not theories or interpretations of the data.

Service Response: The Service believes it has used the best scientific information available, and will continue to review new information as it arises. The Service reviewed all information provided by commenters on the supplemental rule to determine if it supported alternative conclusions. Science involves not only the use of raw data, but the hypotheses, theories, and interpretations derived from those data. Failure to use such information would be contrary to good scientific practice and would not satisfy the Act's requirements. The commenter provided several specific examples, which have been addressed in the ''Ecological Considerations'' section as well as the Biological Issues in this section of the rule.

Issue 10: One commenter contends that the Service erred by designating areas not ''occupied by murrelets at the time of listing.'' The commenter asserts that on September 28, 1992 (the time of listing), the species had completed nesting and were all on the ocean, therefore no nesting habitat could be considered occupied at the time of listing.

Service Response: The commenter's interpretation of ''geographical areas occupied by the species at the time of listing'' is erroneous. The commenter appears to have confused the definition of ''occupied'' in the Pacific Seabird Protocol (designed to determine potential breeding by birds located in a specific area in a specific year) with the biological determination of species occupancy. Biologists consider all areas used by members of a species, regardless of life stage or season, as within the occupied range of the species.

Issue 11: One commenter suggested that the legal descriptions of critical habitat in areas of intermingled Federal ownership should specifically exclude the non-Federal lands through description, rather than by definition.

Service Response: In the supplemental proposed rule, the Service specified the ownerships included in the designation for each area described. Within Federal LSRs, only Federal lands are included by definition, thereby excluding any non-federal lands. In addition, only lands that contain the primary constituent elements are included by definition. This approach satisfies the requirements of the Act. The Service continues to work on improving the descriptions of critical habitat units. We appreciate the specific information provided by private landowners on their ownerships within the Federal and State lands designated. However, in this court-ordered final designation, the Service has included and excluded areas by definition.

Issue 12: One commenter maintained that the Service had ignored the presence of marbled murrelet habitat in Congressionally-withdrawn areas, thereby increasing the area of non-Federal lands designated as critical habitat.

Service Response: The Service is cognizant of the murrelet habitat in lower-elevation, Congressionally-withdrawn areas, including Redwood National Park. The Service assumes these areas will retain murrelet habitat based on the statutory requirements applicable to these areas and considered this in its designation of murrelet critical habitat.

Issue 13: Several commenters suggested that the rationale for excluding Congressionally-withdrawn lands from designation as critical habitat should also apply to the Late-Successional Reserves under the Northwest Forest Plan because these areas were being managed to provide old-growth habitat.

Service Response: Congressionally-withdrawn lands are designated by statute, which secures their status. Any change to their management requires an act of Congress. Those areas designated for management in a manner consistent with murrelet conservation are expected to remain so. Therefore, there is no added value to designating them as critical habitat. In contrast, plan-level designations, such as Late-Successional Reserves, are reviewed and revised periodically (at least every 10–15 years), and therefore do not have the secure status of Congressionally-withdrawn areas. Critical habitat designation serves to remind future planners of the importance of these areas to the conservation of the marbled murrelet. Therefore, designation of these areas as critical habitat is valuable, even if current management is consistent with murrelet conservation.

Issue 14: Several commenters suggested that the explanation for the exclusion of Tribal lands, Congressionally-withdrawn areas, and marine habitat could also be applied to all terrestrial critical habitat.

Service Response: The Service discussed of the reasons for each of these exclusions in the final rule. A major consideration in the exclusion of Tribal lands were factors related to the Federal government's trust responsibilities and government to government relationships with Native American tribes. Congressionally-withdrawn lands have special and statutory designations that provide management protection for wildlife.

In examining the information provided on marine habitat, the Service identified two key components of the marine habitat that are essential to the conservation of the murrelet, clean water and food. Marine habitat is not generally subject to incremental and continuing losses or removal as terrestrial habitat is. Threats in the marine environment are often related to catastrophic events that cause loss of individuals, not habitat. The primary identified threats to marine murrelet habitat are pollution and toxic spills. Fishing does not appear to be a threat to habitat at this time. Several laws regulate activities that could result in pollution or toxic spills in the marine environment that have no counterparts in the terrestrial environment, and are briefly described in the Previous Management Efforts section. Other marine concerns, such as the effect of El Niño and ocean currents, are outside human control and would not be affected by the designation of critical habitat. The Service will continue to monitor the degree to which these and other regulatory measures ameliorate identified threats and the need for special management consideration or protection.

Issue 15: A number of commenters identified areas that they thought should not be designated as critical habitat.

Service Response: If site-specific documentation on a site was provided to the Service providing a rationale as to why an area should not be designated

critical habitat, that information was evaluated and a determination made as to whether modifications in the proposal were appropriate. For example, habitat maps were provided by State and private landowners in southwest Washington that allowed the Service to modify critical habitat boundaries due to the absence of primary constituent elements. Federal agencies in Oregon provided habitat and survey information that allowed the Service to modify boundaries.

Issue 16: Some commenters suggested that the Service was breaching the Memorandum of Understanding with the State of California signed in 1991 because the Service is designating non-Federal lands in California.

Service Response: The Service chose non-Federal lands on the basis of limited amounts of Federal lands in the vicinity that could support a well-distributed population of marbled murrelets and on the basis of the non-Federal land's contribution to recovery.

Issue 17: One commenter raised the question of the need to designate private lands when they would never provide the large, contiguous blocks of nesting habitat most desirable for marbled murrelets.

Service Response: The Service acknowledges that private lands in general do not have, nor will they probably have in the future, the large contiguous blocks of habitat most desirable for the conservation of the marbled murrelet. However, Federal lands, where large, contiguous blocks of habitat could be developed, are lacking in portions of the marbled murrelet's range. In these areas, critical habitat units have been designated because smaller blocks of suitable habitat on non-Federal lands are essential for maintaining the species' range-wide distribution and numbers.

Issue 18: One commenter requested that we be more specific about which, if any, gillnet fisheries create problems for marbled murrelets. The commenter specifically stated that the Columbia River gillnet fishery was not a fishery causing problems for marbled murrelets.

Service Response: The Service presently considers the Columbia River gillnet fishery a very minor threat to marbled murrelets relative to other fisheries, such as the Puget Sound commercial salmon fishery. This is in part because of the very limited effort which now occurs in this fishery. It is also because the Service recognizes that there are currently few marbled murrelets present in the vicinity of the mouth of the Columbia, although their historic presence in the area is well-documented. However, while the observer program conducted from 1991–1993 (Jeffries and Brown 1993) did not specifically describe any entanglement of marbled murrelets, significant numbers of unidentified alcids were entangled. Therefore, it cannot be stated conclusively that the Columbia River gillnet fishery does not pose a threat to marbled murrelets, particularly if fishing effort were to increase dramatically.

Issue 19: One commenter stated that the economic analysis was flawed because it failed to analyze the economic effects for each area separately.

Service Response: The economic analysis for this critical habitat designation is sufficient for consideration of the relevant impacts of specifying particular areas as critical habitat.

Issue 20: Several commenters expressed the opinion that the Service should consider the economic effects of critical habitat without adjusting for the effects of the listing or the Northwest Forest Plan.

Service Response: The economic analysis is conducted to allow informed consideration of the impacts of designating particular areas as critical habitat. Areas may be excluded from critical habitat if the benefits of excluding the area outweigh the benefits of including the area, so long as the exclusion does not lead to the extinction of the species. For this, the Service needs to determine the incremental increase in economic effects from the designation. In the absence of critical habitat, the listing of the species, other laws, and existing Federal land management plans remain in effect. Therefore, to determine the actual impact of a designation, the Service must determine the effect that will occur with the designation above and beyond the existing requirements. To attribute all economic effects of murrelet conservation to critical habitat alone would not provide an accurate assessment of the impacts of the designation.

Issue 21: Several commenters maintained that the removal of 4.4 million acres from the timber base would have severe economic impacts. Other commenters addressed individual areas in a similar manner, making the assumption that designation would stop all harvest.

Service Response: Critical habitat does not stop or prevent all timber harvest or other activities on designated lands. In the absence of a Federal nexus (funding, permitting, authorization, or action by a Federal agency) or State regulations tiered to a designation, there is no effect. Even with a Federal nexus, projects are not affected unless they would appreciably diminish the value of critical habitat for both the survival and recovery of the species. Whether a particular activity will appreciably diminish the value of critical habitat will depend on several factors, including the scope, magnitude, and location of the activities, as well as the condition of the critical habitat unit and the Marbled Murrelet Conservation Zone described by the Recovery Team (USFWS 1995a). If the critical habitat areas in a zone are generally in good condition, the potential for individual projects to diminish its value is lower than where critical habitat in a zone is in poor condition. Based on the application of previous designations, significant adverse impacts to individual critical habitat areas may not trigger the above threshold.

In addition, timber harvest in accordance with an approved HCP that addresses marbled murrelets should also be unaffected by the present determination of critical habitat, given the Service's intention to defer to the special management considerations for the murrelet under the HCP and the Service's exclusion of lands covered by an HCP from critical habitat.

Issue 22: Some commenters disagreed with the use of sites identified as occupied by marbled murrelets under the Pacific Seabird Group protocol as a criterion for critical habitat designation, because the commenters believe that some of the behaviors that resulted in occupied status were not indicative of nesting. One commenter suggested that ''the 1994 protocol dropped circling behavior from the definition of occupied behaviors.

Service Response: The Service used all available information in the selection of areas for designation as critical habitat. Survey information was only one of the criteria considered in selecting areas for proposed critical habitat designation. Survey results (including occupied sites, marbled murrelet presence, and lack of detections) were used as indicators of the presence/absence of marbled murrelets in specific areas. However, survey efforts have been minimal in many areas, and coverage of areas is discontinuous. Such information was of limited use in designating critical habitat in portions of the range.

The 1994 protocol did not remove circling behavior from the definition of occupied behaviors. In fact, both the 1993 (p. 11) (Ralph *et al.* 1993) and 1994 (p. 12) (Ralph *et al.* 1994) versions of the protocol include it under criteria indicating occupancy. This relationship

has been statistically analyzed and verified. Under ''occupied stands'' (p. 13 and again on pg. 21) in the 1994 protocol, Ralph *et al.* (1994) clearly state that birds circling above the canopy is a criterion indicating occupancy. This conclusion was affirmed in the March 8, 1995 addendum to the 1995 protocol (Ralph *et al.* 1995c), as well as in a signed declaration prepared by Dr. C.J. Ralph on September 27, 1995 (Ralph 1995).

Issue 23: Some commenters suggested that the Service designate additional habitat to compensate for the loss of high quality occupied murrelet nesting habitat that may be harvested as a consequence of timber sales released by the so-called ''Salvage Rider'' (Public Law 104–19, Section 2001).

Service Response: The government's position is that section 2001(k)(2) of P.L. 104–19 expressly forbids the harvest of identified nesting sites. The Federal District Court for the District of Oregon disagreed with the government's position and directed the government to release for harvest the majority of these sites. The Government has appealed this decision to the Ninth Circuit Court of Appeals, and as of this writing the harvest is temporarily stayed until the Ninth Circuit rules on the case. Therefore, the Service believes any compensatory designation of additional critical habitat is unwarranted at this time.

Issue 24: Several commenters expressed concern that critical habitat is a disincentive to landowners contemplating developing habitat conservation plans (HCPs) within designated areas.

Service Response: The Service does not intend to discourage HCPs with the designation of critical habitat. We expect that critical habitat may be used as a tool to help identify areas within the range of the murrelet more critical for the conservation of the species. The Service considers HCPs to be one of the most important methods by which non-Federal landowners can resolve endangered species conflicts.

All HCPs are reviewed to determine whether they are likely to jeopardize the continued existence of the species or cause adverse modification to designated critical habitat. In most cases, the Service provides technical assistance and works closely with the applicant throughout the development of the HCP to reduce the probability of the applicant developing an HCP that would not meet these criteria. Well developed HCPs should be able to meet the section 7 requirement to avoid adverse modification of critical habitat by providing sufficient special management considerations for the constituent elements identified for murrelet critical habitat. The Service does not anticipate that the designation of critical habitat for the marbled murrelet will affect ongoing negotiations for HCPs with landowners like the State of Washington or various large timber companies.

Issue 25: Several commenters disagreed with removing areas covered under an HCP from designation. Whereas in contrast, another commenter felt that planning approaches such as the development of multi-species HCPs were preferable to critical habitat designation.

Service Response: The Service recognizes that critical habitat is only one of many conservation measures for federally-listed species. HCPs are perhaps one of the most important tools for reconciling land use with the conservation of listed species on non-Federal lands. Since HCPs can provide an alternative means of addressing the special management considerations necessary for the constituent elements of marbled murrelet critical habitat, those areas covered by a legally-operative incidental take permit for marbled murrelets based on an approved HCP are excluded from critical habitat.

Consistent with this approach, the Service has not designated the Elliott State Forest in Oregon as critical habitat based on the State completing an HCP for that forest. Other areas without completed HCPs have been included in this designation. When those HCPs are completed and incidental take permits for marbled murrelets issued, critical habitat will be lifted.

Issue 26: Numerous commenters recommended that the Service designate marine critical habitat. Several commenters recommended addition of the following terrestrial areas as critical habitat:

In California, commenters recommended inclusion of private lands in Del Norte, Humboldt, Mendocino, Sonoma, San Mateo, and Santa Cruz Counties. One private property owner requested designation of her 60 acres in the Santa Cruz Mountains Zone. The Midpeninsula Regional Open Space District requested that the District's Purisima Creek Redwoods Open Space Preserve be designated in San Mateo County. Commenters also suggested inclusion of county parks along the Van Duzen River. State lands recommended for inclusion included Van Damme State Park and Navarro River Redwood State Park in the Mendocino Zone, and Nisene Marks State Park and Soquel State Demonstration Forest in the Santa Cruz Mountains Zone. In Washington, commenters recommended the inclusion of Washington Department of Natural Resource lands in the Clallam Bay block and the Chehalis State Forest, Deception Pass State Park, additional lands adjacent to Jim Creek, private lands in the Mineral block, and private lands with occupied sites in the north Cascades.

Service Response: Under the Administrative Procedures Act (5 U.S.C. 553), the Service cannot finally designate areas as critical habitat unless they were proposed for designation in a proposed rule. Further, the Service is under a court order to finalize this critical habitat designation by May 15, 1996. These recommendations will be considered in any future revisions of critical habitat for the marbled murrelet.

Biology

Issue 27: Commenters suggested that prey distribution and abundance, rather than inland forest conditions, may dictate murrelet distributions at sea.

Service Response: As described in the *Ecological Considerations* section, the Service agrees that prey distribution and abundance is an important ecological factor for murrelets at sea. However, particularly during the nesting season, marbled murrelets are found in high numbers in close proximity to areas where inland forested conditions are considered suitable for nesting throughout large portions of coastal Washington, Oregon, and California (Carter and Erickson 1992; Ralph and Miller 1995; Ralph *et al.* 1995b; Strong 1995, Varoujean and Williams 1995). Conversely, marine concentrations tend to be low where on-shore habitat is limited. Concentrations of other alcids during the nesting season in 1994 did not correspond closely to murrelet distribution patterns (Varoujean *et al.* 1994), which one would expect if prey distribution was the single or most important determinant of seabird distribution.

The distribution of marbled murrelets in the marine environment changes after the nesting season. This suggests that proximity to their nesting habitat is important for marbled murrelets during the breeding season even though food may be more abundant elsewhere (Ralph *et al.* 1995b). However, changes in prey distribution and abundance may sometimes occur coincidentally with the end of the nesting season. Marbled murrelets have been documented to use a variety of prey species, which suggests that they are capable of exhibiting flexibility regarding food resources available to them during the nesting season. Therefore, the Service believes

that the condition of inland nesting habitat is an important factor explaining distributions in the marine environment during the nesting season.

Issue 28: Some commenters disagreed with Service statements that marbled murrelets are found in high numbers at sea in close proximity to areas where inland forested conditions are considered suitable for nesting throughout large portions of coastal Washington, Oregon, and California. They contend that the 1994 and 1995 at-sea survey data did not support this assertion.

Service Response: As described in the *Ecological Considerations* section, the Service believes murrelet concentrations at sea are likely to be determined by a combination of terrestrial and marine conditions. However, we believe that recent at-sea survey data support our earlier conclusions that marine observations during the nesting season generally correspond to the largest remaining blocks of suitable forest nesting habitat (Nelson *et al.* 1992; Varoujean *et al.* 1994; Ralph and Miller 1995; Ralph *et al.* 1995b; Strong 1995).

Issue 29: One commenter stated that the proposed designation was premised on the incorrect assumption that the most important problem for marbled murrelet conservation was the availability of terrestrial nesting habitat. They stated that Beissinger's model, along with an additional modeling effort and other life-history information, shows that the marine environment is much more important than the terrestrial environment and, therefore, the Service should concentrate critical habitat designation on marine habitat features.

Service Response: The Service agrees that the marine environment is very important to the murrelet, as discussed both in the supplemental critical habitat proposal (60 FR 40892) and the draft Recovery Plan (USFWS 1995a). However, there are a number of reasons why critical habitat is only being designated in the terrestrial environment. Currently, factors affecting the marine environment and murrelets while at-sea can be addressed through existing laws and regulations as discussed in this final rule (see Areas Not Designated section). In addition, numerous sources have stated the importance of nesting habitat as a major limiting factor in murrelet recovery. Although adult mortality does occur at-sea, it also has been documented in the terrestrial environment. Therefore, the designation of critical habitat in the terrestrial environment is appropriate at this time.

Issue 30: Several commenters raised issues related to nest predation and predator numbers. These were primarily related to the effects of timber harvest and forest edge on predator numbers and marbled murrelet nest predation rates and the appropriateness of applying nest predation studies from other regions of the country to the Pacific Northwest. One commenter raised the potential use of predator control as a management tool. Several commenters suggested that predator numbers correlated with human use and therefore private lands may have fewer predators than public lands.

Service Response: The Service has amended the final rule to reflect the comments and to provide additional documentation on statements related to predation. However, as discussed in the *Ecological Considerations* section, the Service believes that existing data strongly suggest that nest predation may be significantly higher for some forest birds nesting near artificially created edges, even if the exact causal mechanisms that affect the predation rates are unclear. The Service agrees with Paton (1994) and the commenters that research addressing this issue in Pacific Northwest forests is needed, and the Service is currently supporting such efforts (e.g., Marzluff *et al.* 1996). However, the few completed studies addressing this issue in the Northwest or in commercial timberland areas elsewhere indicate the timber harvest in a forest can increase nest predation rates on forest birds under certain circumstances (Ratti and Reese 1988; Rudnicky and Hunter 1993; Vega 1993; Bryant 1994; Vander Haegen and DeGraaf, in press). In fact, Ratti and Reese (1988) found that abrupt forest edges created by commercial timber harvest could lead to increased nest predation rates, and they concluded that their data are consistent with the hypothesis that birds are poorly adapted to predator pressure near abrupt artificial edge zones.

Some commenters failed to distinguish between the studies that address ground nesting birds (e.g., Small and Hunter 1988), and those cited by the Service that concern species that nest above the ground like the marbled murrelet. Small and Hunter (1988) investigated predation rates on ground nests and concluded that distance from edge was not related to nest predation (although they did conclude that nests in smaller forest fragments were more vulnerable than nests located in larger forest stands). They felt their results were due to the relatively high numbers of ground predators (i.e., fox, raccoon, and skunk) compared to low numbers of bird predators (corvids). These findings are consistent with the more recent work of Vander Haegen and DeGraaf (in press) and Rudnicky and Hunter (1993). Both of these studies found no edge effect for ground nests but a two- to three-fold increase in predation for above-ground nests near edges when compared to above-ground nests in the forest interior. Although not completely representative of the high canopy nesting situation of murrelets, these results are significant because they more closely approximate the potential impacts of the avian predators believed to be affecting murrelets.

Predator control as a management tool to recover species has been used effectively only in very limited situations. It may serve as a short-term solution to address an immediate threat while long-term solutions are being formulated. The high cost, logistical difficulties and high probability that the predator control will be unsuccessful (Goodrich and Buskirk 1996), however, argue against the use of predator control for a wide-ranging species such as the marbled murrelet.

Regarding the issue that levels of human activity on public lands may result in predation rates which are higher than on private lands, the Service agrees that public lands that are easily accessible have higher levels of human use, with resultant activities that are attractive to corvids. However, corvids have also been shown to travel significant distances to urban centers, dumps, etc. which are often as close or closer to private lands than to public lands (Marzluff *et al.* 1996). The other factor which appears to increase predation rates is higher levels of landscape fragmentation (Marzluff *et al.* 1996), which is generally greater on private lands. Therefore, it is difficult to generalize about the relationship between land ownership and predation rates.

Issue 31: One commenter suggested that the Service ignored the findings of Raphael *et al.* (1995) that occupied murrelet sites had more complex patterns with more edge, greater variety of cover types, and more complex shapes than unoccupied sites. The commenter indicated that these conclusions seem to contradict statements made by the Service concerning forest edge and landscape patterns.

Service Response: The Service disagrees with this commenter's interpretation of Raphael *et al.* (1995). The most important and relevant conclusions of Raphael *et al.* (1995) (M. Raphael, pers. comm.), are: (1) proportions of old-growth and large saw

timber were greater among sites occupied by murrelets compared to unoccupied sites, and (2) mean size of patches of old-growth and large saw timber were also greater among occupied sites compared to unoccupied sites. As Raphael *et al.* (1995) state, these findings are consistent with earlier research documenting the value of large old-growth stands to nesting murrelets.

These findings support, rather than contradict, the hypothesis that murrelets are preferentially selecting larger stands of older trees for breeding because these stands and trees have the specific structural features the birds require. That the murrelets occur more often in larger patches (i.e., less edge relative to area) of old-growth compared to smaller patches is also consistent with the edge-effect concerns expressed in this rule. The Service believes that resident marbled murrelets may be made more vulnerable to predation associated with the newly created edges when existing old-growth stands are further fragmented into smaller patches.

Issue 32: One commenter suggested that the Service conduct a population viability analysis (PVA) of the marbled murrelet before designating critical habitat.

Service Response: This final rule is directly related to management directives that preceded or were developed simultaneously with the critical habitat rule. Of greatest significance were the draft Recovery Plan (USFWS 1995a) and the marbled murrelet viability panels of the FEMAT process (USDA *et al.* 1993a). It is the Service's opinion that these efforts incorporate many of the concepts which should be considered when a formal PVA is not conducted (Ruggiero *et al.* 1994), and provide the best guidance for management. The function of a PVA is to incorporate what is known about population dynamics of a species, and to analyze the effects of stochastic events and changes in parameters, as well as to identify factors for study, management and monitoring (Lacey in Press). However, PVA's can be compromised because of a lack of natural history data (Minta and Kareiva 1994). Therefore, the Service believes that a PVA developed based on current knowledge of the marbled murrelet would be premature, and is not a suitable tool for determining critical habitat.

Issue 33: Several commenters suggested that the Service has dismissed natural marine phenomena as unimportant in affecting marbled murrelet population fluctuations and distributions. One commenter used the extinction of the Labrador duck (*Camptorhynchus labradorus*) as an example of how marine fluctuations can cause natural extinctions of marine birds, and suggested that the current decline of the marbled murrelet is analogous to the extinction of the Labrador duck.

Service Response: As stated in the *Ecological Considerations* section and elsewhere, the Service appreciates the role that natural marine fluctuations play in the demography of the marbled murrelet. The murrelet, like many other seabirds, is affected by stochastic factors such as gross water temperature changes and shifting patterns of prey abundance. Likewise, it is affected by terrestrial stochastic factors such as fire and windthrow. It is a generally accepted tenet of conservation biology that extinction for a declining species becomes more likely due to natural stochastic factors as a population becomes smaller and more fragmented. Maintenance of high quality nesting habitat in key areas will better enable the species to successfully endure marine and terrestrial stochastic events when they do occur. For example, Clark *et al.* (1990) found that limited availability of suitable nest sites hindered the population growth and recovery of red-tailed tropicbirds (*Phaethon rubricauda*) following catastrophic ocean events.

The Service disagrees with the commenter's assertion that the Labrador duck went extinct solely from natural causes, and that this so-called natural decline is analogous to natural forces acting to depress the marbled murrelet population. Although the Labrador duck was never very abundant, the best available information suggests that over-exploitation by humans caused the extinction of the species; the bird was hunted for market and for down, and its eggs were collected (Ehrlich *et al.* 1988; Terres 1980; Bellrose 1976).

Issue 34: Some commenters questioned the quality of the data that the Service used to determine critical habitat. One commenter questioned the Service's use of satellite imagery to identify critical habitat.

Service Response: The Act requires the Service to make biological decisions involving designation of critical habitat based on the best scientific and commercial data available. The Service utilized a number of sources to identify critical habitat including aerial photographs and personal knowledge. The Service maintains that sufficient data are available to warrant designation of critical habitat and that this final rule is based on the best information available.

Issue 35: Two commenters suggested exclusion of the proposed critical habitat units that contain Bishop pine.

Service Response: Two critical habitat units in California contain mature Bishop pine forests, Tomales Bay State Park and Salt Point State Park. These areas currently do not have any known records of murrelet detections; however, the Service is unaware of any surveys which have been conducted to determine if Bishop pine forests are used by marbled murrelets. The Service has determined that it is appropriate to designate these Bishop pine areas as critical habitat because of the lack of survey data, proximity of these areas to the ocean, availability of suitable nesting platforms, and high canopy cover. In the future, if surveys determine that murrelets are not nesting in these stands the boundaries of these critical habitat units may be revised.

National Environmental Policy Act

The Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in conjunction with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

Required Determinations

The final rule has been reviewed by the Office of Management and Budget under Executive Order 12866. The Department of the Interior finds that timely compliance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is impracticable in light of the emergency situation resulting from the court order requiring designation by May 15, 1996. Consequently, the completion of a Regulatory Flexibility Analysis is deferred at this time and will be completed within 180 days. Based on the information discussed in this final rule concerning public projects and private activities within critical habitat units, it is not clear whether significant economic impacts would result from the critical habitat designation. Also, no direct costs, enforcement costs, information collection, or record-keeping requirements would be imposed on small entities by this designation. Further, the rule contains no record-keeping requirements as defined by the Paperwork Reduction Act of 1980.

Finally, the Department has assessed the effects of this rule-making action on State, local, and tribal governments, and the private sector. The Service has determined and certifies pursuant to the Unfunded Mandates Act, 16 U.S.C. 1502 et seq., that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities.

References Cited

A compete list of all references cited herein is available upon request from the State Supervisor, U.S. Fish and Wildlife Service, Oregon State Office, 2600 SE 98th Avenue, Suite 100, Portland, Oregon, 97266; telephone (503) 231–6179.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

Regulation Promulgation

Accordingly, the Service hereby amends 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.

§ 17.11 [Amended]

2. Section 17.11(h) is amended by revising the ''Critical habitat'' entry for ''Murrelet, marbled'' under BIRDS to read: 17.95(b).

3. Section 17.95(b) is amended by adding critical habitat for the marbled murrelet, in alphabetical order, as follows.

§ 17.95 Critical habitat—fish and wildlife

* * * * *

(b) Birds

* * * * *

MARBLED MURRELET (*Brachyramphus marmoratus marmoratus*)

1. Critical habitat units are depicted for the States of Washington, Oregon, and California on the maps below.

2. The primary constituent elements: individual trees with potential nest platforms and forest lands of at least one half site-potential tree height regardless of contiguity within 0.8 kilometers (0.5 miles) of individual trees with potential nesting platforms and that are used or potentially used by the marbled murrelet for nesting or roosting.

3. A description of the critical habitat units follows. Where a critical habitat unit includes Federal lands within the boundaries of a Late Successional Reserve established by the Northwest Forest Plan, those boundaries include any minor adjustments. Critical habitat units do not include non-federal lands covered by a legally operative incidental take permit for marbled murrelets issued under section 10(a) of the Act.

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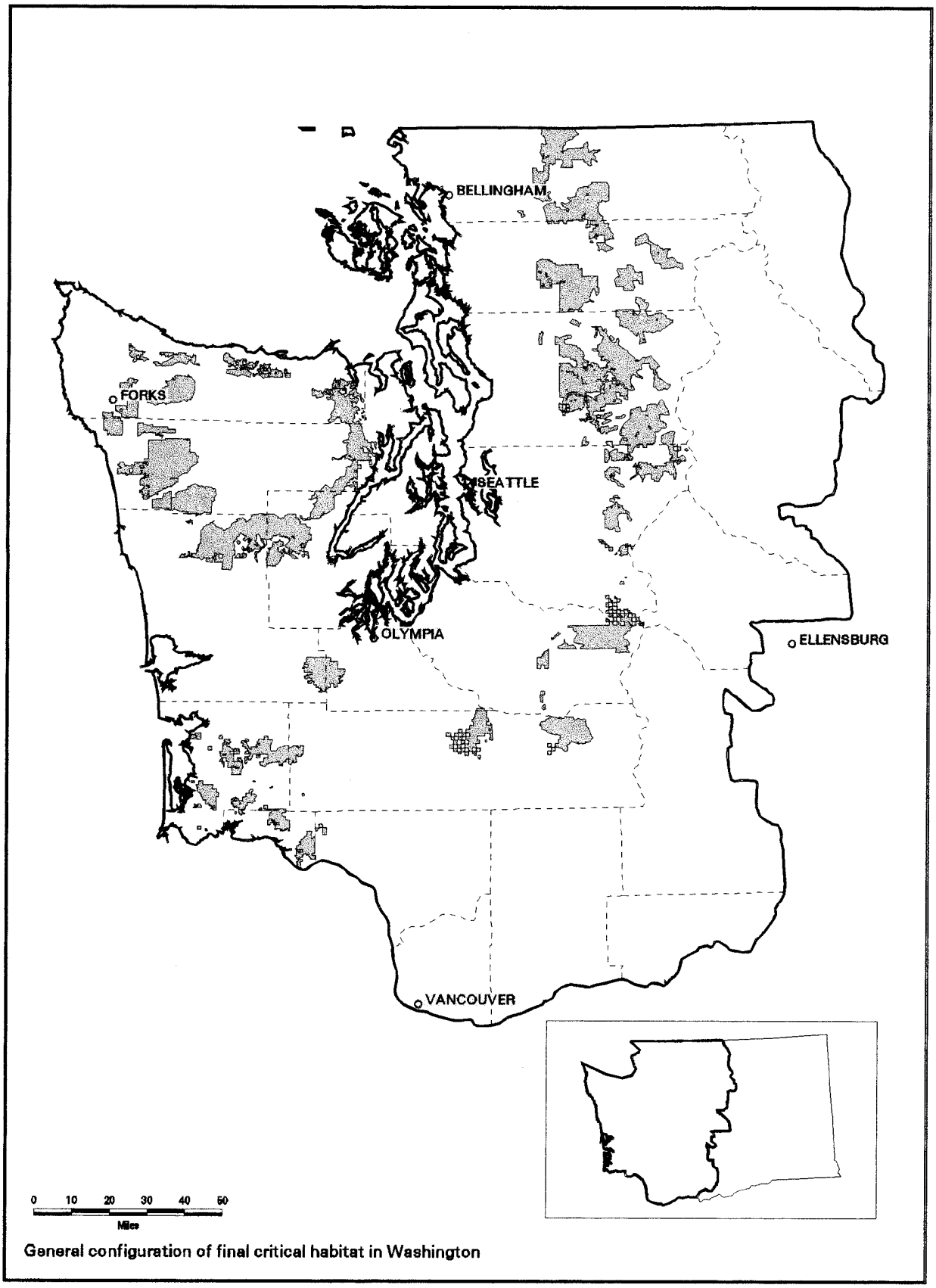
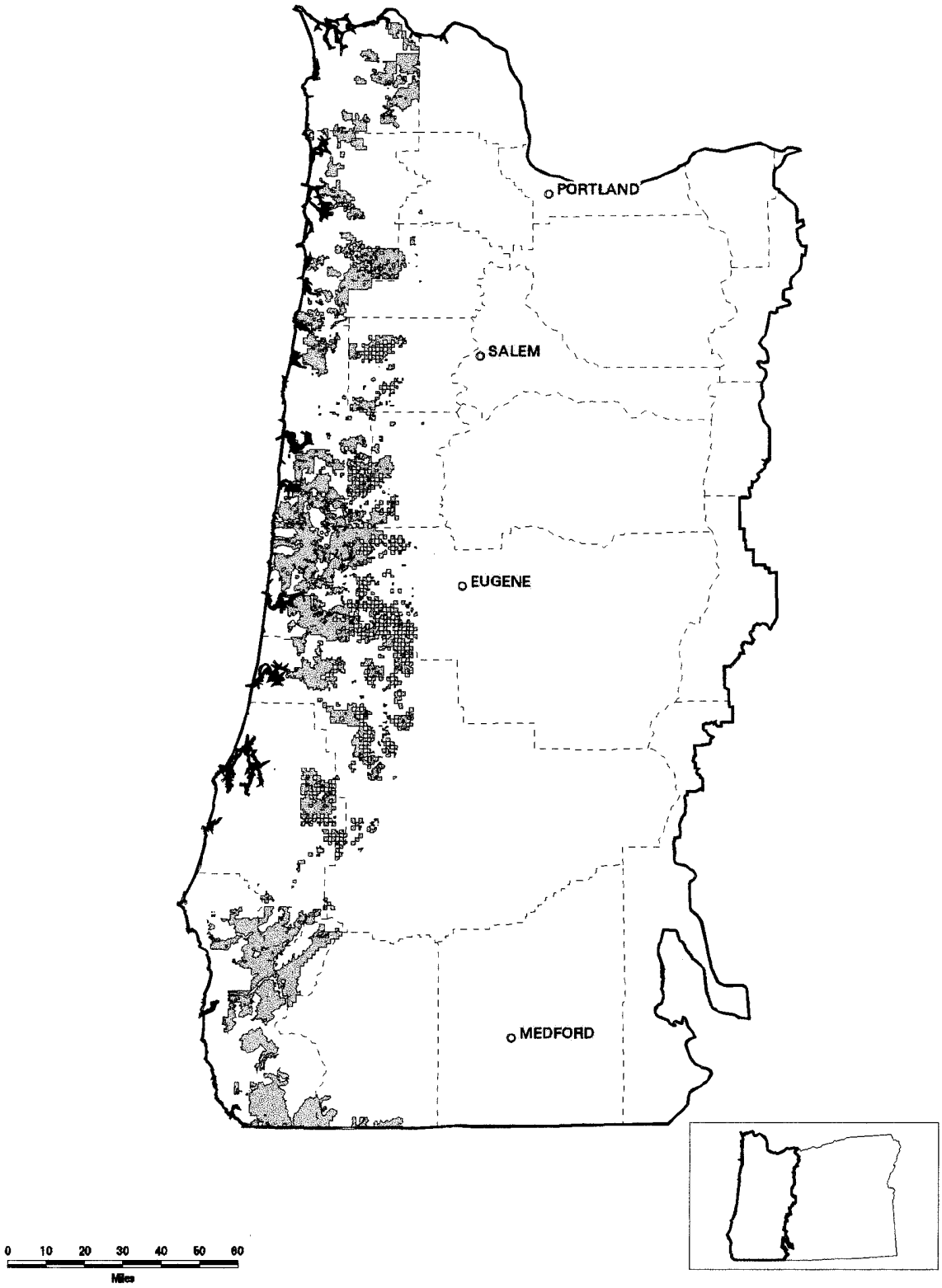
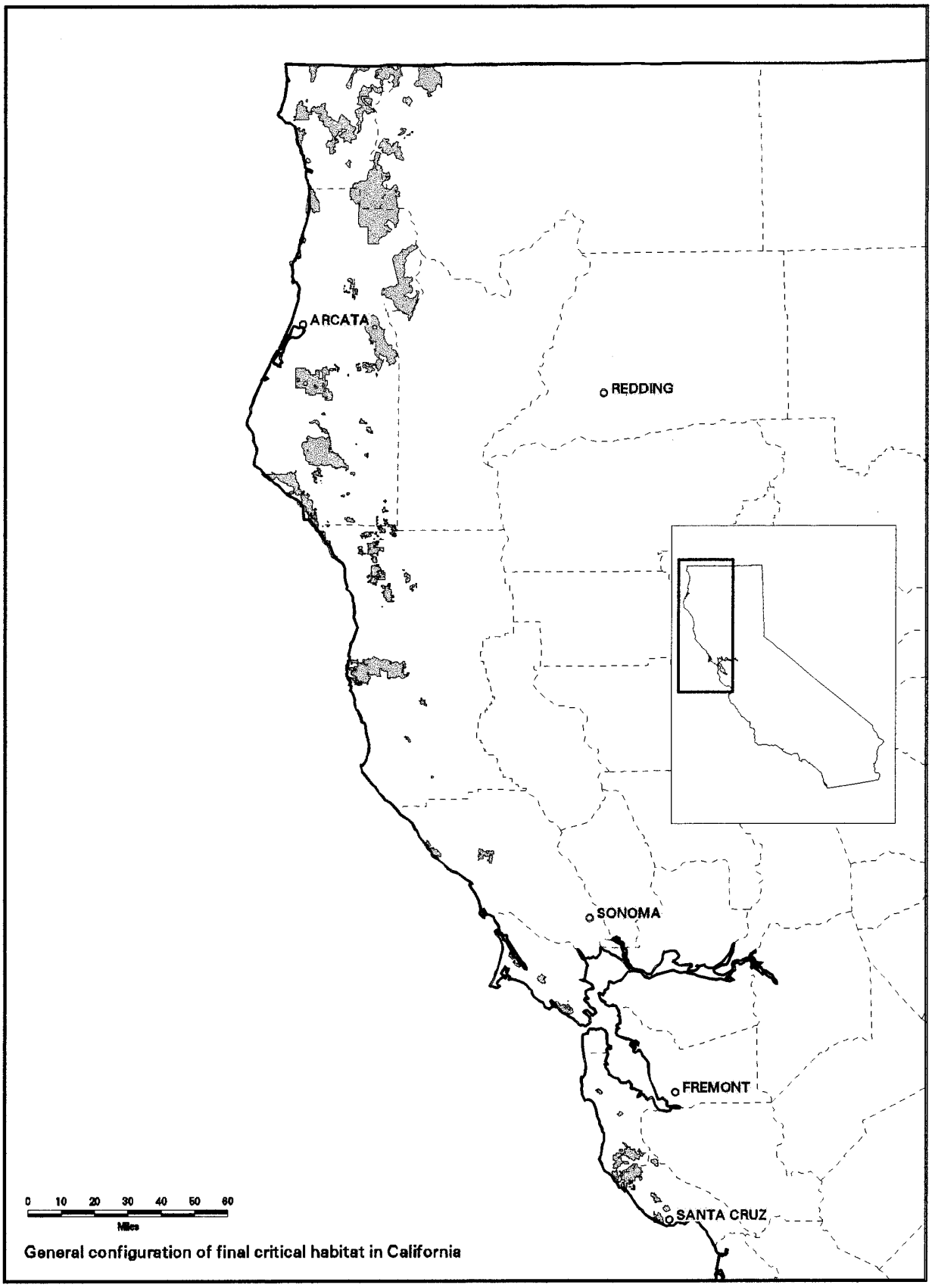


General configuration of final critical habitat in Washington



General configuration of final critical habitat in Oregon



General configuration of final critical habitat in California

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Map and description of WA–01–a taken from United States Fish and Wildlife Service 1:100,000 map; Cape Flattery, Forks, and Port Angeles, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.28N., R.10W. Willamette Meridian: W½ W½ Section 1; Sections 2–8; NW¼, N½ SW¼, N½ NE¼, SW¼ NE¼ Section 9; N½ NW¼, NE¼ Section 10; W½ NW¼, NE¼ NW¼, N½ NE¼ Section 11; NW¼ NW¼ Section 12.

T.28N., R.11W. Willamette Meridian: Sections 1–5; S½ SW¼, SE¼, S½ NE¼, NE¼ NE¼ Section 6; Sections 7–12; N½ NW¼ Section 13; N½ Section 14; N½ N½ Section 15; N½ Section 16; N½, N½ SW¼ Section 17; N½ N½ Section 18.

T.28N., R.12W. Willamette Meridian: SW¼ SW¼ Section 1; SW ¼, S½ SE¼ Section 2; S½ SW¼, SE¼ Section 3; N½ N½ Section 10; N½ Section 11; Section 12 except SW¼ SW¼, N½ NE¼ Section 13.

T.29N., R.10W. Willamette Meridian: SW¼ NW¼, W½ SW¼, SE¼ SW¼ Section 1; Section 2 except N½ NE¼; Section 3 except N½ NE¼; Sections 4–5; SE¼ NW¼, SW¼ SW¼, E½ Section 6; Sections 7–24; Section 25 except SE¼ SE¼; Sections 26–35; NW¼, N½ SW¼, SW¼ SW¼, W½ NE¼ Section 36.

T.29N., R.11W. Willamette Meridian: SE¼ SW¼, SE¼, SE¼ NE¼ Section 12; Section 13; N½, N½ SW¼, SE¼ Section 14; E½ SE¼ Section 22; S½, NE¼ Section 23; Sections 24–27; S½, S½ NE¼ Section 28; SE¼ Section 29; SE¼ SE¼ Section 31; S½ SW¼, NE¼ SW¼, SE¼, S½ NE¼, NE¼ NE¼ Section 32; Sections 33–36.

T.30N., R.09W. Willamette Meridian: S½ SW¼ Section 18; N½ NW¼ Section 19.

T.30N., R.10W. Willamette Meridian: E½ NW¼, E½ SW¼, SW¼ SW¼, SE¼, SW¼ NE¼ Section 1; S½ SW¼, SW¼ SE¼ Section 2; Section 3 except NE¼; Section 4; E½ NW¼, S½ SW¼, NE¼ SW¼, E½ Section 5; S½ Section 6; Sections 7–12; Section 13 except SW¼ SW¼; NW¼ NW¼, NE¼ Section 14; Section 15; N½, N½ SE¼ Section 16; N½ Section 17; Section 18 except S½ SE¼; NW¼ NW¼ Section 19; SW¼ SW¼ Section 35.

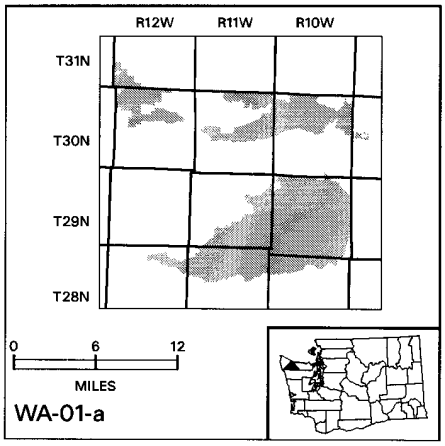
T.30N., R.11W. Willamette Meridian: Sections 1–2; Section 3 except S½ SW¼, SW¼ SE¼; Section 4 except S½ SW¼, SW¼ SE¼; NE¼ NE¼ Section 10; N½ NW¼, SE¼ SE¼, W½ NE¼, NE¼ NE¼ Section 11; NW¼ NW¼, S½, E½ NE¼ Section 12; Sections 13–14; S½, S½ NE¼ Section 15; S½ Section 17; SE¼ Section 18; N½ NW¼, SE¼ NW¼, NE¼ Section 20; N½, N½ SE¼ Section 21; N½, N½ S½ Section 22; N½, N½ SW¼ Section 23; NW¼, W½ NE¼, NE¼ NE¼ Section 24.

T.30N., R.12W. Willamette Meridian: NW¼ NW¼ Section 2; W½, N½ NE¼ Section 3; Section 4–5; Section 6 except W½ NW¼, NW¼, N½ SE¼, NE¼ Section 7; Section 8 except SW¼ SW¼; N½ N½, SE¼ SE¼ Section 9; S½ Section 10; S½ SW¼, SW¼ SE¼ Section 11; W½ NW¼ Section 13; N½, N½ SW¼ Section 14; N½, NE¼ SE¼ Section 15; Section 17 except NW¼ NW¼, SE¼ SE¼.

T.31N., R.12W. Willamette Meridian: Section 30 except NE¼; Section 31; Section 32 except NE¼; S½ SW¼ Section 33.

Critical Habitat includes only State or County lands described within the following areas:

T.30N., R.12W. Willamette Meridian: N½ Section 16.



Map and description of WA–01–b taken from United States Fish and Wildlife Service 1:100,000 map; Port Angeles, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.29N., R.07W. Willamette Meridian: N½ NW¼ Section 1; NE¼ Section 2.

T.30N., R.07W. Willamette Meridian: NW¼ SW¼, SW¼ SE¼, SW¼ NE¼ Section 26; S½ SW¼ Section 29; Section 30 except SE¼ NE¼, N½ NE¼; Section 31 except SW¼ SW¼; W½ W½, NE¼ NW¼ Section 32; W½ NW¼, N½ SW¼, SE¼ SW¼, N½ SE¼, S½ NE¼, NE¼ NE¼ Section 33; NW¼, N½ SE¼, W½ NE¼, SE¼ NE¼ Section 34; Sections 35–36.

T.30N., R.08W. Willamette Meridian: Section 25; Section 26 except NW¼ NE¼; Sections 27–29; N½ N½ Section 32; N½, NE¼ SE¼ Section 33; N½, N½ SW¼, SE¼ Section 34; N½, W½ SW¼, NE¼ SW¼, N½ SE¼ Section 35; N½, N½ S½ Section 36.

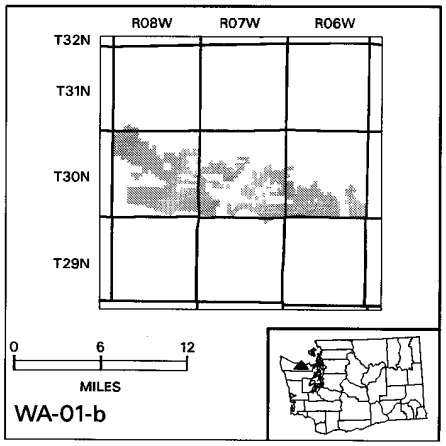
Critical Habitat includes only State or County lands described within the following areas:

T.30N., R.06W. Willamette Meridian: N½ SW¼, NW¼ SE¼ Section 18; NW¼ NW¼, SW¼, W½ SE¼ Section 19; SW¼ SW¼ Section 20; SW¼ SW¼, E½ SW¼ Section 21; SE¼ SE¼ Section 23; NW¼ NW¼, W½ SW¼, SE¼ SW¼ Section 25; E½ Section 26; SE¼ NW¼, S½ Section 27; Section 28 except SE¼ SW¼, NE¼ NE¼; Section 29; Section 30 except S½ SW¼; Sections 31–34; W½ W½, E½ E½ Section 35; Section 36.

T.30N., R.07W. Willamette Meridian: SE¼ SE¼ Section 9; S½ SW¼ Section 10; S½ S½, NE¼ SE¼ Section 13; SE¼ SW¼, SE¼, SE¼ NE¼ Section 14; SW¼ NW¼, NE¼ NW¼, NW¼ SW¼, SE¼ SE¼ Section 15; SW¼, S½ SE¼, NE¼ SE¼, S½ NE¼ Section 16; S½, S½ N½, NW¼ NE¼ Section 17; NW¼ NW¼, S½, E½ NE¼ Section 18; W½ NW¼, SE¼ NW¼, SW¼, N½ SE¼ Section 19; SW¼, SW¼ SE¼, E½ NE¼ Section 20; NW¼, SW¼ SW¼, NW¼ NE¼ Section 21; SE¼ SW¼, E½ E½ Section 22; S½ NW¼, NE¼ NW¼, SE¼, SE¼ SE¼, W½ NE¼, NE¼ NE¼ Section 23; N½, NW¼ SW¼, N½ SE¼, SE¼ SE¼ Section 24; S½ NW¼, NE¼ Section 25; N½, NW¼ SE¼ Section 27.

T.30N., R.08W. Willamette Meridian: S½ SW¼ Section 4; Section 5 except E½ NE¼; Section 6 except NW¼ NW¼; Section 7 except S½ SW¼; Section 8; Section 9 except NW¼ NE¼; SW¼ SW¼, SE¼ Section 10; W½ SW¼, SE¼ SW¼, SE¼, SE¼ NE¼ Section 11; SW¼ NW¼, N½ S½, SE¼ SE¼, S½ NE¼ Section 12; NW¼ NW¼, W½ SW¼, SE¼ SW¼, SE¼ SE¼, NE¼ NE¼ Section 13; Section 14; Section 15 except N½ SE¼, S½ NE¼; Section 16 except SW¼ SE¼; E½ NW¼, NW¼ NW¼, NE¼ Section 17; NE¼ NW¼, N½ NE¼, SW¼ NE¼ Section 20; N½ NW¼, SE¼ NW¼, SW¼ SE¼, E½ SW¼, NE¼ Section 22; W½, N½ SE¼, SW¼ NE¼ Section 23; SW¼ NW¼, NE¼ NW¼, N½ S½, N½ NE¼ Section 24.

T.31N., R.08W. Willamette Meridian: E½ SE¼ Section 31; W½ SW¼, SE¼ SW¼, SW¼ SE¼ Section 32.



Map and description of WA–02–a taken from United States Fish and Wildlife Service 1:100,000 map; Cape Flattery and Forks, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.28N., R.12W Willamette Meridian: S½, S½ N½ Section 4; S½, S½ N½ Section 5; S½, NW¼, S½ NE¼, Section 6; Sections 7–9; Sections 16–21; Sections 28–33.

T.29N., R.12W. Willamette Meridian: S½ Section 7; SW¼, SW¼ SE¼ Section 8; S½ SW¼, SW¼ SE¼ Section 9; NW¼, W½ SW¼, W½ NE¼ Section 16; Section 17 except SE¼ SW¼, SW¼ SE¼; Section 18; Section 19 except W½ SE¼; W½ W½ Section 20; W½ Section 30.

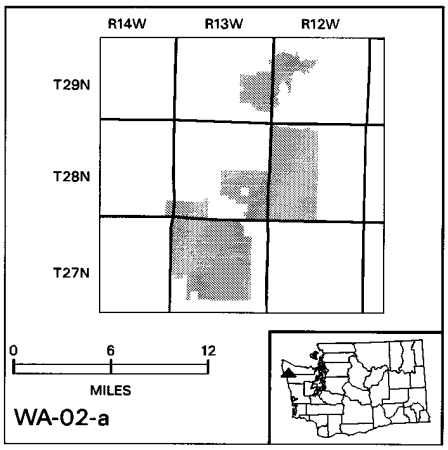
T.29N., R.13W. Willamette Meridian: S½ S½, NE¼ NE¼ Section 13; Section 23 except SW¼ SW¼; Sections 24–25; N½, N½ S½, SE¼ SE¼ Section 26, N½ N½ Section 36.

Critical Habitat includes only State or County lands described within the following areas:

T.27N., R.13W. Willamette Meridian: W½ NW¼, SE¼ NW¼, SW¼ Section 2; Sections 3–11; Sections 14–18; N½, NE¼ SW¼, NW¼ SE¼ Section 19; Sections 20–23; Sections 26–28; N½, W½ SW¼, E½ SE¼ Section 29.

T.28N., R.13W. Willamette Meridian: Sections 22–25; W½ NW¼, S½, E½ NE¼ Section 26; N½, N½ SE¼ Section 27; SW¼ SW¼ Section 28; Sections 31–32; W½ W½ Section 33; E½ E½, W½ SE1/4 Section 35; Section 36.

T.28N., R.14W. Willamette Meridian: E½ Section 36.



Map and description of WA–02–b taken from United States Fish and Wildlife Service 1:100,000 map; Forks and Mt Olympus, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.25N., R.10W. Willamette Meridian: Sections 29–30; Section 31 except SE¼ SE¼; N½ NW¼, SW¼ NW¼ Section 32.

Critical Habitat includes only State or County lands described within the following areas:

T.24N., R.11W. Willamette Meridian: N½ N½ Section 1; N½, N½ SW¼ Section 2; Sections 3–8; Section 9 except SE¼; N½ NW¼ Section 10; NW¼ Section 16; NW¼, NW¼ SW¼, W½ NE¼ Section 17; Section 18 except SE¼ SE¼; NW¼ NW¼ Section 19.

T.24N., R.12W. Willamette Meridian: NW¼ NW¼, S½ NW¼, SW¼, W½ SE¼, SE¼ SE¼, SW¼ NE¼ Section 1; SE¼, NW¼ NE¼, E½ NE¼ Section 2; W½ SE¼, NE¼ SE¼, S½ NE¼ Section 10; Section 11; Section 12 except NE¼ SE¼; W½, W½ NE¼, NE¼ NE¼ Section 13; N½, S½ SE¼, NE¼ SE¼ Section 14; NE¼ NW¼, N½ SE¼, NE¼ Section 23; N½, N½ SW¼ Section 24.

T.25N., R.09W. Willamette Meridian: NW¼, W½ SW¼, N½ NE¼, SW¼ NE¼ Section 6.

T.25N., R.10W. Willamette Meridian: Sections 1–11; W½ NW¼, NE¼ NW¼ Section 12; NW¼, N½ SW¼, N½ NE¼, NE¼ NE¼ Section 14; Section 15 except SE¼ SW¼, S½ SE¼; Sections 16–20; N½ Section 21.

T.25N., R.11W. Willamette Meridian: Section 1–19; Section 20 except NE¼ NW¼; Sections 21–36.

T.25N., R.12W. Willamette Meridian: Section 1 except N½ N½; Section 2 except NE¼ NE¼; Section 3 except NE¼ NW¼; E½ Section 4; SE¼ Section 5; SE¼ SW¼ Section 6; Section 7; N½ Section 8; Section 9; Section 10 except NE¼ NE¼; SE¼ NW¼, S½ Section 11; Section 12; Section 13 except S½ SW¼; W½ W½, E½ Section 14; Sections 15–16; W½ W½, SE¼ SW¼, S½ SE¼, NE¼ SE¼ Section 17; Section 18; E½ NW¼, N½ NE¼, SW¼ NE¼ Section 19; N½ N½ Section 20; N½ N½ Section 21; N½ N½ Section 22; NW¼ NW¼, NE¼ NE¼ Section 23; NE¼ NW¼, E½ SW¼, NE¼ Section 24; Section 25; Section 26 except W½ NW¼, NE¼ NW¼, NW¼ NE¼; Sections 35–36.

T.25N., R.13W. Willamette Meridian: Section 1 except NE¼ SE¼, N½ NE¼, SE¼ NE¼; Section 2 except NW¼; NE¼ NW¼, S½ S½, N½ NE¼, SE¼ NE¼ Section 11; Section 12; Section 13 except SW¼ SW¼; Section 14; N½ NW¼ Section 23; NE¼ NW¼, NW¼ NE¼ Section 24.

T.26N., R.09W. Willamette Meridian: S½ NW¼, SW¼, W½ SE¼, SE¼ SE¼, SW¼ NE¼ Section 19; W½ Section 29; Sections 30–31; W½ W½ Section 32.

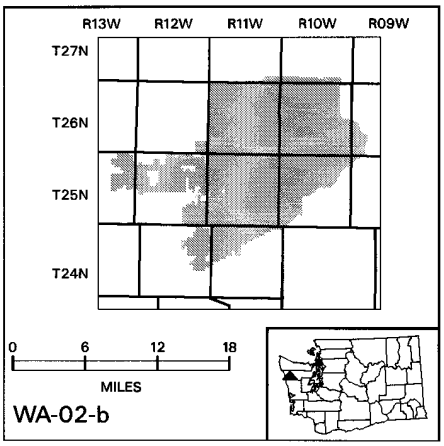
T.26N., R.10W. Willamette Meridian: Sections 2–11; W½ SW¼, SE¼ SW¼, SW¼ SE¼ Section 13; Sections 14–36.

T.26N., R.11W. Willamette Meridian: Sections 1–36.

T.26N., R.12W. Willamette Meridian: Section 36.

T. 27N., R. 10W. Willamette Meridian: S½ Section 31; S½ Section 32; S½ Section 33; S½ Section 34; S½ Section 35.

T. 27N., R. 11W. Willamette Meridian: SE¼ Section 35; S½ Section 36.



Map and description of WA–02–c taken from United States Fish and Wildlife Service 1:100,000 map; Forks and Mt Olympus, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T. 23N., R. 9W. Willamette Meridian: NW¼, NW¼ SW¼, NW¼ NE¼ Section 6.

T. 23N., R. 10W. Willamette Meridian: N½, N½ SW¼, SW¼ SW¼, N½ SE¼ Section 1; N½ N½, SE¼ NE¼ Section 2; NW¼, N½ NE¼, SW¼ NE¼ Section 3; E½ NW¼, NE¼ Section 4; N½, SW¼ SW¼, NE¼ SW¼, SE¼ SE¼, NE¼ SE¼ Section 15; S½ NW¼, NE¼ SW¼, SE¼, NW¼ NE¼, S½ NE¼ Section 16; NE¼ NE¼ Section 22.

T. 23N., R. 11W. Willamette Meridian: E½ NW¼, N½ SE¼, NE¼ Section 1.

T. 24N., R. 09W. Willamette Meridian: S½ N½, S½ Section 3; Sections 4–10; Section 15 except SE¼ SE¼, NE¼ NE¼; Sections 16–21; Sections 28–33.

T. 24N., R. 10W. Willamette Meridian: Sections 1–3; S½, NE¼ Section 4; S½ Section 5; S½ Section 6; Sections 7–30; N½, N½ S½, SE¼ SE¼ Section 31; Sections 32–36.

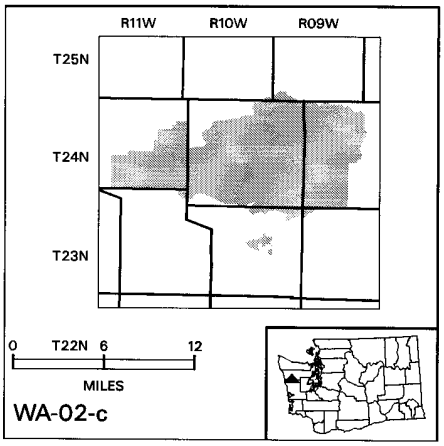
T. 24N., R. 10½W. Willamette Meridian: S½ SE¼ Section 1; Section 12 except W½ W½; Section 13; Section 14 except NW¼ NW¼; Sections 23–26; NW¼, N½ SW¼, N½ NE¼, SW¼ NE¼ Section 35; N½ NW¼, NE¼ Section 36.

T. 25N., R. 09W. Willamette Meridian: S½, SE¼ NW¼, S½ NE¼ Section 31; NW¼ SW¼, S½ SW¼ Section 32.

T. 25N., R. 10W. Willamette Meridian: S½ SE¼ Section 36.

Critical Habitat includes only State or County lands described within the following areas:

T. 24N., R. 11W. Willamette Meridian: S½ SW¼, NE¼ SW¼, SE¼ Section 12; Sections 13–14; SE¼ SE¼ Section 15; S½ S½ Section 20; S½ Section 21; E½ NE¼, S½ Section 22; Sections 23–29; Sections 32–36.



Map and description of WA–02–d taken from United States Fish and Wildlife Service 1:100,000 map; Forks, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

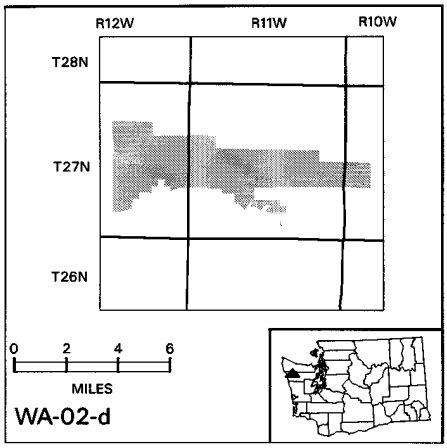
T.27N., R.11W. Willamette Meridian: N½ SW¼, SE¼ SW¼, SW¼ SE¼ Section 27; S½ NW¼, N½ SW¼, SW¼ SW¼, SE¼ Section 28; NE¼ SE¼, SE¼ NE¼ Section 29; SW¼ NE¼ Section 34.

Critical Habitat includes only State or County lands described within the following areas:

T.27N., R.10W. Willamette Meridian: Section 19.

T.27N., R.11W. Willamette Meridian: S½ Section 14; S½ Section 15; S½ Section 16; S½ Section 17; Sections 18–24; S½ SW¼ Section 27; N½ NW¼, NE¼ SW¼, NW¼ SE¼ Section 28; N½ N½ Section 29; NE¼ NE¼ Section 30.

T.27N., R.12W. Willamette Meridian: S½ Section 10; SW¼ Section 11; Sections 13–15; Section 22; Section 23 except SE¼ SE¼; Section 24; NE¼ NW¼, N½ NE¼ Section 25; N½ NW¼ Section 26; Section 27 except E½ SE¼.



Map and description of WA–03–a taken from United States Fish and Wildlife Service 1:100,000 map; Mt Olympus and Shelton, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.21N., R.07W. Willamette Meridian: N½ NW¼, SE¼ NW¼, NE¼ SW¼, W½ SE¼ Section 3.

T.21N., R.08W. Willamette Meridian: Sections 4–9; N½, SW¼, NW¼ SE¼ Section 16; Sections 17–18; NW¼ NW¼ Section 21.

T.21N., R.09W. Willamette Meridian: Section 1; Section 2 except NW¼ NW¼; Section 3 except SE¼, S½ NE¼, NE¼ NE¼; Section 4; E½ Section 5; N½ Section 6.

T.22N., R.07W. Willamette Meridian: Section 1; NE¼ NW¼, E½ SE¼, NW¼ SE¼, NE¼ Section 2; W½ Section 3; Sections 4–5; SE¼ NW¼, S½ SW¼, NE¼ SW¼, E½ Section 6; NW¼, N½ NE¼ Section 7; SE¼ NW¼, NE¼ SW¼, S½ SE¼, NE¼ SE¼, NW¼ NE¼, E½ NE¼ Section 8; Section 9; W½, W½ SE¼, SE¼ SE¼ Section 10; NE¼ SE¼, NE¼ Section 11; NW¼ NW¼, S½ NW¼, SW¼, W½ SE¼ Section 12; N½ NW¼, S½ SW¼, W½ SE¼, NE¼ SE¼, W½ NE¼ Section 13; SW¼ NW¼, SW¼, SW¼ SE¼ Section 14; Section 15 except SE¼ NW¼, NE¼ SW¼, SW¼ NE¼; Section 16; Section 17 except W½ NW¼, NE¼ NW¼; SW¼, E½ SE¼, NE1/4 NE1/4 Section 19; Section 20 except SE1/4; Section 21 except SE¼ SE¼; N½ Section 22; N½, E½ SW¼, W½ SE¼, NE¼ SE¼ Section 23; W½ NW¼, NE¼ NW¼ Section 24; NW¼ Section 26; S½ NW¼, SW¼, N½ SE¼, NE¼ Section 27; N½ NW¼ Section 28; NW¼, N½ NE¼ Section 29; SW¼ SW¼ Section 30; W½, N½ SE¼, W½ NE¼ Section 31; W½ Section 34.

T.22N., R.08W. Willamette Meridian: E½ SE¼ Section 1; N½ NW¼, W½ SW¼, NW¼ NE¼ Section 2; Sections 3–9; W½, W½ NE¼, NE¼ NE¼ Section 10; SE¼ NW¼, S½, S½ NE¼ Section 11; W½ SW¼, NE¼ NE¼ Section 12; NW¼ NW¼, SW¼ SE¼ Section 13; NE¼ NW¼, N½ NE¼ Section 14; Section 15 except E½ SE¼, NE¼; Sections 16–21; Section 22 except E½ SE¼, NE¼; E½ SE¼, NW¼ SE¼, NE¼ Section 24; SE¼ SE¼, NE¼ NE¼ Section 25; Section 27 except E½ E½; Sections 28–33; N½ NW¼, SW¼ NW¼, SE¼ SW¼, E½ SE¼, SW¼ SE¼, W½ NE¼ Section 34; Section 35 except NW¼ NW¼; SE¼ SW¼, S½ SE¼, NE¼ SE¼, NE¼ Section 36.

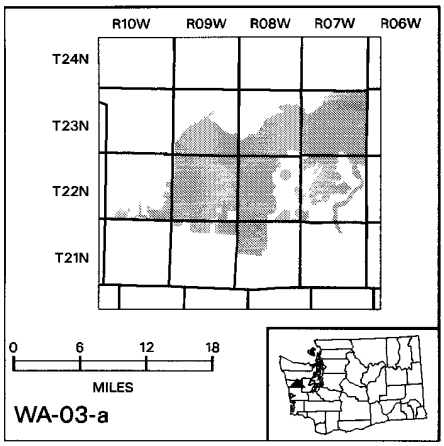
T.22N., R.09N. Willamette Meridian: Sections 1–5; E½, E½ W½ Section 6; E½, E½ W½ Section 7; Sections 8–25; Section 26 except SW¼; Sections 27–33; Section 34 except S½ SE¼; Section 35 except N½ NW¼, W½ SW¼.

T.22N., R.10W. Willamette Meridian: SE¼ Section 13; SE¼ NW¼, SW¼ SW¼, E½ SW¼, SE¼, E½ NE¼ Section 24; SE¼ NW¼, SW¼, E½ Section 25; W½ SW¼, SE¼ SE¼ Section 27; S½ SE¼, NE¼ SE¼ Section 31; SW¼ NW¼, E½ NW¼, S½, S½ NE¼ Section 32; NW¼ NW¼, S½ SW¼, SW¼ SE¼, NE¼ SE¼ Section 33; W½ NW¼, N½ SW¼, NW¼ SE¼, SE¼ SE¼, NE¼ NE¼ Section 34; Section 35 except SW¼ SW¼; Section 36.

T.23N., R.07W. Willamette Meridian: Sections 1–3; S½, S½ NE¼, NE¼ NE¼ Section 4; SW¼ SW¼ Section 7; SE¼ SW¼, SE¼, SE¼ NE¼ Section 8; Sections 9–17; Section 18 except N½ NE¼; Sections 19–30; N½, N½ SW¼, SE¼ Section 31; Section 32–33; Section 34 except S½ SE¼; Sections 35–36.

T.23N., R.08W. Willamette Meridian: S½ NW¼, N½ SW¼, SE¼ SW¼, SE¼, S½ NE¼ Section 11; Section 12 except N½ N½; Sections 13–14; S½, NE¼ Section 15; S½ SE¼, NE¼ SE¼ Section 16; SE¼ SE¼ Section 20; S½, NE¼ Section 21; Sections 22–29; W½ NW¼, SE¼ NW¼, S½, SE¼ NE¼ Section 30; Sections 31–34; Section 35 except E½ SE¼; N½, NE¼ SE¼ Section 36.

T.23N., R.09W. Willamette Meridian: E½ NW¼, SW¼, SW¼ SE¼, W½ NE¼ Section 15; S½ SE¼, NE¼ SE¼ Section 16; SE¼ SE¼ Section 19; S½, S½ NE¼, NE¼ NE¼ Section 20; Sections 21–22; W½ NW¼, SW¼, W½ SE¼, SE¼ SE¼ Section 23; SW¼ SW¼ Section 24; Sections 25–29; SW¼, SW¼, E½ SW¼, SE¼, S½ NE¼ NE¼ NE¼ Section 30; E½ W½, E½ Section 31; Sections 32–36.



Map and description of WA–03-b taken from United States Fish and Wildlife Service 1:100,000 map; Mt Olympus and Shelton, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.21N., R.06W. Willamette Meridian: W½, NW1/4 NE¼ Section 3; Sections 4–8; E½, NE¼ Section 9; N½ NW¼ Section 10.

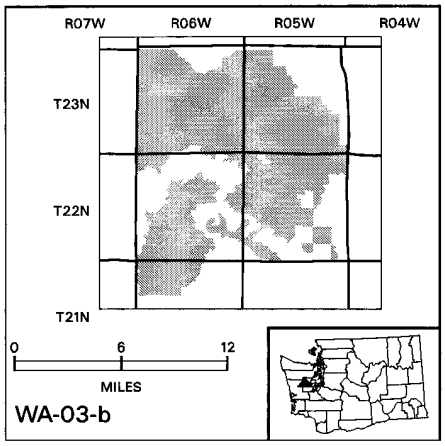
T.22N., R.05W. Willamette Meridian: Sections 1–4; S½, SW¼ NW¼, E½ NW¼, NE¼ Section 5; Sections 6–10; Section 11 except SE¼ SE¼; W½ Section 14; N½ NW¼, W½ SW¼ Section 15; Sections 16–18; N½, W½ SW¼, N½ SE¼, SE¼ SE¼ Section 19; Sections 20–22; Section 26; Section 28 except SW¼ SW¼; N½ NW¼, NE¼ SE¼, N½ NE¼, SE¼ NE¼ Section 29; NW¼ NW¼, S½ SW¼, NE¼ SW¼, W½ SE¼, NE¼ SE¼, S½ NE¼ Section 30; N½ NW¼, SE¼ NW¼, N½ SE¼, SE¼ SE¼, NE¼ Section 31; W½, SE¼, S½ NE¼ Section 32; W½ SW¼, SE¼ SW¼ Section 33; NE¼ Section 34; W½ W½, NE¼ SW¼ Section 36.

T.22N., R.06W. Willamette Meridian: N½, E½ SE¼ Section 1; NW¼, N½ NE¼, SE¼ NE¼ Section 2; N½ NE¼ Section 3; NW¼, W½ SW¼, NE¼ SW¼, NW¼ SE¼, W½ NE¼, NE¼ NE¼ Section 5; Section 6 except S½ SE¼; N½ NW¼, S½ SE¼, NE¼ SE¼ Section 8; S½ Section 9; S½ NW¼, NE¼ NW¼, S½, W½ NE¼, SE¼ NE¼ Section 10; SW¼, SW¼ SE¼ Section 11; NE¼ SE¼, S½ SE¼ Section 12; Section 13; NW¼, N½ SW¼ Section 14; Sections 15–16; E½ Section 17; N½ SE¼, SE¼ SE¼, S½ NE¼, NW¼ NE¼ Section 19; Sections 20–21; W½ NW¼, NE¼ NW¼, W½ SW¼, E½ SE¼ Section 22; S½, SW¼ NE¼ Section 23; NE¼ NW¼, W½ SW¼, E½ SE¼, N½ NE¼, SE¼ NE¼ Section 24; S½ N½, NW¼ NW¼, N½ S½, SE¼ SE¼, NE¼ NE¼ Section 25; N½, SW¼ SW¼, NE¼ SE¼ Section 26; Section 27 except NW¼ NE¼; Sections 28–29; E½ Section 30; Section 31 except W½ NW¼; Sections 32–34; NW¼ Section 35.

T.23N., R.05W. Willamette Meridian: W½ W½ Section 4; S½ N½, S½ Section 5; S½ N½, S½ Section 6; Sections 7–9; W½ SW¼ Section 10; S½ SW¼, SW¼ SE¼ Section 14; NW¼, NW¼ SW¼, S½ SW¼, S½ SE¼ Section 15; Sections 16–22; Section 23 except

SE¼ NE¼, N½ NE¼; NW¼ SW¼, S½ SW¼ Section 24; W½ Section 25; Sections 26–35; Section 36 except NE¼.

T.23N., R.06W. Willamette Meridian: SE¼ NW¼, S½, S½ NE¼ Section 1; E½ SE¼ Section 2; SW¼ NW¼, SW¼, W½ SE¼, SE¼ SE¼ Section 4; Sections 5–9; NW¼ NW¼, S½ N½, S½ Section 10; Sections 11–32; Section 33 except SE¼ SE¼; Section 34 except SW¼; Sections 35–36.



Map and description of WA–04–a taken from United States Fish and Wildlife Service 1:100,000 map; Shelton and Chehalis River, Washington; 1995.

Critical Habitat includes only State or County lands described within the following areas:

T.16N., R.03W. Willamette Meridian: NW¼, W½ SW¼, W½ NE¼ Section 4; Sections 5–7; NW¼, W½ SW¼, W½ NE¼, NE¼ NE¼ Section 8; NW¼ NW¼; NW¼ NW¼ Section 16; W½, NE¼ Section 17; Section 18; Section 19 except S½ SE¼.

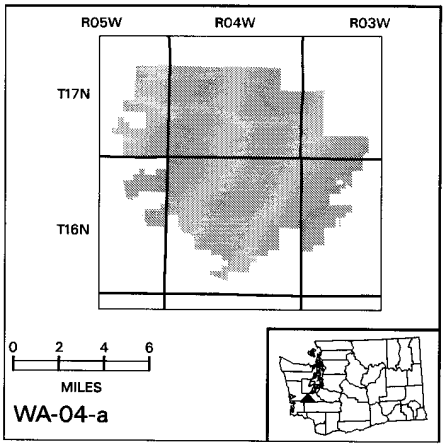
T.16N., R.04W. Willamette Meridian: Sections 1–17; Section 18 except SW¼; NE¼ Section 19; Section 20 except W½ SW¼; Sections 21–23; N½ NW¼ Section 26; Section 27 except E½ SE¼; N½ NW¼, S½ SE¼, NE¼ SE¼, NE¼ Section 28; N½ NW¼, W½ NE¼ Section 33.

T.16N., R.05W. Willamette Meridian: S½ SW¼, SE¼ Section 1; S½ SE¼, NE¼ SE¼ Section 2; N½, SW¼, NW¼ SE¼ Section 11; N½ Section 12; Section 13 except N½ NW¼, NW¼ NE¼.

T.17N., R.03W. Willamette Meridian: Section 19; Sections 30–32; Section 33 except SE¼ SE¼.

T.17N., R.04W. Willamette Meridian: Sections 14–36.

T.17N., R.05W. Willamette Meridian: Section 13; E½ Section 14; S½, NE¼ Section 23; Sections 24–25; NW¼ SW¼, S½ S½ Section 26; S½ SE¼, NE¼ SE¼, SE¼ NE¼ Section 27; Sections 35–36.



Map and description of WA–05–a taken from United States Fish and Wildlife Service 1:100,000 map; Chehalis River, Washington; 1995.

Critical Habitat includes only State or County lands described within the following areas:

T.12N., R.08W. Willamette Meridian: Section 2 except NE¼ NE¼; Sections 3–5; Section 9; Section 10 except NW¼ NW¼; W½, N½ NE¼, SW¼ NE¼ Section 11; W½, W½ NE¼ Section 14; Sections 15–16.

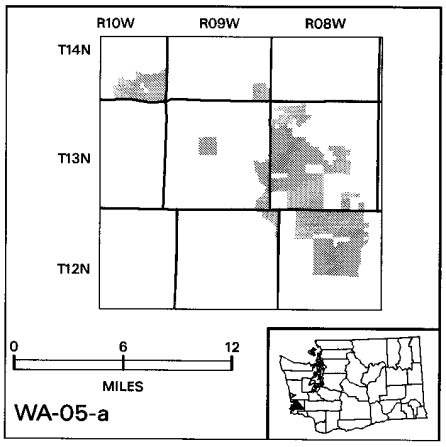
T.12N., R.09W. Willamette Meridian: N½, N½ SE¼, SE¼ SE¼ Section 1.

T.13N., R.08W. Willamette Meridian: SW¼ SW¼ Section 4; Section 5 except N½ NW¼, NW¼ NE¼; SE¼ NW¼, S½ SE¼, NE¼ SE¼, S½ NE¼ Section 6; Section 7 except SE¼ NW¼; NW¼ NW¼, W½ SW¼, W½ NE¼, NE¼ NE¼ Section 8; SW¼ Section 14; NE¼ SW¼, SE¼ Section 15; Sections 16–20; N½ Section 21; SW¼ NW¼, S½, S½ NE¼, NE¼ NE¼ Section 22; W½ NW¼, SE¼ NW¼, SW¼ Section 23; Section 28–29; Section 30 except N½ N½; Sections 32–33.

T.13N., R.09W. Willamette Meridian: Section 16; S½ N½, S½, NE¼ NE¼ Section 24; E½ NW¼, NW¼ SE¼, E½ SE¼, NE¼ Section 25; Section 36 except N½ NW¼.

T.14N., R.09W. Willamette Meridian: Section 36 except NE¼ NE¼.

T.14N., R.10W. Willamette Meridian: S½, S½ NE¼ Section 25; S½ Section 26; SE¼ Section 27; Section 34 except NW¼ NW¼; Section 35 except NW¼ NE¼, SE¼ NE¼; Section 36.



Map and description of WA–05–b taken from United States Fish and Wildlife Service 1:100,000 map; Astoria, Oregon-Washington; 1995.

Critical Habitat includes only State or County lands described within the following areas:

T.10N., R.09W. Willamette Meridian: N½, N½ SE¼, NE¼ SW¼ Section 3; N½ NE¼ Section 4.

T.11N., R.09W. Willamette Meridian: Sections 4–10; W½ Section 14; Sections 15–18; Section 19 except SW¼ SW¼; Sections 20–22; Sections 27–29; NW¼, E½ Section 33; Section 34 except SW¼.

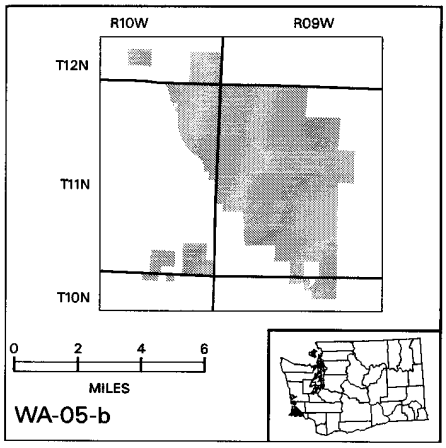
T.11N., R.10W. Willamette Meridian: Section 1; E½ NW¼, E½ Section 2; E½ E½ Section 11; Section 12; N½ NW¼, SE¼ NW¼, NW¼ SE¼, E½ SE¼, NE¼ Section 13; Section 36 except E½ NE¼.

T.12N., R.10W. Willamette Meridian: NW¼, E½ NE¼ Section 34; Section 36.

Critical Habitat includes only Private lands described within the following areas:

T.11N., R.10W. Willamette Meridian: S½ NW¼, N½ SW¼, SW¼ SW¼, that portion of the SE¼ SW¼ west of Ellsworth Creek, NW¼ SE¼, SW¼ NE¼ Section 35.

T.10N., R.10W. Willamette Meridian: NW¼ NW¼, NW¼ NE¼ Section 2; NE¼ NE¼ Section 3.



Map and description of WA–05–c taken from United States Fish and Wildlife Service 1:100,000 map; Astoria, Oregon-Washington; 1995.

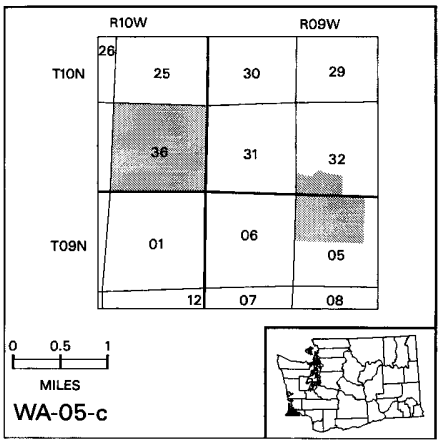
Critical Habitat includes only State or County lands described within the following areas:

T.10N., R.10W. Willamette Meridian: Section 36.

Critical Habitat includes only Private lands described within the following areas:

T.09N., R.09W. Willamette Meridian: NW1/4, W1/2 NE1/4 Section 5.

T.10N., R.09W. Willamette Meridian: That portion of the S1/2 SW1/4 Section 32 south of Bean Creek.



Map and description of WA–05–d taken from United States Fish and Wildlife Service 1:100,000 map; Cape Flattery, Washington; Astoria, Oregon-Washington; 1995.

Critical Habitat includes only State or County lands described within the following areas:

T. 10N., R. 06W. Willamette Meridian: Sections 2–5; N½ Section 6; S½ SE¼, NE¼ SE¼, N½ NE¼, SE¼ NE¼ Section 7; Sections 8–10; Sections 14–17; E½ Section 18; Section 19; SW¼ NW¼, SW¼, W½ NE¼, NE¼ NE¼ Section 20; Section 21–27; S½ NW¼, S½ Section 28; NE¼ Section 29; NW¼, W½ NE¼ Section 30; N½, N½ SW¼ Section 33; N½, W½ SE¼ Section 34; N½, SW¼, NW¼ SE¼ Section 35; N½, NW¼ SW¼, S½ SE¼, NE¼ SE¼ Section 36.

T. 10N., R. 08W. Willamette Meridian: N½ NW¼, NW¼ NE¼ Section 1; Section 2; NW¼ Section 10; E½ NW¼, N½ SE¼, NE¼ Section 11; W½ NW¼, SE¼ NW¼, SW¼ NE¼ Section 12.

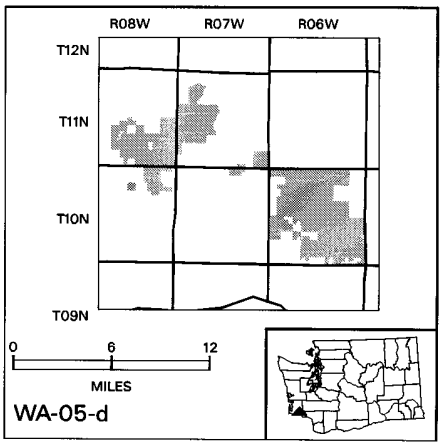
T. 11N., R. 07W. Willamette Meridian: N½, SW¼, W½ SE¼ Section 8; Section 16 except SE¼ SE¼; Sections 17–20; W½, SW¼ SE¼ Section 21; N½ Section 29; N½, SW¼ Section 30; N½ NW¼ Section 31; Section 36.

T. 11N., R. 08W. Willamette Meridian: S½, S½ NE¼ Section 21; NW¼ NW¼, S½ NW¼, SE¼ Section 22; Sections 24–28; E½ SE¼, NE¼ Section 33; N½, SE¼ Section 34; Sections 35–36.

Critical Habitat includes only Private lands described within the following areas:

T. 10N., R. 07W. Willamette Meridian: N½ NW¼, SW¼ NW¼ Section 2; NE¼ Section 3.

T. 11N., R. 07W. Willamette Meridian: S½ SW¼ Section 35.



Map and description of WA–05–e taken from United States Fish and Wildlife Service 1:100,000 map; Astoria, Oregon-Washington; 1995.

Critical Habitat includes only State or County lands described within the following areas:

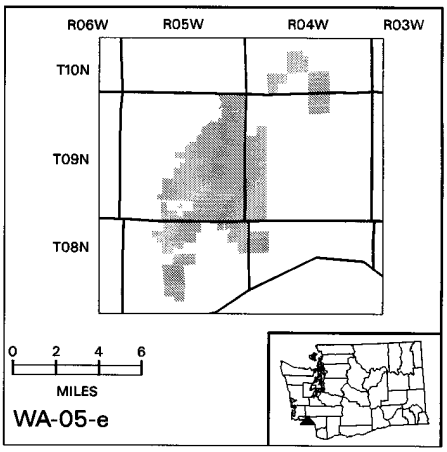
T. 08N., R. 04W. Willamette Meridian: S½ Section 6; N½ Section 7.

T. 08N., R. 05W. Willamette Meridian: Section 1; NE¼ Section 2; E½, W½ NE¼ Section 3; Section 4; N½ SE¼, SE¼ SE¼ Section 5; NW¼, SE¼, N½ NE¼ Section 9; SW¼ Section 10; NE¼ Section 12; Section 16; N½, N½ SE¼ Section 21.

T. 09N., R. 04W. Willamette Meridian: Section 3; SE¼ Section 7; Sections 18–19; Sections 30–31.

T. 09N., R. 05W. Willamette Meridian: Section 1; N½ SE¼, SE¼ SE¼, N½ NE¼, SE¼ NE¼ Section 2; SW¼ SE¼, E½ SE¼ Section 10; Section 11 except N½ NW¼; Sections 12–14; Section 15 except N½ NW¼; S½ SE¼ Section 16; SE¼, SE¼ NE¼ Section 21; Sections 22–28; SE¼ SE¼ Section 29; W½ NW¼, SW¼, W½ SE¼ SE¼ SE¼, E½ NE¼ Section 33; Section 34 except NW¼; Sections 35–36.

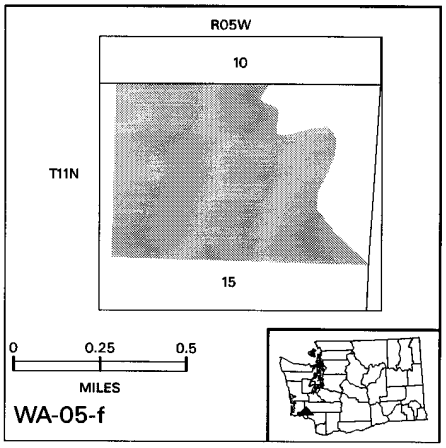
T.10N., R.04W. Willamette Meridian: Section 28 except NE¼ NE¼; W½, NE¼ Section 32; Section 34.



Map and description of WA–05–f taken from United States Fish and Wildlife Service 1:100,000 map; Astoria, Oregon-Washington; 1995.

Critical Habitat includes only Private lands described within the following areas:

T.11N., R.05W. Willamette Meridian: E½ NW¼, that portion of the NE¼ west of the East Fork Chehalis River Section 15.

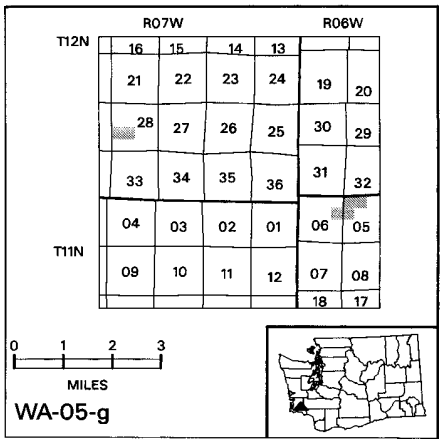


Map and description of WA–05–g taken from United States Fish and Wildlife Service 1:100,000 map; Astoria, Oregon-Washington; 1995.

Critical Habitat includes only Private lands described within the following areas:

T.11N., R.06W. Willamette Meridian: N½ NW¼, SW¼ NW¼ Section 5; SE¼ NE¼ Section 6.

T.12N., R.07W. Willamette Meridian: N½ SW¼ Section 28.



Map and description of WA–05–h taken from United States Fish and Wildlife Service 1:100,000 map; Chehalis River, Washington; 1995.

Critical Habitat includes only State or County lands described within the following areas:

T.12N, R.05W. Willamette Meridian: NW¼ Section 6.

T.12N, R.06W. Willamette Meridian: NE¼ Section 1; N½, N½ S½ Section 3; N½ N½ Section 6.

T.12N, R.07W. Willamette Meridian: N½, N½ SW¼ Section 1; N½, N½ S½ Section 2, NE¼ Section 3.

T.12N, R.08W. Willamette Meridian: NE¼ Section 1.

T.13N, R.05W. Willamette Meridian: S½ S½ Section 7; NE¼ SW¼, S½ SW¼, SE¼ Section 8; S½ SW¼, NE¼ SW¼ Section 9; S½ Section 10; Sections 15–21; Section 22 except SE¼ SW¼, SW¼ SE¼, E½ E½; N½ NW¼, SW¼ NW¼ Section 27; NE¼ Section 28; Section 29–31; Section 32 except W½ SW¼.

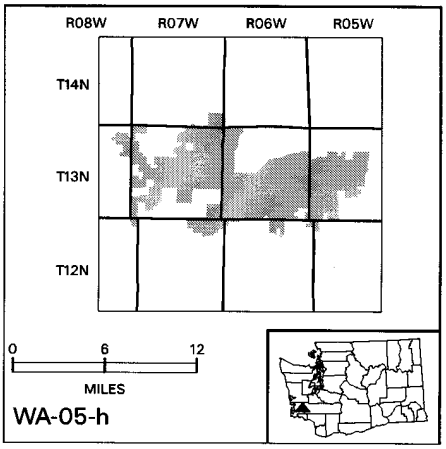
T.13N, R.06W. Willamette Meridian: NW¼, W½ SW¼, NE¼ SW¼, W½ NE¼ Section 5; Sections 6–7; W½ NW¼ Section 8; S½ SE¼ Section 10; S½ SW¼, SE¼ Section 11; S½ Section 12; Sections 13–15; SE¼ Section 16; Sections 18–33; Section 34 except SW¼ SW¼; Section 35; N½, SW¼ NW¼, SW¼ SW¼, E½ SE¼ Section 36.

T.13N, R.07W. Willamette Meridian: Sections 1–2; Section 3 except N½ NW¼; N½, W½ SW¼ Section 6; W½, SW¼ SE¼ Section 7; SE¼ NE¼, NE¼ SE¼ Section 9; Section 10 except NE¼; Sections 11–16; W½ SW¼, SE¼ SW¼, S½ SE¼, NE¼ SE¼, NE¼ Section 17; NW¼, E½ Section 18; S½ NW¼, S½, E½ NE¼ Section 19; N½, SE¼ Section 20; Sections 21–24; Section 27; Section 29 except W½ NW¼; S½ Section 30; W½ Section 31; NW¼, NW¼ NE¼, Section 32; Section 36.

T.13N, R.08W. Willamette Meridian: S½ Section 1; S½ SE¼ Section 2; N½ NW¼, SE¼ SW¼, E½ Section 12.

T.14N, R.06W. Willamette Meridian: SW¼ NW¼, W½ SW¼ Section 31.

T.14N, R.07W. Willamette Meridian: SE¼ SE¼ Section 34; SW¼ SW¼, SE¼ SE¼ Section 35; Section 36.



Map and description of WA–06–a taken from United States Fish and Wildlife Service 1:100,000 map; Port Angeles, Mt Olympus and Seattle, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.26N., R.02W. Willamette Meridian: W½ SW¼, NE¼ SE¼, NE¼ Section 2; Section 3 except E½ NE¼; NW¼, E½ Section 4; W½, W½ SE¼, N½ NE¼ Section 5; Sections 6–7; W½, S½ SE¼ Section 8; S½ S½, NE¼ NE¼ Section 9; Section 10 except SW¼ NW¼; Section 14 except E½ SE¼; N½ NW¼, S½ SW¼, NE¼ SE¼, E½ NE¼, NW¼ NE¼ Section 15; Section 16–21; W½, SW¼ SE¼ Section 22; Section 27 except NE¼ NE¼.

T.26N., R.03W. Willamette Meridian: Sections 1–3; E½, E½ W½ Section 10; Sections 11–13; Section 14 except the SW¼ SW¼; S½ NW¼, NE¼ NW¼, SW¼, SW¼ SE¼, NE¼ Section 15; S½ Section 16; SE¼ SE¼ Section 17; S½ N½, N½ S½ Section 19; S½ NW¼, NE¼ NW¼, N½ SW¼, NE¼ Section 20; NE¼ Section 21; N½ NW¼, N½ SE¼, NE¼ Section 22; Section 23 except SW¼ SW¼, NE¼ SE¼; Section 24 except N½ SW¼.

T.26N., R.04W. Willamette Meridian: E½ NW¼, NE¼ SW¼, NE¼ Section 24.

T.27N., R.02W. Willamette Meridian: SW¼ SW¼ Section 5; Section 6 except NE¼ NE¼; Section 7; W½ W½ Section 8; W½, W½ SE¼ Section 17; Sections 18–19; Section 20 except the NE¼ NE¼; S½ NW¼, SW¼ Section 28; Sections 29–33; W½, N½ NE¼ Section 34; N½ NW¼, E½ Section 35.

T.27N., R.03W. Willamette Meridian: Sections 1–2; N½ SE¼, SE¼ SE¼, NE¼ Section 3; Section 11–13; Section 14 except SW¼ NW¼; SE¼ Section 15; E½, SE¼ SW¼ Section 22; Sections 23–26; Section 27 except NW¼ NW¼; S½ Section 28; E½ NW¼, NE¼ Section 33; N½ NW¼, SE¼ NW¼, S½ SW¼, NE¼ SW¼, E½ Section 34; Sections 35–36.

T.28N., R.02W. Willamette Meridian: N½ N½, SW¼ NE¼ Section 5; SW¼ SW¼ Section 7; S½ SW¼ Section 8; N½ NW¼, NW¼ SE¼, S½ SE¼ Section 17; NW¼, S½ NE¼ Section 18; NW¼, S½ SW¼ Section 20; SW¼ Section 28; NW¼, W½ NE¼ Section 29; SE¼ SW¼, S½ SE¼ Section 30; S½ NW¼, SW¼, W½ SE¼, N½ NE¼ Section 31.

T.28N., R.03W. Willamette Meridian: N½, W½ SE¼, NE¼ SE¼ Section 1; W½, SW¼ SE¼, NE¼ Section 2; Sections 3–10; W½, NW¼ SE¼, S½ SE¼ Section 11; S½ SW¼, NE¼ SW¼, SE¼, SE¼ NE¼ Section 12; Sections 13–23; N½, NW¼ SW¼, NE¼ SE¼ Section 24; N½ SW¼, W½ NW¼ Section 25; Sections 26–29; N½, N½ SW¼, SW¼ SW¼, N½ SE¼ Section 30; NE¼ NW¼, E½ Section 32; Section 33 except S½ SW¼, SW¼ SE¼; Section 34; Section 35 except NE¼ SE¼, SE¼ NE¼; SE¼ Section 36.

T.28N., R.04W. Willamette Meridian: NE¼ NE¼ Section 1; SE¼ SE¼, SE¼ NE¼ Section 12; S½ SW¼, NE¼ SW¼, SE¼, SW¼ NE¼, E½ NE¼ Section 13; E½ SE¼, SE¼ NE¼ Section 23; Sections 24–25; SE¼ SW¼, S½ SE¼, NE¼ SE¼, E½ NE¼ Section 26; E½ W½, E½ Section 35; NW¼, N½ SW¼, SW¼ SW¼, N½ NE¼, SW¼ NE¼ Section 36.

T.29N., R.02W. Willamette Meridian: W½ NW¼, SE¼ NW¼, S½, S½ NE¼ Section 30; SW¼ NW¼, W½ SW¼, NE¼ SE¼ Section 31; W½ NW¼, SE¼ NW¼, SW¼, W½ SE¼ Section 32.

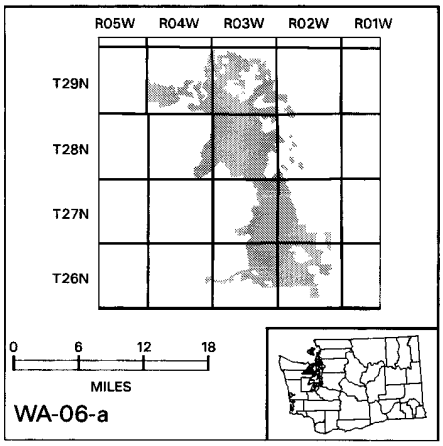
T.29N., R.03W. Willamette Meridian: Section 19; NW¼, W½ SW¼ Section 20; SE¼ SE¼ Section 22; SE¼ NW¼, S½, SW¼ NE¼, E½ NE¼ Section 23; Section 24 except NE¼ SE¼, SE¼ NE¼; Section 25; N½, N½ SW¼, E½ SE¼ Section 26; S½, SW¼ NE¼, E½ NE¼ Section 27; SE¼ NW¼, SW¼ Section 28; Section 29 except NE¼ NE¼; Sections 30–34; S½, SW¼ NW¼, NE¼ NE¼ Section 35; Section 36.

T.29N., R.04W. Willamette Meridian: S½, S½ NW¼, NW¼ NW¼, SW¼ NE¼ Section 19; S½ Section 20; S½ Section 21; E½ W½, SW¼ SW¼, W½ SE¼, NE¼ Section 22; E½ SW¼, NW¼ SW¼, E½, NW¼ NW¼ Section 23; Section 24; Section 25 except NW¼ NW¼; W½ NW¼, NE¼ SW¼, E½ Section 26; N½, N½ SE¼ Section 27; Sections 28–30; N½ Section 32; N½ NW¼, SW¼ NW¼, NW¼ NE¼ Section 33; E½ NE¼, SW¼ NE¼, NE¼ SW¼ Section 34; W½ NW¼, SE¼ NW¼, N½ SW¼, NE¼ SW¼, N½ SE¼, S½ NE¼, NE¼ NE¼ Section 35; Section 36 except SW¼ SW¼.

Critical Habitat includes only State or County lands described within the following areas:

T.29N., R.03W. Willamette Meridian: W½ SW¼, SE¼ SW¼, SW¼ SE¼ Section 4; S½ SW¼, SE¼, SW¼ NE¼ Section 5; SW¼ NW¼, W½ SW¼, S½ SE¼ Section 6; Section 7 except E½ NW¼; Sections 8–9; W½ NW¼, SE¼ NW¼, SW¼, NW¼ SE¼, NE¼ Section 10; NW¼, E½ SW¼, SE¼, SE¼ NE¼ Section 11; NW¼, E½ SW¼ Section 13; Section 14 except W½ NW¼, SE¼ NW¼; N½ NW¼ Section 15; W½, NW¼ NE¼, NW¼ SE¼ Section 16; Section 17; NW¼ NW¼, E½ NW¼, NE¼ SW¼, E½ Section 18; S½ NW¼, NE¼ SE¼, NE¼ Section 21; NE¼ NE¼ Section 28.

T.29N, R.04W. Willamette Meridian: E½ SE¼, SW¼ SE¼ Section 1; E½, SE¼ SW¼ Section 12; E½ NW¼, NE¼ SW¼, N½ SE¼, SW¼ SE¼, NE¼ Section 18.



Map and description of WA–06–b taken from United States Fish and Wildlife Service 1:100,000 map; Mt Olympus and Shelton, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.23N., R.04W. Willamette Meridian: NW¼, N½ NE¼ Section 3; Section 4 except SE¼ SE¼; Sections 5–6; N½ Section 7; N½ Section 8; NW¼ Section 9.

T.23N., R.05W. Willamette Meridian: E½ SW¼, SE¼ Section 3; NE¼ NW¼, NE¼ SE¼, NE¼ Section 10; S½ N½, N½ S½ Section 11; S½ NW¼, NE¼ NW¼, NE¼ Section 12.

T.24N., R.03W. Willamette Meridian: Sections 5–6; NW¼, NW¼ NE¼ Section 7.

T.24N., R.04W. Willamette Meridian: Sections 1–5; E½ E½ Section 6; Section 7 except NW¼ NW¼, SE¼ SE¼; Sections 8–16; SE¼ SW¼, E½ Section 17; N½ NW¼ Section 18; N½ SE¼, SE¼ SE¼, S½ NE¼, NE¼ NE¼ Section 19; Sections 20–24; Section 25 except SE¼ SE¼; Sections 26–29; SE¼, S½ NE¼, NE¼ NE¼ Section 30; Section 31 except NW¼ NW¼; Sections 32–35; N½ NW¼ Section 36.

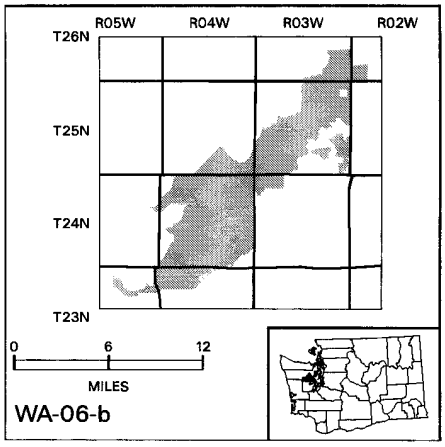
T.24N., R.05W. Willamette Meridian: SE¼ SE¼ Section 12; N½ NW¼, NE¼ Section 13.

T.25N., R.03W. Willamette Meridian: Section 1 except E½ SW¼, W½ SE¼; Sections 2–3; E½ E½ Section 4; E½ E½ Section 9; Sections 10–12; N½, N½ SE¼, SE¼ SE¼ Section 13; Sections 14–15; Section 16 except NW¼ NW¼; SE¼ NW¼, S½, S½ NE¼ Section 17; SE¼ SE¼ Section 18; E½ NW¼, S½ SW¼, NE¼ SW¼, E½ Section 19; Sections 20–21; Section 22 except S½ SE¼; SE¼ Section 23; S½ NW¼, S½ Section 24; Section 25; S½ NW¼, SW¼, E½ SE¼, SW¼ NE¼ Section 26; NW¼, N½ S½, S½ NE¼ Section 27; Sections 28–32; Section 33 except E½ E½, SW¼ SE¼; SE¼ NW¼, E½ SW¼; NW¼ SE¼, NE¼ Section 36.

T.25N., R.04W. Willamette Meridian: E½ E½, SW¼ SE¼ Section 25; SW¼ Section 26; S½, S½ NE¼ Section 27; S½, NE¼ Section 33; Sections 34–36.

T.26N., R.02W. Willamette Meridian: Section 31.

T.26N., R.03W. Willamette Meridian: Section 25; E½ Section 26; S½ Section 34; Section 35 except W½ NW¼; Section 36.



Map and description of WA–07–a taken from United States Fish and Wildlife Service 1:100,000 map; Bellingham and Mt. Baker, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.37N., R.06E. Willamette Meridian: NE¼ Section 1.

T.37N., R.07E. Willamette Meridian: W½, W½ E½ Section 3; Sections 4–5; N½, N½ SE¼ Section 6; NE¼ NW¼, N½ NE¼ Section 8; NE¼ NW¼, NW¼ NE¼ Section 10.

T.38N., R.06E. Willamette Meridian: Section 1; Sections 12–13; E½, E½ W½ Section 36.

T.38N., R.07E. Willamette Meridian: NW¼, N½ SW¼, SW¼ SW¼ Section 3; Sections 4–8; Section 9 except S½ SE¼; W½ NW¼ Section 10; NW¼ Section 16; Section 17 except E½ SE¼; Sections 18–19; NW¼, W½ NE¼, NW¼ SW¼ Section 20; SW¼, W½ SE¼ Section 27; E½ SE¼ Section 28; SW¼ SW¼ Section 29; Section 30 except NE¼ SE¼; Sections 31–33; W½ Section 34.

T.39N., R.06E. Willamette Meridian: Section 25; Section 36.

T.39N., R.07E. Willamette Meridian: Sections 1–4; Section 5 except SW¼ SW¼, SE¼ SE¼; E½ Section 8; Sections 9–12; Sections 14–15; N½, SE¼ Section 16; NE¼ Section 17; Section 21 except NW¼; W½ Section 22; NE¼ NW¼, N½ NE¼ Section 23; W½, SW¼ NE¼ Section 27; Section 28; W½ SW¼ Section 30; Sections 31–33; W½ Section 34.

T.39N., R.08E. Willamette Meridian: Sections 1–12; W½ Section 15; Sections 16–17; SE¼ SW¼, SE¼, S½ NE¼, NE¼ NE¼ Section 19; Sections 20–21; W½ Section 22.

T.39N., R.09E. Willamette Meridian: N½ NW¼, SW¼ NW¼, NW¼ SW¼, S½ SW¼, N½ NE¼ Section 3; Sections 4–8; Section 9 except SW¼ SE¼; Section 10 except E½ E½; SW¼ NW¼, NW¼ SW¼ Section 14; NE¼ NW¼, NE¼ SE¼, NE¼ Section 15; W½ Section 16; Section 17; NE¼, N½ SE¼, SE¼ SE¼ Section 18; NE¼ NW¼, NE¼ Section 20; NW¼, N½ SW¼, W½ NE¼ Section 21.

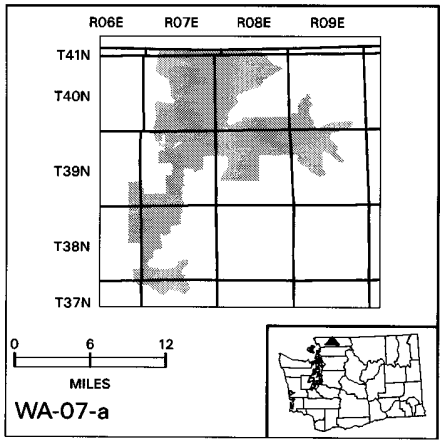
T.40N., R.07E. Willamette Meridian: Sections 1–4; E½, E½ W½ Section 5; E½ NW¼, N½ SE¼, NE¼ Section 8; Section 9 except SW¼ SW¼; Sections 10–15; E½ NW¼, E½ Section 16; SE¼, E½ SW¼ Section 20; SW¼, E½ Section 21; Sections 22–28; E½ W½, E½ Section 29; Sections 32–36.

T.40N., R.08E. Willamette Meridian: Section 2 except NE¼, NE¼ NW¼, NE¼ SE¼; Sections 3–10; Section 11 except S½ SE¼; NW¼ Section 12; NW¼, N½ SW¼, NW¼ SE¼, NE¼ Section 15; Sections 16–20; NW¼, W½ SW¼, NW¼ NE¼ Section 29; Sections 30–31; S½, W½ NW¼, S½ NE¼ Section 32; Section 33 except NW¼ NW¼; Sections 34–36.

T.40N., R.09E. Willamette Meridian: SE¼ SE¼ Section 19; S½ NW¼, SW¼, W½ E½ Section 20; Section 29 except E½ SE¼, SE¼ NE¼; S½ SW¼, NE¼ SW¼, S½ SE¼, NE¼ SE¼, E½ NE¼ Section 30; Sections 31–32; S½ S½, N½ SE¼ Section 33; Section 34 except N½ N½; S½ N½, SW¼, N½ SE¼, SW¼ SE¼ Section 35.

T.41N., R.07E. Willamette Meridian: Sections 32–36.

T.41N., R.08E. Willamette Meridian: Sections 31–34, W½ SW¼ Section 35.



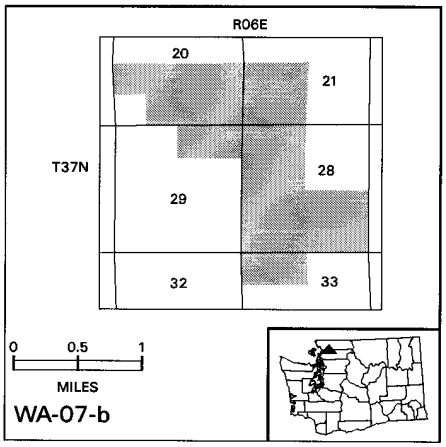
Map and description of WA–07–b taken from United States Fish and Wildlife Service 1:100,000 map; Bellingham, Washington; 1995.

Critical Habitat includes only State or County lands described within the following areas:

T.37N., R.06E. Willamette Meridian: SW¼ SW¼ Section 20; NE¼ NE¼ Section 28.

Critical Habitat includes only Private lands described within the following areas:

T.37N., R.06E. Willamette Meridian: N½ SW¼, SE¼ SW¼, SE¼ Section 20; SW¼ Section 21; Section 28 except NE¼; N½ NE¼ Section 29; N½ NW¼ Section 33.



Map and description of WA–07–c taken from United States Fish and Wildlife Service 1:100,000 map; Mt Baker and Sauk River, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.35N., R.09E. Willamette Meridian: Sections 1–2; E½ W½, E½ Section 11; Section 12; NE¼ NE¼ Section 13; NE¼ NW¼, N½ NE¼ Section 14.

T.35N., R.10E. Willamette Meridian: W½ NW¼, SE¼ NW¼, SW¼, S½ SE¼ Section 6; Section 7; Section 8 except N½ NE¼; W½ SW¼ Section 9; N½ NW¼ Section 17; N½ NE¼, NW¼ Section 18.

T.36N., R.07E. Willamette Meridian: Section 1; E½ SE¼, NE¼ Section 2; Section 3; E½ E½ Section 4.

T.36N., R.08E. Willamette Meridian: Section 5; W½ W½ Section 6.

T.36N., R.09E. Willamette Meridian: Sections 1–4; E½ Section 5; Section 8 except S½ SE1/4; W½ NW¼, NW¼ SW¼, NE¼ NE¼ Section 9; N½ NW¼, N½ SE¼, SE¼ SE¼, NW¼ NE¼ Section 10; Section 11 except S½ NW¼, NE¼ NW¼; Sections 12–15; Sections 21–24; S½ NW¼ Section 26; Section 27 except SW¼ SW¼; Section 28 except SE¼ SE¼; S½, S½ NE¼, SE¼ NW¼ Section 33.

T.36N., R.10E. Willamette Meridian: SW¼ SW¼ Section 5; S½ S½ Section 6; Section 7; W½ W½ Section 8; W½, W½ SE¼ Section 17; Sections 18–20; SW¼ Section 21; W½ Section 28; Sections 29–30; N½, SW¼ Section 31; N½ N½ Section 32; N½ NW¼ Section 33.

T.37N., R.07E. Willamette Meridian: S½ SE¼ Section 9; S½, S½ NE¼ Section 10; S½, NE¼ Section 11; SW¼ NW¼, NW¼ SW¼ Section 12; W½ NW¼, W½ SW¼, SE¼ SW¼, S½ SE¼ Section 13; Sections 14–15; Section 16 except NW¼ NW¼; E½ SE¼ Section 17; NE¼ NE¼ Section 20; Sections 21–27; Section 28 except E½ E½, SE¼ SW¼; E½, NE¼ NW¼ Section 33; Sections 34–36.

T.37N., R.08E. Willamette Meridian: Sections 1–3; N½ NW¼, SE¼ NW¼, N½ SE¼ SE¼ SE¼, NE¼ Section 4; NE¼ SW¼, SE¼, S½ NE¼ Section 7; S½ Section 8; Section 9 except N½ NW¼; Sections 10–16; N½, N½ SE¼ Section 17; SW¼ SW¼, NE¼ NE¼ Section 18; Section 19; Section 20 except NE¼ NE¼; Section 21 except NW¼ NW¼; Sections 22–36.

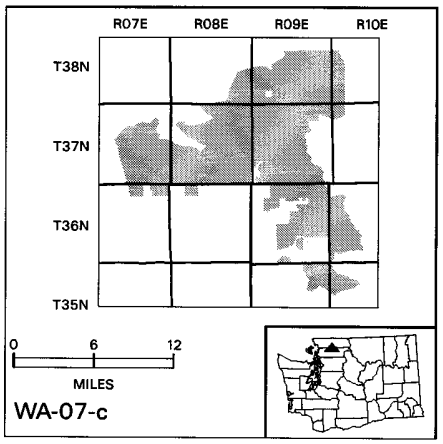
T.37N., R.09E. Willamette Meridian: Sections 1–10; N½ N½, SW¼ NW¼, W½ SW¼, SE¼ SW¼ Section 11; NE¼ NE¼ Section 12; N½ NW¼, W½ SW¼ Section 14; Sections 15–22; W½ W½, SE¼ SW¼ Section 23; SW¼ SW¼ Section 25; W½, SE¼ Section 26; Sections 27–29; Section 30 except SW¼ SW¼; Section 31 except NW¼ NW¼, S½ NW¼, SW¼ SW¼; Sections 32–35; W½ Section 36.

T.37N., R.10E. Willamette Meridian: Section 6; N½ NW¼, NW¼ NE¼ Section 7.

T.38N., R.08E. Willamette Meridian: E½ SE¼ Section 23; S½, S½ NE¼ Section 24; Section 25; E½, E½ SW¼ Section 26; S½ SW¼ Section 33; S½ S½ Section 34; Section 35 except W½ NW¼; Section 36.

T.38N., R.09E. Willamette Meridian: Sections 13–15; Section 16 except W½ NW¼; S½ SE¼ Section 17; Section 19 except N½ N½; Section 20 except N½ NW¼; Sections 21–31; Section 32 except NW¼; Sections 33–36.

T.38N., R.10E. Willamette Meridian: Section 18 except N½ NE¼; Section 19; Sections 30–31.



Map and description of WA–07–d taken from United States Fish and Wildlife Service 1:100,000 map; Cape Flattery, Mt Baker and Sauk River, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.34N, R.12E. Willamette Meridian: Sections 1–3; NE¼ NW¼, N½ NE¼ Section 10; N½ N½ Section 11; N½ NW¼, NW¼ NE¼ Section 12.

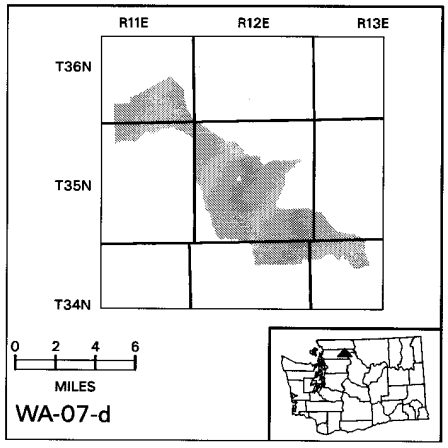
T.34N, R.13E. Willamette Meridian: W½ Section 4; Sections 5–6; N½ NW¼, N½ NE¼, SE¼ NE¼, NE¼ SE¼ Section 8; NW¼, W½ NE¼ Section 9.

T.35N, R.11E. Willamette Meridian: N½, N½ SE¼ Section 1; N½, NW¼ SW¼ Section 2; N½, N½ SW¼, SW¼ SW¼ Section 3; Section 4.

T.35N, R.12E. Willamette Meridian: S½ SW¼, NW¼ SW¼ Section 5; W½, SE¼, S½ NE¼ Section 6; Sections 7–8; Section 9 except NE¼, NE¼ SE¼, NE¼ NW¼; SW¼ SW¼ Section 10; N½ NW¼, SW¼ NW¼ Section 13; Section 14 except S½ SE¼; Sections 15–18; Section 19 except SW¼ NW¼, W½ SW¼; Sections 20–22; NW¼, N½ SW¼, SW¼ SW¼ Section 23; S½, S½ N½ Section 25; S½, S½ N½, NW¼ NW¼ Section 26; Sections 27–29; NE¼, E½ SE¼ Section 30; NE¼ NW¼ Section 31; Sections 32–36.

T.35N, R.13E. Willamette Meridian: SW¼, SW¼ SE¼ Section 30; Section 31 except NE¼ NE¼; SW¼, S½ SE¼ Section 32; S½ SW¼ Section 33.

T.36N, R.11E. Willamette Meridian: SE¼ SW¼, SE¼ Section 23; SW¼ SW¼ Section 24; W½ Section 25; Section 26; Section 27 except N½ NW¼, NW¼ NE¼; E½ SE¼ Section 28; Sections 33–35; Section 36 except E½ NE¼.



Map and description of WA–08–a taken from United States Fish and Wildlife Service 1:100,000 map; Bellingham, Mt. Baker and Sauk River, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.32N., R.08E. Willamette Meridian: N½ Section 1; N½ Section 3; NW¼ NW¼, S½ NW¼, NE¼ Section 4; N½ Section 5; N½ Section 6.

T.33N., R.08E. Willamette Meridian: Sections 1–30; Section 31 except S½ SE¼; Section 32; Section 33 except S½ SE¼; Section 34 except SE¼ SW¼; Section 35; Section 36 except N½ SE¼, SE¼ NE¼.

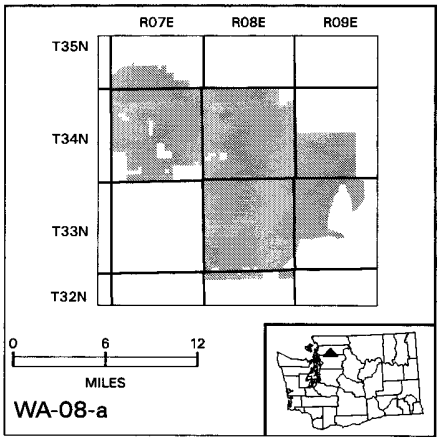
T.33N., R.09E. Willamette Meridian: W½, W½ E½ Section 2; Section 3 except S½ SW¼; Sections 4–8; Section 9 except E½ SE¼, SE¼ NE¼; E½ E½, NW¼ NE¼ Section 10; W½, NW¼ SE¼, W½ NE¼ Section 11; NW¼ NW¼ Section 14; NE¼ NE¼ Section 15; W½ Section 16; Sections 17–20; Section 21 except NE¼; S½ SW¼ Section 22; N½ NW¼ Section 29; NW¼, W½ SW¼, N½ NE¼ Section 30.

T.34N., R.07E. Willamette Meridian: Sections 1–6; Section 7 except N½ SE¼, SE¼ SE¼; Section 8 except SW¼ SW¼; Sections 9–15; Section 16 except W½ E½; Sections 17–21; Section 22 except SW¼; Sections 23–26; S½ Section 27; Sections 28–29; N½ NW¼, S½, NW¼ NE¼ Section 32; Section 33; Section 34 except SW¼ NE¼.

T.34N., R.08E. Willamette Meridian: Sections 2–11; Section 12 except N½ NW1/4; Sections 13–28; Section 29 except S½ NW¼, N½ SW¼; Section 30 except SE¼ NW¼, N½ SW¼, SW¼ NE¼; Sections 31–36.

T.34N., R.09E. Willamette Meridian: Sections 19–22; Sections 27–34.

T.35N., R.07E. Willamette Meridian: S½ SW¼, NE¼ SW¼ Section 27; S½ Section 28; Section 29 except NW¼ NW¼, NE¼; SE¼ SW¼, SE¼ Section 30; Sections 31–34; S½ Section 35.



Map and description of WA–08–b taken from United States Fish and Wildlife Service 1:100,000 map; Sauk River, Washington; 1995.

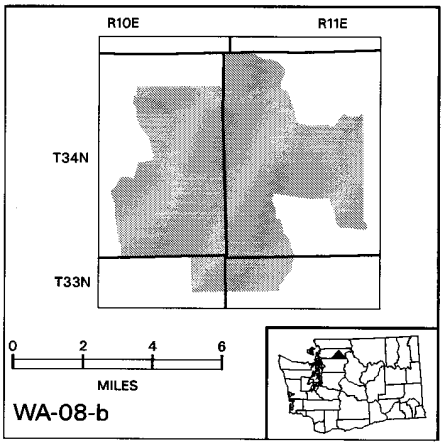
Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.33N., R.10E. Willamette Meridian: Section 1.

T.33N., R.11E. Willamette Meridian: Section 5 except E½ SE¼; Section 6.

T.34N., R.10E. Willamette Meridian: SE¼ NW¼, NE¼ SW¼, E½ Section 10; Sections 11–14; NW¼ NE¼, E½ E½ Section 15; E½ SE¼ Section 21; Section 22 except NW¼, NW¼ NE¼; Sections 23–27; NW¼ NE¼, E½ E½ Section 28; NE¼ SE¼, E½ NE¼ Section 33; Sections 34–36.

T.34N., R.11E. Willamette Meridian: Section 5 except N½ NE¼, NE¼ NW¼; Sections 6–8; W½ SW¼ Section 9; S½ SE¼, SE¼ SW¼ Section 10; SW¼ SW¼ Section 11; W½ W½ Section 14; Section 15 except NW¼ NW¼; Section 16 except N½ NE¼; Sections 17–22; W½ W½ Section 23; W½ W½ Sections 26–27 except W½ SW¼; N½ Section 28; W½, N½ NE¼, SE¼ NE¼, W½ SE¼ Section 29; Sections 30–31; Section 32 except NE¼ NE¼; NE¼ NW¼, N½ NE¼ Section 34; NW¼ NW¼ Section 35.

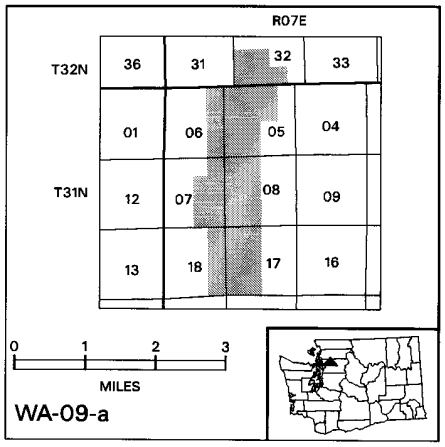


Map and description of WA–09–a taken from United States Fish and Wildlife Service 1:100,000 map; Sauk River, Washington; 1995.

Critical Habitat includes only Federal lands described within the following areas:

T.31N., R.07E. Willamette Meridian: W½, W½ NE¼ Section 5; E½ E½ Section 6; SE¼, S½ NE¼, NE¼ NE¼ Section 7; W½ Section 8; W½ Section 17; E½ E½ Section 18.

T.32N., R.07E. Willamette Meridian: SW¼, SW¼ SE¼ Section 32.



Map and description of WA–09–b taken from United States Fish and Wildlife Service 1:100,000 map; Sauk River, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.29N., R.09E. Willamette Meridian: Section 1; N½ Section 2; Sections 3–6; N½ Section 7; N½ Section 8; N½ Section 9; NW¼ Section 10.

T.29N., R.10E. Willamette Meridian: Sections 1–3; W½ Section 6; Sections 11–13.

T.29N., R.11E. Willamette Meridian: W½ NW¼ Section 2; NE¼, NE¼ NW¼ Section 3; NW¼ NW¼ Section 5; Sections 6–7; W½ NW¼, SW¼, S½ SE¼, NW¼ SE¼ Section 17; Section 18; N½ NW¼, SE¼ NW¼, NE¼, N½ SE¼ Section 19; N½, N½ SW¼, NW¼ SE¼ Section 20.

T.30N., R.08E. Willamette Meridian: Sections 1–3; N½ Section 4; N½ Section 5; N½, SE¼ Section 11; Sections 12–13; E½ Section 14; SW¼ Section 15; Sections 16–17; Section 18 except S½ NW¼, N½ SW¼; Sections 19–26; N½ Section 27; N½ Section 28; N½, SE¼ Section 35.

T.30N., R.09E. Willamette Meridian: NW¼, SE¼, N½ NE¼, SW¼ NE¼ Section 1; E½ NE¼ Section 2; W½, SW¼ SE¼, N½ NE¼ Section 6; Section 7; S½ NW¼, S½, SW¼ NE¼ Section 8; S½ SE¼ Section 9; S½ SW¼ Section 10; E½ NW¼, NE¼ Section 12; S½ NW¼, SW¼, W½ SE¼ Section 14; Section 15; Section 16 except NW¼ NW¼; SE¼, S½ NE¼ Section 17; W½ Section 18; Section 19 except W½ NE¼; Section 20 except NE¼ NW¼, SW¼; Sections 21–22; Section 23 except NE¼ NE¼; S½ NW¼, S½, SE¼ NE¼ Section 24; Sections 25–36.

T.30N., R.10E. Willamette Meridian: Sections 1–6; N½, NE¼ SE¼ Section 7; Sections 8–17; E½ Section 18; Sections 19–

28; N½, N½ SE¼ Section 29; Section 30 except SE¼ SE¼; Section 31 except N½ NE¼; SW¼ NW¼, NW¼ SW¼ Section 32; NE¼, E½ NW¼, N½ SE¼, SE¼ SE¼ Section 33; Sections 34–36.

T.30N., R.11E. Willamette Meridian: SW¼ SE¼, S½ NW¼, SW¼ Section 5; Sections 6–8; SW¼ NW¼, NE¼ SW¼, SE¼ Section 9; Section 10 except N½ NW¼, SW¼ NW¼, NW¼ NE¼; Section 15 except SE¼ SE¼; Sections 16–22; NW¼ NW¼ Section 27; Section 28 except E½ SE¼, SE¼ NE¼; Sections 29–31; Section 32 except SE¼; Section 33 except SW¼ SW¼; Section 34 except NE¼, N½ NW¼, SE¼ NW¼, NE¼ SE¼.

T.31N., R.07E. Willamette Meridian: S½ SW¼, SW¼ SE¼ Section 1; Sections 12–13.

T.31N., R.08E. Willamette Meridian: W½ SW¼ Section 3; S½ Section 4; S½ Section 5; SE¼ SE¼ Section 6; Section 7; Section 8 except S½ SE¼; N½, NW¼ SW¼ Section 9; W½ NW¼ Section 10; W½, W½ SE¼ Section 17; Sections 18–21; Section 22 except NE¼ NE¼; S½ NW¼, SW¼, W½ SE¼ Section 23; Section 25 except N½ NE¼, SE¼ NE¼; Sections 26–36.

T.31N., R.09E. Willamette Meridian: Section 1; E½ E½, NW¼ NE¼ Section 2; E½, E½ SW¼ Section 3; E½ NW¼, NE¼ SW¼, W½ NE¼ Section 10; NE¼ NW¼, SE¼ SW¼, E½ Section 12; Section 13 except W½ NW¼; Section 23 except N½ NW¼; Sections 24–26; S½ Section 27; N½ SE¼, SE¼ SE¼, S½ NE¼ Section 28; W½, SW¼ SE¼ Section 31; N½ NW¼, E½ Section 35; Section 36.

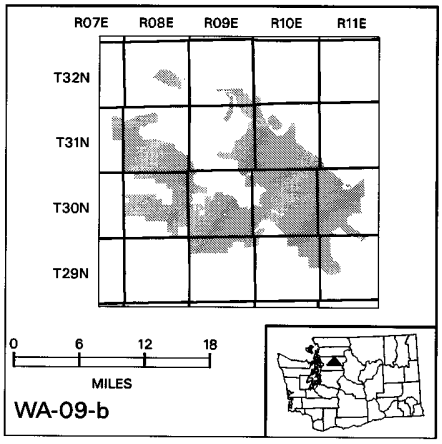
T.31N., R.10E. Willamette Meridian: Section 6 except E½ E½; Sections 7–8; W½ NW¼, SW¼, W½ SE¼ Section 9; SE¼ SW¼, SW¼ SE¼ Section 10; Section 15 except E½ E½; NW¼, S½ SE¼, NE¼ SE¼ Section 16; Sections 17–21; Section 22 except E½ NE½; SW¼ SW¼ Section 23; SW¼, S½ SE¼, SW¼ NW¼ Section 25; Section 26 except NE¼ NE¼; Sections 27–36.

T.31N., R.11E. Willamette Meridian: W½ NW¼, SW¼ Section 31.

T.32N., R.08E. Willamette Meridian: SW¼ Section 14; S½ Section 15; E½ NE¼ Section 21; N½, N½ SW¼, SE¼ Section 22; Section 23 except NE¼ NE¼; W½ SW¼, NW¼ SE¼, SW¼ NE¼ Section 24; W½ NW¼ Section 25; N½ N½ Section 26.

T.32N., R.09E. Willamette Meridian: S½ Section 26; N½ SW¼, SE¼ SW¼, SE¼ Section 27; N½ SE¼ Section 28; E½ Section 34; E½, N½ NW¼, SE¼ NW¼, NE¼ SW¼ Section 35; Section 36 except NE¼, NE¼ SE¼.

T.32N., R.10E. Willamette Meridian: Section 31 except E½ E½, NW¼ NE¼, NE¼ NW¼.



Map and description of WA–09–c taken from United States Fish and Wildlife Service 1:100,000 map; Sauk River and Skykomish River, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.27N., R.09E. Willamette Meridian: E½ NW¼, NE¼ Section 1.

T.27N., R.10E. Willamette Meridian: N½ N½ Section 6.

T.28N., R.09E. Willamette Meridian: S½ S½ Section 23; S½ SW¼ Section 24; Section 25; Section 26 except N½, SW¼ SW¼; SE¼ SW¼, S½ SE¼, NE¼ SE¼, NE¼ NE¼ Section 36.

T.28N., R.10E. Willamette Meridian: S½ Section 19; Section 20 except NW¼ NW¼; SW¼ NW¼, W½ SW¼ Section 21; SE¼ SE¼ Section 23; S½ SW¼ Section 24; NW¼, N½ SW¼, W½ NE¼ Section 25; S½ NW¼, SW¼, W½ SE¼, NE¼ SE¼, NE¼ Section 26; S½ Section 27; NW¼, NW¼ NE¼ Section 29; N½, SW¼ Section 30; Section 31 except SW¼ NW¼; Section 32 except E½ E½.

T.29N., R.08E. Willamette Meridian: SE¼ SW¼, SW¼ SE¼ Section 22; NE¼ SE¼ Section 25; NW¼, N½ NE¼ Section 27; E½ NE¼ Section 28.

T.29N., R.09E. Willamette Meridian: Section 30 except N½ N½.

Critical Habitat includes only State or County lands described within the following areas:

T.27N., R.09E. Willamette Meridian: NW¼ NW¼, SW¼ Section 2; N½, NE¼ SW¼, SE¼ Section 3; NE¼ NE¼ Section 4; N½ NE¼, SE¼ NE¼ Section 10; NW¼, S½ SW¼, SE¼, S½ NE¼ Section 11; Section 12; Section 13 except SE¼ SE¼; N½ NW¼, N½ SE¼, NE¼ Section 14.

T.27N., R.10E. Willamette Meridian: Section 7; S½ Section 8; Section 9 except N½ NW¼; NW¼, N½ SW¼, SW¼ SW¼ Section 10; N½ NW¼ Section 16; N½, NW¼ SW¼ Section 17; Section 18 except W½ SW¼, SE¼ SE¼.

T.28N., R.08E. Willamette Meridian: Sections 1–2; Section 3 except N½ NW¼; Sections 4–5; W½ SW¼, SE¼ SW¼ Section 6; Section 7; E½ SE¼, NE¼ Section 8; SE¼ SW¼, E½ E½, SW¼ SE¼, NW¼ NE¼ Section 9; Sections 10–12; N½ N½, NW¼ SE¼, S½ NE¼ Section 13; N½ Section 14; Section 15; S½ S½, E½ NE¼, NE¼ SE¼ Section 16; Section 17 except NW¼ SW¼, NW¼; Section 18 except SW¼; W½ Section 20; N½ NW¼ Section 21; NE¼ NW¼, NE¼ Section 36.

T.28N., R.09E. Willamette Meridian: Sections 1–4; S½ Section 5; N½, SW¼ Section 6; W½, W½ E½ Section 7; NE¼ Section 8; Sections 9–11; Section 12 except S½ SE¼; S½ S½, NE¼ SE¼ Section 13; Sections 14–16; N1/2 NW¼, SE¼ NW¼, E½ Section 17; SW¼, W½ SE¼, SE¼ SE¼ Section 20; Section 21; Section 27; Section 28 except E½ SW¼; Section 29 except NW¼; N½ NW¼, N½ SE¼, NE¼ Section 31; N½ N½, S½ NW¼ Section 32; N½ NW¼, S½ Section 33; Section 34 except NE¼ SE¼; SW¼ Section 35.

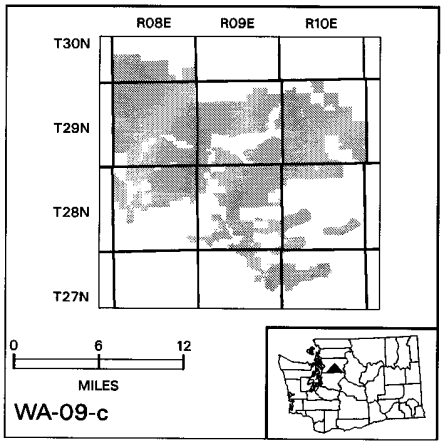
T.28N., R.10E. Willamette Meridian: W½ Section 2; Section 3; Section 4 except N½ NE¼, SW¼ NE¼; Sections 5–6; NW¼ Section 7.

T.29N., R.08E. Willamette Meridian: Sections 1–21; Section 22 except SE¼ SW¼, S½ SE¼; Section 23 except SW¼ SW¼; Section 24; N½ NW¼, SE¼ NW¼, NE¼, S½ S½ Section 25; SW¼ NW¼, SW¼, S½ SE¼, N½ NE¼ Section 26; Section 27 except NW¼, N½ NE¼; N½ NW¼, SE¼ Section 28; Sections 29–30; Sections 32–34; Section 35 except S½ SW¼; Section 36.

T.29N., R.09E. Willamette Meridian: S½ Section 2; S½ Section 7; S½ Section 8; S½ Section 9; S½, NE¼ Section 10; Sections 11–12; W½ NW¼, SE¼ SW¼, SE¼, E½ NE¼ Section 13; Sections 14–19; Section 20 except S½ SW¼; Section 21; Section 22 except S½ S½; Section 23 except S½ S½; NE¼ Section 24; Section 25; Section 26 except NW¼, N½ NE¼; SE¼ SW¼, S½ SE¼ Section 27; S½ SW¼, SW¼ SE¼ Section 29; N½ N½ Section 30; W½, NW¼ SE¼, W½ NE¼, NE¼ NE¼ Section 31; Section 32 except W½ NW¼, NW¼ SW¼; Section 33 except NE¼ NW¼, N½ NE¼; Section 34 except SW¼ NW¼, SW¼ SE¼; Sections 35–36.

T.29N., R.10E. Willamette Meridian: Section 4 except W½ SW¼; SE¼ SW¼, S½ SE¼, NE¼ SE¼ Section 6; Sections 7–8; S½ SW¼, SW¼ SE¼ Section 9; Section 10 except SE¼ SW¼; Section 14; Section 15 except N½ NW¼, NW¼ NE¼; Sections 16–24; Section 25 except SE¼ SE¼; Section 26 except NW¼ SW¼; Sections 28–33; SW¼ NW¼, W½ SW¼, SE¼ SW¼, S½ SE¼ Section 34; Section 36.

T.30N., R.10E. Willamette Meridian: S½ Section 27; S½ Section 28; Sections 29–34; SW¼ Section 35; Section 36.



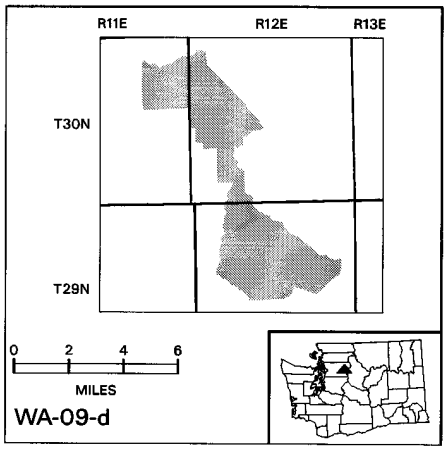
Map and description of WA–09–d taken from United States Fish and Wildlife Service 1:100,000 map; Sauk River, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.29N., R.12E. Willamette Meridian: SW¼ Section 3; Section 4 except N½ NE¼; Section 5; Sections 8–10; SW¼, SW¼ SE¼ Section 11; Section 13 except E½, SE¼ SW¼; Sections 14–17; NE¼ SE¼ Section 18; NE¼ Section 20; N½, N½ N½ Section 21; N½, N½ SW¼ Section 22; N½ Section 23; NW¼ NW¼ Section 24.

T.30N., R.11E. Willamette Meridian: S½ SW¼, SE¼ Section 1; S½ S½ Section 2; Sections 11–12; N½ Section 13; N½ Section 14.

T.30N., R.12E. Willamette Meridian: S½ Section 6; Section 7; SW¼ NW¼, SW¼, SW¼ SE¼ Section 8; SW¼ NW¼, SW¼ Section 16; Sections 17–18; N½ NW¼, E½, SE¼ NW¼, NE¼ SW¼ Section 19; Section 20; NW¼, NW¼ SW¼, W½ NE¼ Section 21; Section 29 except E½ NE¼; N½ NW¼, E½ SW¼, E½ Section 32; W½ SW¼, SE¼ SW¼ Section 33.



Map and description of WA–09–e taken from United States Fish and Wildlife Service 1:100,000 map; Sauk River, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.31N., R.11E. Willamette Meridian: N½ Section 1; N½ NW¼, SW¼ NW¼, SW¼, N½ NE¼ Section 2; Section 3; Section 4 except SE¼ SE¼; E½ NW¼, E½ Section 5; N½ NW¼, W½ NE¼ Section 9; E½ NW¼, E½ Section 10; W½, W½ SE¼ Section 11; W½, W½ NE¼, SE¼ Section 14; E½ SW¼, E½ Section 15; E½ NW¼, NE¼ Section 22; N½ N½ Section 23.

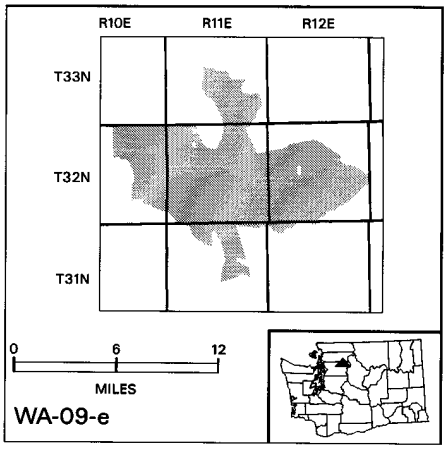
T.31N., R.12E. Willamette Meridian: N½ NE¼ Section 4; NW¼, W½ NE¼ Section 5; N½, N½ SE¼ Section 6.

T.32N., R.10E. Willamette Meridian: Sections 1–3; Sections 10–14; N½ N½, SE¼ NE¼ Section 15; Sections 23–25; N½, SE¼ Section 26; N½ NE¼ Section 36.

T.32N., R.11E. Willamette Meridian: NW¼ NW¼ Section 1; Section 2; E½ W½, E½ Section 3; Sections 5–8; W½ NW¼, S½ Section 9; Section 10 except NW¼ NW¼; Section 11; W½ NW¼, SE¼ SW¼, S½ SE¼ Section 12; Sections 13–30; N½, NE¼ SW¼, SE¼ Section 31; Section 32–36.

T.32N., R.12E. Willamette Meridian: S½ S½, NE¼ SE¼ Section 7; S½, S½ NE¼ Section 8; Section 9 except N½ N½; SW¼, S½ SE¼, NW¼ SE¼ Section 10; S½ SW¼ Section 13; W½, S½ SE¼ Section 14; Sections 15–16; Section 17 except SE¼ SE¼; Sections 18–19; Section 20 except NE¼ NE¼; Sections 21–23; Section 24 except NE¼ NE¼; NW¼, NW¼ SW¼, NW¼ NE¼ Section 25; Sections 26–33; N½, W½ SW¼, NE¼ SW¼ Section 34; N½ NW¼, SW¼ NW¼ Section 35.

T.33N., R.11E. Willamette Meridian: S½ SW¼, SW¼ SE¼ Section 15; E½ SW¼, SE¼ Section 16; Sections 21–22; S½ NW¼, SW¼, NW¼ SE¼, SW¼ NE¼ Section 23; W½, W½ E½ Section 25; Section 26 except NE¼ NE¼; Section 27; E½ NW¼, E½ SE¼, NE¼ Section 28; Section 34 except W½ SW¼; Section 35; NW¼, W½ SW¼ Section 36.



Map and description of WA–10-a taken from United States Fish and Wildlife Service 1:100,000 map; Skykomish River, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.26N., R.10E. Willamette Meridian: W½ W½ Section 4; NW¼ NW¼, E½ NW¼, N½ SE¼, NE¼ Section 5; Section 7 except NE¼ NE¼; S½ SW¼, SE¼ Section 8; Section 9 except N½ N½; W½ W½, SE¼ SW¼, S½ SE¼ Section 10; S½ SW¼ Section 11; S½ Section 13; Section 14 except N½ NE¼; Sections 15–19; N½ NW¼, E½ Section 20; Sections 21–23; Section 24 except E½ NW¼, NW¼ SW¼, NW¼ NE¼; N½ N½ Section 25; N½ N½ Section 26; N½ Section 27; N½ Section 28; N½ NE¼ Section 29; W½, W½ NE¼, NE¼ NE¼ Section 30.

T.26N., R.11E. Willamette Meridian: Section 2; Sections 4–7; NW¼, W½ SW¼, NE¼ SW¼, NW¼ NE¼ Section 8; NW¼, N½ SW¼, SE¼ SW¼, N½ NE¼ Section 18; E½ Section 19; SW¼ NW¼, W½ SW¼ Section 20; NW¼ NW¼ Section 29; N½ N½ Section 30.

T.27N., R.09E. Willamette Meridian: S½ SE¼ Section 19; Section 30 except NW¼ NW¼; Section 31; W½, NW¼ SE¼, W½ NE¼ Section 32.

T.27N., R.10E. Willamette Meridian: Section 1 except NW¼ NW ¼; E½ SE¼, SW¼ SE¼ Section 2; E½, E½ SW¼ Section 11; Sections 12–13; Section 14 except SW¼; E½ SE¼ Section 15; NE¼ NE¼ Section 22; N½, N½ SW¼, SE¼ Section 23; Section 24; N½ N½, SE¼ NE¼ Section 25; SW¼ SW¼, E½ SW¼, E½ Section 26; E½ NW¼, NE¼ SW¼, E½ Section 31; Section 32; Sections 35–36.

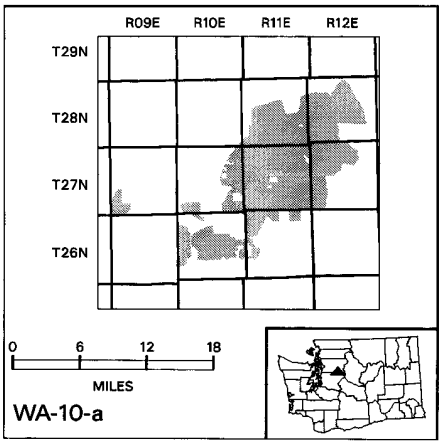
T.27N., R.11E. Willamette Meridian: Sections 1–20; W½ NW¼, N½ SW¼, SE¼ Section 21; Sections 22–36.

T.27N., R.12E. Willamette Meridian: SW¼ SW¼ Section 2; Section 3 except N½ NE¼; Sections 4–10; W½ W½, NW¼ SW¼ Section 11; N½ N½ Section 15; N½, W½ SW¼, NE¼ SW¼, NW¼ SE¼ Section 16; Sections 17–19; W½ Section 20; W½ Section 29; Sections 30–31; NW¼, N½ SW¼, SW¼ SW¼ Section 32.

T.28N., R.10E. Willamette Meridian: SW¼ SE¼, E½ SE¼ Section 36.

T.28N., R.11E. Willamette Meridian: S½ SW¼, SW¼ SE¼ Section 10; E½ SW¼, SE¼ Section 12; Section 13 except W½ W½; Section 15 except NE¼ NE¼; Section 16; S½, SE¼ NW¼, S½ NE¼ Section 17; E½ SE¼ Section 18; E½ E½, SW¼ SE¼ Section 19; Sections 20–29; E½ Section 30; Section 31 except NW¼ NW¼; Sections 32–36.

T.28N., R.12E. Willamette Meridian: S½ NW¼, SW¼, SW¼ SE¼ Section 3; SW¼ SE¼, E½ SE¼ Section 4; Section 7 except N½ N½; SW¼, W½ SE¼, SE¼ SE¼ Section 8; Section 9 except NW¼ NW¼; Section 10; SW¼ SW¼ Section 11; W½, W½ SE¼ Section 14; Sections 15–23; SW¼ NW¼ Section 25; N½ Section 26; N½ Section 27; W½, NE¼, SW¼ SE¼ Section 28; Sections 29–32; W½, W½ E½ Section 33.



Map and description of WA–10–b taken from United States Fish and Wildlife Service 1:100,000 map; Skykomish River, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.25N., R.10E. Willamette Meridian: Sections 3–5; S½, SE¼ NE¼ Section 6; Sections 7–8; W½, W½ SE¼ Section 9; NE¼ Section 10; W½, S½ SE¼ Section 16; Section 17; N½, SE¼, NE¼ SW¼ Section 18; NE¼ Section 20; N½, N½ SE¼ Section 21; W½ NW¼, SE¼ NW¼, S½ Section 22; SW¼ SW¼ Section 23; W½ SW¼, SE¼ SW¼ Section 25; NW¼, N½ SW¼, SE¼ SW¼, SE¼, S½ NE¼, NW¼ NE¼ Section 26; NE¼ NW¼, N½ SE¼, NE¼ Section 27.

T.25N., R.11E. Willamette Meridian: Sections 1–4; Sections 9–12; N½, N½ S½ Section 13; N½, N½ S½ Section 14; Section 15; N½, SW¼, N½ SE¼, SE¼ SE¼ Section 16; SE¼, SE¼ SW¼ Section 17; SE¼, S½ NE¼ Section 19; NW¼, NW¼ SW¼, N½ NE¼ Section 20; Section 22 except SW¼ SW¼; W½ W½ Section 23; NE¼ SW¼, NE¼ SE¼, N½ NE¼, SW¼ NE¼ Section 27.

T.25N., R.12E. Willamette Meridian: Sections 1–5; W½ Section 6; Section 7; Section 8 except NE¼ NW¼; Sections 9–13; N½ NW¼, N½ SE¼, NE¼ Section 14; Sections 16–20; NW¼, W½ SW¼, NE¼ SW¼, W½ NE¼, NE¼ NE¼ Section 21; W½ NW¼, NW¼ SW¼ Section 28; N½, N½ S½ Section 29; NE¼ SE¼, NE¼ Section 30.

T.25N., R.13E. Willamette Meridian: W½ W½ Section 6; W½ Section 7; W½, W½ SE¼, SW¼ NE¼ Section 18; W½ Section 19.

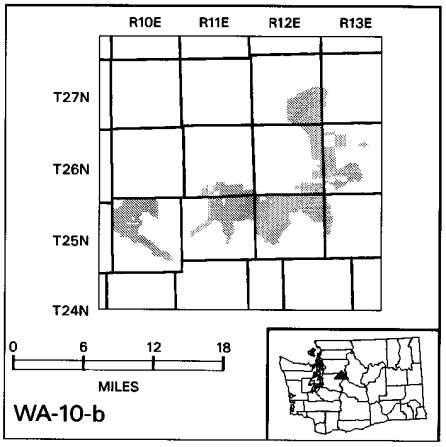
T.26N., R.11E. Willamette Meridian: S½ SW¼ Section 27; SE¼ SE¼ Section 28; S½ SW¼, E½ Section 32; N½ SW¼, NE¼ Section 33; Sections 34–35; S½ Section 36.

T.26N., R.12E. Willamette Meridian: Section 1; NW¼, E½ Section 2; N½ NE¼ Section 3; E½ E½ Section 11; Sections 12–13; E½ E½, NW¼ SE¼ Section 24; N½, N½ S½ Section 25; S½ NE¼ Section 34; Sections 35–36

T.26N., R.13E. Willamette Meridian: S½ S½, NE¼ SE¼ Section 6; Section 8; S½ Section 10; Sections 18–19; W½ W½, SE¼ SW¼, SW¼ SE¼, E½ SE¼ Section 20; S½, SE¼ NW¼, SW¼ NE¼ Section 21; W½ SW¼ Section 22; W½ Section 27; Section 28 except SW¼ SE¼; N½, NW¼ SW¼, S½ S½ Section 29; N½, SW¼ Section 30; E½ NE¼, NW¼ NE¼, NE¼ SE¼ Section 31; N½, N½ SW¼ Section 32.

T.27N., R.12E. Willamette Meridian: S½ S½ Section 13; NE¼ SW¼, S½ SW¼, SE¼ Section 22; Section 23 except NW¼ NW¼; Sections 24–27; Section 34 except SW¼ SW¼; Sections 35–36.

T.27N., R.13E. Willamette Meridian: SW¼ SW¼ Section 18; W½ Section 19; NW¼, W½ SW¼ Section 30.



Map and description of WA–10-c taken from United States Fish and Wildlife Service 1:100,000 map; Cape Flattery, Skykomish River and Snoqualmie Pass, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.20N., R.10E. Willamette Meridian: S½ N½, S½ Section 2.

T.21N., R.10E. Willamette Meridian: NE¼ NW¼, N½ NE¼ Section 36.

T.22N., R.09E. Willamette Meridian: S½ S½ Section 2; N½ NW¼, SE¼ NW¼, NE¼ Section 11; W½ NW¼, S½, NE¼ NW¼, SE¼ NE¼ Section 12.

T.22N., R.10E. Willamette Meridian: S½, NE¼, S½ NW¼ Section 13; S½, SE¼ NE¼ Section 14; W½, SE¼ Section 18; Section 20; S½ SE¼, NE¼ SE¼, E½ NE¼ Section 22; Sections 23–26; SE¼ Section 28; NE¼ NE¼ Section 34; N½ NW¼, NW¼ NE¼ Section 35; N½ N½ Section 36.

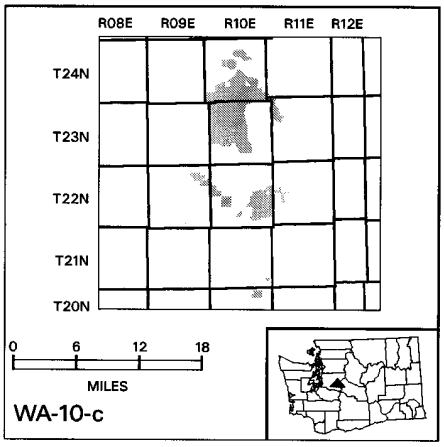
T.22N., R.11E. Willamette Meridian: S½ SW¼, SE¼ Section 18; W½ W½, NE¼ NW¼, SE¼ SW¼ Section 20.

T.23N., R.10E. Willamette Meridian: NW¼ NW¼ Section 2; W½, N½ NE¼, SW¼ NE¼ Section 3; Sections 4–9; W½, SW¼ SE¼ Section 10; W½, W½ E½ Section 15; Sections 16–21; Section 22 except NE¼ SE¼, E½ NE¼; Section 27; NW¼ NW¼, E½ SE¼, NE¼ Section 28; N½ N½ Section 29.

T.23N., R.11E. Willamette Meridian: Section 6 except E½ NE¼, NE¼ SE¼; Section 7; SW¼ Section 8; W½ NW¼ Section 17; N½ NE¼, SE¼ NE¼ Section 18.

T.24N., R.10E. Willamette Meridian: S½ SE¼, NE¼ SE¼, E½ NE¼ Section 9; N½, N½ SW¼, SE¼ Section 10; SW¼, SW¼ NW¼, SW¼ SE¼ Section 11; W½ W½, SE¼ SW¼, SW¼ SE¼, NE¼ NE¼ Section 15; N½, N½ SW¼, SE¼ Section 16; E½ NE¼, NE¼ SE¼ Section 17; SE¼ SW¼, SE¼ Section 21; Section 22 except NE¼ NE¼; SW¼, SW¼ NW¼, S½ SE¼ Section 23; SW¼ SW¼ Section 24; Section 25 except E½ SE¼, NE¼; NE¼ NW¼, S½, NE¼ Section 26; Section 27; Section 28 except NW¼; Section 29 except NW¼ NW¼; Sections 31–36.

T.24N., R.11E. Willamette Meridian: W½ SW¼, SE¼ SW¼, SW¼ SE¼ Section 31.



Map and description of WA–11–a taken from United States Fish and Wildlife Service 1:100,000 map; Snoqualmie Pass and Mt Rainier, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.17N., R.10E. Willamette Meridian: Sections 1–3; E½ E½ Section 4.

T.17N., R.11E. Willamette Meridian: W½ SW¼, SE¼ SW¼ Section 6; NE¼ NW¼ Section 7.

T.18N., R.08E. Willamette Meridian: Sections 1–2; NW¼, E½ Section 3; N½ Section 4; N½ NE¼, SE¼ NE¼ Section 10; Section 11 except S½ SW¼; Sections 12–13; S½ SW¼, NE¼ SW¼, E½ Section 14; E½ E½ Section 22; Sections 23–25; N½, N½ SE¼ Section 26; E½ NE¼ Section 27; SE¼ SW¼, SE¼ Section 36.

T.18N., R.09E. Willamette Meridian: Sections 1–30; Section 31 except NW¼ NW¼; Sections 32–36.

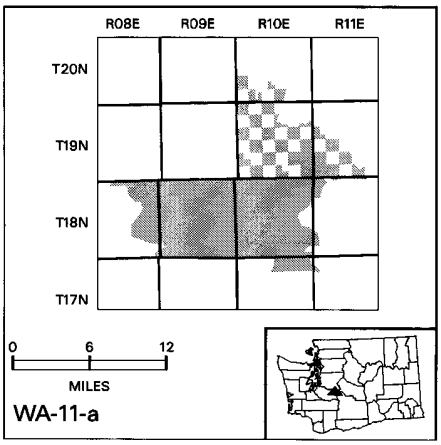
T.18N., R.10E. Willamette Meridian: Sections 1–12; NW¼, N½ SW¼, SW¼ SW¼, N½ NE¼, SW¼ NE¼ Section 13; Sections 14–23; SW¼ NW¼, NW¼ SW¼, S½ S½ Section 24; Sections 25–35; Section 36 except SE¼ NE¼.

T.18N., R.11E. Willamette Meridian: NW¼ NW¼ Section 2; N½ N½ Section 3; N½ NW¼ Section 4; N½ NE¼, SW¼ NW¼ Section 5; Section 6; NW¼, N½ SW¼, W½ NE¼ Section 7; W½ Section 30; N½ NW¼ Section 31.

T.19N., R.10E. Willamette Meridian: Section 4; Section 6; Section 8; W½, S½ SE¼ Section 10; S½ SW¼, SE¼ Section 12; Section 14; Section 16; Section 18; Section 20; Section 22; Sections 24–26; Section 28; W½, SE¼ Section 30; Section 32; W½, SE¼ Section 34; Section 36.

T.19N., R.11E. Willamette Meridian: W½, SE¼ Section 18; Section 20; Section 28; Sections 30–32, Section 34 except NW¼ NE¼.

T.20N., R.10E. Willamette Meridian: W½ SE¼, SE¼ SE¼ Section 28; Section 30; Section 32 except NW¼ SE¼, SW¼ NE¼, N½ NE¼; Section 34 except SE¼ SE¼.



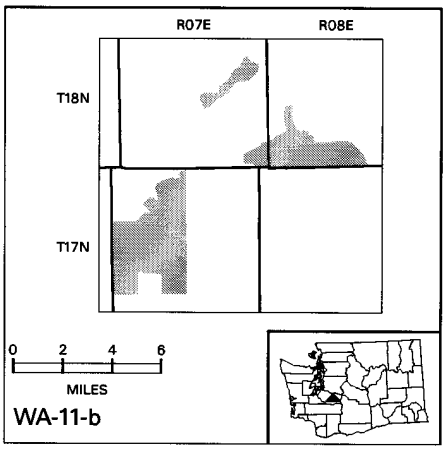
Map and description of WA–11–b taken from United States Fish and Wildlife Service 1:100,000 map; Snoqualmie Pass and Mt Rainier, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.17N, R.07E. Willamette Meridian: S½ N½, S½, NE¼ NE/14 Section 4; E½ SE¼ Section 5; Section 8 except W½ NW¼; Section 9; Sections 16–21; Section 28; N½ N½ Section 29; Section 30.

T.18N, R.07E. Willamette Meridian: SW¼, SW¼ SE¼ Section 12; NW¼, W½ NE¼ Section 13; SE¼ NW¼, SW¼, N½ SE¼, NE¼ Section 14; E½ NW¼, NE¼ SW¼, NW¼ SE¼, NE¼ Section 22; NW¼ NW¼ Section 23; Section 36 except W½ NW¼, NE¼ NW¼.

T.18N, R.08E. Willamette Meridian: SW¼ Section 20; S½ SW¼, SE¼ SW¼ Section 28; Section 29 except NE¼; S½ SW¼, NE¼ SW¼, SE¼ Section 30; Sections 31–34; SW¼ NW¼, W½ SW¼, SE¼ SW¼ Section 35.



Map and description of WA–11–c taken from United States Fish and Wildlife Service 1:100,000 map; Tacoma and Centralia, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

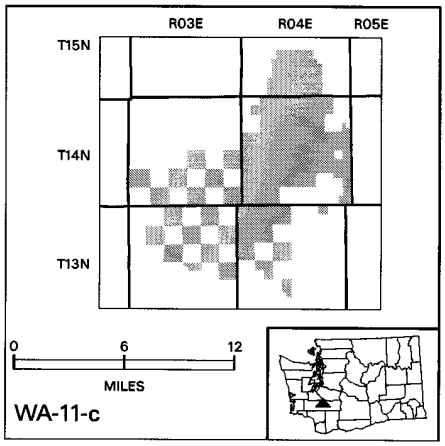
T.13N., R.03E. Willamette Meridian: Section 2; Section 4; Section 8; Section 10; Section 12; Section 14; Section 16; N½ NW¼, SE¼ NW¼, NE¼ Section 22; Section 24.

T.13N., R.04E. Willamette Meridian: NE¼ Section 2; Sections 4–8; Section 16; Section 18; N½, SE¼ Section 20; N½ SE¼, SE¼ SE¼, NE¼ Section 28.

T.14N., R.03E. Willamette Meridian: Section 22; Section 24; Section 26; Section 28; Section 30; Section 32; Section 34; Section 36.

T.14N., R.04E. Willamette Meridian: Sections 2–5; SE¼ Section 6; Sections 8–10; W½ Section 11; W½ SE¼, SE¼ SE¼ Section 12; Sections 13–23; Section 24 except NW¼; Section 25 except SW¼; N½ N½ Section 26; Sections 27–32; E½ SW¼, E½ Section 36.

T.15N., R.04E. Willamette Meridian: S½ Section 21; S½ Section 22; NW¼ NW¼, S½ NW¼, SW¼ Section 26; Sections 27–28; E½ E½ Section 29; E1/2 Section 32; Sections 33–34; W½ Section 35.



Map and description of WA–11–d taken from United States Fish and

Wildlife Service 1:100,000 map; Mt. Rainier, Washington; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.13N., R.07E. Willamette Meridian: Section 10; Section 12; Section 14; Section 22.

T.13N., R.08E. Willamette Meridian: Sections 1–8; Section 9 except SE¼ SE¼; N½ N½ Section 10; N½ NW¼ NE¼ SE¼, NE¼ Section 11; N½, NW¼ SW¼ Section 12; W½, NW¼ SE¼ Section 16; Section 17; Section 18 except S½ S½; N½ NW¼, SE¼ NW¼, N½ SE¼, NE¼ Section 20; NW¼, N½ SW¼ Section 21.

T.13N., R.09E. Willamette Meridian: NW¼ NW¼ Section 3; Section 4 except S½ SE¼; Sections 5–6; N½, N½ S½ Section 7; N½, N½ SW¼ Section 8; N½ NW¼ Section 9.

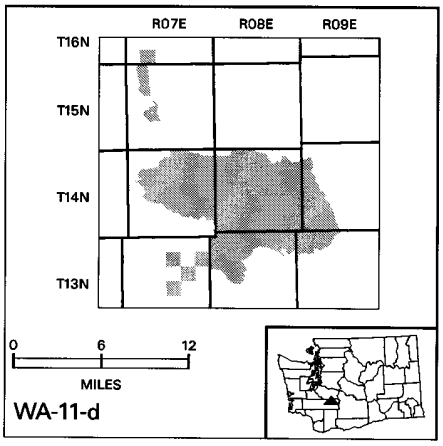
T.14N., R.07E. Willamette Meridian: SW¼ NW¼, S½ Section 1; Section 2 except N½ NE¼; Section 3; S½ SW¼, SE¼ Section 4; E½ SE¼ Section 7; S½, S½ N½ Section 8; Sections 9–17; N½ NE¼, SE¼ NE¼ Section 18; Section 20 except SW¼, S½ SE¼; N½, N½ SW¼, SE¼ Section 21; Sections 22–24; Section 25 except SW¼ SW¼; Section 26 except S½ S½; N½, N½ SE¼ Section 27; NE¼ NE¼ Section 28; NE¼ SE¼, NE¼ NE¼ Section 36.

T.14N., R.08E. Willamette Meridian: S½ SE¼ Section 2; SW¼, W½ SE¼ Section 3; Section 4; Section 5 except NW¼ NW¼; SW¼ NW¼, S½ Section 6; Sections 7–36.

T.14N., R.09E. Willamette Meridian: Section 7; W½ W½ Section 8; W½, SW¼ SE¼ Section 17; Sections 18–19; Section 20 except NE¼ NE¼; W½ SW¼ Section 21; W½, W½ SE¼ Section 28; Section 29–32; Section 33 except NE¼ NE¼; SW¼ SW¼ Section 34.

T.15N., R.07E. Willamette Meridian: W½, W½ SE¼ Section 5; E½ E½ Section 6; E½ E½ Section 7; W½, W½ E½ Section 8; SW¼ SW¼ Section 16; N½ NW¼, NW¼ NE¼, E½ SE¼ Section 17; S½ NW¼, N½ SW¼, SE¼ SW¼, E½ Section 20; W½ W½, SE¼ SW¼ Section 21; S½ S½ Section 34.

T.16N., R.07E. Willamette Meridian: Section 32.



Map and description of OR–01-a taken from United States Fish and Wildlife Service 1:100,000 map; Astoria, Nehalem River, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.05N., R.07W. Willamette Meridian: S½ SE¼ Section 3; N½ NE¼ Section 10.

Critical Habitat includes only State lands described within the following areas:

T.08N., R.06W. Willamette Meridian: W½ SW¼, SW¼ NW¼ Section 17; Section 18 except NE¼ NE¼; Section 19; W½ W½ Section 20; W½ Section 28; E½ Section 29; NW¼, N½ SW¼ Section 30; W½ SW¼, SE¼ SW¼ Section 31; E½ Section 32; W½ Section 33.

T.08N., R.07W. Willamette Meridian: Section 13; E½ Section 14; Section 23 except NW¼; Section 24–26; Section 36.

T.07N., R.06W. Willamette Meridian: N½ SW¼, SE¼ SW¼ Section 2; W½ W½, SE¼ SW¼ Section 3; Section 4; Sections 9–11; Sections 13–14; Section 16; Sections 25–36.

T.07N., R.07W. Willamette Meridian: Sections 30–31; NW¼, S½ SW¼ Section 32.

T.07N., R.08W. Willamette Meridian: Section 22 except N½ N½; Section 23 except N½ NW¼; Section 24 except NE¼; Section 25; Section 26 except S½ SW¼; N½, N½ SW¼, SE¼ SW¼ Section 27; NE¼ Section 28; S½, NE¼ NW¼ Section 35; Section 36.

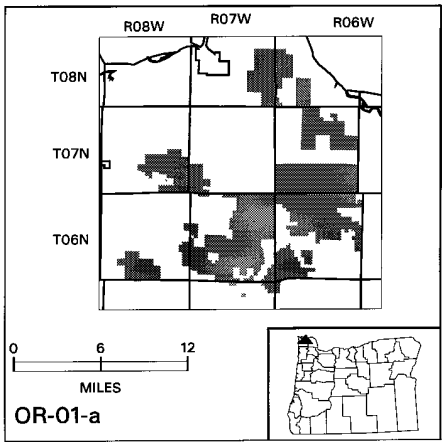
T.06N., R.06W. Willamette Meridian: Section 1 except N½ NE¼; Sections 2–6; NE¼ NE¼ Section 7; Sections 8–10; S½, NW¼ NW¼, S½ NW¼ Section 11; W½ SW¼ Section 12; Section 13 except SW¼, NE¼ NE¼; Section 14 except S½ SE¼, NW¼ SE¼; Section 15; Section 16 except SW¼ SE¼, SE¼ SW¼; Section 17 except N½ NW¼; SE¼ NE¼ Section 18; S½ SE¼, NE¼ SE¼, S½ SW¼ Section 19; E½ NE¼ Section 21; N½ N½ Section 22; N½ NW¼ Section 23; NE¼ NW¼, E½ Section 24; W½ Section 28; SW¼, W½ NW¼, E½ NE¼, SW¼ SE¼ Section 29; Sections 30–32; S½ NW¼, W½ SW¼, SW¼ NE¼ Section 33.

T.06N., R.07W. Willamette Meridian: Sections 1–3; N½ NE¼, NE¼ NW¼ Section 4; NW¼ NW¼ Section 5; N½ NE¼ Section 6; E½ SE¼ Section 9; Sections 10–15; NE¼ NE¼, S½ SW¼ Section 16; S½ S½ Section 17; W½ Section 18; S½, W½ NW¼ Section 19; Sections 20–23; W½ SW¼ Section 24; W½ NW¼, NW¼ SW¼, SE¼ SE¼ Section 25; Sections 26–28; S½, W½ NW¼ Section 29; Section 30; NE¼, N½ NW¼ Section 31; E½ SE¼, N½ Section 32; Section 33; NE¼, S½ SW¼, SE¼ SE¼ Section 34; N½ NE¼, SW¼ NE¼, E½ SW¼, SW¼ SW¼ Section 35; E½, SW¼ SW¼, E½ SW¼ Section 36.

T.06N., R.08W. Willamette Meridian: NE¼ Section 13; SE¼, E½ SW¼, S½ NE1/4 Section 24; E½ Section 25; SW¼ Section 27; Section 28 except NE¼; Section 29 except NW¼; E½ Section 32; Sections 33–34.

T.05N., R.06W. Willamette Meridian: N½ NW¼, SW¼ NW¼, NW¼ SW¼, NE¼ SW¼ Section 6.

T.05N., R.07W. Willamette Meridian: E½ NW¼, NW¼ NW¼, NE¼, N½ SE¼ Section 1; N½ NW¼ Section 3; NE¼ NE¼ Section 4.



Map and description of OR–01–b taken from United States Fish and Wildlife Service 1:100,000 map; Nehalem River, Oregon; 1995.

Critical Habitat includes only State lands described within the following areas:

T.03N., R.08W. Willamette Meridian: Sections 6–7; Sections 16–17; Section 18 south of Foss River; Sections 19–21; Sections 27–28.

T.03N., R.09W. Willamette Meridian: Section 1 except W½ NW¼; SE¼ SW¼, SE¼ Section 2; NW¼, W½ SW¼ Section 3; E½, S½ SW¼, NE¼ NW¼ Section 4; Section 5 except W½ NW¼; Section 8 except SW¼ NW¼, NW¼ SW¼; Sections 9–16; Section 21 except W½ NW¼, SE¼ NW¼; Section 23 lying N of Foss River; E½, NW¼ Section 24 lying N of Foss River; Section 28.

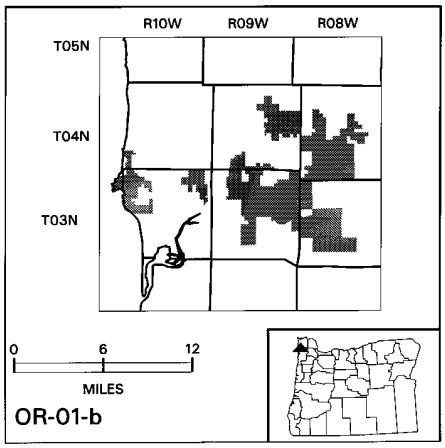
T.03N., R.10W. Willamette Meridian: W1/2 Section 1; Section 2 except NW¼; SW¼, S½ SE¼ Section 5; Section 6 except NW¼ NW¼, NE¼ NE¼; Section 7; N½ NE¼, SE¼ NE¼, NW¼ NW¼ Section 8; W½ NE¼ Section 11; Section 12 except E½ E½, W½ SW¼; NW¼ NE¼ Section 13; S½, E½ NE¼ Section 17; Section 18 except N½ NE¼, SE¼ NE¼.

T.03N., R.11W. Willamette Meridian: S1/2 Section 1; Section 12.

T.04N., R. 08W. Willamette Meridian: SW¼, S½ NW¼, NW¼ SE¼, S½ SE¼ Section 8; SE¼ Section 10; S½ S½, W½ NW¼, SE¼ NW¼ Section 14; Section 15 except NW¼; Section 17 except NW¼ SW¼; Sections 19–20; Section 21 except N½ NW¼; Section 22 except S½ NE¼, NW¼ NE¼; E½ NW¼, NW¼ NW¼, W½ NE¼ Section 23; Section 27–29; SE¼, N½ NE¼, SE¼ NE¼, NE¼ NW¼, E½ SW¼, SW¼ SW¼ Section 31; Sections 32–34.

T.04N., R.09W. Willamette Meridian Section 10 except NW1/4; SW¼ Section 11; Sections 13–14; NE¼, S½ SE¼, NE¼ SE¼ Section 15; NE¼, NW¼ SE¼ Section 22; Section 23 except S½ SE¼, NW¼ SE¼; N½, NW¼ SW¼, NW¼ SE¼ Section 24; SW¼ SW¼ Section 28; Section 32 except W½ W½, NE¼ NW¼; W½ W½, S½ SE¼, SE¼ SW¼ Section 33; Section 34 except N½, NE¼ SW¼; SW¼ SW¼ Section 35.

T.04N., R.10W. Willamette Meridian: S½ SW¼, SW¼ SE¼, SE¼ SE¼ Section 30; E½ W½, NW¼ NW¼, W½ SW¼ Section 31.



Map and description of OR–01–c taken from United States Fish and Wildlife Service 1:100,000 map; Nehalem River and Yamhill River, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.01N., R.09W. Willamette Meridian: W½ SW¼, SE¼ SW¼, SW¼ NW¼ Section 25; SE¼, SE¼ SW¼, SE¼ NE¼ Section 26; E½ SE¼, SE¼ NE¼ Section 34; Section 35 except SW¼.

T.01S., R.08W. Willamette Meridian: Section 7 except E½ NE¼, SE¼; S½ Section 17; S½, SE¼ NE¼ Section 18; N½ N½, SW¼ NE¼, SE¼ NW¼, SE¼ SE¼ Section 19; N½ N½, NE¼ SW¼, SW¼ SW¼ Section 20; Section 21 except N½ NE¼, S½ SW¼; W½ Section 22; S½ SW¼, SE¼ NW¼, NE¼ SW¼, SW¼ NE¼, W½ SE¼ Section 27; S½ NW¼, S½ SE¼, N½ SW¼, SE¼ SW¼ Section 28; S½ NE¼, N½ SE¼, S½ SW¼, NE¼ SW¼ Section 29; NE¼, N½ NW¼, SW¼ NW¼, SE¼ SE¼ Section 30; N½ NE¼ Section 31.

T.01S., R.09W. Willamette Meridian: Section 1 except E½ E½; E½ E½, NW¼ NE¼ Section 2; N½ SW¼ Section 3; Section 4 except SE¼ SE¼; NE¼, N½ SE¼, E½ NW¼ Section 5; S½ NE¼, NW¼ NE¼, N½ NW¼, SE¼ NW¼, E½ SW¼, E½ SE¼ Section 9; S½, S½ NW¼, SW¼ NE¼ Section 10; Section 11 except N½ NE¼; NW¼, W½ SW¼, E½ NE¼, Section 12; E½ NW¼, SW¼ NE¼ Section 13; W½ NE¼, NW¼, NE¼ SW¼, SW¼ SW¼ Section 14; N½ NW¼, NE¼ NE¼ Section 15.

T.01S., R.11W. Willamette Meridian: SE¼ SE¼ Section 13.

Critical Habitat includes only State lands described within the following areas:

T.02N., R.09W. Willamette Meridian: Section 3; E½, NW¼ Section 7; S½ Section 16; Section 18 except SW¼ NW¼, N½ NW¼; Sections 19–22; Sections 29–32.

T.02N., R.10W. Willamette Meridian: E½ E½, NW¼ SE¼ Section 24; S½ SE¼ Section 25; Section 36 except NW¼ NW¼, NW¼ SW¼.

T.01N., R.09W. Willamette Meridian: Section 9; Section 16 except SW¼; SW¼, E½ SE¼ Section 19; Section 20 except NE¼ NE¼; S½ SW¼, NW¼ SW¼ Section 21; Section 26 except SE¼, SE¼ SW¼, SE¼ NE¼; Section 27; W½ Section 28; Section 29 except NW¼; Section 30; NE¼, N½ NW¼, NE¼ SE¼ Section 31; N½, S½ SE¼, NE¼ SE¼ Section 32; S½ SW¼, SE¼, N½ NW¼, SW¼ NW¼, NW¼ SW¼ Section 33; Section 34 except E½ SE¼, SE¼ NE¼, S½ SW¼, NW¼ SW¼, SW¼ NW¼; NW¼ NW¼ Section 35; Section 36.

T.01N., R.10W. Willamette Meridian: N½ NE¼ Section 1; SW¼ SW¼ Section 2; SE¼ SE¼ Section 3; E½ NE¼, NE¼ SE¼ Section 10; W½, SE¼ SE¼ Section 11; Section 13 except N½ NE¼; S½ SE¼ Section 14; SE¼, SE¼ NW¼, NE¼ SW¼ Section 22; Section 23 except W½ NW¼; Sections 24–26; E½, NW¼, E½ SW¼ Section 27; N½ NE¼ Section 34; NE¼, N½ SE¼ Section 35; NE¼ Section 36.

T.01S., R.08W. Willamette Meridian: N½ Section 6; SE¼ Section 7; SW¼ Section 16; N½ S½, SE¼ NW¼ Section 17; NW¼ NW¼, SE¼ NW¼, SW¼ NE¼, NW¼ SE¼ Section 18; Section 19 except SW¼, SW¼ NW¼, SE¼ NE¼, N½ SE¼, SW¼ SE¼; Section 20 except S½ S½, N½ N½, NE¼ SW¼; S½ SW¼, Section 21; N½ N½, SW¼ NE¼ Section 28.

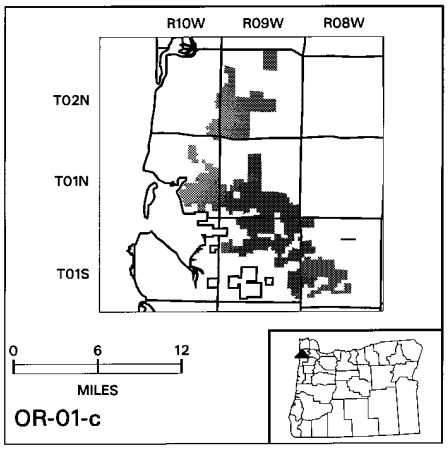
T.01S., R.09W. Willamette Meridian: E½ E½ Section 1; Section 3 except N½ SW¼; SE¼ SE¼ Section 4; S½ SE¼, NE¼ SE¼, SE¼ SW¼ Section 7; E½ SE¼ Section 8; W½ SW¼, W½ SE¼ Section 9; Section 13 except N½ NW¼, SE¼ NW¼, SW¼ NE¼; S½ SE¼, SE¼ SW¼ Section 14; N½ NE¼, NW¼ Section 16; N½, N½ SE¼ Section 17; NE¼, E½ NW¼ Section 18; NW¼, W½ NE¼ Section 23; S½ SW¼, NE¼ SE¼, S½ SE¼ Section 24; Section 25; NE¼, E½ NW¼, N½ SE¼ Section 36.

Critical Habitat includes only State owned and State managed lands described within the following areas:

NE¼, N½ SE¼, NW¼ SE¼, E½ NW¼ Section 13.

Critical Habitat includes only County lands described within the following areas:

T.01N., R.09W. Willamette Meridian: SW¼ Section 16; N½, SE¼, NE¼ SW¼ Section 21; E½ Section 28; NE¼ Section 33.



Map and description of OR–01–d taken from United States Fish and Wildlife Service 1:100,000 map; Nehalem River, Oregon; 1995.

Critical Habitat includes only State lands described within the following areas:

T.04N., R.06W. Willamette Meridian: W½ NW¼, NE¼ NW¼, NW¼ NE¼ Section 4; Section 5 except SW¼; Section 30 except NE¼; N½ NW¼, SW¼ NW¼, NW¼ NE¼ Section 31.

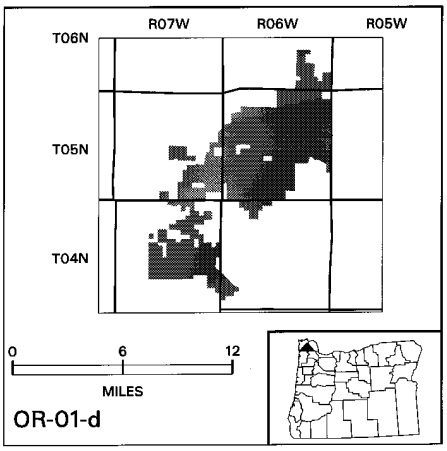
T.04N., R.07W. Willamette Meridian: SW¼, S½ NW¼ Section 1; Section 2 except NE¼, SW¼ NW¼; N½ N½, SE¼ NE¼, S½ NE¼ Section 3; SE¼, S½ NE¼, NW¼ SW¼ Section 9; N½ N½, S½ SW¼, SE¼ NE¼, SE¼ SE¼ Section 10; Section 11 except N½ NE¼, SE¼ NE¼, SW¼ SE¼, NW¼ SW¼; Section 13 except NW¼ NE¼, SE¼ SE¼; Section 14 except NW¼ NE¼; Section 15; Section 16 except E½ NE¼, NE¼ SE¼; Sections 21–22; Section 23 except S½ SE¼; Section 24 except E½ NE¼, SW¼ SW¼; NE¼, E½ NW¼, E½ SE¼ Section 25.

T.05N., R.06W. Willamette Meridian: Section 1 except NE¼; Sections 2–3; SE¼, S½ SW¼, S½ NE¼ Section 7; Sections 8–18; Section 19 except E½ NE¼; Section 20 except N½ NW¼; Sections 21–22; Section 23 except SE¼ SE¼; Section 24; E½ NE¼, NW¼ NE¼ Section 25; Sections 27–30; Section 31 except W½ W½; Sections 32–33; Section 34 except SE¼.

T.05N., R.07W. Willamette Meridian: E½ E½, SW¼ SE¼, SE¼ SW¼ Section 13; Section 22 except S½ S½; N½ SW¼ Section 23; Section 24 except NE¼, NW¼ NW¼; Sections 25–26; E½ SE¼, SE¼ NE¼ Section 27; SE¼ Section 33; E½ Section 34; Section 35 except N½ NE¼, NE¼ NW¼; N½ Section 36.

T.05N., R.08W. Willamette Meridian: S½ NW¼ Section 25; SE¼ NE¼ Section 26.

T.06N., R.06W. Willamette Meridian: S½ SW¼, SW¼ SE¼ Section 23; Section 26 except NE¼; Section 35 except SW¼ NE¼; Section 36 except N½ NW¼, SE¼ NW¼.



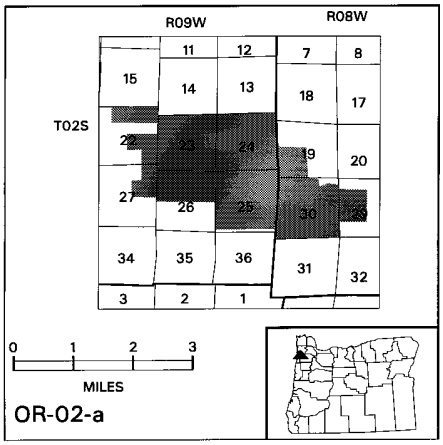
Map and description of OR–02–a taken from United States Fish and Wildlife Service 1:100,000 map; Yamhill River, Oregon; 1995.

Critical Habitat includes only State lands described within the following areas:

T.02S., R.09W. Willamette Meridian: Section 22 except SW¼, S½ NW¼, S½

NE¼, SW¼ SE¼; Sections 23–25; N½ Section 26; E½ NE¼, SW¼ NE¼ Section 27.

T.02S., R.08W. Willamette Meridian: SW¼ Section 19; N½ SW¼, NW¼ Section 29; Section 30.



Map and description of OR–02–b taken from United States Fish and Wildlife Service 1:100,000 map; Yamhill River, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.03S., R.09W. Willamette Meridian: SW¼, W½ SE¼, SW¼ NW¼ Section 3; S½, SW¼ NW¼, SE¼ NE¼, W½ NE¼; Section 4; E½ SE¼ Section 8; Section 9; Section 10 except N½ SE¼; NW¼ Section 15; N½ Section 16; S½ NW¼, N½ SW¼ Section 19; S½ SW¼ Section 32.

T.03S., R.10W. Willamette Meridian: SE¼, E½ SW¼, S½ NE¼ Section 22; Section 23 except N½ NW¼; S½, E½ NE¼, SW¼ NW¼ Section 24; W½ NW¼ Section 25; Section 26; Section 27 except SW¼ NE¼; E½, E½ W½ Section 28; Section 32 except N½ N½, W½ SW¼; Section 33; N½ NE¼, W½ SW¼, NW¼ Section 34; Section 35 except S½ S½, NW¼ SW¼.

T.04S., R.09W. Willamette Meridian: S½ SW¼, SW¼ SE¼ Section 4; W½, W½ E½, SE¼ SE¼ Section 5; Section 6 except W½ W½; Section 7 except W½ NW¼; Sections 8–9; SW¼, SW¼ SE¼, S½ NW¼ Section 10; NW¼, W½ NE¼ Section 15; N½, SE¼ Section 16; N½ Section 17; N½ Section 18.

T.04S., R.10W. Willamette Meridian: SW¼, S½ NW¼, NW¼ NW¼, W½ E½ Section 3; E½, N½ NW¼, SE¼ NW¼, SE¼ Section 4; N½, SW¼, W½ SE¼ Section 5; E½ SW¼, E½ Section 6; N½ NE¼, NE¼ NW¼ Section 7; NE¼ Section 9.

T.05S., R.09W. Willamette Meridian: SW¼ Section 5; SE¼, SW¼ NE¼, E½ SW¼ Section 6; Section 7; W½, S½ SE¼, NW¼ SE¼ Section 8; NW¼, SE¼ SW¼, W½ NE¼, N½ SW¼ Section 17; Section 18; N½ Section 19; NW¼ NW¼ Section 20.

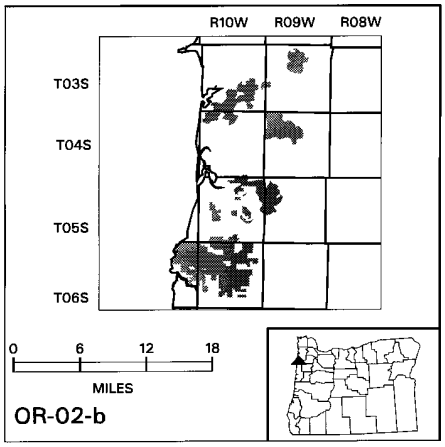
T.05S., R.10W. Willamette Meridian: Section 1; Section 2 except S½ S½, NE¼ NE¼; NE¼, E½ NW¼, SE¼ SW¼, SW¼ NW¼, SW¼ SE¼, NE¼ SW¼ Section 3; S½ NE¼ Section 4; N½ NE¼, E½ NW¼, NW¼ NW¼, SW¼ SE¼, SE¼ SW¼ Section 10; NW¼ NW¼, SE¼ NW¼, NW¼ SW¼ Section 11; E½, E½ NW¼, SW¼ NW¼, NE¼ SW¼ Section 12; NE¼ NW¼, E½ Section 13; SW¼ Section 14; SW¼, SW¼ NW¼ Section 17; Section 20 except W½ W½, SE¼ NE¼; NW¼, E½ SE¼ Section 22; SE¼ NW¼, NW¼ SE¼, SW¼ NE¼, SW¼ SW¼, SE¼ SE¼, NW¼ SE¼, N½ N½ Section 23; NW¼ NE¼, E½ NW¼ Section 24; N½ N½ Section 26; S½ Section 32; S½ S½, NE¼ SE¼, NW¼ SW¼, SW¼ NW¼, SE¼ NE¼ Section 33; W½ SE¼ Section 34.

T.06S., R.10W. Willamette Meridian: Section 2; W½ W½, SE¼ SE¼, NE¼ SW¼ Section 3; Section 4; N½ S½, N½ Section 5; W½ W½, E½ SW¼, E½ SE¼ Section 6; Section 7; Section 8 except N½ NE¼; Section 9 except NW¼ NW¼, SE¼ SW¼, S½ SE¼; Section 10; Section 11 except NE¼, SE¼ SE¼; SW¼ Section 12; S½, NW¼ NE¼ Section 14; W½, SE¼ Section 15; Section 16 except N½ NE¼; Section 17–18; NW¼, W½ SW¼, W½ E½ Section 19; W½ NE¼, E½ NW¼ Section 20; Sections 21–22; W½, W½ E½ Section 23; S½ NW¼, S½ SW¼ Section 26; W½ W½, NE¼, NE¼ NW¼, SE¼ SE¼ Section 27; Section 28 except SW¼ NW¼; NE¼, NW¼ SE¼ Section 30.

T.06S., R.11W. Willamette Meridian: Section 1–2; Section 11; Section 12; Section 13 except SE¼ NW¼, SW¼ NE¼; NE¼, N½ SE¼ Section 14; Section 24 except SE¼ SE¼, N½ NW¼.

Critical Habitat includes only State lands described within the following areas:

T.05S., R.10W. Willamette Meridian: S½ NE¼, E½ SE¼ Section 10; E½ SE¼, SE¼ NE¼ Section 11.



Map and description of OR–02–c taken from United States Fish and Wildlife Service 1:100,000 map; Yamhill River and Corvallis, Oregon; 1995.

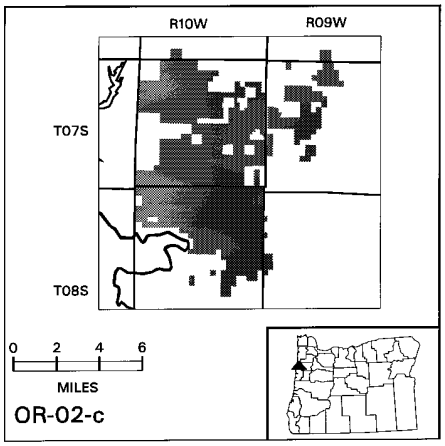
Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.06S., R.10W. Willamette Meridian: SE¼ Section 32.

T.07S., R.09W. Willamette Meridian: SW¼, W½ NW¼, SE¼ NW¼, SW¼ SE¼ Section 3; SE¼, E½ NE¼, SW¼ NE¼, NE¼ SW¼ Section 4; W½ NW¼ Section 5; Section 8 except S½ SW¼ SW¼ SE¼; Section 9 except N½ NE¼, SE¼ NE¼, NE¼ NW¼, SW¼ SE¼, SE¼ SW¼; Section 16 except E½ E½, NE¼ NW¼; S½, E½ NE¼ Section 17; Section 18 except NE¼ NE¼; SW¼, S½ NW¼ Section 19; NE¼, NW¼ SE¼ Section 20; W½ NW¼, NE¼ NW¼, S½ SW¼ Section 21; N½ NW¼, SW¼ NW¼ Section 28; SE¼ NE¼ Section 29; N½ NW¼ Section 30.

T.07S., R.10W. Willamette Meridian: SW¼, NW¼ SE¼ Section 3; Section 4 except E½ NE¼; Section 5; Sections 7–9; Section 10 except E½ NW¼, NE¼; N½ S½, E½ NE¼, SW¼ SE¼, SE¼ NE¼ Section 11; Section 12 except S½ NW¼, N½ SW¼, E½ NE¼; Section 13; Section 14 except N½ NW¼, SW¼ NW¼, W½ SW¼, NE¼ NE¼; Section 15 except S½ S½; Section 16 except SE¼ SE¼; Section 17; N½ Section 18; S½ S½ Section 20; NE¼, SW¼ Section 21; Sections 22–23; Section 24 except NW¼ SE¼, SW¼ NE¼, NE¼ SW¼; Section 25 except NW¼; Section 26 except NW¼; Sections 27–29; Section 31 except N½ NW¼, NW¼ NE¼; Sections 32–35.

T.08S., R.10W. Willamette Meridian: Sections 1–5; Section 6 except NW¼ SW¼, SW¼ NW¼; Section 7 except NW¼ SW¼, S½ SW¼, S½ SE¼ S½ NE¼; Section 8 except S½ S½; Sections 9–14; Section 15 except SE¼ SE¼; E½ E½, NW¼ NE¼, SW¼ SE¼ Section 16; SW¼ SE¼ Section 22; Sections 23 except SW¼ NW¼, NW¼ SW¼; Section 24 except SE¼ SE¼; NE¼ NW¼, NW¼ NE¼ Section 25; Section 26 except SE¼, E½ NE¼; W½ NE¼ Section 28.



Map and description of OR–02–d taken from United States Fish and Wildlife Service 1:100,000 map; Corvallis, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.07S., R.06W. Willamette Meridian: SW¼ Section 4; Section 5 except N½ NE¼, NW¼ NW¼; Section 6 except NE¼, N½ NW¼, NW¼ SE¼; Section 7; S½ S½, NE¼ SW¼, N½ SE¼, SE¼ NE¼ Section 9; Section 17 except NW¼, W½ NE¼, NW¼ SW¼.

T.07S., R.07W. Willamette Meridian: Section 1 except N½ NE¼; Sections 2–3;

Section 4 except N½ NW¼, NW¼ NE¼; Section 5; Section 7; N½ Section 8; Section 9; Section 11 except SE¼ SW¼, SW¼ SE¼; Section 13 except NE¼ SE¼; Section 15; Section 17; N½ Section 18; Section 19; Section 21; Section 23; N½ Section 25; N½ Section 26; Section 27; Section 29; Section 31; Section 33; NW¼ Section 34.

T.07S., R.08W. Willamette Meridian: Section 1; SE¼ Section 12; Section 13; S½, S½ N½ Section 14; Section 15 except W½ W½; Section 17; Section 18 except W½ W½; Section 19 except W½ W½; W½ Section 20; Section 23; Section 25; Section 27; Section 28 except E½ SW¼, S½ NW¼; Section 29 except SE¼; Section 30 except W½ W½; Section 31 except W½ W½, E½ SE¼; Section 32 except NE¼; N½, N½ SW¼, NW¼ SE¼ Section 33; Section 35.

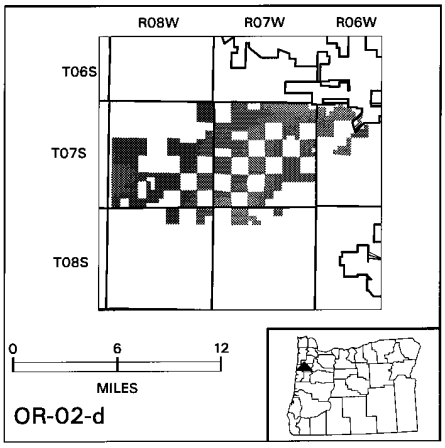
T.08S., R.07W. Willamette Meridian: NE¼ Section 3; SW¼ SE¼, N½ SW¼, SE¼ SW¼ Section 4; Section 5; NE¼ NE¼ Section 17.

T.08S., R.08W. Willamette Meridian: Section 1 except SE¼; Section 3 except W½ W½.

Description of Lands Using Protracted Public Land Survey Lines

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.07S., R.06W. Willamette Meridian: SE¼ SW¼, SW¼ SE¼ Section 4; E½ NW¼ Section 9.



Map and description of OR–02–e taken from United States Fish and Wildlife Service 1:100,000 map; Yamhill River, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.01S., R.05W. Willamette Meridian: Section 19 except NW¼.

T.02S., R.05W. Willamette Meridian: N½ N½ Section 3; SW¼ NE¼ Section 5; SW¼ SE¼, SE¼ NE¼ Section 7.

T.02S., R.06W. Willamette Meridian: S½ NW¼ Section 25; S½ NW¼, NE¼, S½ S½ Section 26; Section 35.

T.02S., R.08W. Willamette Meridian: Section 31 except W½ NW¼, E½ SE¼; NW¼, SW¼ NE¼, SE¼, N½ SW¼ Section 32; Section 33 except NW¼ NW¼; W½ NW¼, NW¼ SW¼ Section 34.

T.03S., R.06W. Willamette Meridian: N½ NW¼ Section 1; Section 7; SE¼, NE¼ SW¼ Section 13; S½ SW¼ Section 16; Sections 17–20; W½, W½ E½ Section 21; SE¼ SE¼ Section 27; SW¼, S½ NW¼, NW¼ SE¼, SW¼ NE¼ Section 28; Section 29; Section 30 except NE¼; Section 31; W½ Section 32; Section 33 except SW¼; SE¼ Section 36.

T.03S., R.07W. Willamette Meridian: S½ Section 5; Section 7; S½ NE¼, W½ NW¼, N½ SW¼, N½ SE¼, SE¼ SE¼ Section 8; Section 9; Section 10 except N½ NE¼, NW¼ NW¼; Section 11; Section 12 except E½ E½, SW¼ NE¼; Sections 13–15; S½ Section 16; Section 17; SW¼, N½ NE¼, W½ NW¼ Section 18; Section 19; Section 20 except W½ W½, SE¼ SW¼; Sections 21–25; E½ Section 26; Sections 27–29; E½ Section 30; Section 31; Section 32 except S½ SE¼, NE¼ SE¼; Section 33 except NW¼ NW¼, SW¼ SW¼; N½, SE¼ Section 34; Section 35; W½ Section 36.

T.03S., R.08W. Willamette Meridian: SW¼, S½ SE¼ Section 1; SW¼ SE¼ Section 2; Section 3; NW¼, S½ SE¼, W½ SW¼, SE¼ SW¼ Section 4; Section 5 except NW¼, SW¼ NE¼; N½ NW¼, SE¼ Section 6; Section 7 except N½ NE¼, SW¼ NE¼, E½ NW¼; Section 8 except S½ SE¼; Section 9; Section 10 except N½ NW¼, NW¼ NE¼; Section 11; Section 13; NE¼, N½ NW¼, SE¼ SW¼ Section 14; Section 15 except SW¼; W½ SW¼ Section 16; SW¼ SE¼, NW¼ NW¼ Section 17; Section 18 except S½ SE¼; Section 19 except N½ NE¼; NE¼ Section 20; Section 21 except NW¼, N½ NE¼; Section 22 except SW¼ NE¼, SE¼ NW¼; Section 23; Section 24 except N½ NE¼, SE¼ NE¼; Section 25 except NE¼ SW¼, SW¼ NE¼, NW¼ SE¼, SE¼ NW¼; N½ NE¼, NW¼ NW¼, SE¼ SE¼; Section 26; Section 27 except NE¼ SW¼, SW¼ NE¼, NW¼ SE¼, SE¼ NW¼; S½ S½, NW¼ NW¼ Section 29; S½, W½ NW¼ Section 31; Section 32 except SW¼, SW¼ NW¼, W½ SE¼; Sections 33–34; S½ Section 35; W½ NE¼ Section 36.

T.03S., R.09W. Willamette Meridian: Section 1 except S½ SE¼, NE¼ SE¼, SW¼ NW¼; SE¼ SE¼ Section 2; SE¼ SE¼ Section 10; Section 11 except NW¼; Section 12 except NE¼ NE¼; Section 13 except W½ NW¼, E½ NE¼; Section 14 except SW¼; NE¼ NE¼ Section 15; NE¼ Section 23; E½ NW¼, NE¼ Section 24.

T.04S., R05W. Willamette Meridian: NW¼ SE¼ Section 19.

T.04S., R.06W. Willamette Meridian: Section 5 except E½ E½, SW¼ SE¼; Sections 6–7; S½ SW¼, W½ SE¼ Section 18.

T.04S., R.07W. Willamette Meridian: Section 1 except NE¼; W½, N½ NE¼ Section 2; Section 3 except NW¼; E½ E½, NW¼ NE¼, NE¼ NW¼, SE¼ SW¼, SW¼ SE¼ Section 4; N½, E½ SE¼, SW¼ SW¼ Section 5; Section 6 except NE¼, W½ SE¼; Section 7; SW¼, NE¼ SE¼ Section 8; Section 9; N½ Section 10; Section 11; Section 12 except SE¼ SW¼; Section 13; Section 14 except N½ NW¼, S½ NE¼, E½ SE¼; Section 15 except SW¼ SW¼; E½ E½, NW¼ NE¼ Section 16; Section 17 except N½ S½; Section 18 except NW¼.

T.04S., R.08W. Willamette Meridian: SE¼ NE¼, SE¼, Section 1; NW¼ NE¼, N½ NW¼, E½ SW¼, SE¼ Section 2; N½ N½, S½ S½ Section 3; Section 4 except S½ SE¼, NE¼ SE¼, SE¼ SW¼; Sections 5–8; Section 9 except NW¼ NE¼, NE¼ NW1/4; Section 10; Section 11 except SE¼ NE¼, NE¼ SE¼; Section 12 except NE¼ SE¼, E½ NE¼; Sections 13–14; Section 15 except N½ NE¼; Section 16; Sections 17–25; Section 26 except W½ SW¼; Section 27 except E½ SE¼; Section 28–35; N½ Section 36.

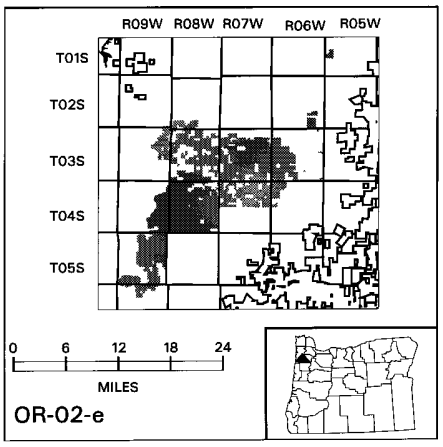
T.04S., R.09W. Willamette Meridian: SE¼, SE¼ NE¼ Section 1; SE¼, E½ SW¼ Section 11; Section 12 except NW¼; Section 13; E½, E½ NW¼ Section 14; SE¼ SE¼ Section 22; Section 23 except N½ NW¼, SW¼ NW¼; Sections 24–26; SE¼, E½ NE¼, SW¼ NE¼, SE¼ NW¼ Section 27; NE¼, SE¼ SE¼ Section 34; N½ N½, S½ S½, SW¼ NW¼, SE¼ NE¼, NE¼ SE¼ Section 35; Section 36.

T.05S., R.09W. Willamette Meridian: Sections 1–2; NE¼ NE¼, SW¼, SE¼, SW¼ NW¼ Section 3; Section 4 except N½ N½, SW¼ NW¼, W½ SW¼; W½, NE¼ NW¼ Section 9; Section 10–15; Section 16 except W½ W½, NE¼ NW¼; Section 21 except W½ W½, SE¼ SW¼ ¼; Section 22; Section 23 except SE¼, SW¼ NW¼; Section 24 except SW¼; NE¼ NE¼ Section 25; Section 26 except E½ E½; Section 27 except E½ NE¼, SW¼, NW¼ NW¼; Section 31 except N½ NW¼; Section 32; Section 33 except E½ E½; Section 34 except W½; Section 35.

T.06S., R.09W. Willamette Meridian: N½ SW¼, NW¼ NE¼, NW¼ Section 2; N½, N½ SW¼, SW¼ SW¼ Section 3; Section 4 except SE¼ SE¼, SW¼ NW¼, W½ SW¼; N½ Section 5; N½ N½ Section 6; NE¼, E½ NW¼ Section 9.

Critical Habitat includes only State lands described within the following areas:

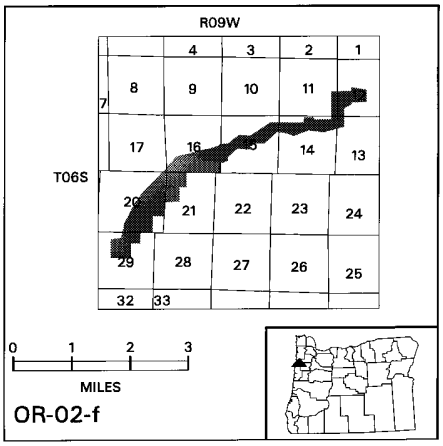
T.03S., R.07W. Willamette Meridian: N½ Section 16.



Map and description of OR–02-f taken from United States Fish and Wildlife Service 1:100,000 map; Yamhill River, Oregon; 1995.

Critical Habitat includes only State lands described within the following areas:

T.06S., R.09W. Willamette Meridian: E½ SE¼ Section 11; N½ SW¼, SW¼ SW¼ Section 12; NW¼ NW¼ Section 13; N½ NE¼, NW¼ Section 14; S½ NE¼, S½ NW¼, N½ SW¼, NE¼ NE¼, SW¼ SW¼ Section 15; S½ SW¼, SE¼, NE¼ SW¼ Section 16; E½ NE¼, SW¼ NE¼, SE¼, SE¼ SW¼ Section 20; W½ NW¼, NE¼ NW¼ Section 21; W½ NE¼, E½ NW¼ Section 29.



Map and description of OR–03–a taken from United States Fish and Wildlife Service 1:100,000 map; Corvallis, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.09S., R.09W. Willamette Meridian: SE¼ SE¼ Section 33; SW¼ SW¼ Section 34.

T.10S., R.10W. Willamette Meridian: NW¼ SE¼ Section 2.

Critical Habitat includes only State lands described within the following areas:

T.09S., R.09W. Willamette Meridian: E½ SW¼, W½ SE¼, NE¼ SE¼ Section 34.

T.10S., R.09W. Willamette Meridian: NW¼, W½ NE¼ Section 16; N½ NE¼, NE¼ NW¼ Section 17.

Critical Habitat includes only County lands described within the following areas:

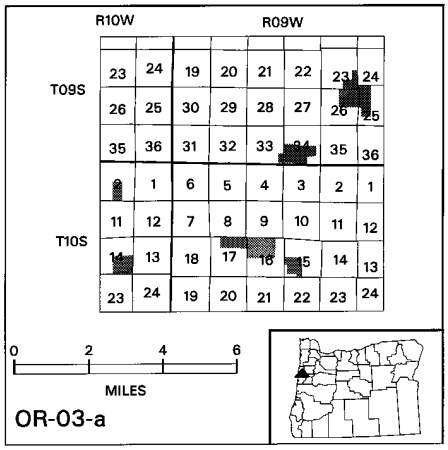
T.10S., R.10W. Willamette Meridian:SW¼ SE¼ Section 2.

Critical Habitat includes only Private lands described within the following areas:

T.09S., R.09W. Willamette Meridian: S½ SE¼, NE¼ SE¼ Section 23; W½ NW¼, NW¼ SW¼ Section 25; NE¼ Section 26; W½ SW¼ Section 34.

T.10S., R.09W. Willamette Meridian: SW¼ Section 15.

T.10S., R.10W. Willamette Meridian: SE¼ Section 14.



Map and description of OR–03–b taken from United States Fish and Wildlife Service 1:100,000 map; Corvallis, Oregon; 1995.

Critical Habitat includes only State lands described within the following areas:

T.10S., R.06W. Willamette Meridian: W½ SW¼ Section 30.

T.10S., R.07W. Willamette Meridian: S½ Section 25; N½ Section 36.

T.11S., R.07W. Willamette Meridian: S½ N½, SE¼ Section 16; N½ Section 21; S½, NW¼ Section 29; Section 31; Section 32 except E½ SE¼, NE¼ SE¼.

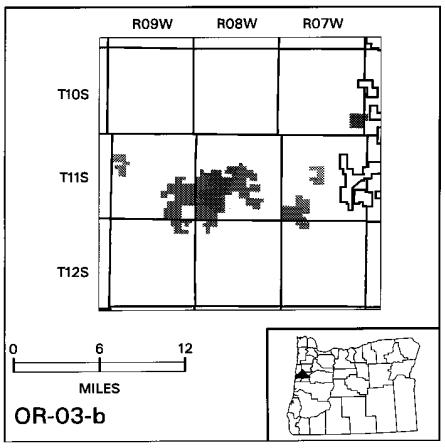
T.11S., R.08W. Willamette Meridian: W½ SW¼ Section 14; Section 15 except N½ NE¼; Section 16 except S½ SW¼; SW¼, W½ SE¼ Section 17; S½ SE¼, E½ SW¼ Section 18; Sections 19–21; W½, S½ SE¼, NE¼ SE¼, NE¼ NE¼ Section 22; SW¼, NW¼ NW¼ Section 23; SW¼, NW¼ SE¼, S½ N½ Section 26; Section 27 except SW¼, NE¼ NE¼; N½ NW¼ Section 28; Sections 29–31; Section 32 except SE¼; N½ NW¼ Section 35.

T.11S., R.09W. Willamette Meridian: S½ Section 7; NW¼ NW¼ Section 17; SE¼, S½ NE¼, NE¼ NE¼, SE¼ NW¼ Section 18; Section 23 except NW¼; S½, NW¼ NW¼ Section 24; Section 25; Section 26 except S½ NW¼, N½ SW¼; NE¼ Section 27; E½ SE¼, SE¼ NE¼ Section 34; Section 35.

T.12S., R.07W. Willamette Meridian: Section 5 except S½, SW¼ NW¼.

T.12S., R.08W. Willamette Meridian: NW¼ Section 5; E½ E½, SW¼ NE¼ Section 6.

T.12S., R.09W. Willamette Meridian S½ SW¼, N½ NW¼, SE¼ NW¼, NW¼ NE¼ Section 1; E½, E½ NW¼ Section 2.



Map and description of OR–03–c taken from United States Fish and Wildlife Service 1:100,000 map; Corvallis, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.08S., R.06W. Willamette Meridian: SE¼ NE¼, NE¼ NE¼, SW¼ NE¼, S½ NW¼, NW¼ NW¼, S½ SE¼, SW¼ Section 31; W½ NW¼ Section 33.

T.08S., R.07W. Willamette Meridian: Section 31 except S½ SE¼.

T.09S., R.06W. Willamette Meridian: N½ NE¼, NW¼ Section 5; NE¼, NW¼, N½ SE¼ Section 7.

T.09S., R.07W. Willamette Meridian: Section 1 except NW¼ NW¼; Section 3 except NE¼; Section 9 except SE¼ SE¼; Section 11; Section 13; W½, W½ NE¼, NW¼ SE¼ Section 15; SE¼, E½ SW¼ Section 17; NW¼, NW¼ SW¼ Section 21; E½ NE¼, NE¼ SE¼ Section 23; Section 29 except SE¼; Section 31; S½, SE¼ NW¼ Section 33; W½ W½, NE¼ NE¼ Section 35.

T.09S., R.08W. Willamette Meridian: N½ NW¼, SW¼ NW¼, W½ SW¼ Section 11; Section 27 except N½ NE¼; Section 35.

T.10S., R.05W. Willamette Meridian: SW¼ NE¼, W½ SE¼, SW¼, SE¼ NW¼ Section 29.

T.10S., R.07W. Willamette Meridian: N½ Section 1; W½ NW¼ Section 4; N½ Section 5.

Critical Habitat includes only State lands described within the following areas:

T.08S., R.07W. Willamette Meridian: SE¼ Section 11; SE¼ ¼ Section 12; N½, N½ SE¼ Section 13; E½, SW¼ Section 14.

T.09S., R.08W. Willamette Meridian: Section 28 except N½ N½; S½, NW¼, S½ NE¼ Section 29; SE¼ Section 32; NE¼ Section 33; Section 34 except NW¼; Section 36 except N½ N½.

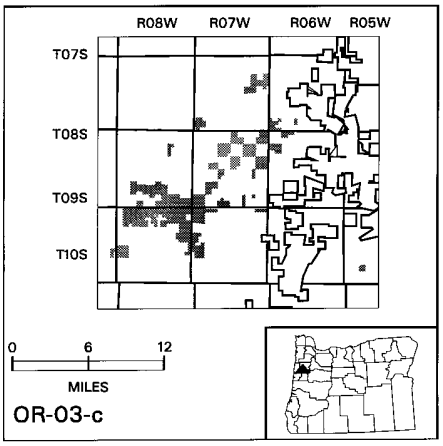
T.10S., R.07W. Willamette Meridian: Section 6; N½ N½ Section 7; NW¼, SW¼, SE¼ SE¼, NW¼ NE¼ Section 18; Section 19 except W½ SW¼.

T.10S., R.08W. Willamette Meridian: Section 1 except SE¼; Section 2; NE¼, NW¼, NW¼ SW1¼, SW¼ SW¼, NE¼ SE¼, NW¼ SE¼ Section 3; Section 4 except SW¼ SE¼, SE¼ SW¼; Section 5; E½

Section 6; NE¼ Section 7; NE¼, E½ NW¼, NW¼ NW¼ Section 8; NW¼, NE¼ NE¼ Section 9; NW¼, NE¼ Section 10; N½ N½ Section 11; Section 12; Section 13 except S½ SW¼, SW¼ SE¼; Section 19; E½ NE¼, N½ SE¼ Section 24.

Critical Habitat includes only Private lands described within the following areas:

T.09S., R.08W. Willamette Meridian: S½ SW¼ Section 29.



Map and description of OR–04–a taken from United States Fish and Wildlife Service 1:100,000 map; Corvallis, Waldport and Eugene, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.11S., R.10W. Willamette Meridian: SE¼ SE¼ Section 35.

T.12S., R.09W. Willamette Meridian: N½ N½ Section 6; Section 7 except NW¼ NE¼; Section 8 except NE¼ NW¼, W½ NE¼, NE¼ NE¼; SE¼ SE¼ Section 14; S½ NW¼, SW¼, W½ SE¼ Section 15; S½, S½ N½ Section 16; Sections 17–18; Section 19 except W½ W½, NE¼ NE¼, SE¼ SW¼; Section 20 except SE¼ NW¼, S½ NE¼; Section 21; Section 22 except NE¼ NE¼; Section 23 except NW¼ NW¼; Section 26 except NE¼ NE¼, SE¼ SE¼; Sections 27–28; N½ NW¼, NW¼ NE¼ Section 29; W½ Section 33.

T.12S., R.10W. Willamette Meridian: Sections 1–2; Section 3 except E½ NW¼, S½ NE¼; Section 4; S½, E½ NE¼, SW¼ NW¼ Section 5; SE¼ SE¼ Section 6; Sections 7–8; N½, N½ SE¼ Section 9; N1½ Section 10; Section 11 except SW¼ SW¼; Section 12; W½ NE¼, E½ NW¼, NE¼ NE¼ Section 13; Sections 16–17; Section 18; Sections 19–21; Section 25 except S½ S½, N½ NW¼; S½ SE¼ Section 26; Section 28; Section 29 except SW¼, NW¼ SE¼; Section 30 except S½ S½; E½ SE¼ Section 31; Section 32 except W½ NW¼; Section 33 except SW¼ SE¼; N½ SE¼, NE¼ Section 35.

T.12S., R.11W. Willamette Meridian: S½ NW¼, S½ SW¼, NE¼ SW¼, W½ SE¼, SW¼ NE¼ Section 9; SE¼, S½ SW¼, SW¼ SW¼ Section 11; S½ Section 12; Section 13 except S½ S½; Section 14 except N½ SW¼, N½ SE¼, SE¼ SE¼; NE¼ Section 22; Sections 23–24; Section 25 except W½ SW¼, SW¼ NW¼; Section 26 except SE¼ NE¼; E½ Section 27; Section 35; Section 36 except E½ SE¼, SE¼ NE¼.

T.13S., R.09W. Willamette Meridian: Section 2 except SE¼; NE¼ Section 4; SW¼ Section 5; Section 6–7; W½ Section 8; Sections 18–19; N½ SW¼, E½ SE¼, NW¼ SE¼ Section 20; SW¼ SW¼ Section 21; Section 28 except N½ NE¼, NE¼ NW¼; Section 29 except NW¼ SW¼; Section 30; Section 31 except N½ SW¼, S½ NW¼; Section 32–33; W½ W½, E½ SW¼, SE¼ Section 34; SW¼ SE¼, SE¼ SW¼ Section 35.

T.13S., R.10W. Willamette Meridian: Section 1; Section 2; E½ E½ Section 3; S½ SW¼, SW¼ NE¼, W½ SE¼ Section 7; E½ SE¼ Section 9; Section 10 except SW¼ NW¼; Sections 11–15; Section 16 except N½ NW¼; Section 17 except N½, NW¼ SW¼; Section 18; Sections 19–25; Section 26 except SW¼ SW¼, SE¼ SE¼; N½ NE¼, SE¼ NE¼, Section 27; SE¼ SW¼, NW¼ Section 28; Section 29; N½, N½ SE¼, NE¼ SW¼, SW¼ SW¼ Section 30; S½, E½ NE¼ Section 31; E½ SE¼, S½ SW¼, NW¼ SW¼, NW¼, NW¼ NE¼ Section 32; W½ Section 33; E½ SE¼, NE¼ SE¼, NE¼ NE¼ Section 34; Section 35 except SE¼ NE¼, NE¼ NW¼.

T.13S., R.11W. Willamette Meridian: Section 1 except SE¼ SE¼; Section 2; Section 11 except W½ SW¼, SE¼ SW¼; NW¼, W½ NE¼, W½ SW¼, SE¼ SE¼ Section 12; Section 13 except W½ W½, NE¼ NW¼, S½ SE¼; N½ N½, SW¼ NW¼, S½ SW¼, SW¼ SE¼, SE¼ SW¼ Section 14; Section 15 except N½ NW¼, SW¼ NW¼, NW¼ SW¼; NE¼ NW¼, N½ NE¼ Section 22; NW¼, SW¼ NE¼ Section 23; S½ NE¼, S½, NW¼ NW¼ Section 24; Section 25 except S½ N½, N½ SE¼; S½ SW¼, NW¼ SW¼, SE¼ Section 26; E½, E½ W½ Section 34; Section 35; Section 36 except SE¼, E½ NE¼.

T.14S., R.09W. Willamette Meridian: Section 2 except NE¼ NE¼, S½ S½; Section 3 except S½ S½, N½ SW¼; Section 4 except S½ S½, N½ SE¼; Section 5 except S½ SE¼, N½ SW¼, SE¼ SW¼, NW¼ SE¼; E½, S½ SW¼ Section 6; Section 7 except S½ SW¼, NW¼ SE¼, NE¼ SW¼; N½ NW¼, SE¼, S½ SW¼, SE¼ NE¼ Section 8; Section 9 except NW¼ NW¼; Section 10 except N½ NE¼; Section 11 except N½ NW¼, NE¼, N½ SE¼, SW¼ SE¼; S½ S½ Section 12; SW¼, S½ SE¼, N½ NW¼, NW¼ NE¼ Section 13; Sections 14 except NW¼ NE¼, SE¼ NW¼, N½ SW¼, SE¼ SW¼; Sections 15–16; S½ NE¼, N½ SW¼, SE¼ NW¼, SW¼ SW¼ Section 18; N½ NW¼, NE¼, SW¼ NW¼, NE¼ SE¼, SE¼ SW¼ Section 19; S½ NW¼, NW¼ SW¼ Section 20; N½ NE¼, NE¼ NW¼ Section 21; NW¼ NW¼ Section 22; E½, E½ NW¼ Section 23; W½ W½ Section 24; W½, W½ E½ Section 25; E½ Section 26; S½ NW¼, NW¼ NW¼ Section 36.

T.14S., R.10W. Willamette Meridian: Section 1 except N½ SE¼, E½ NE¼; Section 2; Section 3 except SW¼; Section 4; Section 5 except W½ NE¼, SE¼ NW¼; Section 6; N½ Section 7; Section 8 except SW¼; Section 9 except S½ SW¼; Sections 10–13; Section 14; Section 15; N½, N½ SE¼, SE¼ SE¼, NE¼ SW¼ Section 16; Section 17 except N½ NW¼; N½ Section 20; E½, E½ NW¼, NW¼ SW¼ Section 23; Section 24 except E½ NE¼, NE¼ SE¼; NW¼ Section 25.

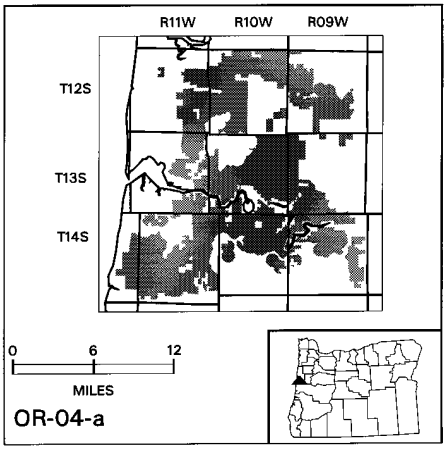
T.14S., R.11W. Willamette Meridian: Sections 1–2; SE¼ NW¼, SW¼ SE¼; Section 3; N½ NE¼, NE¼ NW¼, W½ NW¼ Section 4; S½ NW¼, NW¼ NW¼, SW¼ SE¼, NE¼, S½ SW¼ Section 5; NE¼, SE¼ NW¼ Section 6; Section 7; Section 8 except NE¼ NE¼; S½ SE¼, NE¼ SE¼, SW¼ NW¼, W½ SW¼ Section 9; Section 10 except W½ W½, NE¼ NW¼, NE¼ SW¼, NE¼ NE¼; Section 11; W½, NW¼ NE¼ Section 12; W½ W½, NE¼ NW¼ Section 13; Section 14; Section 15 except NE¼ SE¼; Section 16 except NW¼ NW¼; Section 17 except SE¼ NE¼; Sections 18–21; Section 22 except S½ N½, N½ SW¼, N½ NE¼; Section 23; Section 24 except NE¼; Section 25 except W½ NW¼; Section 26 except NE¼ NE¼, S½ SE¼, NE¼ SW¼; Sections 27–30; N½, NE¼ SW¼ Section 31; NW¼, N½ NE¼, N½ SW¼ Section 32; N½ Section 33; N½ N½, SW¼ NW¼ Section 34; N½ NW¼ Section 35.

T.14S., R.12W. Willamette Meridian: S½ SE¼, SE¼ SW¼ Section 1; Section 12 except W½ W½; Section 13 except NW¼ NW¼; E½ SE¼, SE¼ NE¼ Section 14; SE¼, E½ NE¼, W½ SW¼ Section 23; Sections 24–25.

Description of Lands Using Protracted Public Land Survey Lines

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.14S., R.09W. Willamette Meridian: E½ NW¼, W½ NE¼ Section 8.



Map and description of OR–04–b taken from United States Fish and Wildlife Service 1:100,000 map; Waldport, Eugene, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.14S., R.09W. Willamette Meridian: SE¼, S½ SW¼, NW¼ SW¼, SW¼ NW¼ Section 28; Section 29 except N½ NE¼; S½, S½ N½ Section 30; Section 31; Section 32; Section 33 except SE¼ NE¼, NE¼ SW¼; Section 34 except W½ NW¼, W½ NE¼; S½ S½, SW¼ NW¼, E½ NW¼, N½ SW¼ Section 35.

T.14S., R.10W. Willamette Meridian: SE¼ NE¼, E½ SE¼ Section 25; Section 29 except NE¼ NE¼; Sections 30–32.

T.14S., R.11W. Willamette Meridian: SE¼, S½ SW¼ Section 35; Section 36 except NW¼, N½ NE¼.

T.15S., R.09W. Willamette Meridian: W½ W½ Section 1; Sections 2–5; Section 6 except S½ SW¼, SW¼ SE¼; E½ NE¼, SW¼ NE¼, SW¼, W½ SE¼, W½ NW¼ Section 7; N½ NW¼, NW¼ NE¼, E½ SE¼, SW¼ SE¼, SE¼ SW¼ Section 8; Section 9 except S½ SW¼; Section 10 except SE¼; Section 11; N½ SW¼, S½ NW¼, NW¼ NW¼ Section 12; E½, E½ SW¼, SW¼ SW¼, NW¼ NW¼, SE¼ NW¼ Section 13; Section 14 except NE¼ SE¼; Section 15; E½ NE¼, SW¼ NE¼, S½ NW¼, NW¼ NW¼, SE¼, E½ SW¼ Section 16; E½ NE¼, SW¼ NE¼, W½ SW¼ Section 17; Section 18 except NE¼ NE¼; Section 19; SE¼, NW¼ NW¼, S½ NE¼ Section 20; Section 21; Section 22 except E½ SW¼; Sections 23–26; E½, E½ SW¼, SW¼ SW¼, SE¼ NW¼ Section 27; Section 28; E½, E½ NW¼, SE¼ SW¼ Section 29; N½ NW¼, NW¼ NE¼ Section 30; Section 32 except W½ NW¼, NW¼ SW¼; Sections 33–36.

T.15S., R.10W. Willamette Meridian: Section 1 except N½ NW¼, SE¼ NW¼, NW¼ NE¼, SE¼; E½ SE¼ Section 2; W½ SW¼, SE¼ SW¼ Section 4; Sections 5–8; W½, W½ SE¼, SW¼ NE¼ Section 9; NE¼ NE¼ Section 11; NW¼, E½ Section 12; E½ NE¼, NW¼ NE¼, S½ SW¼ Section 13; SW¼, SW¼ NW¼, SE¼ SE¼ Section 14; SW¼ SW¼, E½ SW¼, E½ NW¼, E½ Section 15; S½ S½ Section 16; Sections 17–22; E½, SE¼ SW¼, NW¼ NW¼ Section 23; Section 24 except NE¼ NE¼, SW¼ SE¼; SW¼ Section 25; Section 26 except NE¼; Sections 27–34; E½, N½ NW¼, SE¼ NW¼, NE¼ SW¼ Section 35; NE¼ NW¼ Section 36.

T.15S., R.11W. Willamette Meridian: Section 1; N½ N½, SE¼ NE¼, SW¼ SW¼, SE¼ SE¼ Section 2; E½ SE¼, SW¼ SE¼, S½ SW¼ Section 3; Section 4 except N½ NW¼; NW¼ SW¼, SW¼ NW¼ Section 5; SW¼, W½ NW¼, SE¼ NW¼, S½ NE¼, SE¼ Section 6; W½ Section 7; NE¼, S½ NW¼, NE¼ SW¼, N½ SE¼, NE¼ NW¼ Section 8; Section 9 except SW¼ SW¼, NW¼ NE¼, NE¼ NW¼; Section 10–11; Section 12 except SE¼ SW¼; Section 13 except N½ NW¼, SE¼ NW¼; Section 14; Section 15 except SW¼; NE¼ NE¼ Section 16; E½ SE¼ Section 21; E½ E½, W½ SE¼, SW¼ Section 22; Sections 23–27; Section 28 except N½ N½; S½, SE¼ NE¼ Section 29; S½, S½ NW¼, SW¼ NE¼ Section 30; Section 31 except N½ NW¼, NW¼ NE¼, SE¼ NE¼; Section 32 except S½ N½, NE¼ SE¼; Section 33 except S½ SE¼; Section 34 except S½ S½, NE¼ SE¼, SE¼ NE¼; Section 35 except SW¼ NW¼, NW¼ NE¼, NW¼ SW¼, S½ SW¼; Section 36.

T.15S., R.12W. Willamette Meridian: Section 1 except NW¼; Section 2; E½, E½ NW¼ Section 3; N½ NE¼, SE¼ NE¼, NE¼ NW¼ Section 10; Section 11 except SE¼ SE¼; Section 12 except S½ S½; SE¼ Section 22; Section 25 except NE¼ NE¼; S½, NE¼, S½ NW¼ Section 26; E½ E½ Section 27; E½ Section 34; Section 35; Section 36 except N½ N½.

T.16S., R.09W. Willamette Meridian: Section 1 except N½ S½, SE¼ SE¼; Section 2 except E½ SE¼; Sections 3–5; Section 6 except N½ N½, SW¼ NE¼; Section 7 except E½ NE¼; Sections 8–15; Section 16 except SE¼; Section 17; Section 18 except SW¼ SW¼; Section 19; NW¼ NW¼, NW¼ SW¼, N½ NE¼ Section 20; Section 21 except SW¼ SW¼; Sections 22–24; N½ NW¼, NW¼ SW¼, W½ NE¼, SW¼ NW¼ Section 25; Section 26 except S½ SE¼; Sections 27–28; Section 29 except N½ NW¼, NW¼ NE¼; Section 30; W½ Section 31; Sections 32–34; Section 35 except NE¼, S½ SW¼, E½ NW¼.

T.16S., R.10W. Willamette Meridian: SE¼, S½ NE¼ Section 1; SW¼ SE¼, SW¼ Section 2; Section 3 except E½ NE¼, NE¼ SE¼, NW¼ SW¼; SW¼, NW¼ NW¼, S½ SE¼, NE¼ NE¼ Section 4; Section 5 except SE¼ NE¼; Sections 6–9; Section 10 except SE¼ NE¼, SW¼ SW¼; N½, NW¼ SE¼, NE¼ SE¼, SW¼ SW¼ Section 11; Section 12 except SW¼ NE¼, NW¼; Section 13 except S½ SE¼, SE¼ SW¼; Section 14; Section 15 except W½ W½, SE¼ SW¼, NE¼ NW¼; Section 16 except N½ NE¼, S½ SE¼; Section 17–21; Section 22 except W½ E½, NE¼ NE¼; Section 23; Section 24 except NW¼ NE¼, E½ NW¼, NE¼ SW¼; N½ NW¼, NE¼ NE¼, E½ SE¼, W½ SW¼ Section 25; Section 26 except S½ SW¼, NW¼ SW¼; Section 27 except S½ NE¼, E½ SE¼, NW¼ SE¼; Section 28; Section 29 except SW¼ SE¼, SE¼ SW¼; Section 30 except NW¼ SE¼, NE¼ SW¼; Section 31; Section 32 except N½ N½; Section 33 except W½ NW¼, SE¼ NW¼, E½ NE¼, SW¼ NE¼; NW¼ NE¼, NW¼, W½ SW¼ Section 34; NE1/4 Section 35.

T.16S., R.11W. Willamette Meridian: E½, E½ NW¼ Section 1; Section 2 except SW¼ NW¼; W½ Section 3; Section 4–6; N½ N½, S½ NE¼ Section 8; N½ Section 9; Section 10 except SE¼ SE¼; Section 11 except S½ SW¼, SW¼ SE¼; Section 12 except NE¼ NW¼; Section 13; Section 14 except N½ NW¼; S½ NE¼, SE¼ Section 15; Section 19 except N½ N½, SE¼ NE¼, NE¼ SE¼; S½ SW¼, NE¼ SE¼, W½ SE¼ Section 20; S½ SE¼, SW¼ Section 21; Section 22 except NW¼ NW¼; Sections 23–27; Section 28 except NW¼ NW¼; Section 29 except NE¼ NE¼; Sections 30–36.

T.16S., R.12W. Willamette Meridian: Sections 1 except S½ S½; Section 2; E½ Section 3; NE¼, N½ SE¼, SW¼ SE¼, E½ SW¼ Section 10; N½ Section 11; S½ S½ Section 14; W½, SE¼ SE¼ Section 15; N½ NE¼ Section 22; Section 23 except N½ NE¼; Sections 24–26; Sections 35–36.

T.17S., R.08W. Willamette Meridian: N½ SE¼ Section 18.

T.17S., R.09W. Willamette Meridian: Section 1 except E½ SE¼, SW¼ SE¼; Section 2 except E½ W½, S½ NE¼; Section 3 except S½ SE¼, NE¼ SE¼, SE¼ NE¼; Section 4 except S½ SW¼, SW¼ SE¼; Section 5; Section 6 except NW¼; Section 7; Section 8; W½ Section 9; N½ NW¼, NW¼ NE¼ Section 10; W½ NE¼, E½ NW¼, NE¼ NE¼, S½ SW¼ Section 11; SE¼ SE¼ Section 14; W½ W½ Section 16; Section 17 except W½ SE¼, SE¼ SW¼; Sections 18–19; Section 20 except E½ E½, NW¼ NE¼; NW¼ NW¼ Section 21; S½ SW¼ Section 25; S½ SE¼ Section 26; W½ NW¼ Section 28; N½ Section 29; N½ N½, W½ SW¼, SW¼ NW¼, SE¼ SW¼ Section 30; Section 31 except S½ NE¼, NE¼ SE¼; E½ NE¼, NW¼ NE¼, S½ SE¼, SW¼ NW¼ Section 32; S½ SE¼ Section 33; S½ S½, N½ SE¼ Section 34; S½ SE¼, SE¼ SW¼ Section 35.

T.17S., R.10W. Willamette Meridian: SE¼ SE¼ Section 1; Section 3 except E½, NE¼ NW¼; Section 4; Section 5 except SW¼ NW¼; Section 6 except S½ NE¼, NW¼ SE¼; Section 7–9; N½, NW¼ SE¼, W½ SW¼ Section 10; SW¼ NW¼ Section 11; E½ E½, NE¼ NW¼, NW¼ NE¼, SW¼ SE¼, S½ SW¼ Section 12; Section 13; S½, SE¼ NE¼, SW¼ NW¼ Section 14; SE¼, NW¼ NW¼, SE¼ NE¼ Section 15; Section 16 except W½ NE¼, NE¼ SE¼; Sections 17–18; Section 19 except SW¼ NW¼, SW¼ SE¼, S½ SW¼; Section 20–21; Section 22 except N½ NW¼; Section 23 except N½ SW¼, S½ SE¼; NW¼, N½ NE¼, N½ SW¼ Section 24; Section 25 except N½ NE¼; Section 26; Section 27 except SW¼ SW¼, SW¼ NW¼, NE¼ NW¼; Section 28 except SE¼ SE¼; Section 29 except S½ SW¼; Sections 30–31; Section 32 except N½ NW¼, NE¼ NW¼ ; Section 33 except NE¼ NE¼; NE¼, SW¼, SW¼ NW¼, SW¼ SE¼, NE¼ SE¼, NE¼ NW¼ Section 34; Section 35 except SW¼ SW¼, SW¼ SE¼.

T.17S., R.11W. Willamette Meridian: Section 1 except SE¼ SW¼, S½ SE¼; Section 2; S½, E½ NE¼, NW¼ NW¼, S½ NW¼ Section 3; Sections 4–5; Section 6 except S½ SE¼; S½ NE¼, S½, NE¼ NW¼, S½ NW¼ Section 7; Sections 8–9; NW¼, NW¼ SW¼ Section 10; Section 11 except SE¼ NW¼, W½ NW¼, SW¼; Section 12; SE¼ NE¼, N½ N½ Section 13; NE¼ NE¼, SW¼ SE¼, E½ SW¼ Section 14; Section 16 except E½ E½; W½, S½ SE¼, NW¼ SE¼ Section 17; Section 18; Section 19 except NW¼ NW¼, SW¼ SW¼; Section 20; W½, SW¼ NE¼, NW¼ SE¼ Section 21; E½ NE¼ Section 22; NW¼, W½ NE¼, N½ S½ Section 23; SE¼ SE¼ Section 24; Section 25 except N½ NW¼; E½ SE¼ Section 26; W½ Section 28; Section 29; S½ NW¼, NE¼, N½ SE¼, E½ SW¼, NE¼ NW¼ Section 30; Section 31 except NW¼, NW¼ NE¼, NW¼ SW¼; Section 32; W½ Section 33; SE¼, SE¼ NE¼ Section 34; Section 35 except N½ NW¼, NW¼ NE¼; Section 36.

T.17S., R.12W. Willamette Meridian: Section 1; Section 2 except W½ NW¼; SE¼, NE¼ SW¼ Section 3; NE¼, NE¼ SE¼ Section 10; N½ Section 11; Section 12 except S½ SW¼, NW¼ SW¼; E½ Section 13; E½ NE¼, E½ SE¼, NW¼ SE¼ Section 24.

T.18S., R.09W. Willamette Meridian: W½ NE¼, E½ NW¼, NW¼ NW¼ Section 1; Section 2 except S½ SE¼, NE¼ SE¼, SE¼ NE¼; Section 3; Section 4 except W½ SW¼; N½ NE¼ Section 5; N½ NE¼, NE¼ SE¼, SE¼ NE¼ Section 7; Section 8 except S½ S½, N½ NW¼; N½ N½, SW¼ NE¼ Section 9; E½ NE¼, SW¼ NE¼ Section 10; NE¼ NW¼ Section 11.

T.18S., R.10W. Willamette Meridian: N½ NE¼, SW¼ NE¼, NE¼ NW¼ Section 4; N½ NE¼, NW¼, W½ SW¼ Section 5; Section 6; N½ NE¼ Section 7; NW¼ NW¼ Section 8.

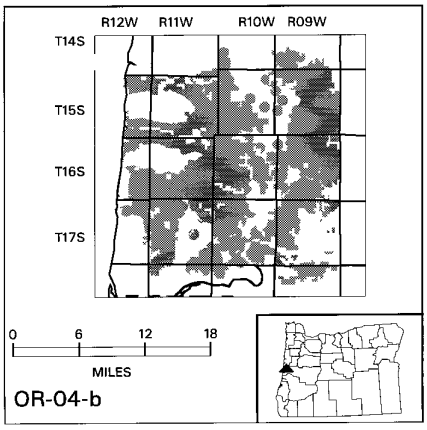
T.18S., R.11W. Willamette Meridian: Section 1 except SW¼ SW¼, SE¼ SE¼; N½, NW¼ SE¼ Section 2; NE¼, N½ SE¼, SE¼ SE¼ Section 3; NW¼ NW¼ Section 4; W½ NW¼, NE¼ NE¼, NE¼ NW¼ Section 5; Section 6 except SW¼ SW¼.

Critical Habitat includes only State lands described within the following areas:

T.17., R.08W. Willamette Meridian: S½ SE¼, NE¼ SE¼ Section 18; NE¼, NW¼ SE¼ Section 19.

T.17., R.09W. Willamette Meridian: N½ SW¼, SW¼ NE¼, S½ NW¼ Section 25; SE¼ NE¼, N½ SE¼ Section 26; Section 32 except N½ S½, E½ NE¼, SW¼ NW¼; S½ NW¼, NE¼ NW¼, NW¼ NE¼, NE¼ SW¼, S½ SW¼ Section 33.

T.18S., R.09W. Willamette Meridian: W½ SW¼ Section 4; SE¼, S½ NE¼, N½ NW¼ Section 5; N½ SE¼, SE¼ NE¼ Section 9.



Map and description of OR–04–c taken from United States Fish and Wildlife Service 1:100,000 map; Reedsport, Eugene and Cottage Grove, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.18S., R.09W. Willamette Meridian: SE¼ Section 23; Section 25; S½ SW¼, NW¼ SW¼, SW¼ SE¼ Section 26; Section 27 except N½, NW¼ SW¼; S½ SE¼ Section 28; S½ Section 32; Section 33 except NW¼ NW¼; Sections 34–36.

T.18S., R.10W. Willamette Meridian: SE¼ SE¼ Section 8; Section 9 except NE¼ SE¼, N½; NW¼ NW¼ Section 10; Section 15 except N1/2 NE¼, SE¼ NE¼; SW¼ SW¼ Section 16; Section 17 except NE1/4 NE¼; Section 18; Sections 19–20; E½ NE¼, SW¼ NW¼ Section 21; Section 22 except E½ NE¼, NW¼ NE¼, NE¼ SE¼; Section 23 except NE¼, N½ NW¼, NW¼ SE¼; Section 25; Section 26; Section 27 except SE¼ SW¼, N½ SW¼; W½ W½, E½ E½ Section 28; Section 29–32; Section 33 except E½ W½, NW¼ SW¼, SW¼ SE¼; Section 34 except SW¼, NE¼ NW¼, S½ NW¼, NW¼ SE¼; Section 35 except NE¼ NW¼.

T.18S., R.11W. Willamette Meridian: S½ S½ Section 11; S½ S½ Section 12; Section 13; Section 14 except NW¼ NW¼; Section 22 except N½ NW¼, SW¼ SW¼; Sections 23–26; E½, E½ NW¼ Section 27; S½ SW¼, W½ SE¼ Section 28; SE¼, NE¼ NE¼, S½ NE¼ Section 29; NE¼ NE¼ Section 32; Section 33–36.

T.19S., R.09W. Willamette Meridian: Sections 1–2; Section 3 except S½ SW¼, NW¼ SW¼; Section 4; Section 5 except NE¼ SW¼; Section 6 except N½ NW¼, E½ SE¼, S½ SW¼; Section 7 except N½ NE¼, SE¼ NE¼, W½ SW¼; Sections 8–9; E½ Section 11; E½ NW¼, NE¼ Section 12; Section 13; Section 15; Section 17; Section 18 except W½ SW¼; Sections 19–23; Section 24 except S½ SE¼, NE¼ SE¼, SE¼ NE¼; Section 25; N1/2 N1/2, SW¼ NW¼, W½ SW¼, S½ SE¼ Section 26; Sections 27–33; N½ NE¼, W½ W½ Section 34; Section 35; Section 36 except E½ NW¼, W½ NE¼, NE¼ SW¼.

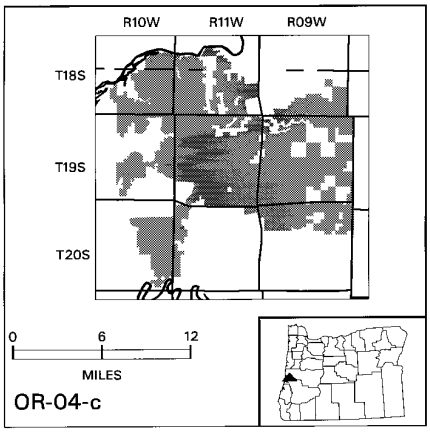
T.19S., R.10W. Willamette Meridian: Section 1; Section 2 except W½ SE¼, SE¼ NE¼; Section 3; Section 4 except S½ SE¼; Sections 5–8; Section 9 except E½ NE¼; Section 10 except N½ N½, SW¼ NW¼, SE¼ NE¼; Section 11 except N½ N½, SW¼ NW¼; Section 12 except E½ SE¼; Section 13 except S½ SE¼, NE¼ SE¼; Sections 14–23; Section 24 except N½ NE¼, NE¼ NW¼; Sections 25–26; Section 27 except SE¼ SE¼; Section 28; Section 29 except W½ SW¼; N½ Section 30; E½ SE¼ Section 31; Section 32 except S½ SE¼, SE¼ SW¼; Section 33–36.

T.19S., R.11W. Willamette Meridian: Section 1; N½ N½, W½ SW¼, SW¼ NW¼ Section 2; Section 3 except SW¼ SW¼; Section 4; Section 9 except E½ NE¼, S½ SW¼, NW¼ SW¼, SE¼, SE¼ SE¼; Section 10 except S½, W½ NW¼; Section 12 except N½ SW¼, SW¼ SW¼; Section 13; E½ SE¼, SW¼ SE¼ Section 14; SW¼ SE¼, SW¼ Section 15; SE¼ SE¼ Section 16; Section 21 except N½ NW¼; Section 22 except E½ NE¼; Section 23 except S1/2 SW¼; Section 24; NE¼, N½ NW¼ Section 25; NE¼ NE¼ Section 26; N½, W½ SW¼ Section 27; Section 28 except NE¼ SW¼; N½ NE¼, SE¼ NW¼, SW¼ NE¼, NW¼ SE¼, NE¼ SW¼ Section 33.

T.20S., R.09W. Willamette Meridian: Section 1 except SE¼ SW¼; Section 2 except SW¼ SW¼; Section 3 except S½ SE¼; Sections 4–6; Section 7 except W½ W½; Section 8; Section 9 except SE¼ SE¼; SE¼, S½ NW¼ Section 10; Section 11 except NW¼ NW¼; Section 12 except NE¼ NW¼, NW¼ SW¼; N½ NW¼, NW¼ NE¼ Section 13; NE¼ NW¼, N½ NE¼ Section 14.

T.20S., R.10W. Willamette Meridian: N½ Section 1; N½ NW¼ Section 5; Section 6 except NW¼ NW¼; W½, N½ NE¼, NW¼ SE¼, S½ SE¼ Section 7; Section 18 except SE¼ SW¼, E½ SE¼; SW¼, NW¼ SE¼, W½ NW¼, SE¼ NW¼, SW¼ NE¼ Section 19; W½ Section 30.

T.20S., R.11W. Willamette Meridian: Section 10 except S½ SW¼, NW¼ SW¼; Sections 11–14; E½ Section 15; NE¼ Section 22; Section 23 except SW¼; Section 24–25; NE¼, E½ SE¼ Section 26; N½ SE¼, S½ NE¼ Section 35; NW¼, N½ NW¼, N½ NE¼ Section 36.



Map and description of OR–04-d taken from United States Fish and Wildlife Service 1:100,000 map; Reedsport and Cottage Grove, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.20S., R.10W. Willamette Meridian: S½ Section 11; W½ SW¼ Section 12; NW¼ SW¼ Section 13; NE¼, N½ SE¼, N½ NW¼ Section 14; SE¼ SE¼ Section 22; W½, S½ SE¼, NW¼ SE¼, W½ NE¼ Section 23; SW¼ NW¼ Section 25; Section 26; Section 27 except W½ W½, E½ SW¼; NE¼ Section 34; Section 35.

T.21S., R.09W. Willamette Meridian: S½ SW¼, NE¼ SW¼ Section 2; Section 3 except NW¼ NE¼; E½ E½, NE¼ SW¼, SW¼ SW¼ Section 5; SE¼, SW¼ NE¼, E½ SW¼, SE¼ NW¼ Section 6; Sections 7–8; Section 9 except S½ NE¼; SW¼, SE¼ NW¼ Section 10; Section 11; Section 14 except E½ E½; Section 15; Sections 17–19; NW¼ Section 20; Section 21; W½ NE¼ Section 22; Section 23; Section 29; Sections 31–33.

T.21S., R.10W. Willamette Meridian: Section 2–3; NE¼ NE¼ Section 4; SW¼, S½ SE¼, S½ NW¼ Section 6; Section 7; Section 8 except NE¼; W½ SW¼ Section 9; N½ E½ Section 10; Sections 11–14; Section 15 except W½ NW¼; NW¼ NW¼ Section 16; Sections 17–21; Section 22 except NW¼; Sections 23–35.

T.21S., R.11W. Willamette Meridian: SE¼ SE¼ Section 1; E½ NE¼ Section 12; S½ NE¼, S½ SW¼, NW¼, S½ SE¼, NE¼ SE¼ Section 23; Sections 24–25; Section 26 except N½ NW¼; Section 27 except N½ N½; Section 28 except N½ N½, N½ SW¼; NW¼, N½ NE¼, SW¼ NE¼ Section 33; N½, N½ SE¼ Section 34; Section 35 except S½ NW¼, SW¼, S½ SE¼; Section 36 except SW¼ SW¼.

T.22S., R.09W. Willamette Meridian: NE¼ NE¼, N½ NW¼, SW¼ NW¼, SW¼ Section 4; Section 5 except SW¼, S½ NW¼; Section 6 except SE¼, S½ NE ¼; Section 7

except E½ SE¼; Section 9 W½ SW¼; NW¼ SW¼, NW¼ NW¼ Section 17.

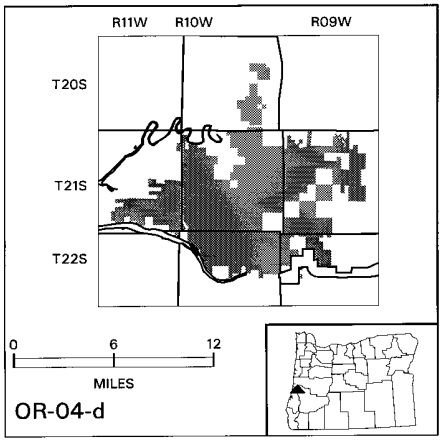
T.22S., R.10W. Willamette Meridian: Sections 1–5; E½ Section 6; Section 8 except W½ W½; Sections 9–12; N½ Section 13; N½ N½, SE¼ NE¼, SW¼ NW¼, NE¼ SE¼ Section 14; NW¼, W½ NE¼, NW¼ SW¼ Section 15; NE¼ Section 17.

T.22S., R.11W. Willamette Meridian: NE¼ Section 1.

Description of Lands Using Protracted Public Land Survey Lines

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.22S., R.11W. Willamette Meridian: SE¼ NE¼ Section 1.



Map and description of OR–04-e taken from United States Fish and Wildlife Service 1:100,000 map; Cottage Grove and Roseburg, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.23S., R.08W. Willamette Meridian: Section 3 except NW¼ NW¼; Section 5; S½, SE¼ NE¼, SW¼ NW¼ Section 6; Section 7; Section 9; NW¼, S½ S½, NW¼ SW¼ Section 11; Section 13 except N½ NE¼; Section 14 except N½ NE¼, NE¼ NW¼, W½ SW¼, SE¼ SW¼, S½ SE¼; Section 15; Section 17–19; Section 20 except N½ NE¼, SE¼ NE¼, NE¼ SE¼; Section 21; Section 23 except S½ NE¼, SW¼ NW¼; Section 27; Section 28 except N½ NE¼, SE¼ NE¼, NE¼ NW¼; Sections 29–33; Section 35 except E½ NE¼.

T.23S., R.09W. Willamette Meridian: Section 3 except NE¼; Sections 7–8; Section 13 except NE¼ SW¼, NW¼ SE¼; Sections 14–17; Section 20 except S½ N½; Sections 21–22; N½ Section 23; Sections 24–25; Section 26 except NW¼; Section 27; Section 28 except E½ SE¼; Section 29.

T.23S., R.10W. Willamette Meridian: Section 1.

T.24S., R.07W. Willamette Meridian: SE¼ NW¼ Section 6; Section 7; E½ Section 18; Section 19 except E½ E½, SW¼ SE¼.

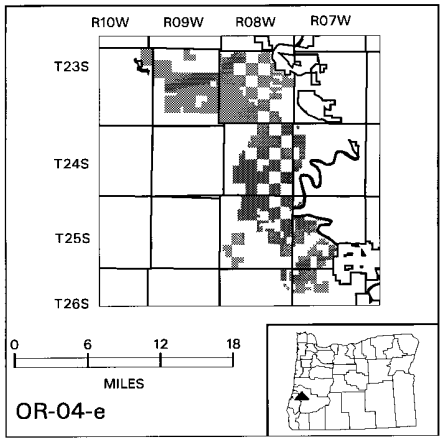
T.24S., R.08W. Willamette Meridian: Section 1; Section 3; E½, E½ SW¼ Section 9; Sections 10–11; Section 13; Section 15; SW¼ NE¼, SE¼ Section 17; Section 20 except NW¼; Section 21; SE¼ Section 22; Section 23; Section 25; Sections 27–29; Section 33; Section 35.

T.25S., R.07W. Willamette Meridian: S½ S½, NW¼ SE¼ Section 6; S½ S½ Section 7; S½ SW¼ Section 9; NW¼ NW¼ Section 15; Section 17; Section 18 except W½ W½; Section 19; NE¼ NW¼ Section 20; S½ S½, NW¼ SE¼ NE¼ SW¼ Section 21; Section 27 except NE¼ NE¼, E½ SE¼; SW¼ Section 28; SE¼, S½ NE¼, NE¼ NE¼, E½ SW¼ Section 29; NW¼ NW¼ Section 30; E½, E½ SW¼ Section 31; W½ Section 32; W½, W½ NE¼, NE¼ NE¼, NW¼ SE¼ Section 33; NW¼ NW¼ Section 34.

T.25S., R.08W. Willamette Meridian: Section 1; Sections 3–4; E½ E½ Section 5; Section 8 except W½; Section 9; N½ NE¼, NE¼ NW¼, NW¼ SW¼ Section 10; Section 11; NE¼ NE¼ Section 12; Section 13; S½ SW¼, NE¼ NW¼ Section 14; N½ N½, SW¼, SW¼ NW¼, SE¼ SE¼ Section 15; Section 20; Section 23; Section 24 except SE¼, W½ NW¼; Section 25; Section 30 except SW¼, W½ NW¼; Section 32 except SE¼.

T.26S., R.07W. Willamette Meridian: Section 5; Section 6 except NW¼; Section 7 except NW¼ SW¼, SW¼ NW¼; N½ NE¼, SE¼ NE¼, E½ SE¼, N½ SW¼, NW¼ NW¼ Section 8; Section 9 except N½ NW¼.

T.26S., R.08W. Willamette Meridian: W½, E½ SE¼, SE¼ NE¼ Section 1; NW¼ SE¼, SE¼ NW¼ Section 12.



Map and description of OR–04–f taken from United States Fish and Wildlife Service 1:100,000 map; Cottage Grove and Roseburg, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

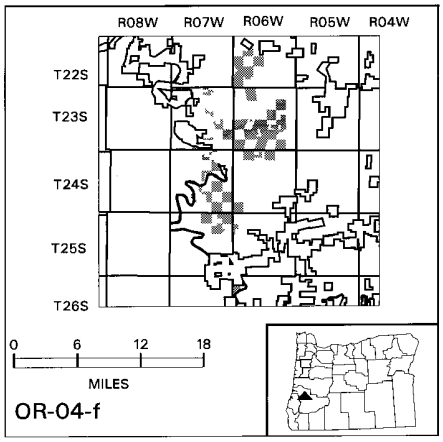
T.22S., R.06W. Willamette Meridian: S½, S½ NE¼ Section 17; Section 19; Section 21; Section 29; Section 30 except W½ NW¼, SE¼ NW¼, NW¼ SW¼; Section 31; NW¼ NE¼, NE¼ NW¼ Section 32.

T.23S., R.06W. Willamette Meridian: W½ W½ Section 4; Section 5; N½ NE¼, NE¼ NW¼ Section 8; NW¼ NW¼ Section 9; Section 19; Section 31; W½ NW¼, NW¼ SW¼ Section 32.

T.23S., R.07W. Willamette Meridian: N½ NW¼, S½ NE¼, N½ SW¼, NW¼ SE¼ Section 3; NE¼ NE¼ Section 4; SE¼ SE¼ Section 14; E½ NW¼, S½ NE¼, NE¼ SE¼ Section 15; Section 23 except N½ NW¼, SE¼ NW¼, W½ NE¼, SW¼ SW¼; Section 25; S½ S½ Section 27; S½ S½ Section 33.

T.24S., R.07W. Willamette Meridian: N½ NW¼ Section 2; S½ SW¼, NW¼ SW¼, SW¼ SE¼, SE¼ NE¼ Section 3; Section 11 except NE¼, NE¼ NW¼; N½ N½, W½ SW¼, SW¼ NW¼ Section 15; E½ SE¼, SE¼ NE¼, SW¼ SW¼ Section 21; Section 23; Section 25; Section 27 except SW¼, S½ NW¼; SE¼ SW¼, NW¼ SW¼, SW¼ NW¼ Section 28; Section 35.

T.25S., R.07W. Willamette Meridian: Section 1; NE¼ Section 2; Section 3; Section 11 except N½ NW¼; NW¼ SW¼ Section 12.



Map and description of OR–04–g taken from United States Fish and Wildlife Service 1:100,000 map; Cottage Grove, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.21S., R.06W. Willamette Meridian: Section 31.

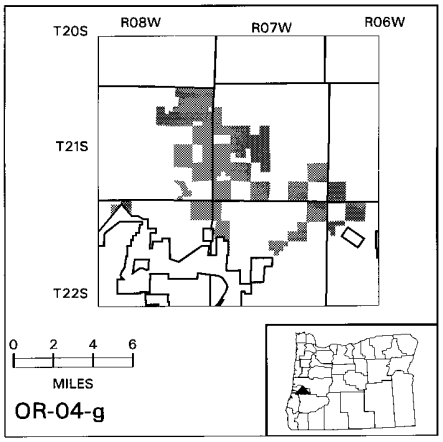
T.21S., R.07W. Willamette Meridian: W½ Section 7; Section 16 except NW¼; Section 17; N½ Section 18; Section 19; NW¼, N½ NE¼, SW¼ NE¼, NE¼ SW¼, NW¼ SE¼ Section 20; Section 21; Section 25; NE¼ Section 28; Section 29; N½, N½ SW¼, SW¼ SW¼, NE¼ SE¼ Section 30; Section 31; Section 33; Section 35.

T.21S., R.08W. Willamette Meridian: Section 1; Section 2 except W½ SW¼; Section 10 except N½ NE¼; Section 11; Section 12 except S½ SW¼, NE¼ NE¼; Section 13; Section 23; E½ Section 24; Section 25; N½ N½ Section 26; Section 35 except SW¼ NW¼, E½ NE¼, SE¼ SE¼, NW¼ SW¼.

T.22S., R.06W. Willamette Meridian: Section 5; NW¼, N½ NE¼, N½ SW¼ Section 7.

T.22S., R.07W. Willamette Meridian: Section 1; W½ Section 6; Section 7 except W½ NW¼; Section 11 except NW¼; NW¼, N½ NE¼, SW¼ NE¼, NE¼ SW¼ Section 15.

T.22S., R.08W. Willamette Meridian: Section 1; NE¼, S½ NW¼, N½ SW¼, SW¼ SW¼ Section 5; NE¼ SE¼ Section 12.



Map and description of OR–04–i taken from United States Fish and Wildlife Service 1:100,000 map; Eugene and Cottage Grove, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.17S., R.06W. Willamette Meridian: SE¼ SE¼ Section 35; SW¼ SW¼ Section 36.

T.17S., R.07W. Willamette Meridian: Section 11; S½, SW¼ NW¼ Section 13; Section 15; NW¼, S½ S½, NW¼ NE¼ Section 19; SE¼ Section 25; Section 29 except E½ W½, W½ NE¼.

T.17S., R.08W. Willamette Meridian: Section 13 except N½ NW¼; Section 17 except SW¼, NE1/ 4 NE¼, NW¼ NW¼; Section 21; S½ SW¼, NW¼ NW¼ Section 22; Section 23; Section 25; Section 27; NE¼ SW¼ Section 28; E½ E½ Section 33; Section 35.

T.18S., R.06W. Willamette Meridian: Section 5 except SW¼ SW¼; SE¼ Section 11; Section 19; Section 21 except E½ SE¼, SE¼ NE¼; SW¼ Section 23; Section 27 except S½ NE¼; Section 31; NE¼, W½ SE¼, E½ SW¼ Section 35.

T.18S., R.07W. Willamette Meridian: Section 1; N½ Section 7; Section 17 except SE¼ SW¼, NW¼ SW¼; Section 19; Section 21; Section 25; Section 27; Section 29; Section 31; Section 33 except NE¼ SW¼, NW¼ SE¼; Section 35.

T.18S., R.08W. Willamette Meridian: E½ NW¼, NW¼ NE¼ Section 1; E½ NE¼ Section 2; Section 3; Section 4 except NE¼, NW¼ NW¼, N½ SE¼, SE¼ SE¼; Section 9; Section 11 except E½ SE¼, SW¼ SE¼, SE¼ SW¼; Section 13 except N½ NE¼, E½ NW¼, W½ SW¼; N½ N½, S½ SW¼, NE¼ SE¼, SE¼ NE¼, SW¼ NW¼ Section 15; Section 19; Section 21 except E½ NW¼, NW¼ SE¼; S½, SE¼ NE¼, SW¼ NW¼ Section 23; Section 25; Section 27; SE¼ Section 28; Section 29 except E½ NE¼; Section 31; NW¼ NE¼ Section 32; Section 33 except NE¼; Section 35 except S½ SW¼, SW¼ SE¼.

T.19S., R.06W. Willamette Meridian: Section 1 except N½ NW¼, SW¼ NW¼; Section 3; Section 5; Section 7 except N½ NE¼; NW¼ SW¼, W½ NW¼ Section 8; E½, S½ SW¼, SE¼ NW¼ Section 15; Section 17 except NE¼ NE¼, SW¼ NW¼; Section 19 except SE¼ SE¼; E½ NW¼, SW¼ NE¼ Section 20; Section 21; Section 23; Section 25; Section 27; Section 29; Section 31; Section 33; SE¼ NE¼ Section 34; Section 35.

T.19S., R.07W. Willamette Meridian: Section 1 except S½ SE¼, SE¼ SW¼; Section 3 except SW¼ SE¼, SW¼ SW¼; S½, E½ NE¼, NW¼ NW¼ Section 5; Section 7; Section 9 except N½ NW¼, SW¼ NW¼; Section 11 except N½ N½, SE¼ NW¼, SW¼ NE¼; Section 13; Section 15; Section 17; Section 19 except N½ SW¼; Section 21; Section 23; N½ NE¼, S½ SE¼ Section 25; Section 27; Section 29; S½, W½ NW¼ Section 30; Section 31; W½ NW¼ Section 32; Section 33; Section 35 except NW¼ NE¼.

T.19S., R.08W. Willamette Meridian: Section 1; Section 5; N½ NW¼ Section 6; Section 7; SW¼, W½ SE¼ Section 8; W½ Section 9; NE¼, E½ NW¼, NW¼ NW¼, NE¼ SE¼ Section 13; Section 17; N½ S½, SE¼ NE¼, NW¼ NW¼ Section 18; Section 19; Section 21; SE¼ SE¼ Section 22; Section 23; SE¼ SE¼ Section 24; Section 25; NW¼ Section 26; Section 27; SE¼ SE¼ Section 28; Section 29; SE¼, SW¼ SW¼ Section 30; Section 31; W½ W½ Section 32; Section 33; Section 35.

T.20S., R.06W. Willamette Meridian: Section 1 except S½ SW¼; Section 3 except E½ SW¼, SW¼ SW¼; SE¼ NE¼ Section 4; Section 5; S½ S½ Section 6; Section 7; Section 9; Section 11 except W½ NW¼, NW¼ SW¼, SE¼ NE¼; Section 13; Section 15; Section 17; W½ W½, E½ SE¼ Section 18; Section 19; Section 21; Section 23; N½ SE¼, SW¼ SE¼ Section 26; Section 27; Section 29; Section 31; E½ NE¼ Section 32; SE¼, NW¼, NW¼ NE¼, S½ NE¼, SE¼ SW¼ Section 33; Section 35 except S½ SW¼.

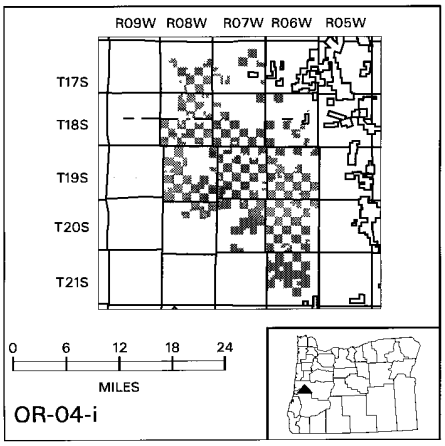
T.20S., R.07W. Willamette Meridian: Section 1; E½ E½ Section 2; Section 3 except NE¼ NW¼; Section 5; Section 6 except N½ N½; N½ N½ Section 7; Section 11; Section 12 except E½ E½, NW¼ SE¼, SW¼ NE¼; Section 13–15; Section 21; Section 22 except SE¼, SE¼ NE¼; Section 23 except W½ SW¼, SW¼ NW¼; Section 33 except E½ NE¼; SW¼ Section 34.

T.20S. R.08W. Willamette Meridian: Section 1; SW¼ Section 2; Section 3; SE¼ SE¼ Section 4; N½ NE¼ Section 6; E½ E½ Section 8; Section 9; Section 11; W½ W½ Section 12.

T.21S., R.06W. Willamette Meridian: Section 3; Section 5; W½ SW¼, SW¼ NW¼, SE¼ SW¼ Section 6; Section 7; Section 8 except SE¼; Section 9; Section 11; Section 14 except NE¼; Sections 15–17; Section 18 except NW¼ NW¼, S½ NW¼, NE¼, NW¼ SE¼, E½ SW¼, SW¼ SW¼; Section 19; NW¼ NE¼ Section 20; Section 21; S½ NE¼, N½ SE¼ Section 22; Section 23; Section 27.

Critical Habitat includes only State lands described within the following areas:

T.17S., R.08W. Willamette Meridian: SE¼ NW¼ Section 28.



Map and description of OR–04–j objective taken from United States Fish and Wildlife Service 1:100,000 map; Eugene, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.13S., R.06W. Willamette Meridian: S½ Section 31.

T.14S., R.06W. Willamette Meridian: NW¼, W½ SW¼ Section 6; Section 7; W½ W½ Section 18; W½ W½ Section 19; W½ W½ Section 30; Section 31.

T.14S., R.07W. Willamette Meridian: Section 1; Section 9; Section 11 except E½ SE¼; Section 12 except S½ SW¼; Section 13 except SW¼, SW¼ SE¼; SE¼ SW¼ Section 14; Section 17; Section 19; Section 20 except NW¼ NW¼, E½ NW¼, NE¼, E½ SE¼; Section 21 except W½ NW¼, NE¼ NW¼; Section 23 except SW¼ SE¼; S½ SE¼, NE¼ SE¼, SE¼ NE¼ Section 24; Section 25; Section 26 except N½ N½, SE¼ SW¼; Section 27; S½ Section 28; Sections 29–34.

T.14S., R.08W. Willamette Meridian: Section 19 except N½ N½, SW¼ NE¼, NW¼ SE¼; E½ SE¼ Section 20; S½ SE¼, SW¼ Section 21; S½ SW¼, W½ SE¼ Section 22; S½ SW¼ Section 23; E½ SE¼, NE¼ Section 25; NW¼ Section 26; Section 27; E½ SW¼ Section 28; Section 29 except N½ N½; Section 30 except N½ NE¼, SE¼ NE¼, SE¼, NE¼ NW¼; Section 31 except N½ S½; Section 32; Section 33 except S½ S½; NW¼, N½ NE¼, NW¼ SW¼ Section 34.

T.15S., R.06W. Willamette Meridian: Section 29; Section 31; Section 33 except NE¼, E½ SE¼, SW¼ NW¼; SE¼ SE¼ Section 34; SW¼ SW¼ Section 35.

T.15S., R.07W. Willamette Meridian: Section 3 except SW¼ SW¼; Section 4 except E½ NE¼, N½ SE¼; Sections 5–6; Section 7 except S½ SW¼, N½ SE¼; NW¼ NE¼ Section 8; Sections 18–21; Section 25 except SE¼ NE¼; Section 27; Section 29; Section 31; Section 33 except NE¼; SE¼ NW¼, SE¼ NE¼, NE¼ SE¼, SW¼ SE¼ Section 35.

T.15S., R.08W. Willamette Meridian: Section 1; S½, NE¼ NE¼ Section 2; S½ SE¼ Section 3; SW¼ SW¼ Section 4; Section 5 except S½ NE¼, SE¼ NW¼, SW¼, N½ SE¼; Section 6 except SE¼

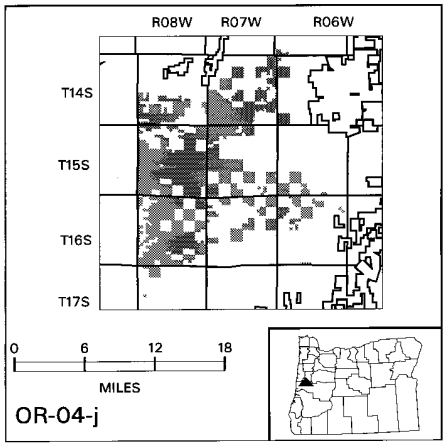
NW¼, S½ SW¼, SW¼ NE¼, SE¼; Section 7 except N½ N½, SE¼ NE¼; Section 9 except E½ E½, SW¼ SE¼; Section 11; Sections 13–14; Section 15 except NW¼ NW¼; Sections 16–20; Section 21 except SW¼ NW¼; Sections 22–27; N½ Section 28; Sections 29–31; N½, W½ SW¼ Section 32; Section 33; Section 35; W½ Section 36.

T.16S., R.06W. Willamette Meridian: SE¼, E½ SW¼, NW¼ SW¼, SW¼ NW¼ Section 3; Section 5 except S½ SW¼, NW¼ SW¼, SW¼ NW¼; Section 7 except S½ SE¼, NE¼ SE¼; Section 9; SW¼ NE¼, NE¼ NW¼ Section 12; NW¼, N½ NE¼, W½ SE¼, SW¼ SW¼ Section 17; S½ S½ Section 33.

T.16S., R.07W. Willamette Meridian: Section 1; Section 3 except S½ SW¼; Section 5 except W½ SW¼; S½ SW¼ Section 6; Section 7 except NE¼, S½ NW¼, NE¼ SE¼; NE¼, N½ SE¼, SE¼ NW¼ Section 11; Section 13; E½, SW¼ Section 15; W½ NW¼ Section 18; S½ Section 19; Section 21.

T.16S., R.08W. Willamette Meridian: Section 1; Sections 3–4; Section 5 except S½ NW¼, SW¼ NE¼, NW¼ SW¼; NW¼, N½ SW¼, SW¼ SW¼, NW¼ NE¼ Section 6; Section 7 except W½, S½ NE¼, N½ SE¼; Sections 8–9; W½ W½ Section 10; Section 11; Section 13 except S½ SE¼; Section 15; Section 17 except SW¼ NW¼; Section 18 except NW¼, W½ E½, NE¼ NE¼, SE¼ SW¼; Section 19 except E½ SW¼, S½ NE¼, NW¼ NE¼, SE¼ NW¼; Section 20 except W½ SE¼, S½ SW¼; Sections 21–23; SW¼ SW¼, SW¼ SE¼ Section 24; Section 25; N½ Section 26; Section 27; Section 28 except S½ SE¼; Section 29 except NW¼ NW¼; S½ SE¼, SE¼ NE¼ Section 30; Section 31 except N½ NW¼; Section 32 except SE¼, Section 33; S½ Section 34; N½, NW¼ SE¼ Section 35.

T.17S., R.08W. Willamette Meridian: Section 5; N½ NE¼ Section 6.



Map and description of OR–04–k taken from United States Fish and Wildlife Service 1:100,000 map; Corvallis, Eugene, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.12S., R.07W. Willamette Meridian: SE¼, S½ SW¼, S½ NE¼ Section 10; Section 11 except N½ N½; W½ W½ Section 13; Sections 14–15; Section 16 except NW¼ NW¼; Section 19 except N½ N½; Section 20 except SW¼ SW¼; Sections 21–23; W½, S½ SE¼ Section 24; Section 25; Section 26 except SW¼; Section 27; Section 28 except NE¼ NW¼; Sections 29–31; Section 32 except NW¼, NW¼ NE¼; Sections 33–35; W½ W½, NE¼ NW¼ Section 36.

T.12S., R.08W. Willamette Meridian: SW¼, SW¼ NW¼, S½ SE¼ Section 3; NE¼, N½ SW¼, S½ SE¼ Section 5; N½ SE¼ Section 8; Section 9 except NE¼ NE¼, W½ SW¼, SE¼ SW¼, W½ SE¼; SE¼, NE¼ NE¼ Section 10; Section 11 except N½ NE¼, SE¼ SE¼; S½ Section 12; E½, E½ SW¼ Section 13; N½ NW¼, NE¼, SE¼ SW¼ Section 15; N½ NE¼ Section 16; Section 17 except NW¼, NW¼ NE¼; SW¼, W½ SE¼, SW¼ NW¼ Section 18; W½, SW¼ SE¼ Section 19; S½ NE¼ Section 20; Section 21; Section 22 except NW¼ NW¼; SE¼, S½ SW¼ Section 23; W½ W½ Section 24; Section 25; N½ Section 26; Section 27; Section 29 except NE¼; W½ SW¼, N½ NW¼, NW¼ NE¼, NE¼ SE¼ Section 30; Section 31; Section 33 except SE¼, W½ NE¼; Section 35 except SW¼ NW¼, NW¼ SW¼.

T.12S., R.09W. Willamette Meridian: SE¼ SE¼ Section 13; E½ E½ Section 24.

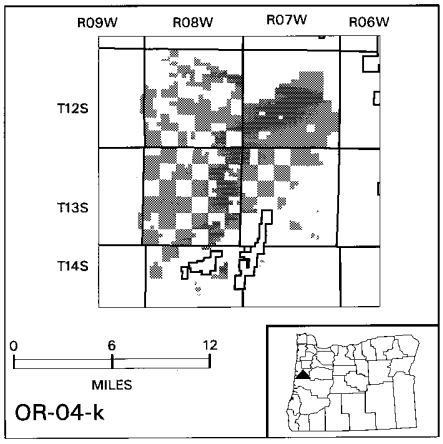
T.13S., R.07W. Willamette Meridian: Section 2 except N½ NE¼, NE¼ NW¼, SE¼ NE¼, NE¼ SE¼; Section 3; Section 5; W½ Section 6; Section 7; Section 9; N½ NW¼, SW¼ NW¼ Section 15; Section 17; SW¼ SW¼ Section 18; Section 19 except NE¼ SE¼; E½ NW¼, NE¼ SW¼, W½ NE¼ Section 21; S½ SE¼ Section 23; SW¼, W½ SE¼, SW¼ NW¼ Section 27; N½ SE¼, SE¼ NE¼, NW¼ NE¼, E½ NW¼ Section 35.

T.13S., R.08W. Willamette Meridian: Section 1; NE¼ Section 2; Section 3 except N½ NE¼, SW¼ NE¼; Section 5; S½ Section 6; Section 7; E½ SE¼ Section 8; Section 9 except NW¼ NE¼; Section 11; W½ NW¼, SE¼ NW¼, E½ SE¼, NW¼ SE¼, SE¼ NE¼, NE¼ SW¼ Section 12; Section 13; E½, NE¼ SW¼ Section 14; Section 15; Section 17; Sections 19–21; Section 23; W½ W½, SE¼ NW¼, SE¼ NE¼ Section 24; Section 25; W½ SE¼, E½ SW¼, SW¼ SW¼ Section 26; Section 27; Section 29; NW¼, SW¼ SE¼ Section 30; Section 31; SE¼ SE¼, SW¼ NW¼ Section 32; Section 33; SW¼ NW¼ Section 34; Section 35 except E½ SE¼, SW¼ SE¼.

T.13S., R.09W. Willamette Meridian: E½ E½ Section 25.

T.14S., R.07W. Willamette Meridian: SW¼ SW¼ Section 5; NE¼ NE¼ Section 7.

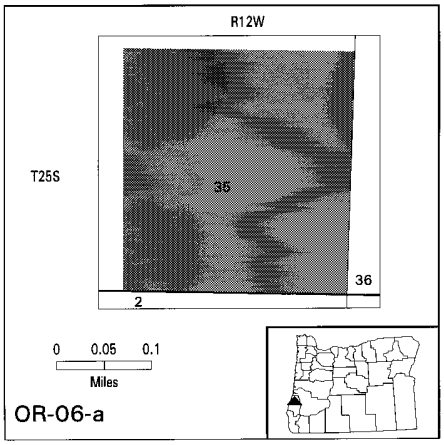
T.14S., R.08W. Willamette Meridian: N½ NE¼, NE¼ NW¼ Section 3; Section 5 except S½ SE¼; Section 7 except W½ W½, NE¼ NW¼, NE¼ NE¼; Section 11 except NW¼, NW¼ NE¼, N½ SW¼; N½ SW¼, W½ NW¼ Section 15.



Map and description of OR–06–a taken from United States Fish and Wildlife Service 1:100,000 map; Coos Bay, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.25S., R.12W. Willamette Meridian: SE¼ SE¼ Section 35.



Map and description of OR–06–b taken from United States Fish and Wildlife Service 1:100,000 map; Roseburg, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.25S., R.10W. Willamette Meridian: Section 31; Section 33.

T.26S., R.09W. Willamette Meridian: SE¼, E½ SW¼ Section 9; Section 10 except NE¼; Section 17; S½ S½ Section 18; Section 19; SW¼ Section 20; Section 21; N½ N½, S½ S½ Section 28; Section 29; Section 31 except N½ SW¼, SW¼ SW¼; SW¼, W½ SE¼, SE¼ NW¼ Section 32; Section 33.

T.26S., R.10W. Willamette Meridian: Sections 3–5; E½, SE¼ NW¼ Section 6; Section 7; SW¼, S½ NE¼ Section 8; Section 9; Section 11; Section 13; N½ Section 14; Sections 15–17; Section 19; SE¼ Section 20; N½ Section 21; W½ Section 22; Section 23; N½ N½, N½ S½ Section 24; Section 25; Section 27; NE¼ Section 28; Sections 29–31;

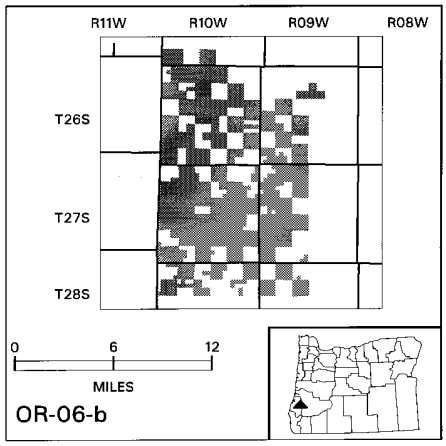
E½ Section 32; Section 33; Section 35 except SE¼.

T.27S., R.09W. Willamette Meridian: Sections 4–5; SE¼, NE¼ NE¼, SE¼ SW¼ Section 6; Section 7 except NW¼ SW¼; N½ NW¼, W½ SW¼ Section 8; Section 9; Section 17; Section 18 except SW¼, SE¼ SE¼; Sections 19–21; Sections 29–31; E½ SE¼, SW¼ SE¼ Section 33.

T.27S., R.10W. Willamette Meridian: E½ E½, W½ SE¼ Section 1; Section 3; W½ SW¼, SW¼ NW¼ Section 4; Section 5; S½ SE¼ Section 6; Sections 7–9; NE¼, SE¼ SE¼ Section 10; Section 11; S½ NW¼, W½ SW¼, SE¼ SE¼ Section 12; Sections 13–15; N½ Section 16; Sections 17–20; Sections 21–23; W½ NW¼, NW¼ SW¼ Section 24; Sections 25–29; NE¼, SW¼ SW¼ Section 30; Section 31; W½ W½, SE¼ NW¼, NE¼ SW¼ Section 32; Section 33; SW¼ NW¼ Section 34; Section 35.

T.28S., R.09W. Willamette Meridian: SE¼ SW¼ Section 4; Section 5; Section 7; Section 9.

T.28S., R.10W. Willamette Meridian: Section 1; Section 3 except E½ SE¼; N½ SE¼ Section 4; Section 5; N½ NE¼, NE¼ NW¼, SE¼ SE¼ Section 6; Section 7 except W½ NW¼, NW¼ SW¼; S½ N½, NE¼ NW¼ Section 8; Section 9 except NE¼; N½ NE¼, E½ NW¼, E½ SE¼ Section 11; NW¼ NW¼ Section 12.



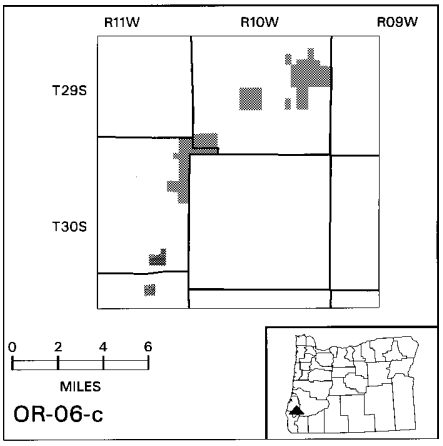
Map and description of OR–06–c taken from United States Fish and Wildlife Service 1:100,000 map; Roseburg and Canyonville, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.29S., R.10W. Willamette Meridian: S½ SE¼, W½ SW¼ Section 11; SW¼ NW¼, W½ SW¼, SE¼ SW¼ Section 12; Section 13; E½ W½, E½ Section 14; NE¼ NE¼ Section 20; Section 21; E½, W½ SW¼ Section 23; Section 31.

T.30S., R.11W. Willamette Meridian: E½, SE¼ SW¼ Section 1; E½ Section 12; E½, NW¼ Section 13; N½ SE¼, S½ NE¼, NE¼ NE¼, NE¼ SW¼, SE¼ NW¼ Section 35.

T.31S., R.11W. Willamette Meridian: SW¼ Section 2.



Map and description of OR–06–d taken from United States Fish and Wildlife Service 1:100,000 map; Roseburg, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

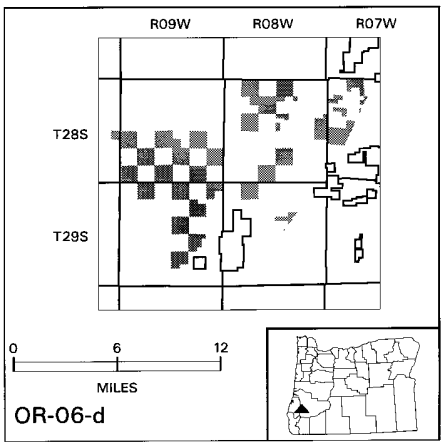
T.28S., R.08W. Willamette Meridian: Section 3; Section 5; NE¼ Section 8; Section 9; N½ NW¼ Section 10; NW¼ NW¼ Section 11; N½ NW¼, W½ NE¼, W½ SW¼ Section 15; Section 17; Section 27; Section 33.

T.28S., R.09W. Willamette Meridian: Section 19; Section 21; SW¼ Section 22; Section 23; Section 25; Section 27; Section 29; Section 31; Section 33; Section 35.

T.28S., R.10W. Willamette Meridian: NE¼ Section 24.

T.29S., R.08W. Willamette Meridian: Section 5.

T.29S., R.09W. Willamette Meridian: Section 1 except SE¼; Section 3; Section 5; Section 11 except N½ NE¼; Section 15; Section 23 except S½ SE¼, NE¼ SE¼, SE¼ NE¼; Section 27 except S½ SE¼.



Map and description of OR–07–a taken from United States Fish and Wildlife Service 1:100,000 map; Port Orford, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.31S., R.12W. Willamette Meridian: N½ NW¼, SW¼ NW¼ Section 5; SE¼, E½ SW¼, SW¼ SW¼, NE¼ NW¼ Section 15; Section 21; Section 22 except SE¼; Section 23 except E½ NE¼, SW¼ NE¼; W½ NW¼ Section 25; Section 27.

T.32S., R.10W. Willamette Meridian: Section 2 except E½ E½; Section 3 except E½ NE¼, SW¼ NE¼, SW¼ SW¼; E½ SE¼, SE¼ NE¼ Section 4; S½ Section 7; SW¼ SW¼, E½ SE¼, NE¼ NE¼, S½ NE¼ Section 8; Section 9 except SE¼, S½ NE¼; Section 10; Section 11 except E½ E½, W½ SE¼, E½ SW¼; N½ NW¼, W½ SW¼, SW¼ NW¼ Section 15; Sections 16–17; Section 18 except E½ SE¼, SE¼ NE¼; Section 19 except S½ NW¼, NE¼ NW¼, NW¼ NE¼, E½ SE¼, SW¼ SE¼; Section 20–21; W½ NW¼ Section 22.

T.32S., R.11W. Willamette Meridian: SE¼ Section 1; N½ N½, SW¼ NW¼ Section 4; Section 5; N½, NE¼ SE¼ Section 6; NE¼ SE¼ Section 7; Section 8 except SW¼ NW¼; W½ Section 9; Section 12 except SW¼ SW¼; Section 13; SE¼, E½ SW¼ Section 14; W½ Section 16; Section 17; Section 18 except N½ NW¼, E½ SW¼, NW¼ SE¼; Section 19; Section 20 except S½ SE¼; SE¼ Section 22; Section 23 except SE¼ NE¼, NW¼ NW¼; Section 24 except S½ NW¼, N½ SW¼; Section 25 except E½ E½; Section 26; NE¼ Section 27; E½, NE¼ SW¼, S½ SW¼ Section 28; S½ S½, NW¼ NW¼, NW¼ SW¼ Section 29; Sections 30–34; Section 35 except NE¼ NE¼; W½ W½ Section 36.

T.32S., R.12W. Willamette Meridian: E½ NE¼, N½ SE¼, SW¼ SE¼ Section 1; W½ NW¼ Section 2; Section 3; Section 10; E½ SE¼, SE¼ NE¼ Section 13; W½, NW¼ NE¼ Section 15; Sections 19–20; W½, W½ NE¼ Section 21; SE¼ SE¼ Section 23; E½ E½, S½ SW¼ Section 24; Section 25; Section 26 except N½ NW¼; S½ S½, NE¼ SW¼ Section 27; SE¼ SE¼ Section 28; N½ NW¼, SW¼ NW¼ Section 29; Section 30 except SE¼ SE¼; W½, W½ E½, S½ SE¼ Section 31; E½, E½ SW¼ Section 33; Sections 34–36.

T.32S., R.13W. Willamette Meridian: Section 4 except N½ N½; S½ Section 5; S½, SE¼ NE¼ Section 6; N½ N½, SE¼ NE¼, S½ S½, NE¼ SE¼ Section 7; Section 8; Sections 22–23; S½, S½ N½ Section 24; Sections 25–27; E½ NE¼, NE¼ SE¼ Section 31; Sections 32–36.

T.32S., R.14W. Willamette Meridian: N½ Section 17; W½ SW¼, SE¼ SW¼ Section 19; NE¼, N½ SE¼ Section 22; Section 23 except S½ S½, NE¼ SE¼; Section 24 except W½ SW¼, NW¼ NE¼, NE¼ NW¼; E½ NE¼, NW¼ NE¼, NE¼ SE¼ Section 25; S½ Section 29; SE¼, SE¼ SW¼, SE¼ NE¼, NW¼ NW¼ Section 30; Section 31 except W½ W½, NE¼ SW¼, E½ NW¼; Section 32 except SE¼ SE¼.

T.33S., R.11W. Willamette Meridian: Sections 7–8; Section 9 except E½ NW¼, W½ NE¼; Sections 10–11; W½ Section 12; N½ NE¼ Section 13; Section 14 except SE¼, SE¼ SW¼; Sections 15–20; Section 21 except SE¼; Section 22 except SE¼ SE¼; W½ NW¼, NW¼ SW¼ Section 23; N½ NW¼, SW¼ NW¼ Section 27; S½ NE¼, N½ SE¼, SE¼ SW¼ Section 28; W½, N½ NE¼ Section 29; Sections 30–31; Section 32 except N½ NE¼; NW¼ NW¼ Section 33.

T.33S., R.12W. Willamette Meridian: Section 7 except W½ SW¼; Section 8; W½ SW¼, SE¼, W½ NW¼ Section 9; Section 10 except N½ NW¼; Sections 11–32; Section 33 except E½ SE¼; Section 34 except N½ SW¼; Sections 35–36.

T.33S., R.13W. Willamette Meridian: E½ Section 8; Sections 9–11; Section 12 except SE¼ SE¼; Section 13 except N½ NE¼, NE¼ NW¼, SW¼ NW¼, NW¼ SW¼; Section 14 except S½ S½, NE¼ SW¼; SW¼, E½ NE¼, NW¼ NW¼ Section 15; S½, S½ NW¼ Section 16; SE¼, SE¼ NE¼ Section 17; Sections 19–20; Section 21 except SE¼; E½ NE¼ Section 22; Section 23 except SW¼ SW¼, N½ NW¼, NW¼ NE¼; Sections 24–25; S½ SE¼, SE¼ SW¼ Section 26; NW¼ Section 28; Section 29 except S½ SW¼, SE¼; Section 30 except S½ SE¼; NW¼, N½ SW¼ Section 31; E½ NE¼, SE¼ Section 34; Sections 35–36.

T.33S., R.14W. Willamette Meridian: Section 7 except N½ N½, S½ NE¼, E½ SE¼, NW¼ SW¼, SW¼ NW¼; S½ SE¼ Section 13; SW¼ SW¼ Section 15; S½ SE¼, NW¼, NW¼ SW¼, NW¼ SE¼ Section 17; SE¼ Section 18; NW¼, N½ NE¼, SE¼ NE¼ Section 20; Section 21 except NW¼ NW¼, SW¼; Section 22 except SW¼, E½ NE¼; Section 23 except N½ N½, SW½ NE¼; Sections 24–28; Section 29 except NW¼; Sections 32–35; Section 36 except NW¼, E½ SE¼.

T.34S., R.11W. Willamette Meridian: NW¼, NW¼ NE¼ Section 4; Sections 5–6; Section 7 except NE¼ SE¼; NW¼ NW¼, E½ NE¼, SW¼ NE¼ Section 8; W½ NW¼ Section 9; NE¼ Section 18; N½ NW¼, SW¼ NW¼, NW¼ SW¼, SE¼ Section 19; NE¼, E½ NW¼ Section 30; W½ SW¼, SW¼ NW¼ Section 31.

T.34S., R.12W. Willamette Meridian: Sections 1–3; Section 4 except W½ SW¼; Section 5 except S½ S½; Section 6 except N½ NE¼; Section 7 except E½ NE¼, SE¼; SE¼ Section 8; Sections 9–36.

T.34S., R.13W. Willamette Meridian: Sections 1–2; NE¼, N½ SE¼, E½ NW¼ Section 3; Sections 11–14; E½ Section 15; SW¼, W½ SE¼ Section 17; Section 20 except NW¼ SW¼, S½ SW¼; Section 21 except NW¼ NW¼; Section 22 except NW¼ NE¼; Section 23 except NW¼ NW¼; Sections 24–26; N½, NE¼ SE¼ Section 27.

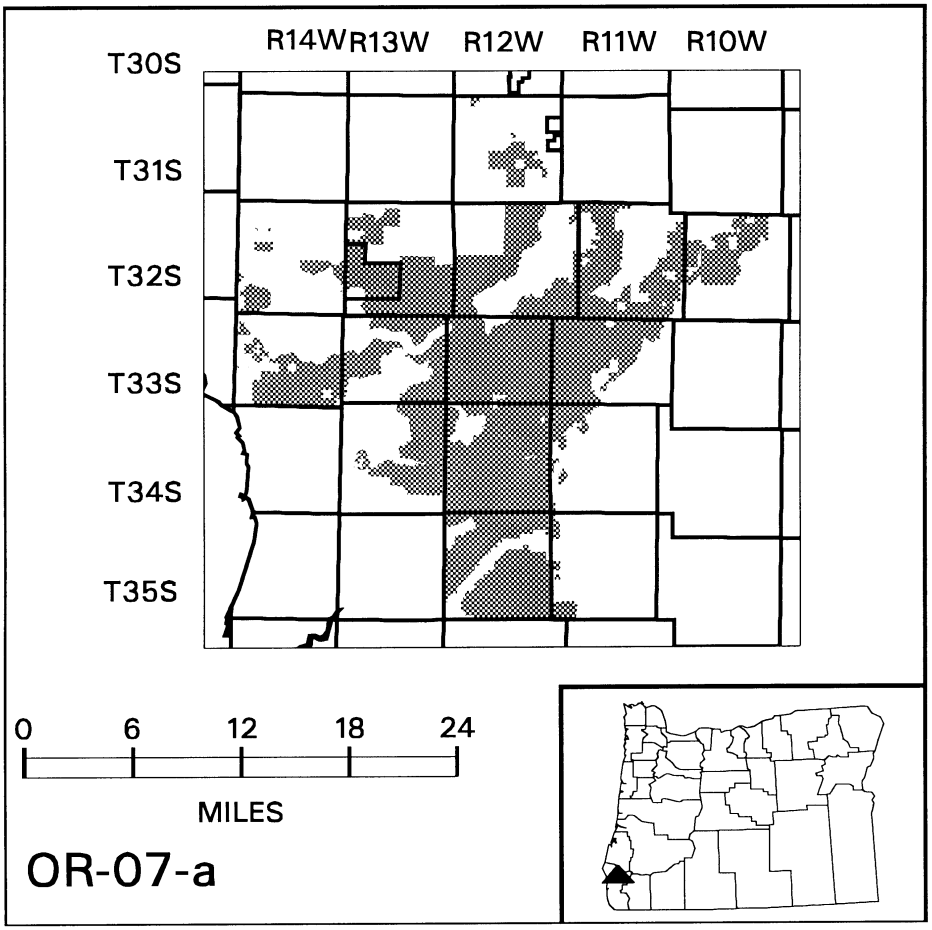
T.35S., R.11W. Willamette Meridian: SW¼, W½ NW¼ Section 6; NW¼ Section 7; S½ SW¼ Section 18; N½ NW¼, NE¼ SW¼ Section 19; Section 31; W½ Section 32.

T.35S., R.12W. Willamette Meridian: Sections 1–4; Section 5 except SW¼ SW¼, NE¼ SW¼; Section 6 except SE¼ SE¼, SW¼ SW¼; SE¼ SW¼, E½ Section 7; Sections 8–9; N½, NW¼ SW¼ Section 10; N½ N½, SW¼ NW¼, SW¼ SE¼ Section 11; NE¼ NE¼ Section 12; Section 13 except SE¼ NE¼, NE¼ SE¼, N½ N½; Section 14; Section 15 except NW¼; SE¼ SE¼, W½ NE¼, NW¼, N½ SW¼ Section 16; Sections 17–19; Section 20 except E½ NE¼, N½ SE¼; Section 21 except NW¼, NW¼ NE¼, NW¼ SW¼; Sections 22–28; Section 29 except N½ NW¼, SW¼ NW¼, W½ NE¼; Section 30 except SE¼ NE¼, SE¼, SE¼ SW¼; Section 32 except SW¼ SW¼; Sections 33–36.

Description of Lands Using Protracted Public Land Survey Lines

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.32S., R.13W. Willamette Meridian: Sections 18–21; Sections 28–29; N½, NW¼ SW¼ Section 30.



Map and description of OR–07-b taken from United States Fish and Wildlife Service 1:100,000 map; Port Orford and Gold Beach, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.35S., R.12W. Willamette Meridian: Section 31 except E½ E½, N½ N½, SW¼ NW¼.

T.35S., R.13W. Willamette Meridian: NW¼, N½ NE¼, S½ SE¼, S½ SW¼, NW¼ SW¼ Section 31; N½ N½ Section 32; N½ Section 33; N½, NE¼ SE¼ Section 34; Section 35; W½, NW¼ NE¼ Section 36.

T.36S., R.12W. Willamette Meridian: Sections 1–4; NE¼, E½ SE¼, SE¼ NW¼, N½ NW¼, NW¼ SE¼ Section 5; E½ E½, W½ SE¼, SW¼ NE¼ Section 8; Sections 9–17; S½ SE¼ Section 18; NE¼, E½ SE¼ Section 19; Sections 20–23; Section 24 except SE¼ SE¼; N½ NW¼ Section 25; Section 26 except N1/2 SE1/4; Sections 27–29; NE¼, E½ SE¼, NW¼ SE¼, E½ NW¼ Section 30; SE¼, E½ SW¼, E½ NE¼, SW¼ SW¼ Section 31; Sections 32–35; SW¼, W½ NW¼ Section 36.

T.36S., R.13W. Willamette Meridian: S½ S½, E½ NE¼, NE¼ SE¼, N½ NW¼ Section 1; SW¼, S½ SE¼, NE¼ NE¼ Section 2; Section 3; NE¼, N½ SE¼, N½ NW¼ Section 4; Section 5; NW¼, SE¼, NE¼ SW¼, E½ NE¼, SW¼ NE¼ Section 6; N½, SW¼ SE¼, NW¼ SW¼ Section 7; Section 8 except SE¼ NE¼, NE¼ SE¼; Section 9 except NW¼ NE¼, NE¼ NW¼, SW¼ NW¼, NW¼ SW¼; Sections 10–11; Section 12 except E½ SE¼, SE¼ NE¼; Section 13 except SE¼, E½ SW¼; Section 14 except SW¼; Section 15 except W½ NW¼, NW¼ SW¼; N½ NE¼, SW¼, S½ SE¼ Section 17; E½, E½ SW¼ Section 18; E½ SE¼, NE¼, S½ SW¼, NE¼ NW¼ Section 19; NW¼, SW¼ NE¼ Section 20; E½, NE¼ SW¼ Section 22; Section 23; Section 24 except NE¼; Sections 25–26; Section 27 except N½ NW¼, SW¼ NW¼; SE¼ SE¼, NW¼ NW¼ Section 28; Sections 29–32; W½ W½, E½ E½ Section 33; Section 34; N½, W½ SW¼ Section 35; N½ N½ Section 36.

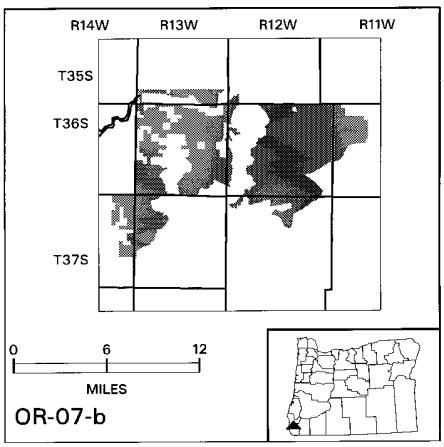
T.36S., R.12 ½W. Willamette Meridian: Section 1 except SE¼ NE¼, SE¼; S½, NW¼ Section 12; NW¼, N½ NE¼ Section 13; W½ Section 24; W½ Section 25; W½ NW¼ Section 36.

T.37S., R.12W. Willamette Meridian: NW¼ NW¼ Section 1; Section 2 except SE¼, SE¼ SW¼; Section 3 except NW¼ SW¼; Section 4 except NE¼ SE¼; N½ N½, S½ NW¼ Section 5; Section 6 except S½, SE¼ NW¼; NE¼, E½ SE¼, N½ NW¼ Section 9; W½, NW¼ NE¼ Section 10.

T.37S., R.13W. Willamette Meridian: W½, N½ NE¼ Section 5; Sections 6–8; W½ W½, NE¼ SW¼, SE¼ NW¼ Section 9; W½, W½ NE¼, NE¼ NE¼ Section 17; Section 18; N½ NE¼, NW¼, W½ SW¼ Section 19; NW¼ NW¼ Section 20; NW¼ NW¼ Section 30.

T.37S., R.14W. Willamette Meridian: Section 1 except SW¼ SW¼; E½ SE¼, NE¼ Section 2; E½ Section 11; Section 12 except W½ NW¼, N½ SW¼; SE¼, N½ N½ Section 13; Section 24 except NW¼ NE¼.

T.37S., R.12 ½W. Willamette Meridian: Section 1 except N½ NW¼, S½ SW¼.



Map and description of OR–07–c taken from United States Fish and Wildlife Service 1:100,000 map; Gold Beach, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.37S., R.12W. Willamette Meridian: E½ SW¼, W½ SE¼, SE¼ SE¼ Section 17; SE¼ SE¼ Section 18; Section 19 except N½ NW¼; Section 20; W½ W½ Section 21; S½ SE¼, SW¼, NW¼, NW¼ SE¼ Section 28; Sections 29–33; W½, NW¼ SE¼, SW¼ NE¼ Section 34; S½ SE¼, SE¼ SW¼ Section 35.

T.37S., R.13W. Willamette Meridian: SE¼, E½ SW¼, S½ NE¼ Section 24; Section 25; Section 26 except NE¼ NW¼, NW¼ NE¼; E½ E½ Section 27; SE¼, E½ NE¼, E½ SW¼ Section 34; Sections 35–36.

T.37S., R.12 ½W. Willamette Meridian: Section 24 except NW¼ NW¼; Sections 24–25; Section 36.

T.37 ½S. R.11W. Willamette Meridian: W½ SW¼, SW¼ NW¼ Section 31.

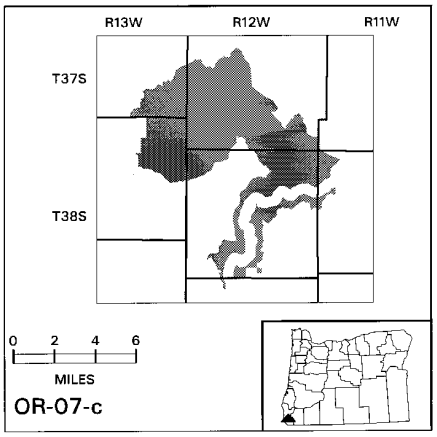
T.37 ½S. R.12.W. Willamette Meridian: Section 25 except E½; Section 26 except E½ NW¼; Sections 27–32; Section 33 except S½ SW¼; Sections 34–35; Section 36 except N½ NE¼.

T.38S., R.11W. Willamette Meridian: Section 6 except N½ NE¼, S½ SE¼, NE¼ SE¼; W½, W½ SE¼, Section 7; NW¼, W½ SW¼, NW¼ NE¼ Section 18.

T.38S., R.12W. Willamette Meridian: Sections 1–2; Section 3 except W½ SW¼, SE¼ SW¼; NE¼ NE¼ Section 4; NW¼, W½ NE¼ Section 5; Section 6; N½ NW¼ Section 7; S½ S½, NE¼, N½ SE¼, NE¼ SW¼ Section 9; Sections 10–12; N½ N½, S½ NE¼, NW¼ SE¼ Section 13; N½, N½ S½ Section 14; Sections 15–16; E½ SE¼ Section 17; E½ E½ Section 20; Section 21; W½ W½, NE¼ NW¼, NW¼ NE¼ Section 22; W½ Section 27; Section 28; Section 29 except NW¼ NW¼; S½ SE¼ Section 30; N½ NE¼ Section 31; Section 32; Section 33 except S½ SE¼; W½ NW¼, NW¼ SW¼ Section 34.

T.38S., R.13W. Willamette Meridian: Sections 1–2; SE¼ SE¼ Section 3; E½ E½, SW¼ SE¼ Section 10; Sections 11–13; Section 14 except S½ SW¼, SW¼ SE¼; NE¼ Section 15; N½ N½ Section 24.

T.39S., R.12W. Willamette Meridian: N½ NW¼, SE¼ NW¼, NE¼ SW¼, NE¼ NE¼ Section 5.



Map and description of OR–07–d taken from United States Fish and Wildlife Service 1:100,000 map; Gold Beach and Grants Pass, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.38S., R.11W. Willamette Meridian: S½ SE¼, NE¼ SE¼, SE¼ NE¼ Section 31.

T.39S., R.11W. Willamette Meridian: SW¼, SW¼ SE¼ Section 4; S½, S½ NW¼ Section 5; E½, E½ W½ Section 6; Section 7 except NW¼ NW¼; Section 8 except SW¼ SW¼; Section 9; W½ W½, E½ SW¼ Section 10; NW¼, SW¼ SW¼ Section 15; Section 16 except NW¼ SW¼, SW¼ NW¼; N½ NE¼, SE¼ SW¼, S½ SE¼ Section 17; Section 18 except N½ NE¼; Sections 19–20; Section 21 except SE¼ SE¼; W½ NW¼ Section 22; NW¼ NW¼, W½ SW¼, SE¼ SW¼, SW¼ SE¼ Section 29; Sections 30–32; SW¼, S½ NW¼, W½ SE¼ Section 33.

T.39S., R.12W. Willamette Meridian: S½ S½ Section 1; S½ S½, N½ SE¼ Section 2; S½ Section 3; Section 10 except SE¼ SE¼; Section 11 except S½ SW¼; Section 12; Section 13 except SW¼, SW¼ NW¼; NE¼ NE¼ Section 14; W½, W½ E½, E½ SE¼ Section 19; S½, E½ NE¼ Section 20; Section 21; S½ S½, NW¼ SW¼, W½ NW¼, NE¼ SE¼ Section 22; S½, S½ N½ Section 23; Sections 24–36.

T.39S., R.13W. Willamette Meridian: Section 33.

T.40S., R.09W. Willamette Meridian: SW¼ Section 4; S½, S½ NW¼ Section 5; SE¼, SE¼ NE¼ Section 6; Section 7 except S½ SE¼; Section 8 except S½ S½; N½ NW¼, SW¼ NW¼ Section 9; W½ NW¼, NE¼ NW¼ Section 18; Section 19 except E½ NW¼, NE¼ SW¼; SW¼, S½ NW¼ Section 20; S½ SE¼ Section 21; Section 27 except NE¼ NE¼; Section 28; SE¼, SE¼ SW¼, SE¼ NE¼, NE¼ NW¼ Section 29; Section 30 except E½ SE¼, SE¼ NE¼, SW¼ SE¼, SE¼ SW¼; S½, W½ NW¼ Section 31; Section 32 except NW¼ NW¼; Section 33; Section 34 except E½ SE¼, SE¼ NE¼, SW¼ SE¼.

T.40S., R.10W. Willamette Meridian: SW¼ SW¼ Section 1; SE¼, S½ SW¼, E½ NE¼ Section 2; S½ SW¼ Section 3; SE¼ SE¼ Section 4; SE¼, S½ NE¼ Section 8; Section 9 except N½ NW¼; Sections 10–11; Section 12 except NW¼ NE¼; Sections 13–16; Section 17 except N½ NW¼, SW¼ NW¼; Section 19 except NW¼, NW¼ SW¼, NW¼ NE¼; Sections 20–36.

T.40S., R.11W. Willamette Meridian: N½ NW¼, SW¼ NW¼, NW¼ NE¼ Section 4; Sections 5–8; W½ NW¼, S½ SE¼, SW¼ Section 9; Section 16 except E½ E½; Sections 17–21; E½ SE¼, SW¼ SE¼ Section 25; Section 27 except E½, NE¼ NW¼; Sections 28–33; W½ Section 34; SE¼ SE¼, SE¼ NE¼ Section 35; Section 36.

T.40S., R.12W. Willamette Meridian: Sections 1–30; Section 31 except W½ SW¼, SW¼ NW¼; Sections 32–36.

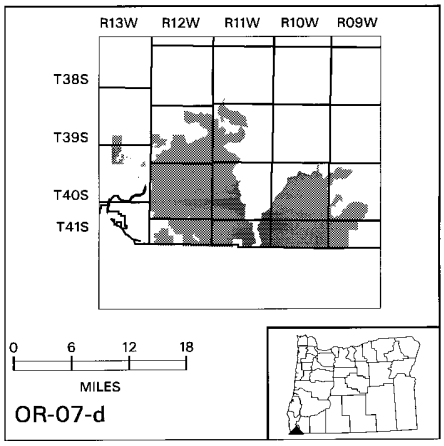
T.40S., R.13W. Willamette Meridian: Section 4 except SE¼ SE¼; W½, NW¼ NE¼, S½ SE¼, NE¼ SE¼ Section 9; W½, NE¼ Section 10; SE¼ SW¼ Section 12; N½ NW¼ Section 13.

T.41S., R.09W. Willamette Meridian: Sections 4–8; Sections 17–18.

T.41S., R.10W. Willamette Meridian: Sections 1–18.

T.41S., R.11W. Willamette Meridian: Section 1; Section 2 except NW¼ NE¼, NE¼ NW¼; Sections 3–15; Sections 17–18.

T.41S., R.12W. Willamette Meridian: Sections 1–4; Section 5 except W½, SW¼ SE¼; Section 7 except NW¼, W½ SW¼, NW¼ NE¼; W½, S½ SE¼ Section 8; Section 9 except S½ S½, NW¼ SW¼; Section 10; Section 11 except SE¼ SW¼, W½ SW¼; Sections 12–13; Section 14 except NE¼ NW¼, NW¼ NE¼; Section 15; Section 17; Section 18 except W½ W½.



Map and description of OR–07–f taken from United States Fish and Wildlife Service 1:100,000 map; Port Orford, Canyonville, Gold Beach and Grants Pass, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.32S., R.09W. Willamette Meridian: Section 34.

T.32S., R.10W. Willamette Meridian: Section 25; E½, NE¼ NW¼, SE¼ SW¼ Section 26; Section 35 except W½ NW¼; Section 36 except SE¼ SW¼, SW¼ SE¼.

T.33S., R.09W. Willamette Meridian: Section 2; Sections 3–4; Section 5 except SE¼ NW¼, E½ SW¼; Section 6 except SE¼; Section 7 except E½ NW¼, W½ NE¼; Section 8 except NE¼ NW¼; Sections 9–10; Sections 17–19.

T.33S., R.10W. Willamette Meridian: Section 1 except NE¼, N½ SW¼, S½ NW¼; Section 2 except NE¼ SE¼; Section 3 except NW¼, N½ NE¼, SW¼ SW¼, N½ SW¼; Section 9 except W½, N½ NE¼, SW¼ SE¼; Section 10; Section 11 except NE¼ NW¼; Section 12 except NW¼, SE¼ NE¼; Sections 13–14; Section 15 except W½ SW¼; Section 21 except W½; Sections 22–24; Sections 26–27; Section 28 except N½ NW¼; Section 29 except NW¼ SW¼; SE¼ SE¼ Section 30; Section 31 except W½, W½ SE¼; Sections 32–34.

T.34S., R.10W. Willamette Meridian: Sections 4–5; Section 6 except NW¼ NE¼, N½ NW¼, SW¼ NW¼; Sections 7–8; Section 18.

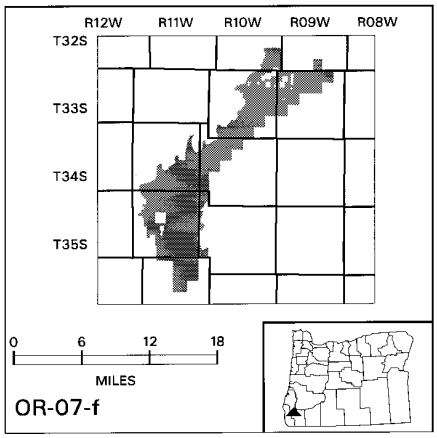
T.34S., R.10 ½W. Willamette Meridian:S½ Section 7; Section 18 except NW¼ NW¼; Sections 19; Sections 30–31.

T.34S., R.11W. Willamette Meridian: E½ SE¼, SE¼ NE¼ Section 11; Section 12 except E¼; Section 13 except NE¼; E½ E½, SW¼ SW¼ Section 14; SE¼ SE¼ Section 15; Section 21 except N½, E½ SE¼, NW¼ SW¼; Section 22 except NW¼, W½ NE¼, NW¼ SE¼, N½ SW¼, SW¼ SW¼; Section 23 except NE¼ NW¼, NW¼ NE¼; Sections 24–28; S½ NE¼, SE¼ Section 31; Section 32 except N½ NW¼; Sections 33–36.

T.35S., R.10 ½W. Willamette Meridian: Section 6; Section 7 except E½ E½, W½ SE¼, NE¼ SW¼; Section 18 except E½, E½ SW¼; NW¼, W½ SW¼, NW¼ NE¼ Section 19; W½ SW¼ Section 30; Section 31.

T.35S., R.11W. Willamette Meridian: Sections 1–4; Section 5 except SW¼ SW¼; E½ NE¼ Section 6; E½ E½ Section 7; Sections 8–15; Section 17; E½ NE¼, NW¼ NE¼ Section 18; Section 20 except SW¼ NW¼, W½ SW¼; Section 21 except SW¼ NE¼; Sections 22–28; NE¼ NW¼, E½ E½ Section 29; Section 33 except W½ SW¼; Sections 34–36.

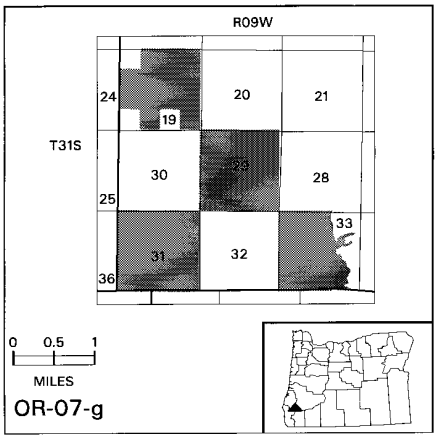
T.36S., R.11W. Willamette Meridian: Sections 2–3; N½ N½, SE¼ NE¼, E½ SE¼ Section 4; NE¼ NW¼, N½ NE¼ Section 5; E½ E½ Section 9; Sections 10–11; Section 15; E½ E½ Section 16.



Map and description of OR–07–g taken from United States Fish and Wildlife Service 1:100,000 map; Canyonville, Oregon; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.31S., R.09W. Willamette Meridian: Section 19 except NW¼ NW¼, SW¼ SW¼, SW¼ SE¼; Section 29; Section 31; Section 33 except NE¼ NE¼.

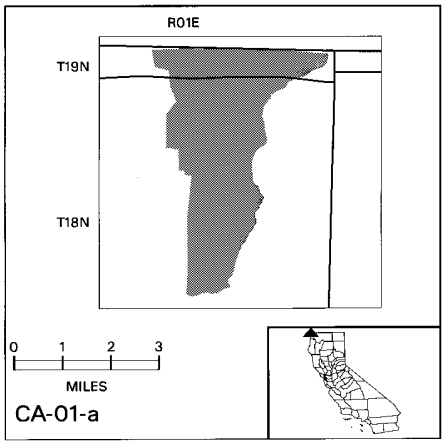


Map and description of CA–01–a taken from United States Fish and Wildlife Service 1:100,000 map; Grants Pass, Oregon; Crescent City and Happy Camp, California; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.18N., R.01E. Humboldt Meridian: NW¼ NW¼ Section 1; W½, NE¼, NW¼ SE¼ Section 2; Section 3; E½ Section 4; NE¼, E½ SE¼ Section 9; Section 10; W½ NE¼, NW¼, SW¼, Section 11; W½ Section 14; Section 15; NE¼ NE¼ Section 16; Section 22; NW¼, NW ¼ SW¼ Section 23; N½, N½ SW¼, NW¼ SE¼ Section 27.

T.19N., R.01E. Humboldt Meridian: Section 33 except W½ SW¼; Sections 34–35; Section 36 except SE¼ SE¼.



Map and description of CA–01–b taken from United States Fish and

Wildlife Service 1:100,000 map; Crescent City and Happy Camp, California; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.17N., R.02E. Humboldt Meridian: SW¼ SE¼, SE¼ SW¼ Section 29; Section 31 except N½ NW¼, SW¼ NW¼; W½, W½ NE¼ Section 32.

T.17N., R.01E. Humboldt Meridian: S½ SW¼ Section 35; SE¼, SE¼ SW¼ Section 36.

T.16N., R.03E. Humboldt Meridian: S½ SW¼, NW¼ SW¼, SW¼ SE¼ Section 17; SE¼, E½ SW¼, SW¼ SW¼, S½ NE¼, SE¼ NW¼ Section 18; Sections 19–20; SW¼, S½ NW¼, Section 21; W½ SW¼, SW¼ NW¼ Section 27; Section 28 except NE¼ NE¼; Sections 29–33; S½ NW¼, SW¼, W½ SE¼, SE¼ SE¼ Section 34.

T.16N., R.02E. Humboldt Meridian: W½, SW¼ SE¼ Section 5; Sections 6–8; W½ Section 9; W½ NW¼, SW¼, S½ SE¼ Section 16; Section 17; Section 18 except W½ NW¼, SE¼ NW¼; Sections 19–21; Section 22 except N½ NE¼, SE¼ NE¼; SW¼ SW¼ Section 23; S½, S½ NE¼, NE¼ NE¼ Section 25; Section 26 except NE¼ NE¼; Sections 27–29; N½ N½, SE¼ NE¼ Section 30; Section 32 except SW¼; Sections 33–36.

T.16N., R.01E. Humboldt Meridian: Sections 1–2; SE¼, E½ NE¼ Section 3; NE¼, SW¼ NW¼, NE¼ NW¼ Section 10; N½, SE½ SE¼, N½ S½ Section 11; Section 12; S½ SE¼ Section 13; NE¼ Section 24.

T.15N., R.03E. Humboldt Meridian: Sections 2–6; N½, N½ SW¼ Section 7; SE¼, S½ SW¼, NE¼ SW¼ Section 8; Sections 9–10; W½, W½ NE¼ Section 11; SW¼ SW¼ Section 13; Section 14 except N½ NE¼, SE¼ NE¼; Sections 15–17; Section 18 except NW¼, NW¼ SW¼; NE¼, NE¼ NW¼ Section 19; Section 20 except SW¼; Sections 21–23; W½ NW¼, NW¼ SW¼ Section 24; Section 27 except E½ E½, SW¼ SW¼; Section 28 except S½, SW¼ NE¼, SE¼ NW¼; NE¼, NW¼ SE¼, NE¼ SW¼, E½ NW¼ Section 29.

T.15N., R.02E. Humboldt Meridian: Sections 1–3; N½ NW¼, NE¼, E½ SE¼ Section 4; NE¼ NE¼ Section 5; Section 10 except W½ SW¼; Sections 11–12; Section 13 except E½ NE¼, SE¼; Section 14; NE¼, E½ SE¼, NW¼ SE¼ Section 15; E½ SE¼ Section 22; Section 23 except SE¼ NE¼, SW¼ SE¼; SW¼ Section 24; Section 25 except E½ NE¼; Section 26 except NE¼ NE¼; S½, S½ N½ Section 27; SE¼, SE¼ SW¼, S½ NE¼ Section 28; Section 33–34; Section 35 except E½ E½.

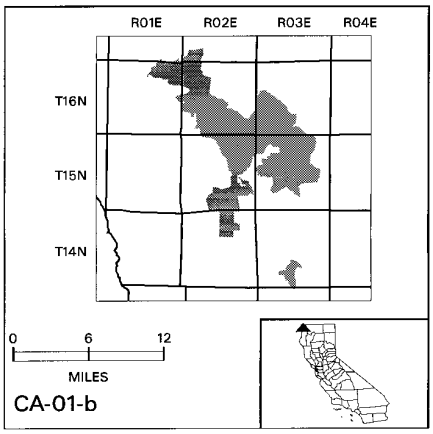
T.14N., R.02E. Humboldt Meridian: N½ NW¼, W½ W½, NW¼ NE¼ Section 2; Section 3; N½ N½, E½ E½ Section 4; E½ E½ Section 9; Section 10; NW¼, N½ SW¼, W½ NE¼, NW¼ SE¼ Section 11; NW¼ NW¼ Section 14; N½ N½ Section 15.

Description of Lands Using Protracted Public Land Survey Lines

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.14N., R.03E. Humboldt Meridian: SE¼ SE¼ Section 21; SW¼ SW¼ Section 22; W½ SW¼, W½ NE¼, NW¼ Section 27; Section 28 except NW¼; SE¼ SE¼ Section 29; E½ Section 33 except W½ W½, E½ SW¼, SW¼ SE¼; W½ W½ Section 34.

T.13N., R.03E. Humboldt Meridian: NW¼ NW¼ Section 3.



Map and description of CA–01–c taken from United States Fish and Wildlife Service 1:100,000 map; Happy Camp and Hoopa, California; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T. 11N., R.06E. Humboldt Meridian: N½ NW¼, SW¼ NW¼, W½ SW¼ Section 30.

T. 11N., R.05E. Humboldt Meridian: W½ NE¼, NW¼, E½ SW¼, W½ SE¼ Section 36.

Description of Lands Using Protracted Public Land Survey Lines

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T. 14N., R.05E. Humboldt Meridian: S½ Section 7; Section 18 except E½ SE¼, SE¼ NE¼; W½, NW¼ NE¼ Section 19; W½ SW¼, NW¼ NW¼ Section 30; Section 31 except NE¼, NE¼ NW¼; SW¼ SW¼ Section 32.

T. 14N., R.04E. Humboldt Meridian: SE¼, SE¼ SW¼ Section 12; Section 13 except W½ W½, Sections 24–25; E½ NE¼ Section 26; SE¼, E½ NE¼ Section 35; Section 36.

T. 13N., R.05E. Humboldt Meridian: SW¼, W½ NW¼, NE¼ NW¼, W½ SE¼ Section 5; Sections 6–7; Section 8 except NE¼, NE¼ SE¼; S½ S½ Section 9; E½ SW¼, SW¼ SW¼, W½ SE¼ Section 10; NW¼, N½ SW¼, W½ NE¼, NW¼ SE¼, SE¼ SE¼ Section 15; Section 16 except SE¼ SE¼; Sections 17–21; Section 22 except SE¼ SE¼; N½ NW¼ Section 27; N½ NW¼, NW¼ NE¼ Section 28; Section 29 except E½ SE¼; Sections 30–31, Section 32 except E½ NE¼; S½ SE¼ Section 35; SW¼, W½ SE¼, SE¼ SE¼ Section 36.

T. 13N., R.04E. Humboldt Meridian: Section 1; Section 2 except NW¼; S½ SE¼ Section 3; SE¼ SE¼ Section 9; Section 10 except NW¼ NW¼; Sections 11–15; E½ E½ Section 16; SE¼, S½ NE¼, NE¼ NE¼, S½ SW¼ Section 21; Sections 22–28; Section 29 except N½ N½; Section 30 except N½ N½; Sections 31–36.

T. 13N., R.03E. Humboldt Meridian: S½ Section 25; S½ SE¼ Section 26; Section 35 except W½ NW¼; Section 36.

T. 12N., R.06E. Humboldt Meridian: W1/2 SW¼ Section 6; SW¼ Section 7; W½, W½ SE¼ Section 18; N½ NW¼, NW¼ NE¼ Section 19.

T. 12N., R.05E. Humboldt Meridian: Section 1; Section 2 except NW¼, NW¼ SW¼; S½ S½, NW¼ SW¼ Section 3; Section 4 except N½ NE¼, SE¼ NE¼; Sections 5–11; Section 12 except S½ NE¼; Sections 13–23; Section 24 except E½ SE¼, SE¼ NE¼; Section 25 except E½ NE¼; Sections 26–36.

T. 12N., R.04E. Humboldt Meridian: Sections 1–36.

T. 12N., R.03E. Humboldt Meridian: Sections 1–2; Section 3 except NW¼, W½ SW¼, W½ NE¼, NE¼ NE¼; Section 10 except W½ W½, NE¼ NW¼; Sections 11–14, Section 15 except W½ W½, SE¼ SW¼, SW¼ SE¼; SW¼ SE¼ Section 22; Section 23 except SW¼ SW¼; Section 24; Section 25 except SW¼ SE¼; N½ NE¼, SE¼ NE¼ Section 26.

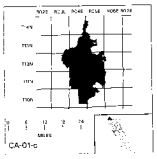
T. 11N., R.06E. Humboldt Meridian: SW¼, W½ NW¼, Section 6; W½ Section 7; NW¼ NW¼ Section 18; SW¼, SW¼ NW¼ Section 19.

T. 11N., R.05E. Humboldt Meridian: Sections 1–25; Section 26 except SW¼, SW¼ SE¼; NE¼ NE¼, Section 27; Section 28 except SE¼ SE¼; Sections 29–32; Section 33 except NE¼, E½ NW¼; W½ SW¼ Section 34.

T. 11N., R.04E. Humboldt Meridian: Sections 1–30, Section 31 except SW¼, S½ NW¼; Sections 32–36.

T. 10N., R.05E. Humboldt Meridian: W½ SW¼ Section 2; Section 3 except NE¼, Sections 4–9, Section 10 except S½, SW¼ NW¼; N½ NW¼ Section 11; Section 16 except SE¼, SE¼ SW¼; Section 17–18; Section 19 except SE¼, SE¼ SW¼, SE¼ NE¼; N½ NW¼ Section 20; W½ W½, SE¼ SW¼ Section 30.

T. 10N., R.04E. Humboldt Meridian: Sections 1–3; Sections 10–15; Sections 22–27.



Map and description of CA–01-d taken from United States Fish and Wildlife Service 1:100,000 map; Happy Camp California; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.17N., R.03E. Humboldt Meridian: NE¼, E½ SE¼ Section 24; E½ NE¼, SE¼, Section 25; N½, E½ SE¼ Section 36.

T.16N., R.03E. Humboldt Meridian: S½ SW¼, SE¼, NE¼ SW¼ Section 1; E½ E½ Section 11; Section 12; Section 13 except W½ SW¼, SW¼ NW¼; NE¼, E½ NW¼, E½ SE¼ Section 24; SE¼, SE¼ NE¼ Section 25; Section 36 except SW¼, NW¼ NW¼, W½ SE¼.

T.15N., R.07E. Humboldt Meridian: SW¼ NW¼, NW¼ SW¼ Section 7.

T.15N., R.06E. Humboldt Meridian: NW¼ Section 13.

T.15N., R.03E. Humboldt Meridian: E½ E½ Section 1; E½, SE¼ Section 12.

T.14N., R.06E. Humboldt Meridian: N½ NW¼, SW¼ NW¼, W½ SE¼ Section 4; Section 5; Section 8; SW¼, S½ NW¼, NW¼ NW¼ Section 9; W½ Section 16; Section 17; N½ Section 20; Section 21 except S½ SW¼, N½ NE¼ Section 21.

Description of Lands Using Protracted Public Land Survey Lines

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.18N., R.04E. Humboldt Meridian: SE¼ SW¼, SW¼ SE¼ Section 33; E½ SE¼ Section 35; SW¼, SW¼ SE¼, S½ NW¼ Section 36.

T.17N., R.06E. Humboldt Meridian: S½ SW¼, SW¼ SE¼ Section 14; S½ SW¼, NE¼ SE¼ Section 15; S½ SE¼ Section 16; E½ Section 21; Section 22; Section 23 except NE¼ NE¼; W½ SW¼ Section 24; Section 26 except E½ SE¼; Section 27 except SW¼, W½ SE¼, SE¼ NW¼; NE¼ NE¼ Section 28.

T.17N., R.05E. Humboldt Meridian: SW¼, SW¼ NW¼ Section 4; Section 5 except N½ N½, SW¼ NW¼; Section 6 except NE¼; Section 7 except S½ SE¼, SW¼ SE¼; Section 8 except SE¼ SE¼; W½ NW¼ Section 9.

T.17N., R.04E. Humboldt Meridian: Section 1 except SW¼, SW¼ NW¼; Section 2 except NE¼ NE¼, N½ NW¼, E½ SE¼; Section 3 except N½ N½; Section 4; SE¼ NE¼, SE¼ Section 5; Section 8 except NW¼; Sections 9–10; NE¼, NW¼, NW¼ SW¼ Section 11; NE¼ Section 12; Sections 16–17; W½, W½ E½ Section 20; SE¼, NE¼ SW¼ Section 21; S½, S½ N½ Section 22; S½, S½ N½ Section 23; W½ SW¼ Section 24; W½ NW¼, NW¼ SW¼ Section 25; Section 26; Section 27 except SW¼; NE¼, SW¼, SW¼ SE¼ Section 28; Section 29 except E½ NE¼; SW¼, W½ SE¼ Section 32; Section 33; N½ NE¼, SW¼, SE¼ Section 34; N½, N½ SE¼, SW¼ SW¼ Section 35.

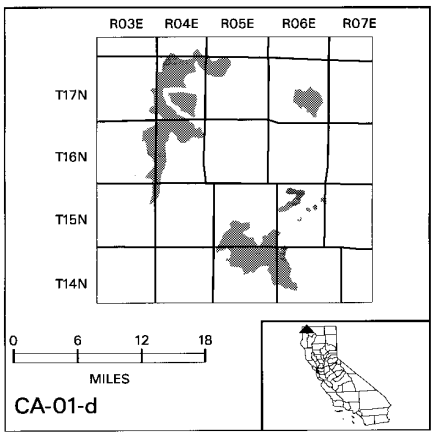
T.16N., R.04E. Humboldt Meridian: S½ SW¼, W½ SE¼ Section 1; Section 2 except NE¼; Sections 3–4; Section 5 except N½ NW¼; Section 8; W½ W½, NE¼ NE¼ Section 9; Section 10 except W½ SW¼; Section 11 except SE¼, S½ SW¼; S½ Section 12; E½ E½ Section 17; E½ E½ Section 20; Section 29 except SE¼, E½ NE¼; W½ Section 32.

T.15N., R.06E. Humboldt Meridian: W½ SW¼ Section 2; S½ Section 3; N½, E½ Section 4; SE¼ Section 9; Section 10 except W½ NW¼, E½ SE¼, S½ NW¼ Section 11; NE¼ SE¼, SE¼ NE¼ Section 12; NW¼ Section 13; SE¼ NW¼, SW¼ NE¼ Section 14; N½ NW¼ Section 15; NW¼, N½ SW¼, NW¼ NE¼ Section 16; NE¼ NE¼, N½ SE¼, NE¼, SE¼ NW¼ Section 17; SW¼, S½ NW¼, NW¼ SE¼ Section 29; S½ SW¼ Section 30.

T.15N., R.05E. Humboldt Meridian: SE¼ Section 20; S½ Section 21; S½ SW¼ Section 22; S½ NE¼, NE¼ SW¼, SE¼ Section 25; NW¼ Section 27; Section 28 except E½ SE¼; NW¼, NW¼ SW¼ Section 29; SE¼ SE¼ Section 30; E½ NE¼, SE¼ Section 31; Sections 32–33; Section 34 except N½ N½, E½ NE¼ Section 34; E½, SW¼ SW¼, E½ SW¼ Section 35; Section 36.

T.15N., R.04E. Humboldt Meridian: W½ Section 6; W½ NW¼ Section 7.

T.14N., R.05E. Humboldt Meridian: Sections 1–4; E½ SE¼, NE¼, N½ NW¼ Section 5; NE¼, E½ NW¼ Section 6; NE¼, NE¼ NW¼, N½ SE¼ Section 8; Section 9 except S½ SW¼, SW¼ SE¼; Section 10; Section 11 except S½ SE¼, SE¼ SW¼; Section 12 except W½ SW¼; W½, NE¼ NW¼ Section 13; N½ NE¼, NW¼ Section 15; NE¼ Section 24.



Map and description of CA–01–e taken from United States Fish and Wildlife Service 1:100,000 map; Grants Pass, Oregon; Happy Camp, California; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.41S., R.07W. Willamette Meridian: S½ SW¼, NW¼ SW¼ Section 6; N½ NW¼, SW¼ NW¼ Section 7; SE¼, S½ NE¼ Section 8; S½ SE¼, W½ Section 9; Section 16; E½ E½ Section 17.

T.41S., R.08W. Willamette Meridian: Section 1 except SE¼ NW¼, W½ SW¼; Section 2 except SE¼ SE¼; Section 4; Section 9 except W½ W½; Section 11 except NE¼ NE¼; Section 12 except E½ SE¼; Section 13 except NE¼; Sections 14–16; E½ SE¼, SE¼ NE¼ Section 17.

T.19N., R.06E. Humboldt Meridian: E½ SE¼, SW¼ SE¼ Section 31; Section 32 except NW¼ NW¼; NW ¼, W½ NE¼, N½ SW¼ Section 33.

T.19N., R.05E. Humboldt Meridian: Section 32 except S½ SW¼; Section 33; Section 34 except E½ SE¼; Section 35 except S½ SW¼; W½ NW¼ Section 36.

T.19N., R.04E. Humboldt Meridian: Sections 32–34; SW¼ SW¼ Section 35.

T.18N., R.05E. Humboldt Meridian: Section 5 except NW¼, W½ NE¼; SE¼, E½ SW¼ Section 6; Section 7 except S½ S½, NW¼ SW¼; Sections 16–17; SE¼, S½ N½, NW¼ NW¼, Section 18; N½ Section 19.

T.18N., R.04E. Humboldt Meridian: W½ NW¼ Section 2; Section 3 except SE¼ SE¼, Section 4; N½ N½, SW¼ NE¼ Section 9.

T.18N., R.03E. Humboldt Meridian: Section 1; SE¼, E½ NE¼, NE¼ NE¼, SE¼ SW¼ Section 2; SE¼ SE¼ Section 10; Section 11 except NW¼ NW¼; NW¼ NE¼, NE¼ NW¼ Section 12; W½ NW¼ Section 14; E½, E½ SW¼ Section 15; W½, NW¼ SE¼, N½ NE¼, SW¼ NE¼ Section 22; W½ Section 27; SE¼, S½ NE¼, NE¼ NE¼, E½ SW¼ Section 28; E½ SE¼, SE¼ NE¼ Section 32; Section 33; W½ Section 34.

T.17N., R.03E. Humboldt Meridian: NW¼, NW¼ SW¼ Section 3; Section 4 except S½ S½, NW¼ SW¼; NE¼ NE¼ Section 5.

Description of Lands Using Protracted Public Land Survey Lines

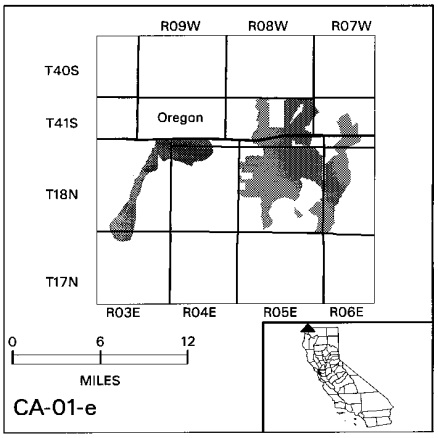
Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.18N., R.06E. Humboldt Meridian: Section 5 except E½ E½; E½ NE¼; SE¼ SW¼, SE¼ Section 6; Section 7; Section 8 except E½ NE¼; Section 17 except E½ SE¼; Sections 18–19; W½ NW¼, NE¼ NW¼, W½ SW¼ Section 20; Section 30 except E½ SE¼, SE¼ NE¼; Section 31 except E½ E½, SW¼ SE¼.

T.18N., R.05E. Humboldt Meridian: Section 1 except N½ NE¼; Sections 2–4; Sections 8–12; Section 13 except SW¼, SW¼ NW¼, SW¼ SE¼; Section 14 except SE¼, S½ NE¼; Section 15; Section 20 except SW¼; Section 21 except S½ SE ¼; Section 22 except SW¼ SE¼, S½ SW¼;

NW¼, NW¼ SW¼, SW¼ SW¼ Section 23; S½ SE¼, NE¼ SE¼, E½ NE¼ Section 24; Section 25 except S½ SW¼, NW¼ NW¼; W½ SW¼, NW¼, SE¼ SW¼ Section 28; E½ Section 29; E½ Section 32; NW¼, N½ SW¼ Section 33; E½, SE¼ SW¼ Section 36.

T.18N., R.04E. Humboldt Meridian: Section 5; N½ N½ Section 8.



Map and description of CA–02–a taken from United States Fish and Wildlife Service 1:100,000 map; Crescent City, California; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.14N., R.01E. Humboldt Meridian: S½ NE¼, S½, SE¼ NW¼ Section 21; W½ SW¼, SE¼ SW¼ Section 22; NW¼, NW¼, NW¼ SW¼ Section 27; Section 28 except W½ SW¼, SE¼ SW¼, S½ SE¼.

T.17N., R.01E. Humboldt Meridian: SW¼ SW¼ Section 21; W½ NW¼, NW¼ SW¼ Section 28; E½ NE¼ Section 29.

Critical Habitat includes only State lands described within the following areas:

T.14N., R.01W. Humboldt Meridian: Section 1 above Mean High Water (MHW).

T.14N., R.01E. Humboldt Meridian: W½ Section 6; W½ Section 7; Sections 18–19 above MHW.

T.15N., R.01E. Humboldt Meridian: S½ Section 7; W½ Section 8; NW¼, W½ NE¼ Section 17; Sections 18–19; W½, N½ NE¼ Section 30; W½ Section 31.

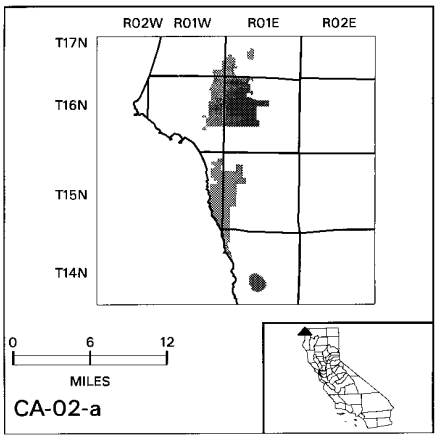
T.15N., R.01W. Humboldt Meridian: SE¼, S½ SW¼ Section 1; Section 12 except W½ NE¼; S½, NE¼, NE¼ NW¼ Section 13; Section 23 above MHW, Section 24, Sections 25–26 above MHW; Section 36 above MHW.

T.16N., R.01E. Humboldt Meridian: NW¼ Section 4; Sections 5–7; Section 8 except NE¼ SE¼; SW¼ NW¼ NW¼ SW¼ Section 9; NW¼ Section 15; W½, NE¼ Section 16; Sections 17–20; W½, W½ SE¼ Section 21.

T.16N., R.01W. Humboldt Meridian: Section 1; SE¼ SE¼ Section 2; E½ NE¼ Section 11; Sections 12–13; E½ E½ Section 14; SE¼, E½ NE¼, SW¼ NE¼, S½ NW¼ Section 23; Section 24.

T.17N., R.01E. Humboldt Meridian: SW¼, W½ SE¼ Section 30, Section 31 except E½ NE¼, NE¼ SE¼.

T.17N., R.01W. Humboldt Meridian: SE¼ SE¼ Section 25; S½, E½ NE¼ Section 36.



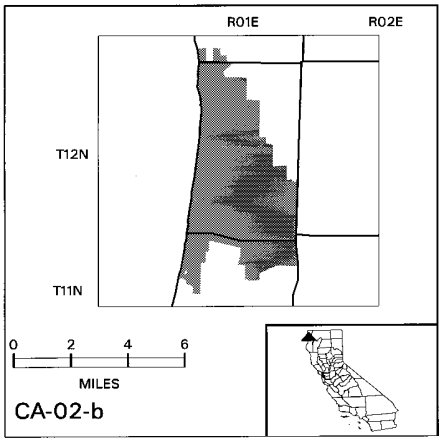
Map and description of CA–02–b taken from United States Fish and Wildlife Service 1:100,000 map; Orick and Hoopa, California; 1995.

Critical Habitat includes only State lands described within the following areas:

T.11N., R.01E. Humboldt Meridian: Sections 1–2 N½ N½ Section 3; Section 4 except E½ SE¼; Section 9 except E½ E½, SW¼ SW¼; N½ NE¼, SW¼ NE¼, E½ NW¼ Section 11; NW¼ NW¼ Section 12.

T.12N., R.01E. Humboldt Meridian: W½ NW¼, NE¼ NW¼, S½ Section 3; Section 4 above MHW; Section 9 above MHW; Section 10 except SE¼ NW¼; S½ NW¼, SW¼ Section 11; W½, NW¼ SE¼, S½ SE¼ Section 14; Section 15; Section 16 above MHW; Section 21 above MHW; Sections 22–23; SW¼ Section 24; Sections 25–27; Section 28 above MHW; Section 33 above MHW; Section 34–36.

T.13N., R.01E. Humboldt Meridian: SW¼, E½ SE¼ Section 33; SW¼ SW¼ Section 34.



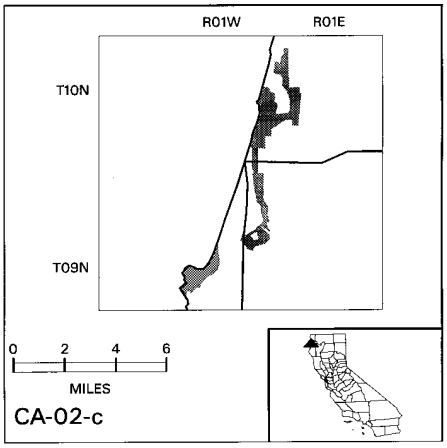
Map and description of CA–02–c taken from United States Fish and Wildlife Service 1:100,000 map; Orick, California; 1995.

Critical Habitat includes only State lands described within the following areas:

T.09N., R.01W. Humboldt Meridian: Section 23 above Mean High Water (MHW); Section 26 except SE¼, SE¼ SW¼; Section 27 above MHW; NE¼ Section 34; NW¼ NW¼ Section 35.

T.09N., R.01E. Humboldt Meridian: E½ NW¼, E½ SW¼, W½ SE¼ Section 6; W½ NE¼, E½ NW¼, W½ SE¼, SE¼ SE¼ Section 7; E½ NE¼, NE¼ SE¼ Section 18.

T.10N., R.01E. Humboldt Meridian: SW¼ SE¼, SE¼ SW¼ Section 8; W½ Section 17; Section 19 above MHW; E½ W½ W½ Section 20; Section 29 except SE¼, SW¼ NE¼, E½ SW¼, SW¼ SW¼; Section 30 above MHW; W½, N½ NE¼, E½ SW¼, SE¼ NW¼ Section 31.



Map and description of CA–03-a taken from United States Fish and Wildlife Service 1:100,000 map; Eureka and Hayfork, California; 1995.

Critical Habitat includes only Private lands described within the following areas:

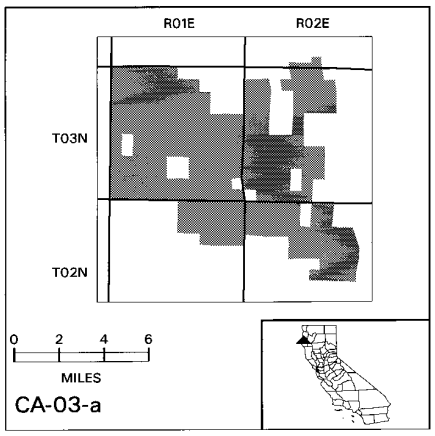
T.02N., R.01E. Humboldt Meridian: Section 1–3; N½ Section 10; Section 11–12.

T.02N., R.02E. Humboldt Meridian: Section 3; W½ Section 4; Section 5–6; N½ Section 7; N½ Section 8; Section 9–11; Section 14; Section 15 except SW¼; N½ Section 16; N½ Section 22; N½ Section 23.

T.03N., R.01E. Humboldt Meridian: S½ Section 3; Section 4–10; W½ Section 11; Section 13–18; W½ Section 19; Section 20–26; E½ Section 27; W½ Section 28; Section 29–35; Section 36 except NE¼.

T.03N., R.02E. Humboldt Meridian: Section 3 except NE¼; Section 4; SE¼ Section 5; S½ Section 6; Section 7; Section 9; Section 10; W½ Section 16; Section 18–20; Section 21 except NE¼; SW ¼ Section 22; W½ Section 27; Section 28 except SW¼; Section 29–30; Section 31 except SW¼; Section 32; Section 33 except NW¼.

T.04N., R.02E. Humboldt Meridian: S½ S½ Section 33; SW¼ Section 34.



Map and description of CA–04-a taken from United States Fish and Wildlife Service 1:100,000 map; Cape Mendocino and Garberville, California; 1995.

Critical Habitat includes only State lands described within the following areas:

T.01N., R.01E. Humboldt Meridian: SW¼ Section 23; S½ Section 24; SW¼ NW¼, N½ N½ Section 25; NE¼, E½ NW¼ Section 26.

T.01N., R.02E. Humboldt Meridian: E½ NE¼, NE¼ SE¼ Section 11; NW¼ Section 12; S½ Section 19; W½ W½ Section 29; N½, N½ SE¼, NE¼ SW¼ Section 30; NW¼ NW¼, S½ SE¼, E½ SW¼ Section 32.

T.01S., R.01E. Humboldt Meridian: S½ S½ Section 13; S½ NW¼, S½ Section 14; E½ SE¼ Section 15; E½ E½, SW¼ SE¼ Section 22; Sections 23–27; Section 28 except W½ NW¼; Section 33 except SW¼ NW¼, SW¼; Sections 34–36.

T.01S., R.02E. Humboldt Meridian: S½ NW¼, NW¼ SW¼, S½ SW¼, SW¼ SE¼ Section 3; Section 4 except SW¼ NW¼; NE¼ NE¼ Section 9; NW¼, W½ NE¼, E½ SE¼ Section 10; SW¼ SW¼ Section 11; W½ Section 14; SE¼, SW¼ SW¼ Section 15; S½ NW¼, SW¼, S½ SE¼ Section 16; S½, SE¼ NE¼ Section 17; S½ S½ Section 18; Sections 19–22; W½ Section 23; W½, SW¼ SE¼ Section 26; Sections 27–34; W½ NW¼, SE¼ NW¼, N½ SW¼, SW¼ SW¼, SW¼ NE¼, S½ SE¼, NW¼ SE¼ Section 35.

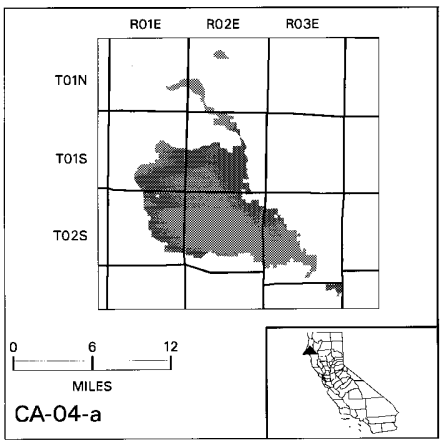
T.02S., R.01E. Humboldt Meridian: Sections 1–3; E½ E½ Section 4; E½ E½ Section 9; Sections 10–14; Section 15 except W½ SW¼, SW¼ NW¼; Section 22 except SW¼, W½ NW¼; Sections 23–25; Section 26 except, SW¼, S½ NW¼, SW¼ NE¼.

T.02S., R.02E. Humboldt Meridian: SW¼ Section 1; Section 2 except NE¼, E½ NW¼, NE¼ SE¼; Sections 3–24; Section 25 except SW¼ SW¼; N½ Section 26; Section 27 except S½ S½; Section 28 except S½ S½, NW¼ SW¼; Section 29 except NE¼ SE¼, S½ SE¼; Section 30 except S½ SW¼; NE¼ NW¼, N½ NE¼ Section 36.

T.02S., R.03E. Humboldt Meridian: Section 7 except N½; SW¼ SW¼ Section 8; Section 17 except NE¼, E½ SE¼; Sections 18–20; Section 21 except NW¼ NE¼, SE¼ NE¼, N½ SE¼, SE¼ SE¼; S½ S½, NW¼ SW¼, SW¼ NW¼ Section 27; Section 28 except NE¼ NE¼; Section 29 except W½ NW¼; Section 30 except SE¼ NE¼, NE¼ SE¼; Section 31 except S½ S½, NW¼ SE¼; Section 32 except SE¼ NE¼, S½; N½ NE¼, NE¼ NW¼ Section 33; E½, NW¼ Section 34; SE¼ NW¼, NW¼ NW¼ Section 35.

T.03S., R.03E. Humboldt Meridian: NW¼ Section 3; E½ NE¼ Section 11; N½, NW¼ SW¼, SE¼ Section 12; SE¼ SE¼, Section 13.

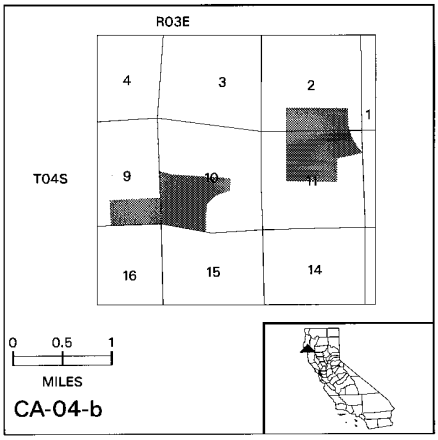
T.03S., R.04E. Humboldt Meridian: SW¼ SW¼ Section 18; NW¼, NW¼ SW¼ Section 30.



Map and description of CA–04–b taken from United States Fish and Wildlife Service 1:100,000 map; Garberville, California; 1995.

Critical Habitat includes only State lands described within the following areas:

T.04S., R.03E. Humboldt Meridian: SE¼ SW¼, S½ SE¼ Section 2; S½ SE¼ Section 9; SW¼, NW¼ SE¼ Section 10; E½ NW¼, SW¼ NE¼, N½ NE¼ Section 11.



Map and description of CA–05–a taken from United States Fish and Wildlife Service 1:100,000 map; Cape Mendocino, Garberville and Covelo, California; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.02S., R.02E. Humboldt Meridian: SE¼ SE¼ Section 31; S½ SW¼, SW¼ SE¼ Section 32.

T.03S., R.02W. Humboldt Meridian: SE¼ NW¼, E½ SW¼, S½ SE¼, NW¼ SE¼ Section 12; Sections 13–14; Section 15–16 East of Mean High Water (MHW); Section 22–23 East of MHW; Section 24 except SE¼; N½ NE¼ Section 26 East of MHW.

T.03S., R.01W. Humboldt Meridian: SW¼ SW¼ Section 9; NE¼ SE¼ Section 10; S½, SE¼ NE¼ Section 11; SW¼ NW¼, S½ Section 12; Sections 13–18; N½ NW¼, SW¼ NW¼ Section 19; N½ NW¼, SE¼ NW¼, NE¼, N½ SE¼, Section 20; Sections 21–26; N½, E½ SE¼ Section 27; N½ NE¼ Section 28; NE¼ NW¼, NW¼ NE¼ Section 35; N½ NW¼, NE¼, E½ SW¼ Section 36.

T.03S., R.01E. Humboldt Meridian: N½ SE¼, SE¼ SE¼, NE¼ SW¼ Section 12; N½ SE¼, SE¼ SE¼, SE¼ NE¼ Section 13; SW¼ NW¼, W½ SW¼ Section 18; W½ NW¼, SW¼, W½ SE¼ Section 19; SE¼ NE¼, NE¼ SE¼ Section 24; W½ SW¼ Section 29; Section 30 except NE¼ NE¼; Section 31; W½ W½, NE¼ NW¼, NE¼ SW¼ Section 32.

T.03S., R.02E. Humboldt Meridian: W½ SW¼, NW¼, SE¼ NE¼, SW¼ SE¼ Section 5; E½ SE¼, SW¼ SE¼ Section 6; Section 7 except SW¼ NW¼, SE¼ SE¼; W½ W½, SE¼ NW¼, SW¼, W½ NE¼, W½ SE¼, SE¼ SE¼ Section 8; S½ SW¼ Section 9; E½ SW¼ Section 18; NE¼ NW¼, SE¼ SW¼, SW¼ SE¼ Section 19; SE¼ NE¼ Section 20; NW¼ NE¼ Section 22; NW¼ NW¼ Section 28; NW¼ NE¼ Section 30.

T.04S., R.01W. Humboldt Meridian: S½ S½, Section 1; SE¼ SE¼ Section 2; SE¼ SE¼ Section 10; S½, NE¼ Section 11; N½, W½ SW¼ Section 12; Section 14 east of MHW.

T.04S., R.01E. Humboldt Meridian: SW¼, W½ SE¼, SE¼ SE¼, S½ NE¼ Section 4; Section 5; Section 6 except S½ SW¼; NE¼, E½ NW¼, NE¼ SE¼ Section 7; N½ Section 8; Section 9 except N½ NW¼, NE¼ NE¼; S½, E½ NE¼ Section 10; SW¼, SW¼ NW¼ Section 11; Section 15; Section 16 except SW¼ SW¼; S½ SW¼ Section 20; E½, S½ SW¼ Section 21; Sections 22–23; S½ NW¼, NW¼ NW¼, SW¼ Section 24; W½ Section 25; Section 26–27; Section 28 except NW¼ NW¼; N½, SE¼ SE¼ Section 29; N½ N½ Section 33; E½ Section 34; Section 35; W½ Section 36.

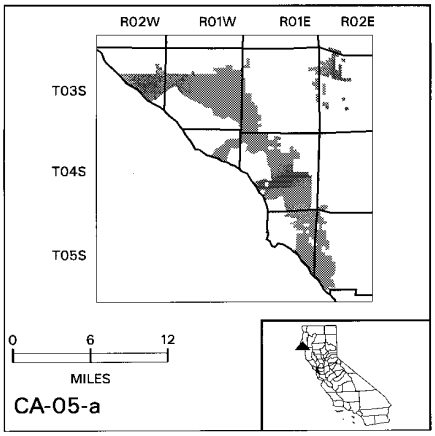
T.04S., R.02E. Humboldt Meridian: S½ SW¼, NE¼ SW¼, NW¼ SE¼ Section 31.

T.05S., R.01E. Humboldt Meridian: Section 1; Section 2 except N½ SW¼; E½ NE¼, SW¼ NE¼ Section 3; NE¼, S½ SE¼, NE¼ NW¼ Section 11; Section 12 except N½ NW¼, NE¼ SW¼; Section 13 except W½ NE¼, SE¼ NE¼, NE¼ SE¼; E½ Section 14; Section 23 East of MHW; Section 24; Section 25 East of MHW.

Description of Lands Using Protracted Public Land Survey Lines

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.05S., R.02E. Humboldt Meridian: Western ½ of the Western ½ of the Township T.05S., R.02E.



Map and description of CA–05–b taken from United States Fish and Wildlife Service 1:100,000 map; Covelo, California; 1995.

Critical Habitat includes only State lands described within the following areas:

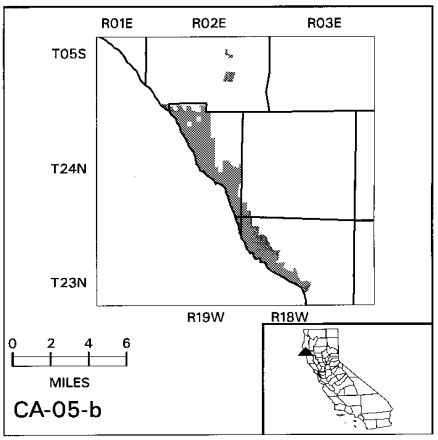
T.24N., R.19W. Mt. Diablo Meridian: W½ W½ Section 2; Section 3 except E½ NW¼; Section 4 except NE¼ NE¼; Section 5; Section 9 above MHW; Section 10; W½ W½, SE¼ SW¼ Section 11; W½ Section 14; Section 15 above MHW; Section 22 above MHW; Section 23 except NE¼, NE¼ SE¼; Section 24 except NE¼ NW¼, N½ NE¼; Section 25 except SW¼ SW¼; Section 26 above MHW; Section 36 above MHW.

T.24N., R.18W. Mt. Diablo Meridian: SW¼ NW¼, SE¼ SW¼, W½ SW¼ Section 31.

T.23N., R.19W. Mt. Diablo Meridian: Section 1 above MHW.

T.23N., R.18W. Mt. Diablo Meridian: Section 5; Section 6 except E½ NE¼ ; Section 7 above MHW; Section 8 except N½ NE¼, SE¼ NE¼, NE¼ SE¼; W½ SW¼, S½ SE¼ Section 15; Section 16 except NE¼ NW¼, NE¼, Section 21 above MHW; N½ Section 22.

T.05S., R.02E. Humboldt Meridian: NW¼ NW¼, SE¼ NW¼ Section 22; NE¼ Section 27.



Map and description of CA–06–a taken from United States Fish and Wildlife Service 1:100,000 map; Garberville and Covelo, California; 1995.

Critical Habitat includes only State lands described within the following areas:

T.05S., R.03E. Humboldt Meridian: SE¼ SE¼ Section 10; SW¼ SW¼ Section 11; Section 13 except NE¼; Section 14 except NW¼ NE¼; Section 15 except SW¼; NW¼ NE¼, NE¼ NW¼ Section 24.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.24N., R.15W. Mt. Diablo Meridian: SW¼ NW¼, W½ SE¼, SW¼ Section 4; Section 5 except W½ SW¼; S½ NE¼ Section 6.

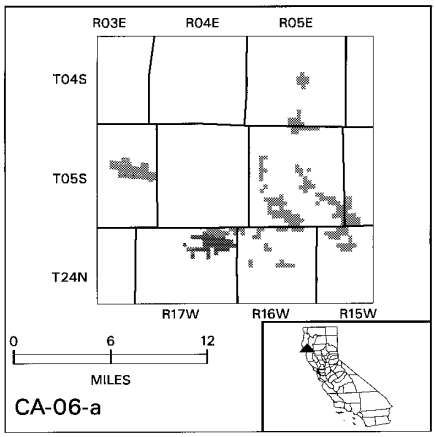
T.24N., R.16W. Mt. Diablo Meridian: N½ NE¼, NE¼ NW¼ Section 3; W½ NW¼, NW¼ SE¼, NE¼ NW¼, S½ SE¼, Section 5; SE¼ NE¼, N½ NW¼, Section 6; W½ SE¼ Section 7; SE¼ SW¼, W½ SE¼, SE¼ SE¼ Section 9; S½ SW¼ Section 10.

T.24N., R.17W. Mt. Diablo Meridian: Section 1 except S½ NE¼, NW¼ NW¼, SE¼ SE¼; Section 2 except SE¼ SW¼; S½ S½, NE¼ SE¼, S½ N½, NE¼ NE¼ Section 3; SE¼ SE¼, NW¼ SE¼ Section 4; W½ NW¼ Section 10; NW¼ NE¼, W½ NW¼ Section 11.

T.05S., R.05E. Humboldt Meridian: N½ NW¼ Section 2; N½ N½, SW¼ NW¼ Section 3; E½ NE¼ Section 4; SE¼ SE¼ Section 7; SW¼ SW¼ Section 8; SW¼ NW¼, N½ SW¼, SE¼ SW¼, NE¼ SE¼, Section 15; NW¼ SW¼ Section 17; E½ E½ Section 18; NE¼ NE¼, SE¼ SE¼ Section 19; NW¼ SW¼ Section 20; W½ NE¼, SE¼ NW¼, NE¼ SW¼, N½ SE¼, SW¼ SE¼ Section 22; NW¼ SW¼ Section 23; S½ NW¼, N½ SW¼, S½ SE¼, NW¼ SE¼ Section 25; NE¼ NW¼, NE¼ SW¼, W½ NE¼, SE¼ NE¼ Section 26; W½ W½, NE¼ SW¼ Section 28; S½ N½, E½ SW¼, N½ SE¼ Section 29; NE¼, NE¼ NW¼ Section 32; NW¼ NE¼, S½ NE¼, NW¼, NE¼ SW¼, SE¼ Section 33; SW¼ NW¼, N½ SW¼, SW¼ SW¼ Section 34; NE¼ NE¼ Section 36.

T.05S., R.06E. Humboldt Meridian: S½ NW¼, SW¼ Section 30; Section 31 except NE¼ NW¼, N½ NE¼, SE¼ NE¼.

T.04S., R.05E. Humboldt Meridian: SE¼ SW¼ Section 15; NW¼, W½ NE¼, NE¼ SW¼ Section 22; SE¼ Section 33; W½ W½, SE¼ SW¼ Section 34.



Map and description of CA–06–b taken from United States Fish and Wildlife Service 1:100,000 map; Covelo, California; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.21N., R.15W. Mt. Diablo Meridian: W½ NW¼ Section 5; Sections 6–7; NW¼ NE¼, N½ NW¼, SW¼ NW¼, N½ S½, SW¼ SW¼ Section 8; W½ W½, SE¼ SW¼, S½ SE¼ Section 17; Section 18.

T.21N., R.16W. Mt. Diablo Meridian: Section 1; N½ NE¼, NE¼ NW¼, SE¼ SE¼ Section 2; E½ NE¼ Section 11; Section 12 except NW¼ SW¼ and S½ SW¼; NE¼, NE¼ SE¼ Section 13.

T.22N., R.14W. Mt. Diablo Meridian: NW¼ SW¼, S½ SW¼ Section 6; Section 7; Section 18 except E½ SE¼; ; SE¼ SE¼ Section 20; SW¼ SW¼, NE¼ SE¼ Section 21; E½ NE¼, W½ NW¼, NE¼ SE¼ Section 28; NE¼, NE¼ NW¼, S½ NW¼, SW¼, NW¼ SE¼ Section 29; S½ NE¼, N½ NW¼, N½ SE¼ Section 32.

T.22N., R.15W. Mt. Diablo Meridian: SW¼ NE¼, S½ Section 1; N½ Section 12; E½ Section 13; NE¼ SW¼, S½ SW¼, W½ SE¼ Section 19; NW¼ NE¼ Section 24; SW¼ NE¼, W½ NW¼, SW¼, W½ SE¼ Section 30; SW¼ NE¼, NW¼ NW¼, S½ NW¼, S½ Section 31.

T.22N., R.16W. Mt. Diablo Meridian: SW¼, SW¼ NW¼, W½ W½ Section 3; Section 4; Section 5 except S½ SE¼, NE¼ SE¼, SE¼ NE¼; E½, E½ W½, S½ SW¼, NE¼ NW¼ Section 6; E½ NE¼, N½ NW¼, SE¼ SW¼, SE¼ Section 7; N½ NE¼, E½ W½, S½ SE¼, SW¼ SW¼ Section 8; Section 9 except N½ NW¼ and SE¼ NW¼; SW¼ NE¼, W½, NW¼ SE¼, S½ SE¼ Section 10; W½ Section 17; Section 18 except N½ NW¼, W½ SW¼; S½ NE¼, NW¼ NE¼ Section 19; NW¼ SW¼ Section 20; SE¼ SE¼ Section 21; S½ SW¼, SW¼ SE¼ Section 22; SE¼ SE¼ Section 23; Section 26; Section 27 except NE¼ NE¼, W½ SW¼, S½ SE¼, SE¼ SW¼; SE¼ Section 34; Section 35.

T.22N., R.17W. Mt. Diablo Meridian: NE¼ NE¼, SW¼ NE¼, SE¼ NW¼, NE¼ SW¼, W½ SE¼ Section 12; S½ SE¼ Section 13; N½ NE¼ Section 24.

T.23N., R.16W. Mt. Diablo Meridian: W½ NW¼ Section 3; NE¼ NE¼ Section 4; SE¼ SW¼, E½ NE¼, NW¼ SE¼ Section 5; W½ W½ Section 6; Section 7 except NW¼; NE¼ NW¼, SW¼ NW¼, SW¼ SW¼ Section 8; W½ Section 17; Section 18 except, N½ NW¼, SW¼ NW¼, W½ SW¼, SE¼ SW¼; S½ SE¼, S½ SW¼, NE¼ SE¼ Section 19; S½ SW¼, NE¼ SW¼, N½ SE¼, SE¼ SE¼ Section 20; NW¼ NW¼, S½ NW¼, SW¼, SW¼ SE¼ Section 28; Section 29; Section 30 except NW¼ NW¼; Section 31 except SW¼ SW¼; Section 32 except SE¼ NE¼, SW¼ SE¼, E½ SE¼; Section 33 except NE¼ NE¼, S½ NW¼; S½ NW¼, N½ SW¼ Section 34.

T.23N., R.17W. Mt. Diablo Meridian: Section 1 except S½ SW¼; NE¼ SE¼ Section 2.

T.24N., R.16W. Mt. Diablo Meridian: SE¼ NE¼, SE¼ NW¼, NW¼ SW¼, SE¼ SW¼,

NE¼ SE¼ Section 17; W½ SE¼, E½ SW¼ Section 18; Section 19 except SW¼ SE¼; W½ NE¼, E½ NW¼ Section 20; S½ NW¼, SW¼ Section 27; Section 28 except N½ N½ and SE¼ SW¼; Section 29 except N½ NE¼, NW¼ NW¼; Section 30 except N½ NE¼; Section 31; Section 32 except SE¼ NE¼ and E½ SE¼; N½ NE¼, NW¼ NW¼ Section 33; NW¼ Section 34.

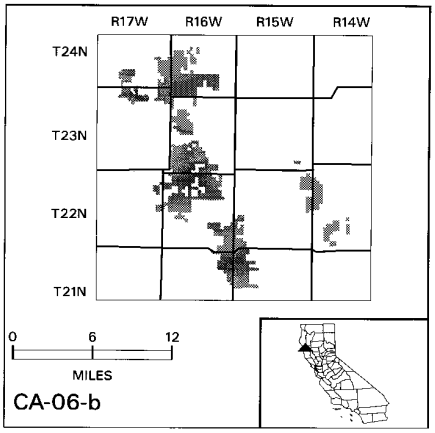
T.24N., R.17W. Mt. Diablo Meridian: NE¼ NE¼ Section 23; Section 24 except NE¼ NW¼, NW¼ NE¼; E½, E½ NW¼, NW¼ NW¼, SW¼ SW¼ Section 25, N½ SE ¼ Section 26, Section 36.

Critical Habitat includes only State lands described within the following areas:

T.21N., R.16W. Mt. Diablo Meridian: SW¼ NE¼, S½ NW¼ Section 26.

T.23N., R.17W. Mt. Diablo Meridian: N½ SW¼, S½ NW¼ Section 2; Section 3 except NE¼, S½ SE¼; E½ NW¼, SW¼ NW¼, NE¼ SE¼, NE¼ Section 4.

T.24N., R.17W. Mt. Diablo Meridian: Section 28 except SW¼ SW¼; NW¼ Section 27; W½ Section 33; SE¼ SW¼ Section 34.



Map and description of CA–07–a taken from United States Fish and Wildlife Service 1:100,000 map; Ukiah, California; 1995.

Critical Habitat includes only State lands described within the following areas:

T.17N., R.14W. Mt. Diablo Meridian: W½ SW¼, NE¼ SW¼ Section 6; W½ NW¼, NW¼ SW¼ Section 7.

T.17N., R.15W. Mt. Diablo Meridian: W½, SE¼ Section 2; Sections 3–8; Section 9 except SE¼ SE¼ ; Section 10 except S½ S½; Section 11; Section 12 except SW¼ SE¼; N½ NE¼ Section 14; Section 18 except SE¼, W½ SW¼.

T.17N., R.16W. Mt. Diablo Meridian: N½ N½ Section 1; Section 3 except W½ W½; Sections 4–6; NE¼, SW¼ Section 7; N½, N½ SW¼ Section 8; N½, N½ SE¼, SE¼ SE¼ Section 9; Section 10 except NE¼ NE¼; Section 18 except SE¼ SE¼; NW¼, W½ SW¼ Section 19; W½ NW¼ Section 30.

T.17N., R.17W. Mt. Diablo Meridian: Sections 1–3; NE¼, SW¼ NW¼, S½ Section 4; NE¼, N½ NW¼, SE¼ NW¼, NE¼ SE¼, S½ S½ Section 5; N½ NE¼ Section 6; Section 8 except W½ SW¼, SE¼ SW¼, SW¼ SE¼; Sections 9–15; SE¼ NE¼, N½ NE¼, NE¼ NW¼, S½ Section 16; S½ Section 17; S½, S½ NE¼ Section 18; NW¼ Section 19; N½ NE¼ Section 20; Section 21 except SE¼ SW¼; Section 22 except E½ SW¼ ; Section 23 except NW¼ SW¼; Section 24; NE¼ NW¼, NW¼ SW¼ Section 26; Section 27 except SW¼ NW¼, SE¼ SE¼, N½ NE¼; Section 28 except NE¼ NE¼, SW¼, S½ SE¼, W½ NW¼.

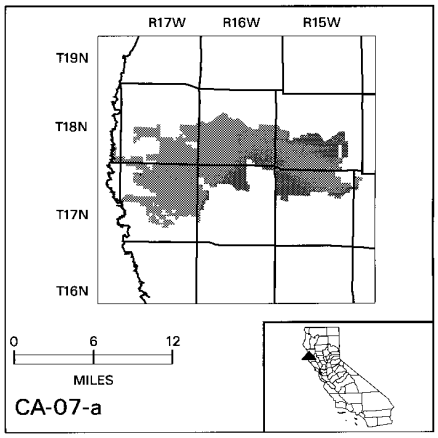
T.17N., R.18W. Mt. Diablo Meridian: SE¼ SE¼ Section 13.

T.18N., R.15W. Mt. Diablo Meridian: SW¼ Section 18; Section 19; SE¼ NE¼, NE¼ SW¼, S½ SW¼, SE¼ Section 20; Section 21; Section 22 except NE¼; Section 23 except N½ NW¼; W½ W½, SE¼ SW¼ Section 24; W½ Section 25; Section 26 except E½ E½; Sections 27–34; Section 35 except NE¼ SE¼.

T.18N., R.16W. Mt. Diablo Meridian: S½ Section 13; SE¼ Section 14; SW¼, W½ SE¼ Section 15; S½ N½, NW¼ NW¼, S½ Section 16; Section 17 except NW¼ NW¼; S½ Section 18; Sections 19–33; Section 34 except E½ SE¼; Section 35 except W½ SW¼, SE¼ SW¼; Section 36.

T.18N., R.17W. Mt. Diablo Meridian: Section 20 except N½ N½, SW¼ SW¼; Section 21 except NW¼ NE¼, N½ NW¼; NE¼, NE¼ SE¼, SW¼ SE¼ Section 23; Section 24; Section 25 except S½ S½, N½ SE¼ ; Section 26 except NW¼ NW¼; Section 27; NE¼ NE¼ Section 28; N½ NW¼, SW¼ NW¼ Section 29; NW¼ SW¼, NE¼ SE¼, S½ S½ Section 31; S½ NE¼, S½ Section 32; S½ N½, N½ S½, SE¼ SE¼ Section 33; Sections 34–36.

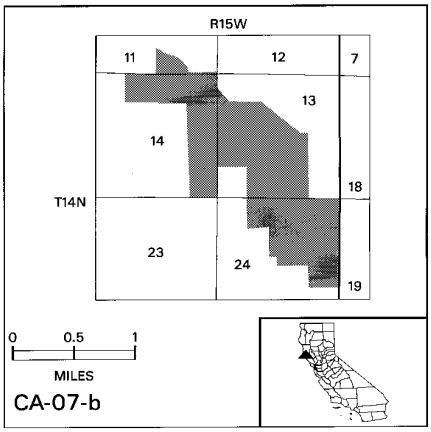
T.18N., R.18W. Mt. Diablo Meridian: SW¼ Section 25; W½, SE¼ Section 36.



Map and description of CA–07–b taken from United States Fish and Wildlife Service 1:100,000 map; Ukiah, California; 1995.

Critical Habitat includes only State lands described within the following areas:

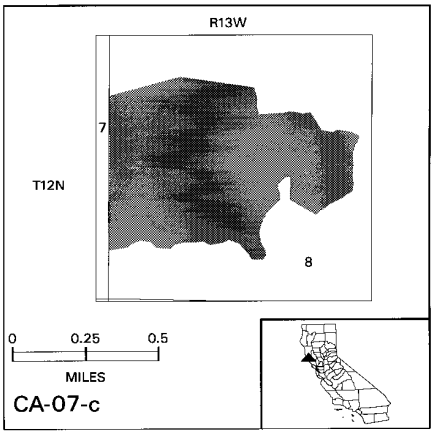
T.14N., R.15W. Mt. Diablo Meridian: E½ SW¼, SW¼ SE¼, SE¼ NW¼ Section 11; Section 13 except E½ E½, NE¼ NW¼, NW¼ NE¼; E½ E½, NE¼, NW¼, NW¼ NE¼ Section 14; NE¼, NE¼ NW¼, N½ SE¼ Section 24.



Map and description of CA–07–c taken from United States Fish and Wildlife Service 1:100,000 map; Point Arena, California; 1995.

Critical Habitat includes only State lands described within the following areas:

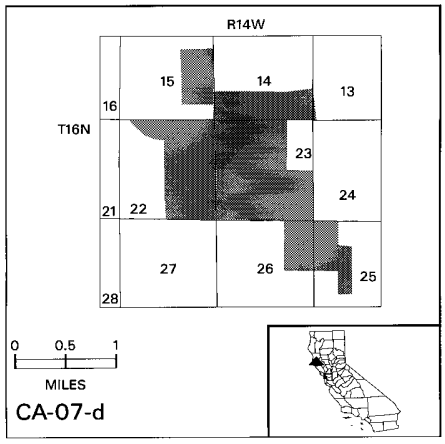
T.12N., R.13W. Mt. Diablo Meridian: S½ NW¼, SW¼, N½ SE¼, SW¼ SE¼, S½ NE¼ Section 8.



Map and description of CA–07–d taken from United States Fish and Wildlife Service 1:100,000 map; Ukiah, California; 1995.

Critical Habitat includes only State lands described within the following areas:

T.16N., R.14W. Mt. Diablo Meridian: S½ S½ Section 14; E½ SE¼, SE¼ NE¼ Section 15; E½ Section 22; Section 23 except E½ NE¼; W½ NW¼, SE¼ NW¼, NE¼ SW¼ Section 25; E½ NE¼ Section 26.



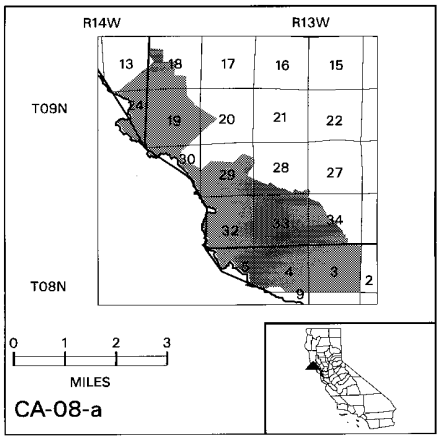
Map and description of CA–08–a taken from United States Fish and Wildlife Service 1:100,000 map; Point Arena, California; 1995.

Critical Habitat includes only State lands described within areas bounded by the following descriptions:

(a) starting at Station H–34 on the easterly line of the German Rancho, South 33° 50′ West for 3,200 feet, South 86° 20' West for 1,927 feet, North 53° West for 1,372 feet, North 37° West for 1,550.5 feet, North 48° East for 1,720 feet, South 86° 45′ East for 2,203.5 feet, North 55° East for 1,110.1 feet, South 8° 50′ East for 653 feet; and (b) starting at the westernmost point of Kruse Rhododendron State Reserve proceeding North 48° East along the Kruse Rhododendron State Reserve boundary to the intersection with Kruse Ranch Road, west on Kruse Ranch Road to the intersection with State Highway 1, north on State Highway 1 to Cannon Gulch, northeast along Cannon Gulch to the Rancho de German Spanish Land Grant boundary, northwest along the Rancho de German Spanish Land Grant boundary to the western edge of Range 13 West, South 29° 30″ from this point to Mean High Water (MHW), southwest along the shoreline at MHW to the south boundary of the Rancho de German Spanish Land Grant, east along the Spanish Land Grant boundary to the southeast corner of the land grant, north on the eastern boundary of the land grant to the eastern corner of the Kruse Rhododendron State Reserve, south along the Kruse Rhododendron State Reserve boundary to the westernmost point of the reserve.

Critical Habitat includes only State lands described within the following areas:

T.09N., R.13W. Mt. Diablo Meridian: SW¼, SW¼ NW¼, SW¼ SE¼ Section 18; NW¼ Section 19.



Map and description of CA–08–b taken from United States Fish and Wildlife Service 1:100,000 map; Point Arena and Healdsburg, California; 1995.

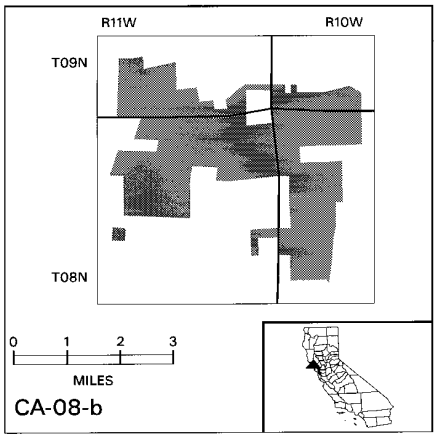
Critical Habitat includes only State lands described within the following areas:

T.08N., R.10W. Mt. Diablo Meridian: NW¼, S½ SW¼ Section 5; Section 6 except N½ SE¼; Section 7 except W½ W½; W½ W½ Section 8; W½ W½ Section 17; Section 18 except W½ SW¼.

T.08N., R.11W. Mt. Diablo Meridian: Section 1 except N½ NE¼; Section 2 except SW¼ SE¼; Section 3 except S½ NW¼, SW¼ NE¼; NE¼, N½ SE¼, E½ NW¼, NE¼ SW¼ Section 10; NW¼, N½ SW¼ Section 11; N½ NE¼, SW¼ NE¼ Section 13; NW¼ NW¼ Section 15.

T.09N., R.11W. Mt. Diablo Meridian: SW¼ SW¼ Section 27; SE¼ SE¼ Section 28; E½ E½ Section 33; Section 34; SW¼, S½ SE¼ Section 35.

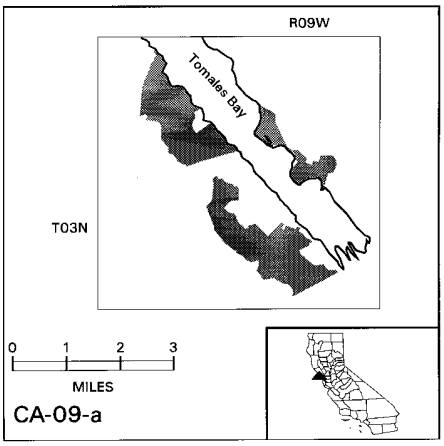
T.09N., R.10W. Mt. Diablo Meridian: SW¼, S½ SE¼ Section 31; SW¼ Section 32.



Map and description of CA–09–a taken from United States Fish and Wildlife Service 1:100,000 map; Napa, California; 1995.

Critical Habitat includes only State lands bounded by the following descriptions:

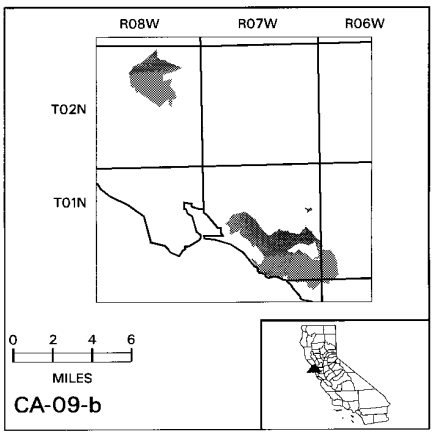
(a) on the west by Point Reyes National Seashore, on the east by the shoreline of Tomales Bay at Mean High Water (MHW), on the south by a line beginning at the intersection of Pierce Point Road with Sir Francis Drake Highway proceeding North 75° 07′03″ East for 4,734.31 feet to the shoreline of Tomales Bay at MHW; (b) on the east and north by Sir Francis Highway, on the west by Point Reyes National Seashore, on the south by the southern boundary of the Punta De Los Reyes (Randall) Spanish Land Grant; (c) State lands within the Nicasio (Halleck) Spanish Land Grant west of State Highway 1 and east of the shoreline of Tomales Bay at MHW; and (d) State lands within the Nicasio (Frink and Reynolds) Spanish Land Grant.



Map and description of CA–09–b taken from United States Fish and Wildlife Service 1:100,000 map; Napa and San Francisco, California; 1995.

Critical Habitat includes only State lands bounded by the following descriptions: (a) portions of Ranchos Nicasio, San Geronimo, and Tomales Y Baulines Spanish Land Grants bounded on the north, west, and south by Golden Gate National Recreation Area and on the east by a line 122° 41′33″ West; and (b) portions of Ranchos Tomales Y Bolinas, Las Baulines, and Sausalito Spanish Land Grants bounded by a line starting at the intersection of the Rancho Las Baulines Spanish Land Grant boundary line with McKinnan Gulch, west along McKinnan Gulch to the Pacific Ocean, south east along the Pacific Ocean at Mean High Water (MHW) to the intersection with Cold Stream, east along Cold Stream to the intersection with State Highway 1, south on State Highway 1 to the intersection with the south end of the Panoramic Highway, following the Panoramic Highway to the intersection with Rattlesnake Creek, north along Rattlesnake Creek to the intersection with the Rancho Sausalito Spanish Land Grant line, southwest along the Spanish Land Grant boundary to the intersection

with the Rancho Las Baulines Spanish Land Grant line, north along the Rancho Las Baulines Spanish Land Grant boundary to the intersection with McKinnan Gulch.



Map and description of CA–10–a taken from United States Fish and Wildlife Service 1:100,000 map; Grants Pass, Oregon; Happy Camp, California; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.17N., R.07E. Humboldt Meridian: Section 1; Section 2 except NW¼ SW¼, S½ SW¼; N½ Section 3; NE¼ NE¼ Section 4; NE¼ SW¼, E½ Section 11; N½ N½, SW¼ NW¼, W½ SW¼ Section 12; NW¼, NW¼ SW¼ Section 13; NE¼, N½ SE¼ Section 14.

T.17N., R.08E. Humboldt Meridian: Section 6 except E½ E½, SW¼ SE¼.

T.18N., R.07E. Humboldt Meridian: Section 30 except NW¼; NE¼, N½ NW¼, Section 31; N½, NW¼ SW¼ Section 32; Section 36.

T.18N., R.08E. Humboldt Meridian: Section 31 except SE¼ SE¼.

T.41S., R.06W. Willamette Meridian: Section 4 except N½ NE¼; Section 5 except N½ NW¼, NW¼ NE¼; SE¼, S½ SW¼ Section 6; Sections 7–8; Section 9 except N½ SW¼, SE¼ SE¼; NW¼ SW¼, W½ NW¼ Section 10; S½, NW¼ Section 16; Sections 17–18.

T.41S., R.07W. Willamette Meridian: Section 10 except W½ NW¼, NE¼ NE¼, NW¼ SW¼; Section 11 except NW¼; Section 12 except NE¼ NW¼, W½ NE¼; Sections 13–15.

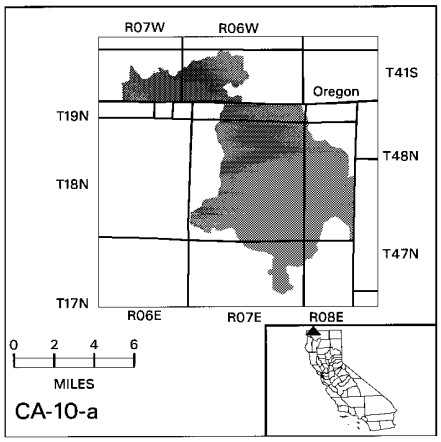
Description of lands using protracted Public Land Survey Lines

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.18N., R.07E. Humboldt Meridian: Section 1–4; E½ Section 5; NE¼, E½ SE¼ Section 8; Sections 9–16; E½ Section 17; SE¼ SE¼ Section 19; E½, S½ SW¼ Section 20; Sections 21–29; E½, N½ NW¼ Section 33; Sections 34–35.

T.18N., R.08E. Humboldt Meridian: SW¼, W½ NW¼, S½ SE¼ Section 6; Section 7; Section 8 except N½ NE¼, N½ NW¼; W½ SW¼ Section 9; W½, S½ SE¼ Section 16; Sections 17–21; Section 28; Section 29 except SW¼ SE¼; Section 30; NW¼ NW¼ Section 32; N½ NW¼, E½ Section 33.

T.19N., R.07E. Humboldt Meridian: E½ Section 32; Sections 33–36.



Map and description of CA–11–a taken from United States Fish and Wildlife Service 1:100,000 map; Hoopa and Hayfork, California; 1995.

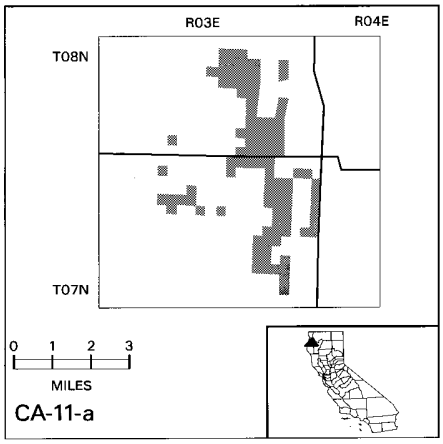
Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.07N., R.03E. Humboldt Meridian: E½ SE¼, W½ SW¼, SE¼ NW¼, SW¼ NE¼ Section 1; E½ NE¼, N½ NW¼, SE¼ Section 2; N½ NE¼, SW¼ NE¼ Section 3; SW¼ SE¼ Section 4; SE¼ NE¼ Section 5; NE¼ NE¼ Section 8; W½ NW¼, NE¼ NW¼, NW¼ NE¼, SE¼ NE¼ Section 9; SE¼ NW¼ Section 10; E½ E½, NW¼ NE¼, SW¼ SE¼ Section 11; W½ W½, E½ E½, SW¼ SE¼ Section 12; W½ SW¼ Section 13; E½ W½, W½ E½, NE¼ NE¼, SE¼ SE¼ Section 14; W½ NW¼ Section 24.

Description of Lands Using Protracted Public Land Survey Lines

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.08N., R.03E. Humboldt Meridian: SE¼, S½ NE¼, SE¼ NW¼, S½ SW¼, NE¼ SW¼ Section 22; SW¼, SW¼ NW¼, E½ SE¼ Section 23; W½, E½ SE¼ Section 26; NE¼ NW¼, N½ NE¼, SE¼ NE¼ Section 27; NW¼ SW¼ Section 33; SE¼ NE¼, SE¼ SE¼, Section 34; Section 35.



Map and description of CA–11–b taken from United States Fish and Wildlife Service 1:100,000 map; Hayfork, California; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.03N., R.02E. Humboldt Meridian: SE¼ NE¼, SW¼ NW¼, N½ N½ Section 1; NE¼, E½ NW¼, N½ SE¼ Section 2.

T.03N., R.03E. Humboldt Meridian: N½ NE¼, SE¼ NW¼, NE¼ SW¼, W½ SE¼, Section 6.

T.03N., R.04E. Humboldt Meridian: W½ NE¼, NW¼ Section 1; Section 2 except SE¼ SE¼; E½ NE¼, SE¼ SW¼, SE¼ Section 3; W½ NE¼, NW¼ Section 5; E½ NE¼ Section 6.

T.03N., R.05E. Humboldt Meridian: NE¼, N½ SE¼ Section 6; SW¼ NW¼, N½ SW¼, SW¼ SW¼ Section 7; NW¼ NW¼ Section 18.

T.04N., R.02E. Humboldt Meridian: S½ SE¼ Section 25.

T.04N., R.03E. Humboldt Meridian: S½ NW¼, NW¼ SE¼, SE¼ SE¼ Section 31.

T.04N., R.04E. Humboldt Meridian: NE¼ Section 1; E½ E½ Section 12; S½ Section 25; SE¼ NW¼, NW¼ SW¼, SE¼ Section 26; S½ NE¼, NW¼, N½ SE¼ Section 27; N½, S½ S½, NE¼ SW¼, NE¼ SE¼ Section 28; SW¼ NW¼ Section 29; S½ NE¼, SW¼, W½ SE¼ Section 30; W½ NE¼, NW¼, N½ SE¼, NW¼ SW¼ Section 31; SE¼ NW¼, SW¼ Section 32; N½ N½, SE¼ NE¼, SE¼ NW¼, NE¼ SE¼ Section 33; Section 34 except N½ NE¼, S½ SW¼; Section 35 except N½ N½.

T.04N., R.05E. Humboldt Meridian: Sections 1–7; S½ S½ Section 8; Sections 9–12; Section 13 except E½ NE¼, E½ SE¼; Section 14; Section 15 except W½ NW¼ and SW¼; NE¼ NW¼, NW¼ NE¼ Section 16; NW¼ SW¼ Section 17; N½, N½ SE¼ Section 18; Section 19 except W½ W½; Section 20; NE¼ NW¼, SW¼ Section 21; NE¼, N½ SE¼, E½ NW¼ Section 22; Section 23; Section 24 except SE¼ SE¼; N½ NW¼ Section 25; NW¼ NE¼, NW¼, NW¼ SW¼ Section 26; NW¼ NW¼ Section 28; Section 29 except S½ NE¼, N½ SE¼, SE¼ SE¼; Section 30; Section 31 except SW¼ SW¼; NW¼, W½ SW¼ Section 32.

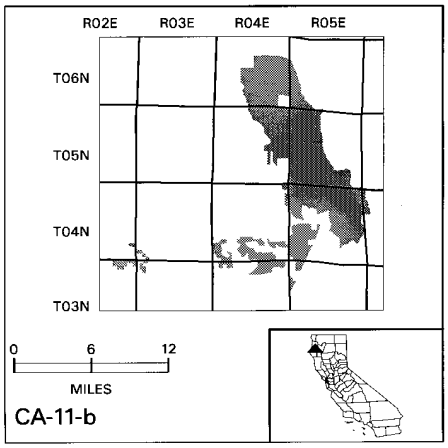
T.04N., R.06E. Humboldt Meridian: W½ W½ Section 6; W½ Section 7.

T.05N., R.04E. Humboldt Meridian: Sections 1–3; E½ NE¼ Section 4; NE¼, N½ NW¼, E½ E½ Section 10; Sections 11–13; Section 14 except SW¼, SW¼ NW¼; Section 23 except W½ SW¼, W½ SE¼; Section 24; N½ NW¼, S½ SE¼ Section 25; E½ NW¼ Section 26.

T.05N., R.05E. Humboldt Meridian: Section 4 except E½; Sections 5–8; Section 9 except E½; Section 16 except E½ E½; Sections 17–20; Section 21 except E½ NE¼; W½ SW¼ Section 22; W½ SW¼ Section 25; S½ Section 26; Section 27 except NE¼, N½ SE¼; Sections 28–35; W½ W½, S½ S½ Section 36.

T.06N., R.04E. Humboldt Meridian: Sections 13–15; Sections 21–27; Section 28 except SW¼ NW¼, NW¼ SW¼; Section 33 except W½ NW¼, SW¼; Sections 34–35.

T.06N., R.05E. Humboldt Meridian: W½, W½ SE¼ Section 18; Section 19 except E½ NE¼; SW¼ SW¼ Section 29; Sections 30–31; Section 32 except NE¼, NE¼ SE¼, NE¼ NW¼.



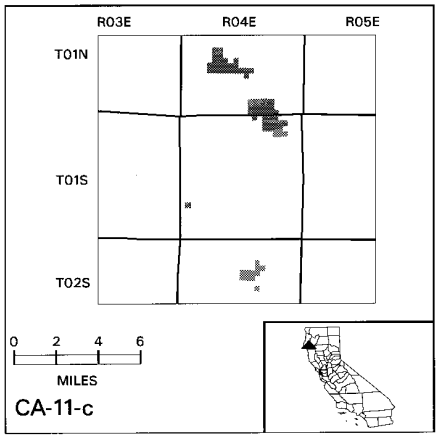
Map and description of CA–11–c taken from United States Fish and Wildlife Service 1:100,000 map; Garberville, California; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.02S., R.04E. Humboldt Meridian: E½ NE¼, SW¼, N½ SE¼, SW¼ SE¼ Section 10; SW¼ NW¼ Section 11; SE¼ NE¼ Section 15.

T.01S., R.04E. Humboldt Meridian: SW¼ NW¼, SW¼ SW¼ Section 1; Section 2 except NE¼ NE¼ and S½ SW¼; NW¼ NE¼ Section 3; SE¼ NW¼ Section 30.

T.01N., R.04E. Humboldt Meridian: S½ SE¼ Section 17; E½, E½ SW¼ Section 20; SW¼ NE¼, SW¼ NW¼, SW¼, NW¼ SE¼, S½ SE¼ Section 21; S½ SW¼ Section 22; SW¼ NW¼ Section 23; NW¼ NW¼ Section 27; S½ NE¼, SE¼ NW¼, E½ SW¼, SE¼ Section 34; S½ NW¼, SW¼, SW¼ SE¼ Section 35.



Map and description of CA–11–d taken from United States Fish and Wildlife Service 1:100,000 map; Hoopa and Hayfork, California; 1995.

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.07N., R.05E. Humboldt Meridian: N½ NE¼ Section 8; NE¼, E½ SE¼, NE¼ NW¼ Section 9; Section 24 except W½ W½; NW¼, NE¼ SE¼ Section 25 ; SW¼ NW¼, W½ SW¼, NW¼, NE¼ SE¼ Section 34.

Description of Lands Using Protracted Public Land Survey Lines

Critical Habitat includes only Federal lands designated as Late Successional Reserves described within the following areas:

T.06N., R.06E. Humboldt Meridian: W½ W½ Section 1; Sections 2–3; Section 4 except W½ SW¼, SE¼ SW¼; NE¼ NE¼ Section 9; SE¼, N½, SE¼ NE¼ Section 10; Section 11 except E½ E½, S½ SE¼; NW¼ NE¼, SW¼ SW¼, N½ SW¼, NW¼ Section 14; NE¼ NE¼, E½ SE¼ Section 15.

T.07N., R.05E. Humboldt Meridian: Sections 1–3; Section 4 except NW¼ NW¼; E½, Section 5; Sections 10–13; N½ N½, SE¼ NE¼ Section 14.

T.07N., R.06E. Humboldt Meridian: W½ NE¼, N½ SW¼ NW¼, NW¼ SE¼ Section 2; Section 3 except S½ SE¼, SE¼ SW¼; Sections 4–8; NW¼, S½ Section 9; SW¼, NW¼ SE¼, S½ SE¼ Section 10; SW¼ SW¼ Section 11; SE¼ SE¼ Section 12; Section 13 except NW¼ NW¼; Sections 14–23; Section 24 except SE¼ SE¼; Section 25 except SE¼ SE¼; Sections 26–30; E½ E½, NW¼ NE¼ Section 31; Section 32 except SE¼ SW¼; Sections 33–35; W½ SW¼, NW¼ Section 36.

T.07N., R.07E. Humboldt Meridian: SW¼ SE¼, SW¼ Section 6; SW¼, NW¼, W½ NE¼ Section 7.

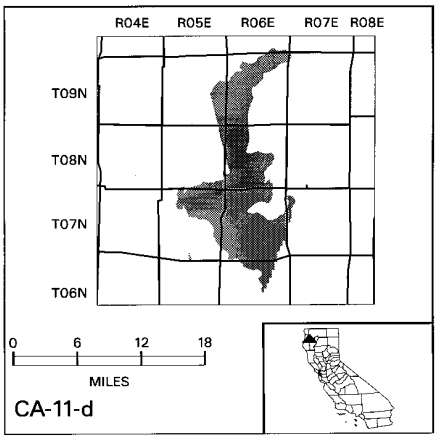
T.08N., R.05E. Humboldt Meridian: E½, E½ NW¼, NE¼ SW¼ Section 1; E½ E½, E½ NW¼ Section 12; NE¼ NE¼ Section 13; SE¼ SE¼ Section 25; SE¼ SE¼ Section 33; SE¼ NE¼, S½ Section 34; S½, S½ N½ Section 35; Section 36 except NW¼ NW¼.

T.08N., R.06E. Humboldt Meridian: W½ W½ Section 4; Sections 5–8; W½ W½ Section 9; S½ SW¼, SW¼ SE¼ Section 14; SW¼, S½ SE¼ Section 15; S½ Section 16; Sections 17–18; Section 19 except W½ W½; Sections 20–22; W½, W½ NE¼, NW¼ SE¼ Section 23; Sections 27–29; Section 30 except W½ NW¼; Sections 31–34; W½ SE¼, SE¼ NW¼, SW¼ Section 35.

T.09N., R.05E. Humboldt Meridian: Section 12; Section 13; E½ SE¼, SE¼ NE¼ Section 14; E½ E½, W½ NE¼, Sections 23–25; E½ NE¼ Section 26; Section 36 except SW¼ SW¼.

T.09N., R.06E. Humboldt Meridian: N½ SW¼ Section 1; Section 2 except SE¼ SE¼; Section 3 except N½ NW¼; N½ Section 4; SE¼, E½ SW¼ Section 5; SE¼, SE¼ NE¼, E½ SW¼ Section 7; Sections 8–9; N½ NE¼, SW¼ NE¼, W½ SE¼, W½ Section 10; Section 16 except SE¼; Sections 17–20; W½ E½, W½ Section 21; NW¼, W½ SW¼ Section 28; Sections 29–32; W½ W½ Section 33.

T.10N., R.06E. Humboldt Meridian: S½ S½, NE¼ SW¼, NW¼ SE¼ Section 35; S½ S½ Section 36.

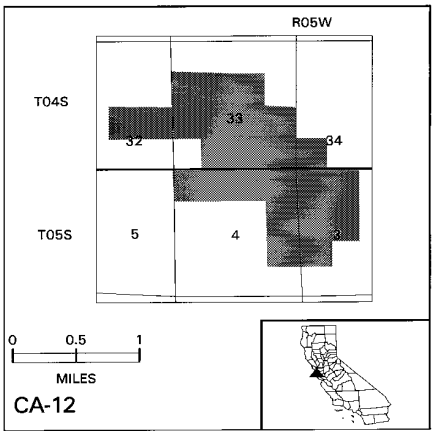


Map and description of CA–12 taken from United States Fish and Wildlife Service 1:100,000 map; California; 1995.

Critical Habitat includes only City lands described within the following areas:

T.04S., R.05W. Mount Diablo Meridian: N½ SE¼ Section 32; S½ NW¼, SE¼, SW¼ NE¼, N½ SW¼, SE¼ SW¼ Section 33; SW¼ SW¼ Section 34.

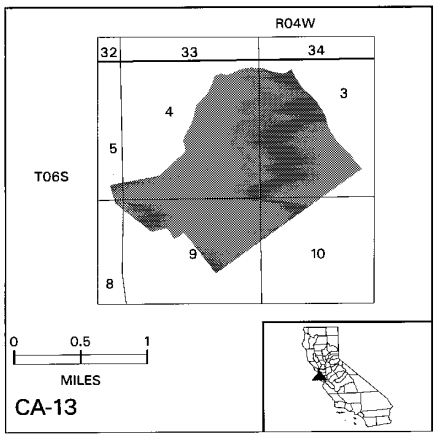
T.05S., R.05W. Mount Diablo Meridian: NW¼, NW¼ SW¼ Section 3; SE¼ NE¼, N½ N½, NE¼ SE¼ Section 4.



Map and description of CA–13 taken from United States Fish and Wildlife Service 1:100,000 map; California; 1995.

Critical Habitat includes only County lands bounded by the following description within Spanish Land Grant Canada de Raymundo:

Starting at the intersection of West Union Creek with the San Francisco State Fish and Game Refuge boundary, west along the San Francisco State Fish and Game Refuge boundary to the intersection with State Highway 35, southeast on State Highway 35 to the intersection with the San Francisco State Fish and Game Refuge boundary, southeast along the San Francisco State Fish and Game Refuge boundary to Woodside City boundary, northeast along Woodside City boundary to the intersection with Greer Road, northwest on Greer Road to the intersection with West Union Creek, north along West Union Creek to the intersection with the San Francisco State Fish and Game Refuge boundary.



Map and description of CA–14–a taken from United States Fish and Wildlife Service 1:100,000 map; California; 1995.

Critical Habitat includes only County lands described within the following areas:

T.07S., R.03W. Mount Diablo Meridian: S½, SE¼ NE¼ Section 31; W½ SW¼, SW¼ NW¼ Section 32.

T.07S., R.04W. Mount Diablo Meridian: S½ NE¼, SE¼ Section 22; S½ SW¼, NW¼ SW¼ Section 23; SW¼, W½ SE¼, S½ NW¼, SW¼ NE¼ Section 25; Section 26 except SW¼, NE¼ NE¼, S½ SE¼, W½ NW¼; E½, SE¼ NW¼ Section 33; S½, SW¼ NW¼ Section 34; Section 35 except N½ N½; Section 36 except E½ NE¼.

T.08S., R.03W. Mount Diablo Meridian: Sections 6–7; S½ S½ Section 8; SW¼ SW¼ Section 9; NW¼ Section 16; N½ N½, SW¼ NW¼ Section 17; N½, N½ SE¼ Section 18.

T.08S., R.04W. Mount Diablo Meridian: Sections 1–2; SE¼ Section 3; NE¼ NE¼, N½ NW¼ Section 10; NE¼, N½ NW¼ Section 11; Section 12 except SW¼ SW¼.

Critical Habitat includes only Private lands described within the following areas:

T.07S., R.04W. Mount Diablo Meridian: N½ NE¼ Section 35.

T.08S., R.04W. Mount Diablo Meridian: S½ Section 4; SE¼ Section 5; Sections 7–8; N½ Section 9; Section 16–18; Section 20 except NW¼, SE¼ SE¼; NW¼ Section 21.

Description of Lands Using Protracted Public Land Survey Lines

Critical Habitat includes only State lands described within the following areas:

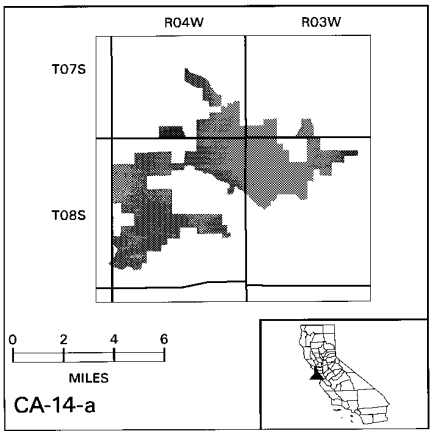
T.07S., R03W. Mount Diablo Meridian: W½ SE¼, SW¼, SE¼ NW¼, SW¼ NE¼ Section 33.

T.08S., R03W. Mount Diablo Meridian: N½ SW¼ Section 2; S½ Section 3; E½ Section 4; S½ NW¼, NW¼ NW¼, SW¼, W½ SE¼ Section 5; Section 8 except SW¼ SW¼; Section 9 except S½ SE¼, NE¼ SE¼, SE¼ NE¼; NW¼ Section 10.

T.08S., R04W. Mount Diablo Meridian: Section 19; S½ SE¼ Section 20; Section 21 except NW¼; Section 22 except SE¼, E½ SW¼; Section 23 except S½ S½; W½ SW¼ Section 24; NW¼, NW¼ NE¼ Section 28; Sections 29–30; N½ Section 32.

Critical Habitat includes only State lands within Rancho Punta del Ano Nuevo Spanish Land Grant bounded by the following description:

Starting at the intersection of Butano Park Road with Cloverdale Road, south along Cloverdale Road to the intersection with Gazos Creek Road, east along Gazos Creek Road to the intersection with Punta del Ano Nuevo Spanish Land Grant boundary, north along the Punta del Ano Nuevo Spanish Land Grant boundary to the intersection with Butano Park Road, west along Butano Park Road to the intersection of Butano Park Road with Cloverdale Road.



Map and description of CA–14–b taken from United States Fish and Wildlife Service 1:100,000 map; California; 1995.

Description of Lands Using Protracted Public Land Survey Lines

Critical Habitat includes only State lands described within the following areas:

T.08S., R.03W. Mount Diablo Meridian: SE¼ SW¼, S½ SE¼ Section 19; S½ SW¼ Section 20; NE¼ NE¼, SW¼ SE¼ Section 26, Section 29 ; Section 30 except NW¼ NW¼; Sections 31–33.

T.08S., R.04W. Mount Diablo Meridian: SE¼, S½ SW¼ Section 25; S½ Section 35; Section 36.

T.09S., R.03W. Mount Diablo Meridian: NW¼ Section 3; Sections 4–8; SE¼ NW¼, SW¼, N½ NE¼, SE¼ NE¼, N½ SE¼, SE¼ SE¼ Section 9; S½ SW¼, NW¼ SW¼, Section 10; NW¼ Section 15; NE¼, N½ SE¼ Section 16; W½ NW¼ Section 17; Section 18; N½ NW¼, SE¼ NW¼, N½ SW¼ Section 19; S½ NE¼, NW¼ SE¼, SE¼ SE¼ Section 30; S½ N½, NE¼ NE¼ Section 31.

T.09S., R.04W. Mount Diablo Meridian: Sections 1–2; Section 3 except N½ NW¼, E½ SW¼; NW¼ NE¼, SE¼ NE¼ Section 4; SE¼, S½ SW¼, NE¼ SW¼, S½ NE¼ Section 9; Section 10 except NW¼; Sections 11–12; Section 13 except SW¼ SE¼; Section 14; Section 15 except SE¼ SE¼; Section 16; NE¼ NE¼ Section 21; Section 22 except SW¼ SE¼, SE¼ SW¼; Section 23; Section 24; N½ NW¼, SE¼ SE¼, SE¼ SW¼ Section 25; W½, W½ E½ Section 26; Section 27 except NW¼ NW¼; Section 34; NE¼ NW¼, W½ W½ SE¼ SW¼ Section 35.

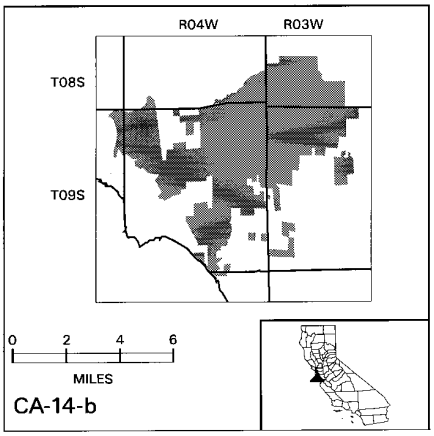
T.10S., R.04W. Mount Diablo Meridian: Sections 2–3.

Critical Habitat includes only Private lands described within the following areas:

T.09S., R.04W. Mount Diablo Meridian: Section 16; Section 21 except S½, E½ NE¼.

Critical Habitat includes only State lands bounded by the following description within Spanish Land Grant Punta de Ano Nuevo:

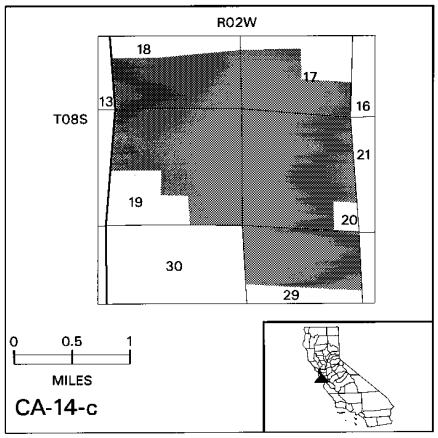
Starting at the intersection of the Spanish Land Grant boundary with Green Oaks Creek, north along the Spanish Land Grant boundary to the intersection with Gazos Creek, west along Gazos Creek to the intersection with State Highway 1, south on State Highway 1 to the intersection with Green Oaks Creek, and east along Green Oaks Creek to the Spanish Land Grant boundary.



Map and description of CA–14–c taken from United States Fish and Wildlife Service 1:100,000 map; California; 1995.

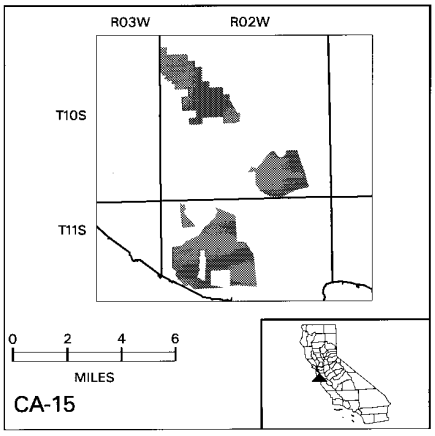
Critical Habitat includes only State lands described within the following areas:

T.08S., R.02W. Mount Diablo Meridian: SW¼, S½ SE¼ Section 17; S½ Section 18; Section 19 except S½ SW¼, NW¼ SW¼; Section 20 except SE¼ SE¼; N½ Section 29.



Map and description of CA–15 taken from United States Fish and Wildlife Service 1:100,000 map; California; 1995.

Critical Habitat includes only State lands described within the following areas:



T.10S., R.02W. Mount Diablo Meridian: S½ S½, NW¼ SW¼ Section 6; Section 7 except S½ SW¼, ; SW¼, S½ NW¼, SW¼ SE¼, NW¼ NW¼ Section 8; SW¼, S½ NW¼, NW¼ NW¼, S½ SE¼, NW¼ SE¼ Section 16; Section 17 except SW¼ SW¼; SE¼ NE¼, NE¼ SE¼ Section 18; N½ NW¼ Section 20; NE¼, E½ NW¼ Section 21.

Critical Habitat includes only State lands within the following area:

Spanish Land Grant Canada del Rincon en el Rio de San Lorenzo de Santa Cruz west of Graham Hill Road.

Critical Habitat includes only State lands bounded by the following description within Spanish Land Grant Rancho Refugio:

Starting at the intersection of State Highway 1 with the western boundary of the Rancho Refugio Spanish Land Grant, proceeding east on State Highway 1 to its intersection with Moore Creek, north along Moore Creek to the intersection with Empire Grade Road, northwest on Empire Grade Road to the intersection with the eastern boundary of the Rancho Refugio Spanish Land Grant, west and then southwest along the Rancho Refugio Spanish Land Grant boundary to the intersection with State Highway 1.

* * * * *

Dated: May 15, 1996.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–12647 Filed 5–23–96; 8:45 am]

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May 24, 1996

Part III

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1915

Personal Protective Equipment for Shipyard Employment; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1915

[Docket No. S–045]

RIN 1218–AA74 (AB06)

Personal Protective Equipment for Shipyard Employment (PPE)

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final Rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is revising its standards for Personal Protective Equipment (PPE) for Shipyard Employment, 29 CFR part 1915, subpart I. The final rule updates, reorganizes, and simplifies shipyard employment PPE standards into a comprehensive framework that encompasses the shipbuilding, ship repair, and shipbreaking industries. Where appropriate, the final rule deletes existing specification-oriented provisions that limit employer innovation and incorporates performance-oriented language.

EFFECTIVE DATES: The final rule becomes effective August 22, 1996 except for §§ 1915.152(b), 1915.152(e), 1915.159(d), 1915.160(d), will not become effective until an Office of Management and Budget (OMB) Control number is received and displayed for these ''collections of information'' in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The incorporations by reference of certain publications listed in this final rule is approved by the Director of the Federal Register as of August 22, 1996.

Other Dates: Written comments on the paperwork requirements of this final rule must be submitted on or before July 23, 1996.

ADDRESSES: In compliance with 28 U.S.C. 2112(a), the Agency designates the Associate Solicitor for Occupational Safety and Health, Office of the Solicitor, Room S–4004, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 for receipt of petitions for review of the standard.

Comments on the paperwork requirements of this final rule are to be submitted to the Docket Office, Docket No. S–045, U.S. Department of Labor, Room N–2625, 200 Constitution Ave., NW., Washington, DC 202l0, telephone (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Ms. Anne C. Cyr, Acting Director, Office of Information, Division of Consumer Affairs, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Telephone (202) 219–8151.

SUPPLEMENTARY INFORMATION:

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I. Background

In May 1971, the Occupational Safety and Health Administration (OSHA), under authority granted by section 6(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), adopted Federal standards issued under section 41 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), as standards applicable to ship repairing (29 CFR part 1915), shipbuilding (29 CFR part 1916), and shipbreaking (29 CFR part 1917) operations. OSHA also adopted other Federal standards and national consensus standards as general industry standards (29 CFR part 1910) and construction industry standards (29 CFR part 1926), which apply to shipyard hazards and working conditions not specifically covered by standards in parts 1915, 1916, or 1917.

On April 20, 1982 (47 FR 16984), the ship repairing, shipbuilding, and shipbreaking standards were consolidated into 29 CFR part 1915 ''Occupational Safety and Health Standards for Shipyard Employment.'' The purpose of the consolidation was to eliminate duplicative provisions. The consolidation did not alter substantive requirements of these standards, nor did it affect the applicability of the general industry and construction standards in 29 CFR parts 1910 and 1926, respectively, to hazards or conditions in shipyard employment not addressed in the consolidated part 1915.

Later in 1982, the Shipbuilders Council of America (SCA) and the American Waterways Shipyard Conference (AWSC) requested that OSHA identify the specific provisions of the general industry standards that apply to shipyards and then consolidate them into the existing part 1915 provisions, making one set of shipyard employment standards. OSHA agreed that such consolidation was appropriate, and decided to begin work on a subpart-by-subpart basis.

As part of that effort, OSHA published a Notice of Proposed Rulemaking (NPRM) in the Federal Register for subpart I of part 1915 (Personal Protective Equipment (PPE), November 29, 1988, 53 FR 48092). In particular, the proposed rule updated the pertinent references to national consensus standards, incorporated § 1910.134 (respiratory protection) by reference to replace the less comprehensive provisions in § 1915.152, and added requirements for hazard assessment, training, fall protection systems, and positioning device systems. OSHA received 10 comments in response to the NPRM. Those comments are discussed in the Summary and Explanation section of this document, below.

A short time after the November 1988 publication of the proposed rule on PPE, the Shipyard Employment Standards Advisory Committee (SESAC) was established. SESAC was chartered to provide OSHA with guidance in revising, consolidating, and modernizing the varying sets of regulations that were being applied in the shipyard industry to produce a truly vertical standard for all shipyard employment. The intended result of this activity was the development of a single set of occupational safety and health standards for shipyard employment that would cover vessels, vessel sections and related activities. The newly developed shipyard employment standards would apply to all shipyard employment. SESAC provided OSHA with comments on PPE-related issues, and their comments are discussed in the Summary and Explanation below.

Following publication of the proposed 1915 shipyard PPE standard, OSHA initiated two rulemakings to address General Industry Personal Protective Equipment (PPE) standards. The first of these PPE rulemakings (NPRM at 54 FR 33832, August 16, 1989) covered all PPE (such as eye, face, hand, and foot) other than respiratory protection, electrical protective equipment, personal protective systems, and positioning device systems. The Agency published the final rule for this rulemaking on April 6, 1994 (59 FR 16334). The Agency also initiated a second general industry rulemaking to add requirements for personal fall arrest systems and positioning systems to the general industry PPE standards (Docket S–057; NPRM at 55 FR 12323, April 10,

1990). This rulemaking had not yet been concluded.

The Agency determined that the information in the above-noted rulemaking records was relevant to the issues raised in the Shipyard PPE proposal. Accordingly, on July 6, 1994, OSHA reopened the Shipyard PPE rulemaking record (59 FR 34586) to incorporate the General Industry PPE dockets and to allow the public an opportunity to comment. The Agency indicated that it was considering more detailed guidance regarding: Adequate training requirements; verification of the proposed hazard assessment and training requirements through written certification; and prohibition of the use of body belts and non-locking snaphooks. OSHA subsequently revised its requirements for fall protection in construction (final rule at 59 FR 40672, August 9, 1994). The final rule, containing requirements for personal fall protection equipment similar to those in the shipyard PPE proposal, prohibited the use of body belts in personal fall arrest systems (PFAS) (§ 1926.502(d) introductory text) and the use of non-locking snaphooks in PFAS (§ 1926.502(d)(5)) and in positioning systems (§ 1926.502(e)(7)). Those prohibitions take effect on January 1, 1998.

The shipyard PPE reopening comment period ended August 22, 1994. OSHA received 13 comments, including one hearing request. Those comments are discussed in the Summary and Explanation section below.

In lieu of a hearing, OSHA agreed to hold an informal public meeting (59 FR 64173, December 13, 1994) to allow comments and testimony on the issues raised in the reopening. At the public meeting on January 25, 1995, there were five oral presentations and five written submissions, which are discussed in the Summary and Explanation section. The rulemaking record closed on February 28, 1995.

II. Workplace Hazards

OSHA has determined that employees in shipyards are exposed to a significant risk of injury from hazards that can be mitigated by the use of suitable personal protective equipment. OSHA has also concluded that compliance with the final standard will substantially reduce employee exposure to PPE-related hazards.

The shipyard industry has had one of the highest rates of injuries of any industry for many years. In 1992, the shipyard industry, SIC 3731, had an injury rate of 34.2 per 100 full-time employees (''Occupational Injuries and Illnesses: Counts, Rates, and Characteristics, 1992,'' published by the Bureau of Labor Statistics in April, 1995). Approximately half of these injuries were severe enough to result in lost time from work. These numbers mean that a shipyard employee has about a 1 in 3 chance (34 percent) of experiencing an injury at work *annually* and a 1 in 10 chance every year of being injured seriously enough to require time away from work to recuperate.

In comparison, the average annual risk of injury for all employees in the United States was about 9 per 100 full-time employees in 1992; for the manufacturing sector of the economy, the annual injury rate was about 11 per 100 full-time employees.

Table 1 presents estimates of lost-workday injuries by body part based on 1992 Bureau of Labor Statistics (BLS) data. These estimates are consistent with injury data from a Department of Transportation Maritime Administration survey and the Agency's analysis of OSHA 200 Forms (discussed further in the Benefits section of the summary of the Economic Analysis, presented later in this Preamble). Table 2 presents BLS lost workday injury data by nature of injury.

TABLE 1.—BLS ESTIMATES OF SHIPYARD INJURIES INVOLVING LOST WORKDAYS BY BODY PART

Body part	Number of 1992 injuries (a)	Number of extrapolated 1994 injuries (b)	Percent (%)
Head, unspecified	73	63	0.6
Ear(s)	0	0	0.0
Eyes(s)	1,080	925	9.4
Face	51	44	0.4
Scalp	91	78	0.8
Neck	350	300	3.0
Arm(s) unspecified	49	42	0.4
Elbow	265	227	2.3
Forearm	128	110	1.1
Wrist	478	409	4.1
Hand(s)	508	435	4.4
Finger(s)	720	617	6.2
Upper extremities, multiple	0	0	0.0
Trunk, unspecified	0	0	0.0
Abdomen	88	75	0.8
Back, unspecified	954	817	8.3
Back, lumbar	1,198	1,026	10.4
Back, thoracic	168	144	1.5
Chest	289	247	2.5
Hip	306	262	2.7
Shoulder(s)	601	515	5.2
Trunk, multiple parts	0	0	0.0
Lower extremities, unspecified	0	0	0.0
Leg(s), unspecified	59	51	0.5
Thighs	89	76	0.8
Knee(s)	1,073	919	9.3
Lower leg(s)	123	105	1.1
Leg(s), multiple	0	0	0.0
Ankle(s)	624	534	5.4
Foot/feet	488	418	4.2
Toe(s)	123	105	1.1
Lower extremities, multiple	0	0	0.0

TABLE 1.—BLS ESTIMATES OF SHIPYARD INJURIES INVOLVING LOST WORKDAYS BY BODY PART—Continued

Body part	Number of 1992 injuries (a)	Number of extrapolated 1994 injuries (b)	Percent (%)
Multiple body parts	674	577	5.8
Circulatory system	0	0	0.0
Digestive system	0	0	0.0
Excretory system	0	0	0.0
Nervous system	0	0	0.0
Respiratory system	0	0	0.0
Body parts, NEC	163	140	1.4
Not identified by body part	720	617	6.2
Total	11,533	9,876	100.0

(a) Bureau of Labor Statistics. Survey of Occupational injuries and illnesses, 1
(b) Extrapolation based on decline in shipyard employment of 14.4 percent bet 1992 and 1994.

TABLE 2.—BLS ESTIMATES OF SHIPYARD INJURIES INVOLVING LOST WORKDAYS, BY NATURE OF INJURY

Nature of injury	Number of 1992 injuries (a)	Number of extrapolated 1994 injuries (b)	Percent (%)
Amputation	0	0	0.0
Burn (heat)	410	351	3.6
Burn (chemical)	80	69	0.7
Concussion	0	0	0.0
Infective/parasitic disease	NA	NA	NA
Contusion/bruise	2,085	1,785	18.1
Cut/laceration/puncture	622	533	5.4
Dermatitis	0	0	0.0
Dislocation, unspecified	88	75	0.8
Electric shock	0	0	0.0
Fracture	558	478	4.8
Low temperature exposure	NA	NA	NA
Hearing loss or impairment	0	0	0.0
Inflammation of joints	114	98	1.0
Poisoning	114	98	1.0
Radiation effects	213	182	1.8
Scratches/abrasions	728	623	6.3
Sprains/strains, unspecified	5,044	4,319	43.7
Torn ligaments	NA	NA	NA
Sprains/strains, NEC	NA	NA	NA
Multiple injuries	308	264	2.7
Circulatory system condition	0	0	0.0
Eye diseases	0	0	0.0
Nervous system condition	255	218	2.2
Respiratory system condition	0	0	0.0
Ill-defined condition	0	0	0.0
Other injury, NEC	216	185	1.9
Not identified by nature	698	598	6.1
Total	11,533	9,876	100.0

(a) Bureau of Labor Statistics. Survey of Occupational Injuries and Illnesses, 19
(b) Extrapolation based on decline in shipyard employment of 14.4 percent between 1992 and 1994.
NA: Not applicable. Nature of injury category not incuded in BLS tabulations.

Shipyard employment typically involves fabrication and repair of large steel plates, beams, and pipes as well as painting and coating operations and other outfitting activities such as electrical work, ventilation and sheet metal work, and work on propulsion systems. Welding is a common production technology, requiring grinding and chipping of welds and accounting for many eye injuries. Employees also frequently work in awkward positions, out-of-doors throughout the year, on scaffolds, and in enclosed or confined spaces. The shipyard industry's relatively high employment turnover rate contributes to the high rates of injuries, because newly hired workers tend to be less well trained and have a higher frequency of accidents.

The Agency has concluded that PPE-related hazards pose a significant risk of serious injury to shipyard employees, and that compliance with the PPE standard is needed to substantially reduce that risk. The Agency has estimated that compliance with the final PPE regulation will significantly reduce the likelihood of an injury—from 34.2 to 21 per 100 full-time employees per year.

For a full discussion of the benefits of the final standard see the summary of the Economic Analysis presented below in this preamble or the full Economic Analysis, which is in the docket.

III. Summary and Explanation of Final Rule

In this section of the preamble, OSHA explains how the final rule relates to the proposed and existing standards, and

how the comments and testimony presented on each provision influenced the drafting of the final rule. This section also addresses issues raised in the July 6, 1994, reopening notice and the December 13, 1994, public meeting notice. Except where otherwise indicated, proposed provisions that did not elicit comments are being promulgated as proposed, for reasons stated in the preamble to the proposed rule (53 FR 48151–48158).

As discussed above, on April 6, 1994, OSHA issued a final rule for its rulemaking on PPE used in general industry (59 FR 16334) (part 1910, subpart I, Docket S–060). That document updated the regulation of PPE for eye and face (§ 1910.133), head (§ 1910.135) and foot protection (§ 1910.136), and added provisions for hazard assessment, PPE selection, disposal and training (§ 1910.132 (d)–(f)), and hand protection (§ 1910.138). The proposed rule (54 FR 33832, August 16, 1989) was consistent with the corresponding proposed rule for shipyard PPE. However, based on the rulemaking record, OSHA revised the general industry proposal to address training and the documentation of compliance with the hazard assessment and training requirements in more detail. Given the similarity of the PPE used in general industry and shipyard employment, OSHA determined that the information generated in this general industry rulemaking was relevant to the drafting of the shipyard PPE standards, as well.

Also, proposed part 1910 subpart I, PPE (Fall Protection Systems) (55 FR 13423, April 10, 1990) set criteria for the proper selection, use and maintenance of personal fall arrest systems (§§ 1910.128, 1910.129, and 1910.131) and positioning device systems (§§ 1910.128 and 1910.130) in general industry. The part 1910 subpart I proposal relied heavily on the approach taken by the Agency in its final rule on Powered Platforms for Exterior Building Maintenance, § 1910.66 (54 FR 31456, July 28, 1989, Docket S–700A). In the Preamble to the 1910 subpart I proposal, OSHA determined that the requirements for personal fall arrest systems used by employees on powered platforms should be the same as those for personal fall arrest systems used by employees in other occupations (55 FR at 13430).

Based on the record developed for the general industry fall protection PPE rulemaking (Docket S–057), OSHA decided that it was appropriate to consider prohibiting the use of non-locking snaphooks in personal fall arrest and positioning device systems and to consider prohibiting the use of body belts in personal fall arrest systems. Recently, the Agency included such prohibitions in the final rule for fall protection in construction (59 FR 40672, August 9, 1994). As stated above, the Agency has determined that OSHA's fall protection PPE standards should be consistent with each other.

Therefore, based on its policy of promoting consistent regulation of PPE across industry lines, the Agency concluded that the information generated on PPE in general industry was relevant to the use of that PPE in shipyards, as well.

Accordingly, OSHA incorporated Dockets S–057 and S–060 into the shipyard PPE rulemaking record and reopened the comment period for part 1915 subpart I to provide an opportunity for public comment on the newly incorporated materials (59 FR 34586, July 6, 1994). The Agency provided additional opportunity for public input on these materials (59 FR 64173, December 13, 1995) at an informal public meeting on January 25, 1995.

In addition, OSHA has added certain personal fall arrest criteria, § 1910.159 (a)(4), (a)(5), (a)(7), (c)(2), (c)(3) and (c)(7) to the final rule, because the need for such requirements has been established through the corresponding General Industry and Construction rulemaking proceedings. These requirements are discussed further, below.

OSHA has concluded that the PPE needed in shipyard employment does not differ markedly from that needed in general industry or in construction, and that the standards covering PPE should not differ markedly either. The final rule reflects this determination and incorporates OSHA's review of the existing rulemaking record, including the materials incorporated from other PPE-related dockets.

Section 1915.151 Scope, Application, and Definitions Applicable to This Subpart

Final rule paragraph (a) sets forth the scope and application of Subpart I. This subpart applies to all work in shipyard employment, regardless of geographic location. This language is consistent with that in recently published part 1915 subpart B [§ 1915.11(a)][59 FR 37816, July 25, 1994].

Proposed paragraph (a)(1) stated that this subpart would cover PPE provided for and used by shipyard workplaces and operations (including shipbuilding, ship repairing, and shipbreaking), but would not apply to construction operations in shipyards covered by part 1926.

Newport News Shipbuilding (NNS) stated [Ex. 6–2] that the term ''provided'' should be changed to ''made available'' because the suggested language was consistent with that in existing § 1915.153 and with current industry practice. However, the Agency has deleted the proposed language, ''personal protective equipment to be provided for and used by employees'' because it believes that requirements for the provision and use of PPE are more appropriately addressed in § 1915.152, General Requirements.

The Shipbuilding Council of America (SCA) (Ex. 6–1) and NNS (Ex. 6–2) stated that part 1926 (OSHA's construction industry standards) should not apply to employees of shipyards who perform construction work since one of the objectives of the rulemaking was to bring uniformity to the workplace by providing employees and employers with one set of safety standards to govern their work. SCA suggested that part 1926 apply only to construction work performed in shipyards by outside contractors (non-shipyard employees). OSHA believes, however, that it is inappropriate to distinguish between shipyard employees and contractor employees when setting requirements for worker protection. Therefore, OSHA is not making the suggested change.

The Agency has consistently maintained that construction activities, such as the erection of building structures, are covered by the construction standards (29 CFR part 1926) and are not subject to the requirements of the shipyard standards (29 CFR part 1915). Furthermore, § 1926.30, *Shipbuilding and ship repairs*, explicitly provides that shipyard employment is covered exclusively by the shipyard standards. Accordingly, the proposed paragraph (a)(1) language regarding the application for part 1926 in unnecessary and has been deleted.

Proposed paragraph (a)(2) provided that subpart I of part 1910—except § 1910.134, Respiratory protection—would not apply to shipyard employment. Since OSHA has chosen to view respirators as a separate, full rulemaking [59 FR 58884 November 15, 1994] which will apply to shipyard employment as well as general industry, the final shipyard PPE standard will continue to reference existing § 1910.134 for respiratory PPE until the shipyard respirator rulemaking is complete. In all other respects, subpart I of part 1915 will be a self-contained set of PPE standards for shipyard employment. It will not be

supplemented through reference to the General Industry standards.

Paragraph (b), Definitions

Paragraph (b) defines the terms used in this standard.

The proposed definitions paragraph did not include a number of terms and definitions that OSHA has used, or proposed to use, in other standards that address fall protection PPE [e.g., Powered Platforms for Building Maintenance 29 CFR 1910.66 (July 28, 1989 54 FR 31408); Fall Protection in Construction part 1926, subpart M (51 FR 42718, Aug. 9, 1994); and General Industry PPE-Fall Protection, proposed 1910.128(b), subpart I (55 FR 13423 April 10, 1990)].

The new terms and definitions included in paragraph (b) are: anchorage, connector, deceleration distance, equivalent, free fall, free-fall distance, lanyard, lifeline, lower levels, rope grab, and self-retracting lifeline/lanyard. Newly defined terms, revised terms, and proposed terms that elicited comments are discussed below. OSHA has determined that the inclusion of these definitions is appropriate for the purpose of clarity and to provide guidance consistent with that set in corresponding standards. In addition, as discussed further below, OSHA is adding a definition for the term ''qualified person.''

The proposed term ''capable person'' will be replaced by the more familiar term ''qualified person'' in the final rule. SESAC also recommended using ''qualified person'' in the regulatory text (Tr. p. 84–85, SESAC meeting, November 20, 1991).

''Deceleration device.'' This term describes equipment such as a rope grab, ripstitch lanyard, specially woven lanyard, tearing or deforming lanyard, and automatic self-retracting lifeline/lanyard, that serves to dissipate a substantial amount of energy during a fall arrest or otherwise limit the energy imposed on an employee during fall arrest. The proposed definition simply required that the device dissipate more energy than does a standard line or strap-webbing lanyard. After a careful review of the proposed definition, OSHA has revised the definition to indicate the extent to which a deceleration device must dissipate the energy imposed on an employee during fall arrest.

''Personal fall arrest system.'' This term means a system used to stop an employee's fall. The proposed definition, which was effectively identical, did not elicit comments.

''Positioning device system.'' This is a body belt or body harness system rigged so that an employee can work on an elevated, vertical working surface with both hands free while leaning. The proposed definition has been rewritten for clarity. OSHA did not receive any comments on the proposed definition.

The proposed definition of ''strength factor'' has not been carried forward into the final rule because this term is not used in the final rule.

Section 1915.152 General Requirements

Paragraph (a) of the final rule, Provision and use of equipment, requires that employers provide and ensure that employees use personal protective equipment for eyes, face, head, extremities, torso, and respiratory system, including such PPE as protective clothing, protective shields and barriers, personal fall protection equipment, and life saving equipment, whenever such PPE is necessary for employee protection. Except for some editorial changes, this provision is identical to that in the proposed rule.

Paragraph (b) requires that employers assess the work activities in the shipyard to identify what hazards are present, or are likely to be present, which necessitate the use of PPE. OSHA is aware that many shipyard employers assess workplace hazards according to the trade or occupation of affected employees. The Agency believes that it is appropriate to allow employers flexibility in organizing their assessment efforts. Therefore, OSHA has added a note to the final rule which provides that a hazard assessment conducted according to the trade or occupation of affected employees will be considered to comply with paragraph (b), if the assessment addresses any PPE-related hazards to which employees are exposed in the course of their work activities.

Where any such hazards are identified, the employer shall select the appropriate PPE for each affected employee (both in terms of type of PPE and fit), communicate selection decisions to affected employees, and document that the hazard assessment has been performed. After the assessment has been done, the standard does not expressly require the employer to review the hazard assessment on any periodic basis. However, it is the Agency's intent that hazard assessments be conducted at the intervals and on a schedule dictated by the risks in the workplace. For example, when there is a change in technology, production operations, or an occupation's task that has the potential to affect PPE-related hazards, the employer must review the appropriateness of the existing hazard assessment and the PPE being used and update the hazard assessment as necessary.

In the proposal, this paragraph required that employers select PPE for their employees based on an assessment of workplace hazards. Commenters who responded to the July 6, 1994 notice (59 FR 3486) and participants at the January 25, 1995 public hearing stated that the term ''workplace'' that appeared in the requirement for hazard assessment in proposed section § 1915.152(b) was not appropriate. They suggested that OSHA instead use the term ''trade'' or ''work activity.''

For example, the South Tidewater Association of Ship Repairers, Inc. (Ex 9–3) recommended that OSHA change ''workplace to ''work activity'' or ''trade.'' Tampa Shipyards Incorporated (Ex. 9–8) stated:

> We would definitely agree that PPE used in general industry does not differ markedly from PPE used in the shipyards. We would point out the fact that work environment in shipyards is substantially and drastically different from general industry work environment. Most of the general industry work environment is a fixed work environment; manufacturing plant with assembly lines, consistent work processed, etc. The commercial shipyard work environment changes not only on a daily basis but sometimes on an hourly basis depending upon the size and configuration of a ship (or workplace) and the type of work to be accomplished on board that ship.

The Shipbuilders Council of America (Ex. 9–7) stated:

> We believe that standards should be based on generic and uniform nature of the duties performed by specific categories of employees, rather than solely by the workplace * * * shipyard workplace that is neither fixed, nor constant, nor readily quantifiable like workplaces in all other industries.

In addition, the Shipbuilders Council of America (Tr. pp. 8–9) testified that:

> The general industry standard is specifically targeted toward fixed facilities and processes, unlike commercial ship repair and ship building. Now the definition of workplace differs greatly from a manufacturing environment to a commercial ship repair facility. Workplace is used throughout the general industry PPE standard. By definition, workplace means, and I quote out of the Webster's dictionary, ''a place, shop or factory where work is done.''
>
> The commercial shipyard work environment changes not only on a daily basis * * * And from personal experience I can tell you it changes on an hourly basis and on a ship-to-shop basis which varies by size and configuration.

OSHA acknowledges that shipyard employees—unlike general industry

employees—may work in several worksites during a shift. OSHA agrees with the commenters that the term ''workplace'' does not identify the appropriate source of PPE-related hazards in shipyards and believes that requiring hazard assessments by trade and related work activities effectively addresses the PPE-related risks in shipyards.

The proposal also required employers to select PPE that would protect employees from the particular occupational hazards they were likely to encounter, to communicate their selection decisions to employees who would be obtaining their own PPE, and to have employees who obtain their own PPE follow the employers' selection decisions.

The proposed rule assumed that some employees would be providing some of their own PPE. For that reason, OSHA specified, in the proposal, that employers would need to provide any such employees with PPE selection information and to make sure that their affected employees obtained the right PPE. This was intended to ensure that employees are properly protected by their PPE, regardless of who purchased it.

Subsequently, the Agency determined that it was appropriate to provide additional guidance regarding when employers would be expected to pay for PPE and when employees would be expected to pay. On October 18, 1994, OSHA issued a memorandum to its field offices which stated as follows:

> OSHA has interpreted its general PPE standard, as well as specific standards, to require employers to provide and to pay for personal protective equipment required by the company for the worker to do his or her job safely and in compliance with OSHA standards. Where equipment is very personal in nature and is usable by workers off the job, the matter of payment may be left to labor-management negotiations. Examples of PPE that would not normally be used away from the worksite include, but are not limited to: welding glasses, wire mesh gloves, respirators, hard hats, specialty glasses and goggles (designed for laser or ultraviolet radiation protection), specialty foot protection (such as metatarsal shoes and linemen's shoes with built in gaffs), face shields and rubber gloves, blankets and cover-ups and hot sticks and other live-line tools used by power generation workers. Examples of PPE that is personal in nature and often used away from the worksite include non-specialty safety glasses, safety shoes, and cold-weather outer wear of the type worn by construction workers. However, shoes or outer wear subject to contamination by carcinogens or other toxic or hazardous substances which cannot be safely worn off-site must be paid for by the employer. Failure of the employer to pay for PPE that is not personal and not used away from the job is a violation and shall be cited.

Although the equipment used in shipyard employment often differs from that mentioned in the October 18 memorandum, the same policy considerations apply in the Shipyard PPE context. Therefore, OSHA will apply the above-stated policy when determining who pays for the PPE required under § 1915.152(a).

In addition, the Agency has determined, after further consideration, that *all* affected employees need to be informed of PPE selection decisions in order to facilitate compliance with the standard. The proposed language that distinguishes between employees who pay for their own PPE and those who do not has been deleted and the provision has been revised accordingly. Paragraph (b) has also been editorially revised for clarity.

In the proposal, paragraph (b) did not specifically address documentation of the hazard assessment. The recently revised PPE standard for General Industry (§ 1910.132(d)(2)), however, requires employers to verify through a written certification that a required hazard assessment has been performed. OSHA explained its decision (59 FR 16336) to require such verification as follows:

> OSHA believes that some form of record is needed to provide OSHA compliance officers and affected employees with appropriate assurance that the required hazard assessment has been performed * * * It is not ''necessary for employers to prepare and retain a formal written hazard assessment.'' Given the performance-oriented nature of this rulemaking, OSHA has determined that the generation and review of extensive documentation would be unnecessarily burdensome.
>
> The Agency has found that a written certification is a reasonable means by which to establish accountability for compliance.
>
> Therefore, the Agency has determined that employers can adequately verify compliance with § 1910.132(d) of the final rule through a written certification which identifies the workplace evaluated; the person certifying that the evaluation has been performed, the date(s) of the hazard assessment; and which identifies the document as a certification of hazard assessment.

Taking into account the similarities between PPE used in General Industry and that used in Shipyard employment, OSHA reopened the Shipyard PPE rulemaking record (59 FR 34586, July 6, 1994) to provide public notice that the Agency was considering a requirement for shipyard employers to verify their compliance with the hazard assessment provision through a written certification. The notice of reopening solicited comments on the need for and impact of a certification requirement.

The Preamble to the final rule for Fall Protection in Construction (part 1926, subpart M) (59 FR at 40721, August 9, 1994) underscored the flexibility employers have in complying with certification requirements, stating that a ''certification record can be prepared in any format an employer chooses, including reprinted forms, computer generated lists, or 3×5 cards.''

Commenters to the shipyard PPE record (Exs. 9–3 and 9–7) stated that any requirement for the certification of hazard assessment should be focused on employee ''work activity'' or ''trade'' rather than on the ''workplace.'' For example, the South Tidewater Association of Ship Repairers (STASR)(Ex. 9–3) stated that ''[t]here is a constant transition of trades moving among various shops and vessels as well as a rotation of vessels. It is not feasible for designated shipyard employees to monitor continuously a ''workplace'' in constant change.'' In addition, STASR observed that it would be advantageous to identify ''a universal requirement for trade-specific PPE as opposed to {a} site-specific requirement, peculiar to one location.'' The SCA (Ex. 9–7) stated that shipyard work duties, unlike duties undertaken in a factory, are neither fixed, constant, nor readily quantifiable.

Three other commenters (Exs. 9–6, 9–8 and 9–9) were particularly concerned that compliance with the certification requirement under consideration would necessitate continuous or repeated hazard assessment. These commenters, along with several others (Exs. 9–1, 9–4, 9–5, 9–11 and 9–13), indicated that they have already implemented written programs to identify PPE needs, so that certifying performance of the hazard assessment would be redundant.

In addition, commenters (Exs. 9–10 and 9–14) suggested that OSHA accept any form of documentation which provides the information needed to verify compliance. In particular, General Dynamics Electric Boat Division (EBDiv.) (Ex. 9–10) stated ''EBDiv. recommends that OSHA continue with its performance oriented approach and allow employers the flexibility in determining the most efficient and effective manner for documenting hazard assessments.''

Based on the above-discussed comments, the notice of informal public meeting (59 FR 64173, December 13, 1994) solicited input regarding the means by which shipyard employers could adequately verify compliance with the requirement for hazard assessment. In particular, the notice stated that OSHA was ''considering the

extent to which current hazard assessments performed by trade or occupation provide the necessary information for selection of appropriate PPE'' and provided examples of trade-based formats (for welder and for yard maintenance worker) that the Agency might consider to be acceptable.

In response, commenters (Exs. 11–2, 11–3, 11–6 and 11–8) stated that the shipyard industry already adequately documents its hazard assessment activities. NNS (Ex. 11–6) also expressed concern that the use of the term ''certify'' was unnecessary, stating that certification ''does not contribute to improved safety and health. We suggest that certification should be replaced by a signature.'' In addition, NNS testified (Tr. 28–29, January 25, 1995), as follows:

> We still don't understand why the word ''certify'' can't be left behind in favor of the word ''document'' or ''signature'' or some other type of verbiage. We think that the word ''certify'' carries with it some connotations that will thwart, if you will, the employee involvement efforts that we're stepping forward trying to initiate.

The SCA testified (Tr. 11–12) that:

> Where hazard assessment is already in place because of existing OSHA standards * * * we recommend that these assessments be allowed to meet the requirements of the portion of this standard.
>
> Where hazard assessment does not exist, and it would be hard for me to say where it doesn't in the shipyard industry, we'd recommend that an annual assessment be made of the affected craft, possibly of the machinery or pipefitting departments. Once the hazard assessment is conducted for these crafts, we recommend that the company safety representative be allowed to make these assessments and sign the assessment certifying his or her review and assessment. This assessment should be no more than listing the personal protective equipment required for that particular craft in all working circumstances.

The UBC Health and Safety Fund of North America (Ex. 12–4) stated as follows: ''OSHA should require written certification of hazard assessment for employers to select the Personal Protective Equipment (PPE) that is necessary for work being performed by trades or occupations. This assessment should take into account the PPE necessary to protect employees performing specific work tasks.''

OSHA has concluded that the documentation format described by commenters and meeting participants will provide adequate assurance that the required hazard assessment has been performed. The Agency agrees that a hazard assessment record which conveys the required information does not need to be called a ''certification.'' Accordingly, the Agency will use the term ''document'' rather than the term ''certification'' to describe these minimal written record required under final rule § 1915.152(b)(4). Appendix A provides several acceptable ways of meeting the requirements, including some examples of the trade-based formats.

Final rule paragraph (c) requires employers to ensure that defective or damaged PPE is not used. The proposed paragraph was essentially identical. This provision does not preclude the repair and reuse of PPE. OSHA recognizes that there are many situations where PPE can be removed from service, repaired, and then returned to service. There were no comments on the proposed paragraph, and OSHA therefore promulgates this provision as proposed, except for minor editorial changes.

Final rule paragraph (d) requires that PPE that has been worn by workers and has become unsanitary be cleaned and disinfected before it is reissued. There were no comments on the proposed provision, and this paragraph is unchanged except for minor editorial changes.

Final paragraph (e) sets the training requirements for users of PPE. OSHA has consistently maintained that employees must be properly trained in order to benefit from the use of PPE. The proposed part 1910 and part 1915 PPE training provisions were identical, requiring simply that employees ''be trained in the proper use of their personal protective equipment.'' As discussed in the part 1910 subpart I final rule preamble (59 FR 16337–40, April 6, 1994), OSHA divided the training into four training elements: what affected employees must understand about their PPE; what PPE-related skills those employees must have; when affected employees would need retraining; and what documentation of training was needed.

OSHA concluded that these training elements should also be considered for inclusion in the shipyard standard. Therefore, the July 6, 1994, shipyard PPE notice discussed the general industry training provisions and solicited comments. In order to clarify the requirements for the shipyard industry and provide clear guidance for enforcement, the Agency has revised this provision (paragraph (e)(2)) to read: ''The employer shall ensure that each affected employee demonstrates the ability to use PPE properly before being allowed to perform work requiring the use of PPE.'' The Agency is not prescribing the means by which employers comply with this provision.

The general industry PPE standard, § 1910.132(f)(4), provides that: ''[t]he employer shall verify that each affected employee has received and understood the required training through a written certification that contains the name of each employee trained, the date(s) of training and that identifies the subject of the certification.''

The comments received in response to the July 6 notice opposed a requirement for a written certification of compliance. For example, STASR (Ex. 9–3) commented that:

> Every shipyard in the Hampton Roads area has a safety program and a safety office. Every shipyard mandates usage of safety equipment for all employees. Those who do not comply are often sent home. STASR shipyards have safety programs with many of the PPE standards already in place. The PPE training and recordkeeping requirements are, in some cases, redundant.
>
> When an employee is hired and undergoes initial training, that employee can be given a list of equipment to wear while performing a specific task. This is far preferable to sending a monitor to evaluate a worksite on a continuous basis. The shipyard may then certify that an individual has been given the necessary training and the employee will certify understanding of the safety requirements for his or her trade.

The SCA (Ex. 9–7) commented that:

> We support the general requirement for training as it does serve to enhance a safer working environment * * * we believe that training should be focused on trade specific duties of employees with the greatest emphasis being placed on orientation training at the outset. PPE serves a very useful purpose, and empirical data often establishes that causes of accident or occupational injuries are attributable to the fact that employees failed to comply with company PPE standards * * *. Additionally, documentation of all training should be in the form of training logs, which should be considered to be the equivalent of ''written certification'' in order to avoid the non value added redundance of record keeping.

Tampa Shipyards Incorporated (Ex. 9–8) stated that:

> We are already complying with this proposed standard and we suspect many other shipyards are also complying with this standard.
>
> Verification through written certification should not be required if an employer can produce training logs with the employee's name, the date the training took place, type of training conducted and the name of the instructor. Training logs should be interpreted under this standard as ''written certification.''

General Dynamics, Electric Boat Division (EBDiv) (Ex. 9–10) commented that:

> EBDiv agrees with OSHA that training is an essential element of a PPE program but does not agree that ''training'' as specified in the standard requires certification.

EBDiv firmly believes training is a key and necessary component of safety and health programs. EBDiv provides extensive training to its employees on a variety of disciplines not mandated by OSHA in addition to training mandated by OSHA.

Based on these comments, OSHA raised the issue of the need for documentation of training in the December 13, 1994, meeting notice (59 FR 64173). AWH Corporation (Ex. 11–3) commented that training is provided when the employee is hired and at weekly ''gangbox'' safety meetings, and that training is periodically reinforced by including PPE as a topic at safety meetings.

NNS responded (Ex. 11–6) that ''[t]he requirement to certify PPE training dictates recording specific information which can later be retrieved so as to prove training was conducted. We will provide samples of our existing system at the January 25 meeting.'' NNS provided copies of training documentation at the meeting (Ex. 12–2) and testified (Tr. 29–30) as follows:

We've provided a recommended definition for the word ''certify''* * *

''Certify'' means to evaluate subjectively, based on appearance and available information at that time. The certifying individual in a training session, for example, would verify that the trained individual was present during the stated training; he would ensure that required information was delivered to the target audience in what he believed to be an understandable fashion, and he would watch individuals perform activities which indicate that they have understood the training, and then use his judgment at that time to determine whether further instruction was needed or not.

The SCA testified (Tr. 13–14, January 25, 1995) as follows:

We would request that training certification requirements be met in the following manner. Number one, documented new hire orientation * * *. Secondly, we request that training certification requirements be met as documented annual refresher training.

We'd recommend this documentation be in the form of training logs which many of us already keep on the computer * * *

Some of our members suggest * * * giving a new employee a list of all required safety equipment that he or she should wear at the time they go through new-hire orientation, just as a reminder * * * this is already being done in many of our yards.

In response to these submissions, OSHA emphasizes that any documentation of training that provides the specified information will provide adequate assurance that the training requirements have been satisfied. Therefore, § 1915.152(e)(4) of the final rule requires employers to verify that each affected employee has received the required training with documentation that includes: employee(s) name; the date(s) of training, and type of training the employee received. In the case of an employee who has already been trained (either prior to the effective date of this standard or by another employer), OSHA will accept documentation dated as of the time the current employer determines that the employee has the requisite proficiency.

As discussed above, the rulemaking record indicates that most shipyard employers are already documenting training in the form of a log, computer database, or some type of written document. Examples of acceptable documentation would be records of stand-up safety meetings and tool box meetings, or a tool room log (where an employee has checked out PPE such as safety glasses, hard hat, gloves, face shield). OSHA will accept any form of documentation that effectively communicates the required information.

Section 1915.153 Eye and Face Protection

Final rule paragraph (a) sets out requirements for eye and face PPE. Paragraph (a)(1) requires employers to ensure that employees use eye and face PPE when employees are exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acid or caustic chemicals, chemical gases or vapors, or potentially injurious light radiation. This provision is based on the requirements in existing § 1915.151 (b)(1) and (c)(1). This provision is essentially unchanged from that proposed. OSHA did not receive any comments on this provision.

Final paragraph (a)(2) provides that front and side protection must be used when there is a hazard from flying objects. Detachable side protectors (for example clip-on or slide-on side shields) meeting the pertinent requirements of this section are acceptable.

OSHA has determined that detachable side shields that meet the pertinent criteria (ANSI Z87.1–1989, as referenced by final rule § 1915.153 (b)(1) and (b)(2)) will provide adequate protection from flying objects. Permitting detachable side shields will allow employers the flexibility to use this kind of protection when necessary, based on the working conditions at the employee's occupation or trade. The Agency has concluded that the same considerations that supported the adoption of such a requirement in other corresponding OSHA standards are relevant to shipyard employment.

Employers should be aware that some PPE could create new hazards to employees. For example, allowing employees to wear wire-frame glasses (plano or prescription safety glasses) around energized electrical parts would increase the potential for electric shock.

In the proposal, paragraph (a)(2) required that eye and face protective equipment properly fit employees. In the final rule § 1915.152(b)(3) already requires that *all* PPE properly fit employees, and OSHA has therefore not included proposed paragraph (a)(2) in the final rule.

Paragraph (a)(3) addresses appropriate eye PPE for employees who wear prescription lenses. This provision requires that employers provide each such employee either with eye protection that incorporates the prescription in its design or with PPE that can be worn over prescription lenses without disturbing the proper position of the lenses. The final provision, which is essentially the same as the proposed paragraph except for minor editorial changes, elicited no comments.

Proposed paragraph (a)(3) required that protectors with tinted or variable tinted lenses not be worn when an employee was required in the course of work to pass from a brightly lit area, such as outdoors, into a dimly lit area, such as a vessel section. The Agency proposed this requirement to reduce the potential for extreme changes in lighting to temporarily impair an employee's vision.

OSHA received four comments on this provision, all addressing the same point. The commenters (Exs. 6–5, 6–6, 6–9 and 6–10) opposed any prohibition on the use of tinted or variable tint lenses.

Colonna's Shipyard, for example, stated that:

The use of the terms ''well lighted'' and ''dimly lighted'' are vague. Tinted lenses, that primarily reduce glare, may not appreciably reduce the amount of light passing through the lenses. As technology improves, variable tint lenses have been shown to reduce the time it takes for the lenses to change from full shading to minimal shading. In fact, employees coming from an interior location into brilliant sunlight can be temporarily blinded by the sun's glare.

In addition, two comments received on proposed subpart B of part 1915 (Doc. S–505) (Ex. 6–15, Bay Shipbuilding Corp. (BSC) and Ex. 6–36, Peterson Builders, Inc. (PBI)), addressed this proposed provision. BSC stated that: ''Protectors with tinted or variable tint lenses should not be worn when an employee passes from a well lighted area into a dimly lighted area. Tinting over #2 shade is too dark, but #2 shade or under is felt to be acceptable and safe in most areas.''

PBI stated that:

We need the use of tinted lenses to protect our employees from stray ultraviolet rays from weld arc. We presently limit our employees to a 1.7 tint on safety glasses. We are also in favor of the use of the variable tint lenses. This standard is in contradiction to 1915.153A1, which requires us to protect employees from injurious light radiation. This has not been a problem for us in causing accidents.

After evaluating the information in the record for this rulemaking (Doc. S–045), OSHA has concluded that the proposed requirement was too restrictive. The Agency has determined that the employer (for example, through the services of the company's safety professional) is in the best position to determine when tinted or variable tint lenses should be used, based on an awareness of working conditions. This approach is consistent with the current ANSI standard (ANSI Z87.1–1989, paragraph 6.5.2), which is (as discussed below) being incorporated by reference in the final rule. Accordingly, proposed paragraph (a)(3) has not been retained in the final rule.

Paragraph (a)(4) is essentially unchanged from the proposed paragraph. It requires employers to ensure that affected employees use equipment with filter lenses for protection against injurious light radiation and that the lenses have a shade number that is appropriate for the work being performed. Table I–1—*Filter Lenses for Protection Against Radiant Energy*—lists the necessary shade numbers for various operations. These provisions are consistent with other OSHA standards (existing § 1915.151(c)(1) and Table I–1 in § 1915.118).

In addition, a note to this provision states that, when goggle lenses and a helmet lens are worn together, the shade value of the two lenses can be summed to satisfy the shade requirements of Table I–1, § 1915.153. Bath Iron Works Corporation (BIWC) (Ex. 6–7) objected to this note, stating that the validity of the additive approach to filter lens selection has not been adequately demonstrated and violates accepted industry practice. OSHA disagrees with this view, because the technical experts responsible for the applicable consensus standard, ANSI Z87.1–1989, have indicated that the additive use of lenses is protective, provided that the combined values sum to the necessary value. Therefore, the note to Table I–1 has been retained.

Paragraph (b) sets performance criteria for eye and face PPE. Paragraph (b)(1) provides that protective eye and face devices purchased after August 22, 1996 shall comply with ANSI Z87.1–1989, ''American National Standard Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference, or shall be demonstrated by the employer to be equally effective. PPE which satisfies the criteria set by subsequent editions of the pertinent ANSI standard will be considered to comply with paragraph (b)(1) if the updated ANSI criteria are substantively unchanged or provide equivalent protection.

In the proposal, this paragraph, which was designated paragraph (b)(1), required that the design of eye and face protection, in general, comply with the provisions of ANSI Z87.1–1979, while providing, in the alternative, that plano (non-prescription) spectacles comply with the performance-oriented criteria set out in proposed paragraph (b)(2). Shortly after the NPRM was issued, the 1979 edition of Z87.1 was superseded by the current 1989 edition. ANSI Z87.1–1989 is effectively identical to ANSI Z87.1–1979, except that the 1989 revision deleted design restrictive language that had limited the use of new technology in eye and face PPE. OSHA believes that performance-oriented regulatory language, such as that referenced from ANSI Z87.1–1989, will provide employers with appropriate flexibility to protect their employees while taking the particular circumstances of their workplaces into account. The Agency further believes that allowing employees to rely on the 1989 edition will facilitate compliance with the final rule, but will not prevent employers from using PPE that would have been allowed under proposed paragraph (b)(1).

Final rule paragraph (b)(2) requires that eye and face PPE purchased before August 22, 1996 comply with ANSI Z87.1–1979 or be demonstrated by the employer to be equally effective. OSHA has determined that it is appropriate to allow the continued use of such PPE in order to avoid imposing unreasonable burdens on employers. As noted above, the substantive provisions of the 1979 and 1989 editions are effectively identical, so employee safety would not be furthered by requiring that employers remove PPE tested under ANSI Z87.1–1979 from service. In this way existing stocks of PPE can be depleted, and any replacement PPE must satisfy the criteria referenced in ANSI Z87.1–1989.

Proposed paragraph (b)(2) would have set performance-oriented criteria for plano spectacles, addressing impact protection, optical requirements, flammability resistance and radiant energy protection. This paragraph was included in the proposal because OSHA had determined that the design provisions (such as for minimum lens thickness or frame design) of the consensus standard referenced by existing § 1915.151(a)(1) (ANSI Z2.1–1959) were outdated. The removal of the design restrictive language from ANSI Z87.1 when it was revised in 1989 eliminated the need to address this problem in the final rule. Accordingly, no such provision appears in the final rule.

Section 1915.154 Respiratory Protection

Final rule § 1915.154 incorporates existing § 1910.134, Respiratory protection, by reference, as was proposed. The shipyard industry has been complying for years with § 1910.134 with regard to its respiratory protection programs. The two comments received on proposed § 1915.154 (Exs. 6–1 and 6–2) agreed with OSHA's proposal to replace § 1915.152, the existing shipyard respirator standard, with § 1910.134. Both comments expressed the belief that § 1910.134 is more protective and certainly more current than § 1915.152.

OSHA has published a proposed revision of § 1910.134, Respiratory Protection, which covers general industry, construction and shipyard employment (59 FR 58884, Nov. 15, 1994). When the revised respiratory protection standard becomes a final rule, OSHA will apply that rule to shipyard employment.

Section 1915.155 Head Protection

Final rule paragraph (a) addresses the use of protective helmets. Paragraph (a)(1) requires employers to ensure that affected employees wear protective helmets when they are working in areas where there is a potential for head injury from falling objects. This requirement is essentially the same as current § 1915.153(a). The national consensus standard for protective headgear, ANSI Z89.1, referenced in final rule § 1915.155(b), deals only with the head injury hazards posed by falling objects and high-voltage electric shock and burn. Therefore, this section of the final rule addresses PPE that is used to protect the head from these hazards.

The proposed rule addressed the use of protective helmets where there was potential for injury to the head from falling or moving objects. The duty to protect employees from other hazards to the head, such as moving objects, may be invoked through the general requirements of final rule § 1915.152(a) when such hazards are identified by the hazard assessment.

Commenting on proposed subpart B of part 1915 (Doc. S–050, Ex. 6–15 of Docket #S–050), BSC stated: ''The standard should reflect what is stated in the ANSI standard for head protection.'' As noted above, the ANSI standard addresses falling object, not moving object, hazards and proposed paragraph (a)(1) has been revised accordingly.

Paragraph (a)(2) requires that affected employees wear protective helmets designed to reduce electric shock hazards when working in areas containing potential electrical hazards or energized conductors. This provision is essentially identical to the proposed provision and to other corresponding OSHA standards.

Final rule paragraph (b) sets the performance criteria for protective helmets. This paragraph provides that protective helmets purchased after August 22, 1996 shall comply with ANSI Z89.1–1986, ''Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' which has been incorporated by reference, or shall be demonstrated by the employer to be equally protective. PPE which satisfies the criteria set by subsequent editions of the pertinent ANSI standard will be considered to comply with paragraph (b) if the updated ANSI criteria are substantively unchanged or provide equivalent protection. The Agency believes that this performance-oriented approach will encourage innovation and the use of improved equipment. The proposed rule also referenced the 1986 edition of ANSI Z89.1.

The consensus standard (ANSI Z.2–1959) referenced by the existing rule (§ 1915.153(a)) has been superseded several times since the existing standards were adopted. OSHA does not expect that much, if any, head PPE which was produced to meet the 1959 requirements is still in use. Furthermore, the Agency has concluded that ANSI Z.2–1959 does not provide adequate guidance regarding the selection of appropriate head protection. Therefore, unlike final rule § 1915.153, this section does not explicitly ''grandfather'' PPE which complies with the existing rule. Employers can continue to have their employees use head PPE which was produced to comply with a pre-1986 edition of ANSI Z89.1 if the employer establishes that the equipment either satisfies the performance criteria of ANSI Z89.1–1986 or provides equivalent protection.

The 1969 and 1986 editions of ANSI Z89.1 set essentially the same requirements, except with regard to electric insulation for Class B helmets. The Agency has concluded that Class B helmets already in use which satisfied the criteria set by the 1969 edition would also satisfy the 1986 criteria. Accordingly, final rule paragraph (b)(2) allows employers to continue to use protective helmets purchased before the effective date of the standard being published today provided that such helmets meet the criteria of ANSI Z.89.1–1969. This means that employers will not be required to replace protective helmets currently in use if they meet these criteria.

Section 1915.156 Foot Protection

Final paragraph (a) requires that affected employees wear protective footwear when they are exposed to hazards from falling and rolling objects, electrical hazards, and objects that may pierce a shoe sole. This is consistent with requirements in other corresponding OSHA standards. This language, which is effectively identical to that in the proposal, differs from existing § 1915.153(d), which requires employers only to make safety shoes available and ''encourage'' their use. OSHA believes that requiring employers to have affected employees wear protective footwear is necessary to protect their feet from the risk of serious injury. The AWSC (Ex. 6–4) commented that it would impose a cost burden on employers if they were required to purchase safety shoes for their employees. Therefore, they recommended that OSHA not require the employer to pay for foot protection, stating as follows:

> The current regulatory language concerning foot protection of employees requires the employer to encourage the use of and make available appropriate foot protection. The new language states that the employer ''shall ensure that employees wear protective footwear.'' AWSC does not object to the practice of wearing the correct protective footwear, and supports the use of this type of personal protective equipment. However, the new language indicates a dramatic shift from current shipyard operations.
>
> Shipyard facilities have instituted many different policies to provide protective footwear to the employee, including disallowing employees to work at the facility unless they are wearing the appropriate footwear and providing an allowance to purchase the footwear. Lists of available and appropriate suppliers are circulated to the employees as a guide.

OSHA also received a comment on this subject from PBI (Docket S–050, Ex. 6–36) that stated: ''This requirement is going to be cost prohibitive. We presently recommend safety shoes and contribute to their purchase. However, this standard would practically make them mandatory throughout the shipyard. Our injury experience does not indicate a need for mandatory safety shoes.''

As discussed above in reference to the provision for hazard assessment, subpart I requires employers to identify the hazards to which their employees may be exposed and have those employees equipped accordingly. Therefore, employees would be required to wear protective footwear only when such protection was appropriate. In addition, as discussed above in reference to OSHA's 1994 Memorandum on PPE, OSHA interprets the part 1915 subpart I requirements for employers to provide PPE to mean that employers pay for PPE required by the company for the worker to do his or her job safely and in compliance with OSHA standards. The above discussed policy memorandum specifically indicates that employers should expect to pay for specialty foot protection. On the other hand, OSHA policy also provides that payment for PPE which is personal in nature and useable away from the workplace (such as safety shoes) is left to labor-management negotiations.

Final rule paragraph (b) sets the performance criteria for protective footwear. Paragraph (b)(1) provides that protective footwear purchased after August 22, 1996 shall comply with ANSI Z41–1991, ''American National Standard for Personal Protection-Protective Footwear,'' or shall be demonstrated by the employer to be equally protective.

In addition, paragraph (b)(2) allows protective footwear purchased before August 22, 1996 to continue to comply with ANSI Z41–1983, Personal Protection-Protective Footwear, or footwear that the employer can demonstrate to be equally protective. PPE which satisfies the criteria set by subsequent editions of the pertinent ANSI standard will be considered to comply with paragraph (b) if the updated ANSI criteria are substantively unchanged or provide equivalent protection. The Agency believes that this performance-oriented approach will encourage innovation and the use of improved equipment. Proposed paragraph (b) referenced the 1983 edition of ANSI Z41 for all protective footwear.

The 1991 edition of ANSI Z41, which has superseded the 1983 edition, imposes essentially the same requirements as the 1983 edition, except that the 1991 edition provides more specific performance requirements for resistance to compressive forces and standardizes the puncture resistance testing methods. OSHA believes that referencing ANSI Z41–1991 for shoes

purchased after August 22, 1996 provides appropriate and up-to-date criteria for employers and employees seeking to buy protective footwear.

OSHA has determined that it is appropriate to provide explicitly for the continued use of foot PPE purchased prior to the effective date of the final rule, as long as it complies with the pertinent provisions of the ANSI standard (ANSI Z41–1983) referenced by the proposed rule. In this way, the Agency avoids imposing unreasonable burdens on employers.

Section 1915.157 Hand and Body Protection

Final rule § 1915.157 addresses hand and body PPE. Paragraph (a) requires employers to ensure that affected employees use appropriate PPE when their hands or other parts of their bodies are exposed to hazards that could lead to injuries. The final rule identifies skin absorption of harmful substances, severe cuts or lacerations, severe abrasions, punctures, chemical burns, thermal burns, harmful temperature extremes, and sharp objects as examples of hazards that would require the use of PPE. The proposed provision was essentially identical to that in the final rule, except that it identified the hazards requiring protection in more general terms.

Final rule paragraph (b) requires employers to ensure that no employee wears clothing impregnated or covered in part with flammable or combustible materials (such as grease or oil) while engaged in hot work operations or working near an ignition source. This requirement is necessary to protect workers in hot work operations from fire hazards.

The proposed rule stated that employees shall not wear greasy clothing when performing hot work operations. Existing § 1915.153(e) provides that employees shall not be permitted to wear ''excessively greasy'' clothing while performing hot work operations.

The AWSC recommended (Ex. 6–4) that the word ''excessively'' be retained in the regulatory text of the final rule.

Shipyard work by definition is not a clean activity. Employees' clothing will be dirty. However, the clothing may not be ''greasy'' or even excessively greasy. Deletion of the descriptive term ''excessively'' will create rather than diminish compliance problems. We do not advocate that employees wear excessively greasy clothes when performing hot work operations, but without a proper explanation by OSHA as to the rationale for deleting the term, we advocate retention of the word ''excessively'' in the proposed language.

In addition, BSC commented (Ex. 6–15 in Docket S–050) that the language of the proposed paragraph was unclear. BSC suggested that OSHA revise the proposed language to require that employees ''not wear clothing impregnated with flammable or combustible materials when performing hot work operations.''

OSHA believes that retention of the term ''excessively,'' as suggested by the AWSC, could potentially complicate compliance because the Agency has not established a measurable, objective standard for determining what is excessive. Moreover, the risk of flammability exists when clothing is impregnated, or covered, even impart, with a flammable or combustible substance. Therefore, the Agency has concluded that it is appropriate to prohibit employees from wearing clothing impregnated or covered with a flammable or combustible substance during hot work operations. The Agency agrees with the BSC that the standard needs to address all flammable and combustible materials, not just grease, and that adding the term ''impregnated'' (in the sense of permeated, imbued, or saturated) will more clearly express OSHA's intent. The provision has been revised accordingly.

Final rule paragraph (c) requires that the employer have employees wear protective electrical insulating gloves and sleeves, or other rubber protective equipment that provides equivalent protection when the employees are exposed to electrical shock hazards while working on electrical equipment. The proposed rule was effectively identical, except that it did not provide for the use of ''other electrical protective equipment.'' The Agency has determined that the addition of this performance-oriented revision will encourage innovation and facilitate compliance.

Section 1915.158 Lifesaving Equipment

This section sets requirements for lifesaving equipment used in shipyard employment. Some of the language in the final rule has been editorially revised to reflect the language used in the U.S. Coast Guard's standard for approved lifesaving equipment (46 CFR part 160). OSHA's existing § 1915.154(a) specifies that the above-cited U.S. Coast Guard requirements for this equipment shall be followed. The OSHA final rule provides clarification of acceptable personal flotation devices and uses terminology that is consistent with current Coast Guard requirements. Also, for Type IV PFDs, the U.S. Coast Guard regulations use the term ''ring life buoys'' rather than the term ''life rings'' as proposed by OSHA. Therefore, OSHA has replaced ''life rings'' with ''ring life buoy'' wherever the term appeared in the proposal. The proposed language did not elicit any comments.

Final rule paragraph (a)(1) requires that personal flotation devices (PFDs) worn by employees be approved by the U.S. Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or Type V PFD, unless the employer provides employee worn equipment that is as effective as the types listed (e.g., a Coast Guard approved immersion suit). Any PFD which is U.S. Coast Guard approved and marked as a Type I PFD, Type II PFD or Type III PFD is acceptable to OSHA for use by employees. A Type V PFD, including Type V Hybrid PFDs, is acceptable to OSHA for use by employees if it is U.S. Coast Guard approved and marked for use as a work vest, for commercial use, or for use on vessels. The language of the proposed paragraph, which was based on existing § 1915.154(a), has been editorially revised and clarified in the final rule.

Final rule paragraph (a)(2), addressing the inspection of PFD's, was proposed by the Agency for deletion with the intent of covering defective PFD equipment under revised general requirements § 1915.152(c), ''Defective and damaged equipment.'' After further consideration the Agency has concluded that a PFD is critical lifesaving equipment which requires specific inspection prior to each use for dry rot, chemical damage, or other defects (such as tears, punctures, missing or non-functioning components) which affect their strength and buoyancy. Therefore, the language of existing § 1915.154(b) is being retained in the final rule.

Paragraph (b) establishes requirements for ring life buoys and ladders. Paragraph (b)(1) requires that at least three 30-inch (0.78 m) U.S. Coast Guard approved ring life buoys with lines attached be kept in readily visible and accessible places when working on a floating vessel of 200 or more feet (61 meters). Ring life buoys must be located one forward, one aft, and one at the access to the gangway. Locating ring life buoys at these positions ensures that one will be readily available if a worker falls overboard at any point along the ship's length. This paragraph, which is based on existing § 1915.154(c)(1), is essentially identical to the proposed paragraph.

Paragraph (b)(2) requires floating vessels under 200 feet (61 m) in length to have at least one 30-inch (0.78 m) U.S. Coast Guard approved ring life buoy with line attached located at the gangway. The proposed paragraph,

based on existing § 1915.154(c)(1), was essentially the same.

Paragraph (b)(3) requires that at least one 30-inch (0.78 m) U. S. Coast Guard approved ring life buoy with a line attached be located on each staging float alongside the floating vessels from which work is being performed. The proposed paragraph, which was based on existing § 1915.154(c)(2), is effectively identical to the final rule's provision.

Paragraph (b)(4) requires at least 90 feet (27 m) of line to be attached to each ring life buoy. The proposed requirement, which was based on existing § 1915.154(c)(3), was effectively identical to the final rule.

Paragraph (b)(5) requires that at least one portable or permanently installed ladder be in the vicinity of each floating vessel on which work is being performed. The provision further requires that the ladder(s) be of sufficient length to assist employees to reach safety in the event that they fall into the water. The proposed paragraph, which was based on existing § 1915.154(c)(4), was effectively identical to the final rule.

Section 1915.159 Personal Fall Arrest Systems

This section sets performance criteria and other requirements for the use of personal fall arrest systems.

The Agency has determined that the fall hazards encountered by shipyard employees correspond to those faced by employees in other industries, and that it is therefore appropriate for OSHA to consider the information generated in general industry fall protection PPE rulemakings when drafting the final rule for shipyard PPE. The fall protection PPE criteria in proposed § 1915.159 were very similar to those in the corresponding proposed general industry standard (proposed §§ 1910.128 and 1910.129).

The record for the general industry fall protection PPE rulemaking (Docket S–057) indicated that the Agency should consider revising the proposed rule to prohibit the use of non-locking snaphooks and to disallow the use of body belts in personal fall arrest systems. This record, in turn, is directly relevant as the Agency considers corresponding changes in proposed § 1915.159.

To provide the public with notice and an opportunity to comment on the need for such revisions to the shipyard PPE proposed rule, the Agency solicited input through the July 6, 1994 notice of reopening (59 FR 34586) and the December 13, 1994 meeting notice (59 FR 64173). The response to those notices is discussed below.

OSHA obtained evidence (Docket S–057) in the General Industry rulemaking that employees who fall while wearing body belts are not protected as well as they would be if the fall occurred while the employee was wearing a body harness, and that the use of body belts has resulted in injuries to falling employees. A large number of rulemaking participants (Exs. 9–9, 9–10, 11–7, Tr. p. 23, Tr. pp. 59–61) supported prohibiting the use of body belts in fall protection systems. For example, Atlantic Marine (Ex. 9–9) endorsed the use of body harnesses as a safer method for employees, stating: ''While the cost of body harnesses is usually twice the amount of the body belts, the added safety factor to the employee is well worth the money, and in the long run, will save the company money in case of an accident.''

General Dynamics, Electric Boat Division, (Ex. 9–10) stated that it utilizes body harnesses for all of its fall protection needs.

Bath Iron Works Corporation/Local S6 (BIWC/Local S6) (Ex. 11–7) commented that they use only body harnesses in fall arrest systems and use either body harnesses or body belts in positioning device systems. BIW/Local S6 stated that it ''fully supports the implementation of the proposed changes to [part 1915] subpart I.''

The SCA testified (Tr. 23) that its members support the use of body harnesses in personal fall arrest systems, stating ''many of our yards already use them. We find them to be very effective, and everybody seems to certainly feel a lot safer with them.''

In addition, the Engineering and Safety Service (E&S) testified (Tr. 59–61) that ''body belts have no useful purpose in a personal fall arrest system. E&S believes that an effective personal fall arrest system must incorporate a full body harness to protect the worker from injury and to provide an opportunity for rescue.''

However, NNS (Ex. 9–11) responded as follows:

> We reviewed all falls occurring at NNS since January 1, 1991. None of those occurring involved an injury which could have been prevented or mitigated by using a harness over a belt. NNS mostly uses belts with double acting clips. To replace all of our body belts with harnesses would cost in excess of $570,000. Clearly, this is another unwarranted cost adversely affecting our global competitiveness without enhancing the safety of our employees.

The December 13, 1994 notice (59 FR 64173) solicited input regarding the extent to which a phased in ban on the use of body belts in personal fall arrest systems would be appropriate for shipyard employment.

In their comments to this notice, NNS stated as follows:

> We now understand that OSHA will agree to a phased replacement of body belts to offset the initial cost of purchasing large quantities of body harnesses. We will provide life cycle and replacement information at the January 25 meeting which should help OSHA to determine what the phased replacement period should be.

NNS subsequently testified (Tr. 34–35):

> We see body harnesses coming, and we need a significant period of phase-in time for this to have a minimal financial impact on our operations. We've got 4,000 some-odd body belts either on issue or available for issue. Replacing all of those at once would cost use some $570,000 * * * [W]e'd like a reasonable period of time to phase the harnesses in, and that reasonable period of time, based on our inventory and our estimated useful life of a body belt, is seven years.

Based on the information in Docket S–057 and the shipyard industry input discussed above, OSHA has decided to bar the use of body belts in personal fall arrest systems. OSHA believes, however, that it is appropriate to allow a phase-out period, ending December 31, 1997, rather than to establish an immediate prohibition, so that shipyard employers can continue to use their body belts while they switch over to body harnesses. OSHA urges employers to phase out the use of body belts in personal fall arrest systems as soon as possible so that employees may be spared exposure to the increased risk of injuries from body belt use. It is important to note that body belts may continue to be used in positioning device systems even after they have been banned in fall arrest systems. OSHA has included paragraphs (b)(6)(i), (c)(1)(i), (c)(2), (c)(3), and (c)(8) in the final rule to provide criteria for any body belts that are used in personal fall arrest systems during the phase-out period.

In addition, OSHA has determined that it is appropriate, given the dangers related to ''roll-out,'' to phase-out the use of non-locking connectors. The phase-out period will avoid imposing undue hardship on employers who currently use non-locking snaphooks. As discussed in the July 6, 1994 notice of reopening, the Agency has concluded that the same considerations which supported the adoption of such a requirement in other corresponding OSHA PPE standards apply to personal fall arrest system components used in shipyard employment. OSHA has

concluded that compliance with final rule paragraphs (a)(5) and (a)(6) will effectively minimize any problems related to the use of non-locking snaphooks during the phase-out period.

The input received in response to the July 6, 1994 reopening notice (59 FR 345860) and the December 13, 1994 meeting notice (59 FR 64173) indicated shipyard industry support for a ban on the use of non-locking snaphooks. For example, General Dynamics, Electric Boat Division (Ex. 9–10) stated that it ''utilizes locking snaphooks and therefore takes no issue with the proposed * * * language.''

NNS (Tr. 52) and the UBC Health and Safety Fund of North America (UBC) (Tr. 86) testified that OSHA should require the use of locking snaphooks. In particular, the UBC stated that ''OSHA should prohibit the use of non-locking snap hooks because of the recognized danger of roll-out and the resulting possibility of employee falls.'' Accordingly, § 1915.159 of the final rule bans the use of non-locking snaphooks in fall arrest systems, effective January 1, 1998.

Final rule paragraph (a) sets criteria for connectors and anchorages used in personal fall arrest systems. Except where otherwise indicated, any final rule provisions which were not proposed have been added to the standard because the Agency has concluded that the same considerations which supported the adoption of such requirements in other corresponding PPE standards apply to personal fall arrest systems and components used in shipyard employment.

Paragraph (a)(1), proposed as paragraph (a)(7), requires that connectors be made of drop forged, pressed, or formed steel or materials equivalent in strength. The connectors used in personal fall arrest systems must be made of steel or equivalent materials to withstand failure under fall conditions. As discussed above in relation to the definitions (§ 1915.151(b)), OSHA has replaced the proposed term ''hardware'' with the term ''connector.'' Otherwise, the proposed and final rule language are identical.

Final rule paragraph (a)(2), proposed as paragraph (a)(8), requires that connectors have a corrosion-resistant finish and that all surfaces and edges be smooth to prevent damage to the interfacing parts of the system. The only difference between the final rule's provision and the proposed provision is the use of the term ''connector'' instead of ''hardware.''

Final rule paragraph (a)(3), proposed as paragraph (a)(14), requires that D-rings and snaphooks used in these systems be capable of sustaining a minimum tensile load of 5,000 pounds (22.2 kN). No comments were received on this paragraph.

Final rule paragraph (a)(4), which is also a new provision, requires that D-rings and snaphooks be 100 percent proof tested to a minimum tensile load of 3,600 pounds (16 Kn) without cracking, breaking, or being permanently deformed. The provision is included to ensure the strength of all D-rings and snaphooks.

Paragraph (a)(5), which was not proposed, provides that snaphooks shall either be sized so as to prevent unintentional disengagement of the snaphook or shall be of a locking type which is designed and used to prevent disengagement of the snaphook. This provision has been added to prevent ''rollout'' conditions in a personal fall arrest system during the phase-out period for non-locking snaphooks.

Final rule paragraph (a)(6) requires that snaphooks, unless of a locking type designed and used to prevent disengagement from the following connections, must not be attached:

(i) Directly to webbing, rope, or wire rope;

(ii) To each other;

(iii) To a D-ring to which another snaphook or other connector is attached;

(iv) To a horizontal lifeline, or

(v) To any other object that is shaped incompatibly or dimensioned in relation to the snaphook such that the connected object could depress the snaphook keeper a sufficient amount for release.

Proposed paragraphs (a)(15), (a)(16), and (a)(17), which set similar requirements, have been clarified and consolidated in final rule paragraph (a)(6).

Final rule paragraph (a)(7), which is a new provision, requires that devices used for connection to the horizontal lifeline on suspended scaffolds, or to similar work platforms with horizontal lifelines that may become vertical lifelines, be capable of locking in any direction on the lifeline. Because a suspended scaffold or platform could lose its support at either end, the connection device must be able to lock on the lifeline regardless of which end goes down.

Final rule paragraph (a)(8), requires that anchorages used for the attachment of personal fall arrest equipment be independent of any anchorage being used to support or suspend platforms. Final rule paragraph (a)(9) requires that anchorages either be capable of supporting at least 5,000 pounds (22.2 Kn) per employee attached or be designed, installed, and used as part of a complete personal fall arrest system that maintains a safety factor of at least two, and is used under the direction and supervision of a qualified person. Both provisions are based on proposed paragraph (a)(10).

Proposed paragraph (a)(10) required that personal fall arrest systems be secured to an anchorage capable of supporting at least twice the potential impact load of an employee's fall. E&S testified (Tr. 63–64) that it was ''concerned about the safety factor requirements for an anchorage in the proposed standard * * * [E&S] does not believe the average worker is capable of determining the safe limits of an anchorage.'' In the course of subsequent questioning (Tr. 70–71), E&S agreed that anchorages installed as part of a completely designed personal fall arrest system, and used under the supervision of a qualified person, would provide adequate support for employees. This approach, taken in the corresponding construction and general industry rulemakings, has been adopted in the shipyard PPE final rule. The final rule provisions, while reformatted for the sake of clarity, are essentially the same as the proposed provision.

Final rule paragraph (b) sets criteria for lifelines, lanyards, and personal fall arrest systems. Paragraph (b)(1) requires that each employee be provided with a separate lifeline when vertical lifelines are used. Proposed paragraph (a)(9), which elicited no comments, was essentially identical to this provision of the final rule.

Final rule paragraph (b)(2) requires vertical lifelines (droplines) and lanyards to have a minimum breaking strength of 5,000 pounds (22.2 Kn). This provision of the final rule consolidates the strength requirements contained in proposed paragraphs (a)(11) and (a)(13). The elements of proposed paragraph (a)(11), which addressed self-retracting lifelines, have been redesignated final rule paragraphs (b)(3) and (b)(4), as discussed below. The ''exception'' to the 5000-pound strength requirements contained in proposed paragraph (a)(13) appears in the final rule as a separate provision, paragraph (b)(3), to more clearly express the Agency's intent. OSHA received no comments on the proposed paragraphs relating to lifelines, lanyards, and personal fall arrest systems. The Agency has determined that reformatting the proposed requirements will facilitate compliance efforts for employers whose employees use vertical lifelines or lanyards.

Final rule paragraph (b)(3) requires that self-retracting lifelines and lanyards which automatically limit free fall to 2

feet (0.61 m) or less be capable of sustaining a minimum static tensile load of 3,000 pounds (13.3 Kn) applied to the device with the lifeline or lanyard in the fully extended position. Final rule paragraph (b)(4) requires that self-retracting lifelines and lanyards which do not limit free fall distances to 2 feet (0.61 m) or less (for example: ripstitch lanyards, tearing, and deforming lanyards) be capable of sustaining a minimum tensile load of 5,000 pounds (22.2 Kn) applied to the device (with the lifeline or lanyard in the fully extended position if such a condition can occur in use). As discussed above, final rule paragraphs (b)(3) and (b)(4), which are based on proposed paragraph (a)(11), have been included in the final rule as separate paragraphs for clarity.

Final rule paragraph (b)(5) (revised from proposed paragraph (a)(12)) requires that horizontal lifelines to be used as part of a complete personal fall arrest system be designed and installed under the supervision of a qualified person and have a safety factor of at least two. The proposed provision required that horizontal lifelines have sufficient strength to support a fall impact force of at least 5,000 pounds (22.2 Kn). As discussed above, the Agency has concluded that the same considerations which supported the adoption of such a requirement in the other corresponding OSHA standards apply to personal fall arrest system components used in shipyard employment. OSHA has revised the final rule accordingly.

Final rule paragraph (b)(6) sets the systems performance criteria for personal fall arrest systems. These are new requirements, so OSHA is making this provision effective November 20, 1996 in order to allow employers a reasonable amount of time to attain compliance. The note to final rule paragraph (b)(6) indicates that Non-mandatory Appendix B provides examples of criteria and protocols for designing and testing personal fall arrest systems that OSHA would consider to comply with the standard.

Proposed paragraph (a)(4) was similar to final rule paragraph (b)(6), except that the proposed rule set 1,800 pounds (rather than 900 pounds) as the maximum arresting force limit for systems that used body belts and required that a system have a strength factor of two (based on a design weight of 250 pounds per employee). Also, as discussed below, the proposed requirement that free fall be limited to six feet has been redesignated as a separate provision, final rule paragraph (b)(7), for the sake of clarity. The note to proposed paragraph (a)(4)(iv) is essentially identical to that which appears in the final rule, except for editorial revisions. As discussed above, in reference to the July 6, 1994 notice (59 FR 34586), the Agency has concluded that the same considerations which supported the adoption of such requirements in the other corresponding OSHA standards apply to personal fall arrest system components used in shipyard employment. OSHA has revised the proposed rule accordingly.

Final rule paragraph (b)(7), based on proposed paragraph (a)(4)(i), requires that personal fall arrest systems be rigged to prevent an employee from free falling more than 6 feet (1.8 m) or contacting any lower level.

Final rule paragraph (c) sets criteria for the selection, use and care of personal fall arrest systems and system components. Paragraph (c)(1) (proposed as paragraph (a)(5)) of the final rule requires that the attachment point of a body belt be located in the center of the wearer's back. The attachment point of a body harness must be in the center of the wearer's back near shoulder level or above the wearer's head. The proposed rule provided that the connection point must be either above the wearer's head or above the waist in the back. Comments in the other rulemaking records supported allowing an attachment point at the chest position for limited free fall distances. The final rule, as regards body harnesses, has been revised accordingly.

Paragraph (c)(2) of the final rule, which is a new provision, requires that ropes and straps (webbing) used in lanyards, lifelines, and strength components of body belts and body harnesses be made from synthetic fibers or wire rope. OSHA has determined, given the difficulty of evaluating the deterioration of natural fiber rope, that natural fiber rope is not reliable for use in a personal safety system.

Final rule paragraph (c)(3), also a new provision, requires ropes, belts, harnesses and lanyards to be compatible with all hardware used. The use of incompatible equipment may cause a fall, or, during arrest of a fall, allow arresting forces which cause injury.

Paragraph (c)(4), proposed as paragraph (a)(3), requires that lifelines and lanyards be protected against cuts, abrasions, burns from hot work operations, and deterioration by acids, solvents, and other chemicals. The proposed provision, which did not elicit comments, was identical.

Final rule paragraph (c)(5), proposed as paragraph (a)(18), requires that personal fall arrest systems be visually inspected prior to each use for mildew, wear, damage, and any other deterioration. This inspection need not involve testing or impact loading of the system. If there is a reasonable basis to believe that the strength or integrity of the fall arrest system has been weakened, the employer shall remove defective or damaged equipment from service. No comments were received on the proposed provision, which was identical to the provision in the final rule except for minor editorial changes.

Paragraph (c)(6), which was proposed as paragraph (a)(2), requires that personal fall arrest systems and components that have been subjected to impact loading be removed immediately from service and not be used again for employee protection until inspected and judged suitable for use by a qualified person. The proposed provision, which was effectively identical, elicited no comments and has been promulgated in the final rule with minor editorial changes.

Paragraph (c)(7) of the final rule, a new provision, requires that the employer provide for prompt rescue of employees in the event of a fall or ensure that employees who have fallen can rescue themselves. This provision also appears in the proposed general industry rule and in the final rule for construction. OSHA anticipates that employers will evaluate the potential consequences of falls in personal fall arrest systems in their work environments and choose an appropriate means of rescue. OSHA recognizes that the rescue requirements for employees wearing body harnesses and body belts will differ. For example, the Agency anticipates that self-rescue will be more difficult for employees using body belts and that the acceptable rescue time for such employees will be shorter, because falls in body belts typically result in the employee hanging in a jack-knifed position. When it is not possible to evaluate the self-rescue capacity of employees in advance, prudent employers should assume that employees will need rescue assistance and, accordingly, be prepared to offer it. Paragraph (c)(8), proposed as paragraph (a)(6), requires that body belts be at least 1.625 inches (4.1–cm) wide. OSHA has determined that this minimum width will be acceptable for any body belts that are used in personal fall arrest systems during the phase-out period. No comments were received on this provision.

Paragraph (c)(9), proposed as paragraph (a)(1), requires that personal fall arrest equipment be used exclusively for employee protection. For example, this equipment may not be used to hoist materials. This revision is intended to prevent the deterioration

potentially caused by improper uses and types of loads. The proposed provision, which was identical, elicited no comments.

Final rule paragraph (d), Training, proposed as paragraph (a)(19), requires that employees be trained to understand the application limits of the equipment and the proper hook-up, anchoring, and tie-off techniques, before using any personal fall arrest equipment. Affected employees must also be trained so that they can demonstrate the proper methods of use, inspection, and storage of the equipment. OSHA believes that employees must know how their fall arrest equipment works in order to get the appropriate protection from it. No comments were received on the proposed provision, which was effectively identical to the final rule.

Section 1915.160 Positioning Device Systems

Positioning device systems prevent falls by holding affected employees in place while they perform work on vertical surfaces at elevations. The provisions of proposed § 1915.159(b) have been moved to final rule § 1915.160, so there is a clear distinction between the requirements for personal fall arrest systems and those for positioning device systems.

Final rule paragraph (a) sets criteria for connectors and anchorages used in positioning device systems. For the same reasons as provided in the introductory discussion of final rule § 1915.159, the introductory text of final rule § 1915.160 provides that the use of non-locking snaphooks will not be acceptable in positioning device systems after December 31, 1997. OSHA has included paragraph (a)(4) in the final rule to address any non-locking snaphooks that may remain in use during the phase-out period.

Paragraph (a)(1), proposed as § 1915.159(b)1), requires that all hardware have a corrosion-resistant finish and that all surfaces and edges be smooth to prevent damage to the attached belt or connecting assembly. Corrosion resistance is essential to retain the integrity of the hardware, while smooth edges and surfaces prevent cuts, tears, or other damage to system components. The proposed provision was identical, except that the proposed term ''hardware'' has been replaced by the term ''connector.'' As discussed above, OSHA has determined that it is appropriate to focus attention on the critical load-bearing hardware by adopting the term ''connector.''

Final rule paragraph (a)(2), proposed as § 1915.159(b)(2), provides that connecting assemblies, such as snaphooks or D-rings, have a minimum tensile strength of 5,000 pounds (22.2 Kn). The proposed provision, which did not elicit comments, was identical.

Final rule paragraph (a)(3), proposed as § 1915.159(b)(3), requires that anchorages for positioning device systems be capable of supporting twice the potential impact load of an employee's fall. The proposed provision, which did not elicit comments, was identical.

Final rule paragraph (a)(4), proposed as § 1915.159(b)(6)(i), provides that snaphooks, unless of a locking type designed and used to prevent disengagement, shall not be connected to each other. The proposed rule simply prohibited the connecting of snaphooks to each other. As discussed above, in reference to the introductory text of final rule § 1915.160, the use of non-locking snaphooks is prohibited after December 31, 1997.

Final rule paragraph (b) sets performance criteria for positioning device systems. Paragraph (b)(1), proposed as § 1915.159(b)(4), requires that restraint (tether) lines have a minimum breaking strength of 3,000 pounds (13.3–Kn). This breaking strength is necessary to ensure that the line will hold under fall arrest conditions. The proposed provision, which did not elicit comments, was identical.

Paragraph (b)(2), proposed as § 1915.159(b)(5), provides the system performance criteria for the different types of positioning device systems. These are new performance requirements that are not in OSHA's current shipyard standards. In order to allow employers a reasonable amount of time to ensure that their equipment meets these requirements, OSHA is making this provision effective November 20, 1996.

Final rule paragraph (b)(2)(i) provides that window cleaner's positioning systems must be capable of withstanding a drop test involving a 6 foot (1.83 m) drop of a 250 pound (113 kg) weight. These systems must withstand a more rigorous drop test than other positioning device systems because of their potential for greater free fall distances.

Final rule paragraph (b)(2)(ii) requires that all positioning device systems, other than window cleaners' positioning systems, be capable of withstanding a drop test of 4 feet (1.2 m) with a 250 pound (113 kg) weight. Positioning device systems which comply with the provisions of Section 2 of Appendix B will be deemed by OSHA to meet the requirements of this paragraph. The proposed provision, which elicited no comments, was identical.

Final rule paragraph (c) sets criteria for the use and care of positioning device systems. Final rule paragraph (c)(1), proposed as § 1915.159(b)(7), requires the inspection of positioning device systems before each workshift for mildew, wear, damage, and other deterioration. This provision further requires that defective components identified in such inspections be removed from service. The proposed language was nearly identical, except that it provided for removal of defective equipment ''if their functions or strength may have been adversely affected.'' OSHA has determined that the deletion of that language will make the rule easier to understand, because employers will simply remove components from service that are identified as defective without having to make a specific determination about strength or function.

Final rule paragraph (c)(2), proposed as § 1915.159(b)(6)(ii), requires that positioning device systems or components subjected to impact loading be removed immediately from service and not be used again for employee protection, unless inspected and determined by a qualified person to be undamaged and suitable for reuse. This requirement is necessary to ensure that systems used for employee protection still meet the performance criteria for such systems before they are reused for this purpose. The proposed provision, which did not elicit comments, was identical.

Final rule paragraph (d), Training, proposed as § 1915.159(b)(6)(iii), provides that employees must be trained in the application limits, proper hook-up, anchoring, and tie-off techniques, methods of use, inspection, and storage of positioning device systems before they may use those systems. This provision emphasizes the importance of employee training in the safe use of positioning device systems; for these systems to provide employee protection, two elements are essential. The systems must be designed and used in accordance with stated performance criteria, and the employee(s) using the system must be adequately trained in the safe use of the system. The proposed provision, which did not elicit comments, was identical.

Incorporation by Reference

Another action in this document is the consolidation, within part 1915, of OSHA's Incorporation by Reference (IBR) statements of approval, which indicate clearance by the Office of the Federal Register, into a single section,

§ 1915.5. Existing section 1915.5 is being updated and revised to accomplish this consolidation. This approach is consistent with that taken by other Federal agencies. As amended, § 1915.5 contains the national consensus standard organizations' addresses and the IBR approval language. This approach saves text by cross-referencing from the regulatory text where an IBR is set out to the IBR section. Without such a section, the addresses of the standards organizations, the OSHA Docket Office address, and the IBR approval statement would need to be repeated with each incorporation by reference throughout the shipyard standards. A consolidated IBR Section will also be easier to update.

Appendices

OSHA is including two non-mandatory appendices to final part 1915 subpart I.

Appendix A

Appendix A provides suggested guidelines for complying with the requirements for hazard assessment for the selection of personal protection equipment.

In developing the final rule for this rulemaking, OSHA has determined that Appendix B of the corresponding General Industry standard (part 1910, subpart I) contains some useful information that would be helpful to shipyard employers. Therefore, OSHA has decided to add a detailed Appendix A to the shipyard PPE standard to provide some examples of guidelines which an employer may follow in complying with OSHA's performance-oriented final rule. Those guidelines include examples of hazard assessments performed by work activity.

Appendix B

Appendix B contains testing methods and other information to assist employers in complying with the performance-oriented criteria for personal fall arrest systems and positioning device systems contained in this standard. Many revisions have been made to this appendix based on the comments received during the powered platform rulemaking (Docket No. S–700A). These changes are intended to clarify and simplify the information presented. A complete discussion of the comments and reasons for the changes are included in the Powered Platforms for Building Maintenance final rule (54 FR 31452).

Amendments to Other Subparts of the Shipyard Standards

This final rule also revises cross references in subparts C and H of the shipyard standards, so that those provisions reference subpart I. The existing references would no longer identify the correct paragraphs in subpart I because of the reformatting of Subpart I. These revisions are editorial in nature and do not substantively change the current requirements in other subparts.

IV. Summary of Final Economic Analysis, Regulatory Flexibility Analysis, and Environmental Impact Assessment Summary

In accordance with Executive Order 12866, OSHA has developed a final economic analysis to support the final standard for personal protective equipment (PPE) in the shipyard industry. The Agency has also analyzed the standard's impact on small entities, as required by the Regulatory Flexibility Act, and its potential to cause adverse environmental impacts, as required by the National Environmental Policy Act. The final rule, which will be codified as subpart I of the shipyard employment standards (29 CFR 1915), covers the use of personal protective equipment for the head (e.g., hard hats), eyes (e.g., goggles), feet and hands (e.g., shoes and gloves), and body (e.g., chemical protective clothing), contains the respirator requirements that have been part of OSHA's shipyard standards since 1971, and adds requirements for personal fall protection systems and positioning device systems.

Injuries in the shipyard industry are frequent and severe. The shipyard industry (SIC 3731) has the second highest rate of lost workday injuries and illnesses (37.8 per 100 full-time workers), according to the BLS publication ''Occupational Injuries and Illnesses: Counts, Rates, and Characteristics, 1992'' (published in April 1995). The industry also has one of the highest average number of lost workdays per injury (more than 40 percent of lost workday injuries involve more than 10 days away from work, according to the same BLS publication).

To address those shipyard injuries that result from the failure to use PPE or from the use of inadequate PPE, and to raise the minimum standard of PPE use in the industry to the level of technology currently available, OSHA has developed this final rule. The rule requires employers to meet minimum specifications for PPE employed to protect the eyes and face, hands and body, and feet, as well as those for respiratory protection, lifesaving, and personal fall protection equipment. In addition, the final rule requires employers to conduct hazard assessments, include specific elements related to PPE in the training they provide to their workers, document training and hazard assessments, require the use of body harnesses in place of body belts after a phase-in period, and ensure the use of locking snaphooks on personal fall protection equipment. Rulemaking participants from the shipyard industry report that most employers in the industry are already in compliance with the requirements of the final standard. For example, one industry representative stated ''* * * most shipyards require employees to wear personal protective equipment in all areas beyond the office doors. * * * We've already identified and protected our employees and our visitors because of the hazardous work environment'' [January 25, 1995 public meeting, Transcript page 9].

The economic analysis identifies a number of benefits that employers and employees will experience as a result of compliance with the standard. For example, the Agency has concluded that the rule's requirements for body harnesses and locking snaphooks will reduce the risk of fatal falls, and these requirements will also reduce the severity of the injuries resulting from non-fatal falls. In addition, the final rule is estimated to prevent about 1,550 lost workday injuries annually and 12,650 non-lost workday injuries caused by the failure to use PPE or the use of inadequate PPE.

The Agency estimates that employers in the affected industry will incur estimated annual costs of compliance of $163,000. These costs, which average about $2 per covered employee, will not impose substantial economic impacts on affected firms in any size-class. OSHA has also evaluated the impacts of compliance costs on the average small shipyard and has determined that, even under a no cost pass through assumption, worst case impacts on such establishments will average no more than $100 annually. OSHA has therefore concluded that this standard will not impose an undue burden on small firms; in addition, the standard will not have an adverse effect on the environment.

Introduction

Executive Order 12866 requires the Agency to perform an analysis of the costs, benefits, and regulatory alternatives of its regulatory actions. If a regulation is deemed ''significant'' by the Administrator of OMB's Office of Information and Regulatory Affairs

(OIRA), OIRA reviews the regulation and OSHA's economic analysis. A regulatory action is considered significant if it imposes annual costs on the economy of $100 million or more or has an adverse effect on the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This final rule directly affects only one well-defined industry, the shipbuilding and ship repair industry, and the estimated costs of compliance are far below the $100 million threshold. OSHA has therefore concluded that the promulgation of this final standard for personal protective equipment in shipyard employment is not a significant action under the guidelines of E.O. 12866.

As required by the OSH Act and its judicial interpretations, the Agency must demonstrate that all of its regulations are both technologically and economically feasible, and specifically that this is the case for this rule. The Agency has concluded that this standard meets both tests of feasibility. A summary of the Agency's feasibility assessment of the final rule is presented in the following section of the Economic Analysis.

In addition, the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires federal agencies to determine whether a regulation will have a significant economic impact on a substantial number of small entities. The Agency must also review this standard in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.), the Guidelines of the Council on Environmental Quality (CEQ) (40 CFR Part 1500), and OSHA's DOL NEPA Procedures (29 CFR Part 11).

This summary of the economic analysis includes an overview of the affected industry and employees at risk, the estimated benefits of the rule, the technological feasibility of the standard, the estimated compliance costs shipyard employers will incur, the impact of those costs on firms in the shipyard industry, the results of the regulatory flexibility and economic analysis, and a discussion of regulatory and non-regulatory alternatives. The full text of the economic analysis is in the shipyard PPE docket (Docket S–045).

Industry Profile

The American shipyard industry has been in a long-term decline since 1981 when the federal government ended subsidies for commercial ship construction. In the period 1976–1980 the industry built an average of 64 merchant vessels per year. Only five commercial ships have been built since 1988. The decline in merchant vessel construction in the 1980's was partially offset by a large increase in military ship construction. However, the end of the military competition with the former U.S.S.R. has resulted in a sharp drop in military ships on order. The ''bottom-up'' review of the armed forces called for a major reduction in the number of active combat ships, and consequently has caused a drop in the number of future orders. U.S. Navy orders, which averaged 19 per year in the 1980's, are projected to fall to 8 per year during the period 1994–1999. Ship repair and construction of inland vessels and barges has remained constant during the past five years.

Recently American shipyards have received new orders for construction of commercial ships (Wall Street Journal Nov. 15, 1995). These orders result mainly from a new Federal loan guarantee program approved by Congress but also are due to exchange rates that have made American-made products cheaper relative to foreign-produced goods. Wage rates in American shipyards were already well below those of some important foreign competitors, such as Germany and Japan, whose governments heavily subsidize their shipbuilding industries. A new global trade accord that would end shipbuilding subsidies may be signed in the near future. This would allow American shipyards to compete internationally, increase commercial ship construction, and increase employment levels in the industry. The Agency estimates that employment in American shipyards will end its decline and level off or increase slightly for the next two to three years. Future employment levels depend on funding for the guaranteed loan program, exchange rates and the relative price of American versus foreign-built ships, foreign governments' level of subsidy to their shipyards, and the status and terms of a global accord to end subsidy programs.

Employment in the shipbuilding industry declined from 177,000 in 1984 to about 125,000 by 1987 and remained near that level until 1992. The Bureau of Labor Statistics estimates that employment in the industry was 106,000 by late 1993. The most recent BLS ''Employment and Earnings'' (May 1995) estimates the same level of employment and reports that about 79,000 of these employees are production workers. In 1994, the value of output from American shipyards was approximately $9.5 billion (1994 Industrial Outlook estimate). Based on Dun & Bradstreet's estimated mean return for the shipyard industry of 2.9 percent, the industry earned approximately $275 million in 1994.

The Agency estimates that there are approximately 500 firms in SIC 3731, and a majority of these have fewer than 50 employees. Employment in the shipyard industry is highly concentrated. The ten largest shipyards employ approximately 70 percent of all shipyard workers, and only the 100 largest firms have as many as 100 employees each. The Agency estimates that approximately 300 firms engaged in ship repair employ fewer than 20 employees. Many of these small firms perform contracting for larger firms; those that do so already follow the PPE guidelines of the employing shipyards.

Employees at Risk

Numerous sources confirm that about 75 percent of shipyard employees are production workers, including the *1987 Census of Manufactures* (Bureau of the Census 1990) and CONSAD Research Corporation (1986). The Agency thus concludes that an estimated 79,000 production workers in this industry are now exposed to workplace hazards that may require the use of PPE of the types covered by the final rule.

Technological Feasibility

Equipment to meet the final PPE standard, such as hard hats, gloves, and safety shoes, is readily available and widely used throughout the industry. Off-the-shelf safety programs that include guidance on the conduct of hazard assessments, as well as training program materials, are readily available, and these programs are also well established throughout the industry. ''Hazard assessments are a standard practice at EBDiv. [Electric Boat Division]'' [Ex. 9–10]. ''Shipyards are safety conscious. Every shipyard in the Hampton Roads area has a safety program and a safety officer * * * STASR shipyards have safety programs with many of the PPE standards already in place. The [proposed standard's] PPE training and recordkeeping requirements are, in some cases, redundant'' [South Tidewater Association of Ship Repairers, Ex. 9–3].

Training documentation is usually maintained by shipyard employers in a computer database. The Agency therefore concludes that the final PPE standard is technologically feasible. The performance-oriented criteria of the standard should also allow technological innovation to improve PPE protection in the future.

Costs

The preliminary cost estimates prepared by OSHA to support the proposed shipyard PPE standard published in 1988 included compliance costs that shipyard employers would incur to comply with a number of proposed requirements for respirator use. However, the final standard does not include any new respirator requirements, because the Agency expects to publish a final rule addressing respirator use in all industries in the near future. Thus, this final rule includes only those respirator provisions that have been included in OSHA's shipyard rules since 1971.

In response to the preliminary Regulatory Impact Analysis (1988), OSHA received only one comment on the costs of the proposed standard. Peterson Builders [Ex. 6–14], referring to the proposed requirement for foot protection in Section 1915.156, stated that buying protective footwear for all employees—which the commenter interpreted as being required by the proposed standard—would be costly and unnecessary. The Agency has recently clarified its policy on the purchase of PPE to make clear that employers do not have to purchase equipment that may also have personal use; OSHA believes that the costs of PPE will therefore be substantially less than this commenter expected. In addition, as noted above, OSHA's 1988 Preliminary Regulatory Impact Analysis (see Docket S–045) noted that the use of PPE in shipyards is already widespread.

On April 6, 1994 OSHA published a final standard for PPE in general industry (59 Federal Register No. 66). On July 6, 1994, the Agency reopened the record for the shipyard PPE standard to incorporate the general industry PPE docket into the shipyard PPE docket and to propose the addition of several elements from the general industry standard to the shipyard standard. These elements included requirements for: certification of workplace hazard assessments; certification of training; specification of training elements; the phasing out of body belts in favor of body harnesses; and the replacement of non-locking snaphooks with locking snaphooks. The Agency's intent in taking this action was to make the PPE standard consistent where possible in both shipyards and the general industries. Following the comment period, a Federal Register notice announcing a public meeting and containing additional discussion of some of the issues raised by the reopening was published on December 13, 1994. A public meeting was held on January 25, 1995 to hear testimony about the proposed changes to the shipyard standard introduced during the reopening of the record.

Representatives of the shipyard industry and industry associations opposed the new requirements for work place hazard assessments and the certification of such assessments. First, the industry asserted that job-related activities in shipyards are unique because a shipyard is not a fixed ''workplace.'' Instead there is a constant shifting of trades between work locations as employees move among various shops and vessels; in addition, in ship repair and overhauling, the vessels being worked on constantly change. According to these commenters, it is not possible for designated shipyard employees to continuously assess the hazards of a ''workplace'' that is constantly changing. According to one participant, a better approach would be to perform hazard assessments by trade to determine the level of PPE required [South Tidewater Association of Ship Repairers, Ex. 9–3]. Numerous commenters agreed with this view [Exs. 9–1, 9–7 through 9–12].

As discussed above in relation to final rule § 1915.152(b), OSHA agrees that it is appropriate to allow employers flexibility in organizing their hazard assessment efforts. The Agency has underscored the performance-oriented nature of that provision by adding a note to the final rule which states that hazard assessments conducted according to the trade or occupation of affected employees are acceptable so long as they address any PPE-related hazards to which employees are exposed in the course of their work activities.

The shipyard industry also opposed the requirement for certification of hazard assessments because, in the opinion of commenters, certification would require employers to expend resources for new paperwork activities ''for the convenience of the Agency'' that would not result in additional safety for production workers [Ex. 9–11]. Industry commenters also were concerned that certification might increase their liability when injuries occur. Other shipyards that currently rely on worker involvement to analyze risks feared that certification would disrupt that process [January 25, 1995 public meeting transcript pages 28 and 41–47]. The shipyard industry also opposed the certification of hazard assessments on the grounds that these assessments would be redundant, since the industry already performs many PPE-related hazard assessments for individual health and safety standards such as hearing conservation, lead, confined spaces, respirator use, and other OSHA standards.

In its Federal Register notice on December 13, 1994 announcing a public meeting on shipyard PPE issues, the Agency asked for information on whether simple documentation would suffice in place of certification. In testimony at the public meeting and in comments submitted following the meeting, industry representatives stated that they did not oppose documentation of hazard assessments. In fact, they reported that it is routine in the industry to conduct such assessments and to document them:

> * * * hearing conservation, respiratory protection, hazard communication, lockout/tagout, lead abatement, blood-borne pathogens, medical surveillance programs * * * [are] programs that are already in place that [require] us to do hazard assessments of the workplace in order that we provide PPE * * * Where hazard assessment does not exist, and it would be hard for me to say where it doesn't in the shipyard industry, we'd recommend that an annual assessment be made. [Shipbuilders Council, January 25, 1995 public meeting transcript page 11].

Commenters within the shipyard industry also opposed the general industry PPE requirement to certify training, largely for the same reasons as those noted above for the certification of hazard assessments—the creation of potential new legal liability and unnecessary paperwork. In its December 13, 1994 announcement, the Agency suggested that simple documentation could be used in lieu of certification, and the final rule requires documentation rather than certification.

Commenters were generally supportive of the standard's training requirements and the specific elements of training mandated by the rule. Commenters stated that the PPE training elements proposed by the Agency were practiced throughout the shipyard industry, as was the maintenance of training logs—usually in the form of a computer database:

> We support the general requirement for training as it does serve to enhance a safer working environment [Shipbuilders' Council [Ex. 9–9]].

> We are already complying with this proposed standard [for training] and we suspect many other shipyards are also complying. * * * Our new hire orientation programs covers all areas of PPE and would meet the new requirements proposed in the standard [Tampa Shipyards, Ex. 9–8].

> We'd recommend this documentation [for training] be in the form of training logs, which most of us already keep on the computer [Shipbuilders' Council January 25, 1995 public meeting, Transcript page 13].

There was widespread support among industry commenters for the use of body harnesses in place of body belts:

Electric Boat Division utilizes body harnesses for all of its fall protection needs. * * * [Ex. 9–10].

BIW/Local S6 has implemented a policy which is consistent with the construction industry standard in that only body harnesses may be used in fall arrest systems and body belts may be used in positioning device systems [Bath Iron Works Ex. 11–7].

Without a doubt, the majority of our membership endorses the use of harnesses. Most of us already have those in place [Shipbuilders' Council January 25, 1995 public meeting, Transcript page 14].

However, Newport News Shipbuilding (NNS), which employs about 20 percent of all shipyard employees, opposed the phase-out of body belts in favor of harnesses. NNS relies almost completely on body belts for fall protection, although the shipyard did report using a small number of harnesses. Several small yards also still rely on body belts for fall protection and questioned the utility of changing to body harnesses since they had experienced no injuries due to the use of body belts [Exs. 9–1, 9–3 and 9–11]. At the public meeting, NNS stated that replacing over 4,700 body belts would be a burden and therefore that a seven-year phase-in period would be needed to reduce the economic impact. The company reported that a review of several years' accident records failed to show that falls of employees using body belts resulted in any severe injuries. NNS did not introduce its data on falls into the record, however. A cost analysis presented by NNS at the hearing showed that body belts cost NNS $43 each and, on average, lasted 7 years; harnesses cost $140 and have a working lifetime of 3 years.

Most other shipyards and industry associations reported that they had switched to harnesses from belts. These commenters reported that, although harnesses cost more than belts, they provide greater protection and are cost effective.

We * * * endorse the use of body harnesses as a safety method for employees. While the cost of a body harness is usually twice the amount of body belts, the added safety factor to the employee is well worth the money, and in the long run will save the company money is case of an accident [Atlantic Marine Ex. 9–9].

In fact many of our yards already use them [harnesses]. We find them to be very effective, and everybody seems to certainly feel a lot safer with them [Shipbuilders' Council January 25, 1995 public meeting, Transcript page 23].

At the public meeting on January 25, 1995, representatives of the American Insurance Service [Tr. 59] stated that body harnesses would prevent injuries that could occur in falls involving employees wearing body belts. In addition, they said that it is difficult to rescue a worker in a body belt after a fall since he or she typically is hanging ''nose to toes,'' or upside down. Several falls involving employees (in other industries) wearing body belts had resulted in fatalities when the fallen worker had slipped out of his/her body belt. The insurance representatives also asserted that the cost of harnesses should not preclude the inclusion of a harness requirement in the rule because industry has known that the change to harnesses was going to occur, body belts are usually ''expense'' items, and, if treated as a capital expense, will have been fully depreciated by the effective date of the regulation. The association did not provide any data demonstrating that the injuries associated with falls in body harnesses was less severe than those in belts. Belts were estimated to cost $35 each and harnesses $75 each. Harnesses were estimated to last an average of 2 to 4 years.

OSHA agrees with the assessment of most of the commenters from the shipyard industry and the insurance industry who supported the requirement for harnesses in lieu of belts, and the final rule thus contains such a requirement.

Many commenters endorsed the adoption of locking snaphooks over non-locking snaphooks on lifelines [Ex. 9–10 and January 25, 1995 public meeting, Transcript page 52]. Locking snaphooks are already in widespread use in shipyards. At the January 25, 1995 public meeting, representatives from the American Insurance Service demonstrated how, in a ''roll-out'' situation, lifelines can detach from non-locking snaphooks. Most industry commenters reported that snaphooks were used in their shipyard, and none opposed this change to the standard or raised it as a cost issue.

Based on the record for this rulemaking, the Agency has concluded that the only provisions of the final PPE standard that will impose other than negligible costs on shipyard employers are: the replacement of body belts with body harnesses; the documentation of hazard assessments; the development of training for body harnesses in shipyards not already employing harnesses; and employee training for body harnesses. Only Newport News Shipbuilding (NNS) and a number of small shipyards reported that they still rely on body belts. (Very small shipyards specialize in trades and may not use body harnesses or body belts at all). OSHA has taken the concerns of these commenters into account in the final rule. NNS stated that it currently uses about 4,700 body belts, although no information was available on the breakdown between belts used as positioning devices (this would not be affected by the final rule) and those used for fall protection. To the extent that some of these belts continue to be used for positioning devices, the 4700 figure overstates the number of harnesses to acquire. The Agency estimates that NNS will need to purchase no more than 3,000 harnesses (about 1 for every 5 production workers). The Agency estimates that, in addition to NNS, some smaller employers in the industry may need to buy harnesses to replace body belts, and the Agency estimates that 1,000 harnesses would be purchased by these employers. Based on evidence in the record and information from suppliers, the Agency estimates that body belts cost about $50 and harnesses $100. Body belts are estimated to last an average of 7 years and harnesses 3 years. Thus, body belts supply fall protection at a cost of roughly $7 per year ($50/7 years), while harnesses do so at $33 per year ($100/3 years). Harnesses therefore cost roughly $27 more per year than belts for each affected employee. Since body belts can still be used as positioning devices, the requirement that harnesses be used for fall protection will not end the useful life of these belts. Based on these estimates, OSHA concludes that replacing body belts with harnesses will result in a new annual cost to the industry of approximately $128,000 [(3,000 new harnesses for NNS+1,000 new harnesses for small shipyards)×$27]. Nevertheless, to allow additional time and reduce any potential impacts, the final rule permits shipyards to phase-in compliance with the body harness requirement over two years, which is consistent with the phase-out date in other OSHA standards.

The hazard assessment documentation required by the standard consists of a record, either paper or on a computer or other storage medium, with the date of the hazard assessment, name of person performing the assessment, occupation or operations covered, and a list of the PPE required. Shipyards report that they already incorporate some of this information in their current training materials. The Agency has estimated that it would take each shipyard about an hour to develop a computer-based record format for this documentation and approximately five minutes to record the hazard assessment

for each occupation covered. Table 3 summarizes this information for the PPE standard. The total time expended by managers to document hazard assessments is estimated to be 781 hours, a one-time commitment of management resources.

TABLE 3.—ESTIMATE OF AMOUNT OF TIME TO DOCUMENT HAZARD ASSESSMENTS, DEVELOP TRAINING PROGRAMS FOR BODY HARNESSES, AND TRAIN IN USE OF BODY HARNESSES FOR OSHA'S STANDARD ON PPE IN SHIPYARDS

Firm Size (number of employees)	Number of firms in size category	Hazard assessment		Develop training for hamesses			Training		
		Number of hazard assessments (trades)	Time to document hazard assessments (hours)	Time to develop training per firm (hours)	Number of firms who must do so	Total time to develop program (hours)	Training sessions per firm	Management time (hours)	Number of employees trained (hours)
1000+	12	40	36	.....	none	0	150	150	3000
500–999	12	30	30	8	6	48	4	24	200
100–499	76	30	190	4	76	304	2	152	400
21–99	100	10	150	4	100	400	1	100	200
11–20	100	5	125	2	50	100	1	50	200
1–10	200	5	250	2	100	200	1	100	150
Subtotals (hours)	.....	.....	[1] 781	.....	.....	[1] 1052	.....	576	4150
Total one-time, or first year, management resources for hazard assessments and development of training	.....	.....	.....	.....	.....	.....	.....	.....	[2] 1,833
First year management resources to conduct training	.....	.....	.....	.....	.....	.....	.....	.....	[2] 576
Total management time	.....	.....	.....	.....	.....	.....	.....	.....	[2] 2,409
Total employee time	.....	.....	.....	.....	.....	.....	.....	.....	[2] 4,150

Source: Office of Regulatory Analysis.

[1] One-time.

[2] Hours.

The development of training materials for the use of personal fall arrest systems (body harnesses) imposes a one-time cost for shipyards that are not already using harnesses. Some of the very smallest shipyards who provide specialty trade work will not have or use any harnesses. All large shipyards already use harnesses to some extent, and the Agency has concluded that these shipyards also have developed training materials. Because training videos and written materials on the use of body harnesses are widely available, the Agency has concluded that the time required for establishing such a training program will be small. Table 3 presents the Agency's estimate of the time that firms will expend to develop training for the use of body harnesses; the estimate ranges from 8 hours for firms with more than 500 employees to 2 hours for the smallest employers. The total time required to develop training for body harnesses is estimated to be 1,052 hours of management time.

Firms that do not currently use body harnesses must also train their employees as harnesses are substituted over time for body belts. The cost of this training consists of management or trainers' time to provide training to employees as well as the value of employee wages foregone while training. The Agency estimates a training session will take approximately one hour and that as many as 10 to 20 employees can receive training in a single session. Table 3 presents the Agency's estimate of the number of sessions by firm size that will be necessary for training in body harnesses and the number of employees trained. The Agency estimates that a higher fraction (10 percent or more) of smaller firms' employees will have to be trained due to the nature of their business—cleaning tanks, repairs over the ship's side, painting and maintenance—which require the use of harnesses. Among large firms only NNS relies primarily on body belts and uses only a few body harnesses. The Agency estimates that all of NNS's body belts (4,700) will not have to be replaced with harnesses, since compared with smaller yards less work conducted at large shipyards or in new ship construction requires a body harness (rather than a body belt). The Agency has estimated that NNS will replace 3,000 body belts with harnesses. Data for the cost of body harness training is included in Table 6. The Agency estimates that 576 hours of management time and 4,150 hours of employee time will be required for training.

The total one-time cost for documenting hazard assessments, developing harness training materials, and providing training is 2,409 management hours and 4,150 employee hours. Average hourly employee wages for SIC 3731 are about $14.00 per hour (''Employment and Earnings'' Bureau of Labor Statistics October, 1994). The Agency estimates that the cost of wages plus benefits is $20 per hour for production employees and $30 per hour for managers.

The total cost of these elements of the standard is approximately $155,000. Annualized over five years at 7 percent, this cost is about $35,000 per year. Added to the annual cost of body harnesses of $128,000, the Agency estimates that the total annualized cost of the PPE standard is $163,000 per year for the shipyard industry.

Economic Impacts

With industry revenues exceeding $9 billion and an estimated profit of $275 million in 1994, the annual estimated compliance costs associated with the standard ($163,000) will not cause a significant impact on the revenues or profits of firms in the shipyard industry.

Benefits

The final shipyard PPE standard will reduce the risk of injury or fatality confronting workers who fall while wearing body belts. After the phase-in period, shipyard workers who fall while wearing body harnesses will experience fewer fatalities or severe injuries as a result of these falls. Although industry and insurance representatives testified to the beneficial effects of harnesses, data in the record are not sufficiently detailed to quantify the magnitude of the reduced risk. Accordingly, OSHA has not quantified this risk reduction or the productivity gains associated with the use of harnesses compared with belts. In addition, the use of locking snaphooks, as required by the final rule, will prevent roll-out thus reducing the risk of fatality or severe injury.

The Agency has also analyzed the more typical PPE-related injuries of lesser severity. OSHA estimates that compliance with the final shipyard personal protective equipment rule will potentially prevent about 1,550 lost workday injuries (15 percent of all shipyard PPE-related lost workday injuries) and about 12,650 non-lost workday injuries (about 46 percent of all shipyard PPE-related non-lost workday injuries). To develop this estimate, the Agency analyzed a sample of over 1,700 shipyard injuries reported on OSHA Form 200's that were collected as part of recent OSHA survey efforts. For each injury or illness in the sample, OSHA judged whether the injury or illness was potentially preventable through the use of the appropriate type of protective equipment. These judgments were based on the injury and illness descriptions on the Form 200. OSHA considered the following types of PPE to be applicable: hard hats, safety glasses and goggles, welding goggles and helmets, face shields, safety shoes, work gloves and other forms of hand protection, and chemical protective gloves, aprons, and other clothing.

To develop its estimate, OSHA first divided the sample injuries and illnesses by severity and estimated the fraction of cases that were judged to be potentially preventable by PPE use. Next, OSHA applied these preventability rates to Bureau of Labor Statistics employment levels for 1994 for the shipyard industry and calculated the number of cases that might be prevented through PPE use. The results of this analysis are shown in Table 4. Of 27,317 shipyard injuries and illnesses without lost-workdays, 12,665 (46.4 percent) were estimated to be potentially preventable through proper use of PPE. Of 9,876 cases involving days away from work, OSHA estimated that 1,549 (15.7 percent) were potentially preventable through compliance with OSHA's PPE requirements. These estimates indicate that over 10 percent of all shipyard injuries (both lost-time and non-lost work time) are potentially preventable through the proper use of safety glasses, while 15 percent are potentially preventable through the use of work gloves or other appropriate forms of hand protection. This analysis of ''typical'' PPE injuries parallels the benefits analysis performed for the general industry PPE standard, with one exception. In this shipyard analysis, the Agency has reduced its estimate of the number of eye injuries that could be prevented by the use of safety glasses to 50 percent (a figure of about 99 percent was applied in the general industry analysis), because shipyard representatives and OSHA personnel report that the use of basic eye protection is standard practice in shipyards, which are widely recognized as being especially hazardous environments. The Agency concludes that fewer eye injuries occur in shipyards than general industry establishments because employees in shipyards, unlike those in general industry, are routinely required to wear safety glasses.

TABLE 4.—PREVENTABILITY OF SHIPYARD INJURIES BY TYPE OF PPE (1994)

Injury preventability/PPE type	Injuries without lost-workdays		Injuries with lost-workdays		All injuries	
	Number	Percent	Number	Percent	Number	Percent
Preventable:						
Hard hat	753	2.8	133	1.3	886	2.4
Safety glasses [1]	3,509	12.8	346	3.5	3,855	10.4
Safety goggles	422	1.5	88	0.9	510	1.4
Welding goggles/helmet	632	2.3	137	1.4	769	2.1
Face shield	1,024	3.7	33	0.3	1,057	2.8
Safety shoes (metatarsal guard)	392	1.4	237	2.4	628	1.7
Safety shoes (toe protection)	361	1.3	109	1.1	470	1.3
Safety shoes (sole protection)	151	0.6	0	0.0	151	0.4
Work gloves	5,120	18.7	406	4.1	5,526	14.9
Chemical protective gloves	0	0.0	48	0.5	48	0.1
Chemical protective clothing	301	1.1	13	0.1	314	0.8
Total preventable	12,665	46.4	1,549	15.7	14,214	38.2
Not Preventable	14,652	53.6	8,327	84.3	22,979	61.8
All injuries	27,317	100.0	9,876	100.0	37,193	100.0

[1] Rate for eye injuries preventable by safety glasses adjusted downward by 50.0% due to current high rate of safety glass use in shipyards.
Source: Bureau of Labor Statistics. 1992. Survey of Occupational Injuries and Illnesses; OSHA estimates based on analysis of Form 200 Shipyard Injury Database. Estimates of the number of 1992 injuries and illnesses extrapolated to 1994 based on decline in shipyard employment of 14.4 percent over this period.

OSHA also used data supplied by the BLS describing the distribution of shipyard lost-workday cases by body part injured to develop disaggregated estimates of the number of preventable injuries. These estimates are shown in Table 5. OSHA estimates that 90 percent of the head, scalp, and toe injuries are potentially preventable. OSHA also judged PPE to be effective, at lower rates, in preventing face, eye, foot, hand and finger injuries.

TABLE 5.—PREVENTABLE SHIPYARD INJURIES AND ILLNESSES BY SEVERITY AND BODY PART

Injury severity/body part	Number of 1992 injuries	Number of extrapolated 1994 injuries [3]	Share of injuries preventable [4] (percentage)	Number of injuries prevented
Injuries and illnesses without lost workdays[1]	31,900	27,317	46.4	12,665
Lost-workday injuries and illnesses:[2]				
Head, unspecified	73	63	100.0	63
Ear(s)	0	0	0.0	0
Eye(s)	1,080	925	[5] 61.7	571
Face	51	44	75.0	33
Scalp	91	78	[6] 90.0	70
Neck	350	300	0.0	0
Arm(s), Unspecified	49	42	0.0	0
Elbow	265	227	0.0	0
Forearm	128	110	0.0	0
Wrist	478	409	12.5	51
Hand(s)	508	435	38.9	169
Finger(s)	720	617	37.9	234
Upper extremities, multiple	0	0	0.0	0
Trunk, unspecified	0	0	[6] NE	0
Abdomen	88	75	0.0	0
Back, Unspecified	954	817	0.0	0
Back, lumbar	1,198	1,026	0.0	0
Back, thoracic	168	144	0.0	0
Chest	289	247	5.3	13
Hip	306	262	0.0	0
Shoulder(s)	601	515	0.0	0
Trunk, Multiple parts	0	0	0.0	0
Lower extremities, multiple	0	0	0.0	0
Leg(s), unspecified	59	51	0.0	0
Thighs	89	76	0.0	0
Knee(s)	1,073	919	0.0	0
Lower leg(s)	123	105	0.0	0
Leg(s), multiple	0	0	0.0	0
Ankle(s)	624	534	0.0	0
Foot/feet	488	418	60.0	251
Toe(s)	123	105	90.0	95
Lower extremities, multiple	0	0	0.0	0
Multiple body parts	674	577	0.0	0
Lost workday injuries continued:				
Circulatory system	0	0	0.0	0
Digestive system	0	0	[7] NE	0
Excretory system	0	0	0.0	0
Nervous system	0	0	0.0	0
Respiratory system	0	0	0.0	0
Body parts, NEC	163	140	[7] NE	0
Unclassifiable	720	617	0.0	0
Total lost-workday injury	11,533	9,876	15.7	1,549
All injuries and Illnesses	43,433	37,193	38.2	14,214

[1] Bureau of Labor Statistics. 1992 Survey of Occupational Injuries and Illnesses.
[2] Bureau of Labor Statistics. 1992 Survey of Occupational Injuries and Illnesses, unpublished data. Injury and illness data by body part available only for cases with lost workdays.
[3] Estimates of the number of 1992 injuries and illnesses extrapolated to 1994 based on decline in shipyard employment of 14.4 percent over this period.
[4] OSHA estimates based on analysis of Form 200 Shipyard Injury Database. Estimate of preventable share for non lost-workday injuries based on the overall ratio of preventable non-lost-workday cases in the Form 200 database.
[5] Rate for eye injuries preventable by safety glasses adjusted downward by 50.0% due to current high rate of safety glass use in shipyards.
[6] OSHA estimate. No observations for this injury category in Form 200 database.

Regulatory Alternatives

The Agency concludes that the proposed rule is the most cost-effective regulatory alternative for this industry. One alternative considered was to apply the general industry PPE standard to the shipyard industry. However, if the general industry PPE standard (29 CFR 1910.132) were applied to the shipyard industry in its entirety, it would impose unnecessary costs in the form of paperwork because it could require shipyards to adopt new training and documentation programs. Shipyards have long had both comprehensive and specialized safety programs and their own databases for maintaining training logs, accident data, and other information. The final rule builds on the tools the industry has already developed and thus avoids imposing unnecessary costs and other burdens on shipyard employers.

Regulatory Flexibility

As required by the Regulatory Flexibility Act of 1980 (as amended by Title II, Subtitle D of the Contract with America Advancement Act of 1996),

OSHA assessed the economic burden faced by small establishments in complying with this final rule. In comments to the record for this standard, no comments specifically addressed either the Regulatory Flexibility Analysis or its conclusion that the standard would impose no significant impact on small firms. In that analysis, the Agency identified the increased use of respirators as the main source of new costs for all shipyards, but this element has been dropped in the final standard.

The Agency has concluded that small shipyards in the industry have as much need of additional personal protective equipment as other shipyards. The industry has one of the highest injury and illness rates of any industry. Since the largest shipyards report injury and illness rates at or below the industry average, the Agency has concluded that the rate of preventable injuries and illnesses are at least as great in smaller yards. In addition, many of the production operations are the same for larger and smaller shipyards. Since the standard requires employers to identify and protect workers from risk by occupation or trade, the Agency concludes that the risks for each trade are similar irrespective of the size of the shipyard. The objectives of the standard are to reduce the risk of PPE-preventable injuries in shipyards.

Although no public comments were specifically addressed to issues in the Regulatory Flexibility Analysis, many of the comments applied to situations faced by smaller shipyards. However, the Agency believes that smaller yards are not impacted in a significantly different manner or scale than larger shipyards. The comments by smaller shipyards about feasibility were similar to the larger yards: questioning the utility of body harnesses rather than body belts and the need to certify hazard assessments and training.

The Agency considered applying the General Industry PPE standard as an alternative for small establishments in the shipyard industry, but testimony and comments in the docket support the Agency's decision that the final standard will more effectively meet the risk in shipyards at lowest cost.

As can be seen in Table 3, the Agency estimates that there are 200 firms in the shipyard industry with 10 or fewer employees, 100 firms with 11–20 employees, and 100 firms with 21–99 employees. The Agency believes that for the shipyard industry, firms with fewer than 100 employees is a ''small'' firm. Therefore, for purposes of this Regulatory Flexibility Analysis, the Agency estimates that there are approximately 400 ''smaller'' businesses with an estimated 8,000 employees. From data in Table 3, smaller firms will require 525 management hours to document hazard assessments, 250 management hours to develop training for body harnesses, and 250 management hours to provide training, and 550 employee hours for training. Costs for these elements, which are a one-time cost, total $38,450, which is equivalent to an $8,700 annual cost (annualized over 5 years at 7 percent). Other new annual costs for small firms are estimated at $13,500 for 500 body harnesses to replace body belts. Total annual costs for smaller shipyards are then an estimated $22,200, or an average of about $55 per smaller shipyard. The Agency has provided a phase-in period of two years to allow smaller shipyards time to accomplish this shift.

OSHA concludes that this standard will not impose a significant impact on a substantial number of small entities, and that the phase-in for body harnesses will further alleviate any impacts that do occur.

International Trade

In accordance with Executive Order 12866, OSHA assessed the effects of the final standard on international trade. The shipyard industry actively competes with foreign shipyards for ship repair and shipbuilding orders. If this OSHA regulation significantly increased the price of products and services of domestic shipyards, foreign shipyards could benefit. OSHA believes, however, that there will be virtually no effect on the prices of products or services as a result of this regulation.

Environmental Impact

The shipyard PPE standard has been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.), the regulations of the Council on Environmental Quality (CEQ) (40 CFR part 1500), and DOL NEPA Procedures (29 CFR part 11). There will be no additional incremental release quantities related to this standard. Releases of substances regulated under EPA's SARA Title III or EPA NESHAP standards are subject to reporting and control requirements.

Non-Regulatory Alternatives

The primary objective of OSHA's standard for PPE is to minimize the number of shipyard employee injuries and risk of fatalities. The Agency examined non-regulatory approaches for promoting PPE use, including (1) incentives created by workers' compensation programs or the threat of private suits, and (2) requirements of the U.S. Navy and U.S. Coast Guard. Following this review, OSHA determined that the need for government regulation arises from the significant risk of job-related injury or death. Private markets fail to provide enough safety and health resources due to the externalization of part of the social cost of worker injuries and deaths. Workers' compensation systems do not offer an adequate remedy because premiums do not reflect specific workplace risk and liability claims are restricted by statutes preventing employees from suing their employers. The U.S. Navy and U.S. Coast Guard require shipyards to follow safe procedures when performing work for them or when constructing merchant vessels; however, most firms do not come under this scrutiny. Thus, OSHA has determined that a federal standard is necessary.

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V. Paperwork Reduction Act

The Agency has estimated the paperwork burden of the shipyard PPE standard under the guidelines of the Paperwork Reduction Act of 1995. Under that Act, burden is defined as 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. The Agency has concluded that the following elements of the shipyard PPE standard potentially could create a paperwork burden for the shipyard industry:

For hazard assessments:
- performing a hazard assessment for each trade; documenting the hazard assessment;

For PPE training:
- developing training materials (or programs for PPE; training employees; documenting employee training.

For personal fall arrest system training:
- developing a training program; training employees.

For positioning device systems training:
- developing a training program; training employees.

For most of these potential sources of burden, shipyards are already performing these information collection or disclosure functions. For these elements, the final rule will not therefore require shipyards to expend additional resources on paperwork.

The Agency has concluded that only new burdens imposed specifically by new or revised provisions of a standard should be considered paperwork burdens attributable to that standard. In other words, it would be inappropriate to count as the burden actions that firms in the regulated community have already undertaken voluntarily.

The record shows that shipyards are already complying with all of the paperwork burden elements listed above, except for documenting hazard assessments, developing training for personal fall arrest systems (body harnesses), and providing training to employees for personal fall arrest systems. Among large shipyards, only Newport News Shipbuilding (NNS) reported that it relies primarily on body belts rather than body harnesses.

The hazard assessment documentation required by the standard consists of a record, either paper or on a computer or other storage medium, with the date of the hazard assessment, name of person performing the assessment, occupation or operations covered, and a list of the PPE required. Shipyards report that they already incorporate some of this information in their current training materials. The Agency has estimated that it would take each shipyard about an hour to develop a computer- based record format for this documentation and approximately five minutes to record the hazard assessment for each occupation covered. Table 6 summarizes this information for the PPE standard.

Development of training materials for the use of personal fall arrest systems (body harnesses) is the second potential burden element. All large shipyards report that they already use harnesses to some extent. Because training videos and written materials on the use of body harnesses are widely available, the Agency has concluded that the time required for establishing such a training program will be small. Table 6 presents the Agency's estimate of the time that firms will expend to develop training for the use of body harnesses; the estimate ranges from 8 hours for firms with more than 500 employees to 2 hours for the smallest employers.

Firms that do not currently use body harnesses must also train their employees as harnesses are substituted over time for body belts. The paperwork burden of this training consists of management or trainers' time to provide training to employees. The Agency estimates a training session will take approximately one hour and that as many as 10 to 20 employees can receive training in a single session. Table 6 presents the Agency's estimate of the number of sessions by firm size that will be necessary for training in body harnesses. The Agency estimates that a higher fraction (10 percent or more) of smaller firms' employees will have to be trained due to the nature of their business—cleaning tanks, repairs over the ship's side, painting and maintenance—which require the use of harnesses. Among large firms, only NNS reported that they used very few harnesses. The Agency estimates that all of NNS's body belts (4,700) will not have to be replaced with harnesses, since relatively less work at large shipyards and new ship construction require a body harness (rather than a body belt). The Agency has estimated that NNS will replace 3,000 body belts with harnesses. Data for the paperwork burden of providing training to employees are also presented in Table 6.

Table 6.—ESTIMATE OF BURDEN HOURS TO DOCUMENT HAZARD ASSESSMENTS, TO DEVELOP TRAINING PROGRAMS FOR BODY HAMESSES, AND TO TRAIN IN USE OF BODY HAMESSES FOR OSHA'S PAGE STANDARD ON PPE IN SHIPYARDS.

Firm size [number of employees]	Number of firms in size category	Hazard assessment		Develop training for hamessess			Training	
		Number of hazard assessments [occupations]	Time of document hazard assessment's [hours]	Time develop training per firm [hours]	Number of firms who must do so	Total time to develop program	Training sessions per firm	Time to train [hours]
1000+	12	40	36	.....	0	0	150	150
500–999	12	30	30	8	6	48	4	24
100–499	76	30	190	4	76	304	2	152
21–99	100	10	150	4	100	400	1	100

Table 6.—ESTIMATE OF BURDEN HOURS TO DOCUMENT HAZARD ASSESSMENTS, TO DEVELOP TRAINING PROGRAMS FOR BODY HAMESSES, AND TO TRAIN IN USE OF BODY HAMESSES FOR OSHA'S PAGE STANDARD ON PPE IN SHIPYARDS.—Continued

Firm size [number of employees]	Number of firms in size category	Hazard assessment		Develop training for hamessess			Training	
		Number of hazard assessments [occupations]	Time of document hazard assessment's [hours]	Time develop training per firm [hours]	Number of firms who must do so	Total time to develop program	Training sessions per firm	Time to train [hours]
11–20	100	5	125	2	50	100	1	50
1–10	200	5	250	2	100	200	1	100
Subtotals (hours)	.....	.....	781	.....	.....	1052	.....	576
Total estimated burden (first-year, one-time) .... Estimated annual burden 300 hours.	.....	.....	.....	.....	.....	.....	.....	[1] 2,409

Source: OSHA's Office of Regulatory Analysis.
[1] Hours.

The Agency estimates that the shipyard PPE standard will result in about 2,409 paperwork burden hours being imposed on the shipyard industry the first year, most of it due to developing training materials in the use of body harnesses. However, these 2,409 hours are only an estimate of the first-year burden, a one-time claim on resources, not an annual burden. The future annual burden beginning in the second year, is estimated to be approximately 300 hours per year, which represents managers' time to train new employees resulting from employee turnover in firms not currently training employees in the use of harnesses.

Collections of Information: Request for Comments

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (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. Currently, OSHA is soliciting comments concerning the proposed approval for the paperwork requirements of 29 CFR 1915, subpart I, Personal Protective Equipment for Shipyard Employment (PPE). Written comments should:

- 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.

Background

OSHA in its final rule for Personal Protective Equipment in Shipyard Employment is including two types of information collections. The first is a requirement for the employer to conduct a hazard assessment relative to PPE selection, and the second involves training requirements for PPE.

OSHA believes that the information collection and documentation of the hazard assessment as outlined in the final standard is necessary so that situations where PPE should be used for employee protection can be identified, and the proper PPE selected. In addition, OSHA believes that the training requirements and documentation in the final standard are essential in providing employees with the information and practical knowledge needed to effectively use PPE. Documentation can be used by the employer to ensure that all of its employees using PPE are properly trained.

Current Actions

This notice requests OMB approval of the paperwork requirements in Personal Protective Equipment for Shipyard Employment (29 CFR 1915, Subpart I).

Type of Review: New.

Agency: Occupational Safety and Health Administration, U.S. Department of Labor.

Title: Personal Protective Equipment for Shipyard Employment (29 CFR 1915, subpart I).

OMB Number: 1218–AA74

Agency: Docket No. S–045.

Frequency: On occasion.

Affected Public: Business or other for-profit, Federal government, State and Local governments.

Number of respondents: 500.

Estimated Time Per Respondent: Varies.

Total Estimated Cost: $72,270 (First year only), $9,000 annual.

Total Burden Hours: 2,409 (First year only), 300 annual, recurring.

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 will also become a matter of public record.

VI. Statutory Considerations

Introduction

OSHA has described PPE-related hazards and the measures required to protect affected employees from those hazards in Section I, *Background;* Section II, *Hazards Involved;* and Section III, *Summary and Explanation of the Final Rule,* above. The Agency is providing the following discussion of the statutory mandate for OSHA rulemaking activity to explain the legal

basis for its determination that the revised shipyard PPE standard, as promulgated, is reasonably necessary to protect affected employees from significant risks of injury and death.

Section 2(b)(3) of the Occupational Safety and Health Act authorizes ''the Secretary of Labor to set mandatory *occupational safety and health standards* applicable to businesses affecting interstate commerce'', and section 5(a)(2) provides that ''[each] employer shall comply with *occupational safety and health standards* promulgated under this Act'' (emphasis added). Section 3(8) of the OSH Act (29 U.S.C. § 652(8)) provides that ''the term 'occupational safety and health standard' means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.''

In two recent cases, reviewing courts have expressed concern that OSHA's interpretation of these provisions of the OSH Act, particularly of section 3(8) as it pertains to safety rulemaking, could lead to overly costly or under-protective safety standards. In *International Union, UAW* v. *OSHA*, 938 F.2d 1310 (D.C. Cir. 1991), the District of Columbia Circuit rejected substantive challenges to OSHA's lockout/tagout standard and denied a request that enforcement of that standard be stayed, but it also expressed concern that OSHA's interpretation of the OSH Act could lead to safety standards that are very costly and only minimally protective. The reviewing court conducted further proceedings and subsequently held that the OSH Act provides adequate constraints on the exercise of OSHA's regulatory authority (938 F.3d 1310, D.C. Cir. 1994).

In *National Grain & Feed Ass'n* v. *OSHA*, 866 F.2d 717 (5th Cir. 1989), the Fifth Circuit concluded that Congress gave OSHA considerable discretion in structuring the costs and benefits of safety standards but, concerned that the grain dust standard might be under-protective, directed OSHA to consider adding a provision that might further reduce significant risk of fire and explosion.

OSHA rulemakings involve a significant degree of agency expertise and policy-making discretion to which reviewing courts must defer. (See, for example, *Building & Constr. Trades Dep't, AFL-CIO* v. *Brock*, 838 F.2d 1258, 1266 (D.C. Cir. 1988); *Industrial Union Dep't, AFL-CIO* v. *American Petroleum Inst.*, 448 U.S. 607, 655 n. 62 (1980).) At the same time, the Agency's technical expertise and policy-making authority must be exercised within discernable limits. The lockout/tagout and grain handling standard decisions sought clarification of the Agency's view of the scope of its expertise and authority. In light of those decisions, the preamble to this safety standard states OSHA's views regarding the limits of its safety rulemaking authority and explains why the Agency is confident that its interpretive views have in the past avoided regulatory extremes and continue to do so in this rule.

Stated briefly, the OSH Act requires that, before promulgating any occupational safety standard, OSHA demonstrate based on substantial evidence in the record as a whole that: (1) the proposed standard will substantially reduce a significant risk of material harm; (2) compliance is technologically feasible in the sense that the protective measures being required already exist, can be brought into existence with available technology, or can be created with technology that can reasonably be developed; (3) compliance is economically feasible in the sense that industry can absorb or pass on the costs without major dislocation or threat of instability; and (4) the standard is cost effective in that it employs the least expensive protective measures capable of reducing or eliminating significant risk. Additionally, proposed safety standards must be compatible with prior Agency action, must be responsive to significant comment in the record, and, to the extent allowed by statute, must be consistent with applicable Executive Orders. These elements limit OSHA's regulatory discretion for safety rulemaking and provide a decision-making framework for developing a rule.

A. Congress concluded that OSHA regulations are necessary to protect workers from occupational hazards and that employers should be required to reduce or eliminate significant workplace health and safety threats. At section 2(a) of the OSH Act (29 U.S.C. § 651(a)), Congress announced its determination that occupational injury and illness should be eliminated as much as possible: ''The Congress finds that occupational injury and illness arising out of work situations impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of lost production, wage loss, medical expenses, and disability compensation payments.'' Congress therefore declared ''it to be its purpose and policy * * * to assure so far as possible every working man and woman in the Nation safe * * * working conditions [29 U.S.C. § 651(b)].''

To that end, Congress instructed the Secretary of Labor to adopt existing federal and consensus standards during the first two years after the OSH Act became effective and, in the event of conflict among any such standards, to ''promulgate the standard which assures the greatest protection of the safety or health of the affected employees [29 U.S.C. § 655(a)].'' Congress also directed the Secretary to set mandatory occupational safety standards [29 U.S.C. § 651(b)(3)], based on a rulemaking record and substantial evidence [29 U.S.C. § 655(b)(2)], that are ''reasonably necessary or appropriate to provide safe * * * employment and places of employment.'' When promulgating permanent safety or health standards that differ from existing national consensus standards, the Secretary must explain ''why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard [29 U.S.C. § 655(b)(8)].'' Correspondingly, every employer must comply with OSHA standards and, in addition, ''furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees [29 U.S.C. § 654(a)].''

''Congress understood that the Act would create substantial costs for employers, yet intended to impose such costs when necessary to create a safe and healthful working environment. Congress viewed the costs of health and safety as a cost of doing business * * *. Indeed, Congress thought that the *financial costs* of health and safety problems in the workplace were as large as or larger than the *financial costs* of eliminating these problems [*American Textile Mfrs. Inst. Inc.* v. *Donovan*, 452 U.S. 490, 519–522 (1981) (*ATMI*); emphasis was supplied in original].'' ''[T]he fundamental objective of the Act [is] to prevent occupational deaths and serious injuries [*Whirlpool Corp.* v. *Marshall*, 445 U.S. 1, 11 (1980)].'' ''We know the costs would be put into consumer goods but that is the price we should pay for the 80 million workers in America [S. Rep. No. 91–1282, 91st Cong., 2d Sess. (1970); H.R. Rep. No. 91–1291, 91st Cong., 2d Sess. (1970), *reprinted in* Senate Committee on Labor and Public Welfare, *Legislative History of the Occupational Safety and Health Act of 1970*, (Committee Print 1971) (''Leg. Hist.'') at 444 (Senator Yarborough)].'' ''Of course, it will cost a little more per item to produce a washing machine. Those of us who use

washing machines will pay for the increased cost, but it is worth it, to stop the terrible death and injury rate in this country [*Id.* at 324; see also 510–511, 517].''

[T]he vitality of the Nation's economy will be enhanced by the greater productivity realized through saved lives and useful years of labor.

When one man is injured or disabled by an industrial accident or disease, it is he and his family who suffer the most immediate and personal loss. However, that tragic loss also affects each of us. As a result of occupational accidents and disease, over $1.5 billion in wages is lost each year [1970 dollars], and the annual loss to the gross national product is estimated to be over $8 billion. Vast resources that could be available for productive use are siphoned off to pay workmen's compensation and medical expenses * * *.

Only through a comprehensive approach can we hope to effect a significant reduction in these job death and casualty figures. [*Id.* at 518–19 (Senator Cranston)]

Congress considered uniform enforcement crucial because it would reduce or eliminate the disadvantage that a conscientious employer might experience where inter-industry or intra-industry competition is present. Moreover, ''many employers—particularly smaller ones—simply cannot make the necessary investment in health and safety, and survive competitively, unless all are compelled to do so [Leg. Hist. at 144, 854, 1188, 1201].''

Thus, the statutory text and legislative history make clear that Congress conclusively determined that OSHA regulation is necessary to protect workers from occupational hazards and that employers should be required to reduce or eliminate significant workplace health and safety threats.

B. As construed by the courts and by OSHA, the OSH Act sets clear and reasonable limits for Agency rulemaking action. OSHA has long followed the teaching that section 3(8) of the OSH Act requires that, before it promulgates ''*any* permanent health or safety standard, [it must] make a threshold finding that a place of employment is unsafe—in the sense that significant risks are present and can be eliminated or lessened by a change in practices [*Industrial Union Dep't, AFL–CIO* v. *American Petroleum Inst.,* 448 U.S. 607, 642 (1980) (plurality) (*Benzene*); emphasis was supplied in original].'' Thus, the national consensus and existing federal standards that Congress instructed OSHA to adopt summarily within two years of the OSH Act's inception provide reference points concerning the least an OSHA standard should achieve (29 U.S.C. § 655(a)). As a result, OSHA is precluded from regulating insignificant risks or from issuing standards that do not at least lessen risk in a significant way.

The OSH Act also limits OSHA's discretion to issue overly burdensome rules, as the Agency also has long recognized that ''any standard that was not economically or technologically feasible would *a fortiori* not be 'reasonably necessary or appropriate' under the Act. See *Industrial Union Dep't* v. *Hodgson,* [499 F.2d 467, 478 (D.C. Cir. 1974)] ('Congress does not appear to have intended to protect employees by putting their employers out of business.') [*American Textile Mfrs. Inst. Inc.,* 452 U.S. at 513 n. 31 (a standard is economically feasible even if it portends 'disaster for some marginal firms,' but it is economically infeasible if it 'threaten[s] massive dislocation to, or imperil[s] the existence of,' the industry)].''

By stating the test in terms of ''threat'' and ''peril,'' the Supreme Court made clear in *ATMI* that economic unfeasibility begins short of industry-wide bankruptcy. OSHA itself has placed the line considerably below this level. (See for example, *ATMI,* 452 U.S. at 527 n. 50; 43 FR 27,360 (June 23, 1978). Proposed 200 $\mu g/m^3$ PEL for cotton dust did not raise serious possibility of industry-wide bankruptcy, but impact on weaving sector would be severe, possibly requiring reconstruction of 90 percent of all weave rooms. OSHA concluded that the 200 $\mu g/m^3$ level was not feasible for weaving and that 750 $\mu g/m^3$ was all that could reasonably be required). See also 54 FR 29,245–246 (July 11, 1989); *American Iron & Steel Institute,* 939 F.2d at 1003. OSHA raised engineering control level for lead in small nonferrous foundries to avoid the possibility of bankruptcy for about half of small foundries even though the industry as a whole could have survived the loss of small firms.) All OSHA standards must also be cost-effective in the sense that the protective measures being required must be the least expensive measures capable of achieving the desired end (*ATMI,* at 514 n. 32; *Building and Constr. Trades Dep't, AFL–CIO* v. *Brock,* 838 F.2d 1258, 1269 (D.C. Cir. 1988)). OSHA gives additional consideration to financial impact in setting the period of time that should be allowed for compliance, allowing as much as ten years for compliance phase-in. (See *United Steelworkers of Am.* v. *Marshall,* 647 F.2d 1189, 1278 (D.C. Cir. 1980), *cert. denied,* 453 U.S. 913 (1981).) Additionally, OSHA's enforcement policy takes account of financial hardship on an individualized basis. OSHA's Field Inspection Reference Manual provides for setting a ''reasonable abatement date,'' based on careful consideration of an employer's particular circumstances, by which time a violation must be corrected (CPL. 2.103, Chapter IV, paragraph A2, September 26, 1994).

To reach the necessary findings and conclusions, OSHA conducts rulemaking in accordance with the requirements of section 6 of the OSH Act. The rulemaking process enables the Agency to determine the qualitative and, if possible, the quantitative nature of the risk with (and without) regulation, the technological feasibility of compliance, the industry's profit history, the industry's ability to absorb costs or pass them on to the consumer, the impact of higher costs on demand, and the impact on competition with substitutes and imports. (See *ATMI* at 2501–2503; *American Iron & Steel Institute* generally.) Section 6(f) of the OSH Act further provides that, if the validity of a standard is challenged, OSHA must support its conclusions with ''substantial evidence in the record considered as a whole,'' a standard that courts have determined requires fairly close scrutiny of agency action and the explanation of that action. (See *Steelworkers,* 647 F.2d at 1206–1207.)

OSHA's powers are further circumscribed by the independent Occupational Safety and Health Review Commission, which provides a neutral forum for employer contests of citations issued by OSHA for noncompliance with health and safety standards (29 U.S.C. §§ 659–661; noted as an additional constraint in *Benzene* at 652 n. 59). OSHA must also respond rationally to similarities and differences among industries or industry sectors. (See *Building and Constr. Trades Dep't, AFL–CIO* v. *Brock,* 838 F.2d 1258, 1272–73 (D.C. Cir. 1988).)

OSHA rulemaking is thus constrained first by the need to demonstrate that the standard will substantially reduce a significant risk of material harm, and then by the requirement that compliance is technologically capable of being done and not so expensive as to threaten economic instability or dislocation for the industry. Within these bounds, further constraints such as the need to find cost-effective measures and to respond rationally to all meaningful comment militate against regulatory extremes.

D. *The revised PPE standard complies with the statutory criteria described above and is not subject to the additional constraints applicable to section 6(b)(5) standards.*

Standards which regulate hazards that are frequently undetectable because they are subtle or develop slowly or after long latency periods, are frequently referred to as ''health'' standards. Standards that regulate hazards, such as falls, explosions or electrocutions, that cause immediately noticeable physical harm, are called ''safety'' standards. (See *National Grain & Feed Ass'n* v. *OSHA (NGFA II),* 866 F.2d 717, 731, 733 (5th Cir. 1989). As noted above, section 3(8) provides that *all* OSHA standards must be ''reasonably necessary or appropriate.'' In addition, section 6(b)(5) requires that OSHA set health standards which limit significant risk ''to the extent feasible.'' OSHA has determined that the revised PPE standard is a safety standard, because the revised standard addresses hazards, such as flying particles, molten metal, electric shock, falling objects and falls from elevations that are immediately dangerous to life or health, not the longer term, less obvious hazards subject to section 6(b)(5).

The OSH Act and its legislative history clearly indicate that Congress intended for OSHA to distinguish between safety standards and health standards. For example, in section 2(b)(6) of the OSH Act, Congress declared that the goal of assuring safe and healthful working conditions and preserving human resources would be achieved, in part:

> * * * by exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research relating to health problems, in recognition of the fact that occupational health standards present problems often different from those involved in occupational safety.

The legislative history makes this distinction even clearer:

> [The Secretary] should take into account that anyone working in toxic agents and physical agents which might be harmful may be subjected to such conditions for the rest of his working life, so that we can get at something which might not be toxic now, if he works in it a short time, but if he works in it the rest of his life might be very dangerous; and we want to make sure that such things are taken into consideration in establishing standards. [*Leg. Hist.* at 502–503 (Sen. Dominick), quoted in *Benzene* at 648–49]

Additionally, Representative Daniels distinguished between ''insidious 'silent killers' such as toxic fumes, bases, acids, and chemicals'' and ''violent physical injury causing immediate visible physical harm'' (*Leg. Hist.* at 1003), and Representative Udall contrasted insidious hazards like carcinogens with ''the more visible and well-known question of industrial accidents and on-the-job injury'' (*Leg. Hist.* at 1004). (See also, for example, S. Rep. No. 1282, 91st Cong., 2d Sess 2–3 (1970), U.S. Code Cong. & Admin. News 1970, pp. 5177, 5179, reprinted in Leg. Hist. at 142–43, discussing 1967 Surgeon General study that found that 65 percent of employees in industrial plants ''were potentially exposed to harmful physical agents, *such as severe noise or vibration,* or to toxic materials''; Leg. Hist. at 412; *id.* at 446; *id.* at 516; *id.* at 845; *International Union, UAW* at 1315.)

In reviewing OSHA rulemaking activity, the Supreme Court has held that section 6(b)(5) requires OSHA to set ''the most protective standard consistent with feasibility'' (*Benzene* at 643 n. 48). As Justice Stevens observed:

> The reason that Congress drafted a special section for these substances * * * was because Congress recognized that there were special problems in regulating health risks as opposed to safety risks. In the latter case, the risks are generally immediate and obvious, while in the former, the risks may not be evident until a worker has been exposed for long periods of time to particular substances. [*Benzene,* at 649 n. 54.]

Challenges to the grain dust and lockout/tagout standards included assertions that grain dust in explosive quantities and uncontrolled energy releases that could expose employees to crushing, cutting, burning or explosion hazards were harmful physical agents so that OSHA was required to apply the criteria of section 6(b)(5) when determining how to protect employees from those hazards. Reviewing courts have uniformly rejected such assertions. For example, the Court in *International Union, UAW* v. *OSHA,* 938 F.2d 1310 (D.C. Cir. 1991) rejected the view that section 6(b)(5) provided the statutory criteria for regulation of uncontrolled energy, holding that such a ''reading would obliterate a distinction that Congress drew between 'health' and 'safety' risks.'' The Court also noted that the language of the OSH Act and the legislative history supported the OSHA position (*International Union, UAW* at 1314). Additionally, the Court stated: ''We accord considerable weight to an agency's construction of a statutory scheme it is entrusted to administer, rejecting it only if unreasonable'' (*International Union, UAW* at 1313, citing *Chevron U.S.A., Inc.* v. *NRDC,* 467 U.S. 837, 843 (1984)).

The Court reviewing the grain dust standard also deferred to OSHA's reasonable view that the Agency was not subject to the feasibility mandate of section 6(b)(5) in regulating explosive quantities of grain dust (*National Grain & Feed Association* v. *OSHA (NGFA II),* 866 F.2d 717, 733 (5th Cir. 1989)). It therefore applied the criteria of section 3(8), requiring the Agency to establish that the standard is ''reasonably necessary or appropriate'' to protect employee safety.

As explained in Section I, *Background,* Section III, *Summary and Explanation of the Standard,* and in Section VI, *Summary of the Final Economic Analysis and Regulatory Flexibility Analysis,* above, OSHA has determined that the failure to protect employees from PPE-related hazards poses significant risks to employees and that the provisions of the final rule are reasonably necessary to protect affected employees from those risks. The Agency estimates that compliance with the revised PPE standard will cost $163,000 annually and will reduce the risk of the identified hazards, preventing 14,200 injuries annually (of which 1,550 would be lost workday injuries and 12,650 would be non-lost workday injuries). This constitutes a substantial reduction of significant risk of material harm for the exposed population of approximately 79,000 shipyard production employees.

The rulemaking record indicates that the measures required by the standard are already in general use throughout the shipyard industry. In addition, OSHA believes that compliance is economically feasible as documented in the Economic Analysis.

As detailed in Table 7, below, the standard's estimated costs, benefits, and compliance requirements are consistent with estimates of other OSHA safety standards, such as the Hazardous Waste Operations and Emergency Response (HAZWOPER) standard.

TABLE 7

Standard (CFR cite)	Final rule date (FR cite)	Number of deaths prevented annually	Number of Injuries prevented annually	Annual cost first five yrs (mill)	Annual cost next five yrs (mill)
Grain handling (1910.272)	12–31–87 (52 FR 49622)	18	394	5.9 to 33.4	5.9 to 33.4.

TABLE 7—Continued

Standard (CFR cite)	Final rule date (FR cite)	Number of deaths prevented annually	Number of Injuries prevented annually	Annual cost first five yrs (mill)	Annual cost next five yrs (mill)
HAZWOPER (1910.120)	3–6–89 (54 FR 9311)	32	18,700	153	153.
Excavations (Subpt P)	10–31–89 (54 FR 45,954)	74	800	306	306.
Process Safety Mgmt (1910.119)	2–24–92 57 FR 6356	330	1,917	880.1	470.8.
Permit-Required Confined Spaces (1910.146).	1–14–93 58 FR 4462	54	5,041	202.4	202.4.

OSHA assessed employee risk by evaluating exposure to PPE- related hazards throughout the shipyard industry. The *Summary of the Final Economic Analysis and Regulatory Flexibility Analysis*, Section IV, above, presents OSHA's estimate of the costs and benefits of the revised PPE standard in terms of the Standard Industrial Classification (SIC) code for the industry regulated.

The record indicates clearly that employees in shipyard employment face significant risks related to PPE-related hazards, and that compliance with the revised PPE standard is reasonably necessary to protect affected employees from those risks.

OSHA has considered and responded to all substantive comments regarding the proposed Shipyard PPE standard on their merits in the Section III, *Summary and Explanation of the Standard*, earlier in this preamble. In particular, OSHA evaluated all suggested changes to the proposed rule in terms of their impact on worker safety, their feasibility, their cost effectiveness, and their consonance with the OSH Act.

VII. Federalism

This regulation has been reviewed in accordance with Executive Order 12612 (52 FR 41685, October 30, 1987) regarding Federalism. This Order requires that Agencies, to the extent possible, refrain from limiting state policy options, consult with states prior to taking any actions which would restrict State policy options, and take such actions only when there is clear constitutional authority and the presence of a problem of national scope. The Order provides for preemption of state law only if there is clear Congressional intent for the Agency to do so. Any such preemption is to be limited to the extent possible.

Section 18 of the Occupational Safety and Health Act (OSH Act) expresses Congress' clear intent to preempt state laws relating to issues on which federal OSHA has promulgated occupational safety and health standards. Under the OSH Act, a state can avoid preemption only if it submits, and obtains Federal approval of a plan for the development of such standards and their enforcement. Occupational safety and health standards developed by such states must, among other things, be at least as effective in providing safe and healthful employment and places of employment as the federal standards. Where such standards are applicable to products distributed or used in interstate commerce, they may not burden commerce unduly and must be justified by compelling local conditions (see section 18(c)(2) of the OSH Act).

The Federal standard on personal protective equipment addresses hazards which are not unique to any one state or region of the country. Nonetheless, states with occupational safety and health plans approved under section 18, of the OSH Act, will be able to develop their own state standards to deal with any special problems which might be encountered in a particular state. Moreover, this standard is written in general, performance-oriented terms. There is considerable flexibility for methods of compliance which are appropriate to the working conditions covered by the standard.

In brief, this regulation addresses a clear national problem related to occupational safety and health in shipyard employment. Those states which have elected to participate under section 18, of the OSH Act are not preempted by this standard, and will be able to deal with any special conditions within the framework of the Federal Act, while ensuring that the state standards are at least as effective as that standard.

VIII. State Plan Standards

The 25 States and territories having OSHA-approved occupational safety and health plans which cover the issues of maritime safety and health must revise their existing standards within six months of the publication date of a final standard, or show OSHA why there is no need for action because an existing state standard covering this area is already ''at least as effective'' as the revised Federal standard. Currently five states (California, Minnesota, Oregon, Vermont, and Washington) have their own state plans which cover the private sector on-shore maritime activities.

Federal OSHA enforces maritime standards off shore in all states and provides on-shore coverage of maritime activities in Federal OSHA States and in the following State plan States and territories: Alaska, Arizona, Connecticut, (plan covers only State and local government employees), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Nevada, New Mexico, New York, (plan covers only State and local government employees), North Carolina, Puerto Rico, South Carolina, Tennessee, Utah, Virginia, Virgin Islands, and Wyoming are All States with State plans also must extend coverage to state and local government employees engaged in maritime activities.

List of Subjects in 29 CFR Part 1915

Eye protection, Face protection, Fall protection, Foot protection, Hazard assessment, Head protection, Hard hats, Incorporation by reference, Personal flotation devices, Marine safety, Occupational safety and health, Personal Fall Arrest Systems, Positioning Device Systems, Protective equipment, Respirators, Respiratory protection, Safety, Ship repair, Shipyards, Snaphooks, and Vessels.

IX. Authority

This document has been prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); section 41, of the Longshore and Harbor Workers Compensation Act as amended (33 U.S.C. 941); Section 4 of the Administrative Procedure Act (5 U.S.C. 553); Secretary of Labor's Order No. 1–90 (55 FR 9033); and 29 CFR part 1911, 29 CFR part 1915 is amended as set forth below.

Signed at Washington, DC, this 15th day of April 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

PART 1915—[AMENDED]

1. The Authority citation for part 1915 continues to read as follows:

Authority: Secs. 4, 6, and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), Secretary of Labor's Order No. 8–76 (41 FR 25059), No. 9–83 (48 FR 35736), No. 1–90 (55 FR 9033), and 29 CFR part 1911.

2. Section 1915.32 is amended by revising paragraph (a)(3) to read as follows:

§ 1915.32 Toxic cleaning solvents.

(a) * * *

(3) Employees shall be protected against toxic vapors by suitable respiratory protective equipment in accordance with the requirements of subpart I of this Part and, where necessary, against exposure of skin and eye contact with toxic solvents and their vapors by suitable clothing and equipment.

* * * * *

3. Section 1915.33 is amended by revising paragraph (a) to read as follows:

§ 1915.33 Chemical paint and preservative removers.

(a) Employees shall be protected against skin contact during the handling and application of chemical paint and preservative removers and shall be protected against eye injury by goggles or face shields in accordance with the requirements of subpart I of this part.

* * * * *

4. Section 1915.34 is amended by revising paragraphs (a)(1), (a)(4), (b)(1), (c)(3)(i), (c)(3)(ii), and (c)(3)(iii) to read as follows:

§ 1915.34 Mechanical paint removers.

(a) * * *

(1) Employees engaged in the removal of paints, preservatives, rusts, or other coatings by means of power tools shall be protected against eye injury by using goggles or face shields in accordance with the requirements of subpart I of this part.

* * * * *

(4) In a confined space, mechanical exhaust ventilation sufficient to keep the dust concentration to a minimum shall be used, or employees shall be protected by respiratory protective equipment in accordance with the requirements of subpart I of this part.

(b) * * *

(1) Hardened preservative coatings shall not be removed by flame in enclosed spaces unless the employees exposed to fumes are protected by air line respirators in accordance with the requirements of subpart I. Employees performing such an operation in the open air, and those exposed to the resulting fumes shall be protected by a fume filter type respirator in accordance with the requirements of subpart I of this part.

* * * * *

(c) * * *

(3) * * *

(i) Abrasive blasters working in enclosed spaces shall be protected by hoods and air line respirators, or by air helmets of a positive pressure type in accordance with the requirements of subpart I of this part.

(ii) Abrasive blasters working in the open shall be protected as indicated in paragraph (c)(3)(i) of this section except that when synthetic abrasive containing less than one percent free silica are used, filter type respirators approved jointly by the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration for exposure to lead dusts, used in conjunction with the proper eye, face and head protection, may be used in accordance with subpart I of this part.

(iii) Employees, other than blasters, including machine tenders and abrasive recovery men, working in areas where unsafe concentrations of abrasive materials and dusts are present shall be protected by eye and respiratory protective equipment in accordance with the requirements of subpart I of this part.

* * * * *

5. Section 1915.35 is amended by revising paragraphs (a)(1)(i), (a)(1)(ii), (a)(1)(iii), (a)(2), (b)(13), and (b)(14) to read as follows:

§ 1915.35 Painting.

(a) * * *

(1) * * *

(i) In confined spaces, employees continuously exposed to such spraying shall be protected by air line respirators in accordance with the requirements of subpart I of this part.

(ii) In tanks or compartments, employees continuously exposed to such spraying shall be protected by air line respirators in accordance with the requirements of subpart I. Where mechanical ventilation is provided, employees shall be protected by respirators in accordance with the requirements of subpart I of this part.

(iii) In large and well ventilated areas, employees exposed to such spraying shall be protected by respirators in accordance with the requirements of subpart I of this part.

(2) Where brush application of paints with toxic solvents is done in confined spaces or in other areas where lack of ventilation creates a hazard, employees shall be protected by filter respirators in accordance with the requirements of subpart I of this part.

* * * * *

(b) * * *

(13) All employees continuously in a compartment in which such painting is being performed shall be protected by air line respirators in accordance with the requirements of Subpart I of this part and by suitable protective clothing. Employees entering such compartments for a limited time shall be protected by filter cartridge type respirators in accordance with the requirements of subpart I of this part.

(14) All employees doing exterior paint spraying with such paints shall be protected by suitable filter cartridge type respirators in accordance with the requirements of subpart I of this part and by suitable protective clothing.

6. Section 1915 would be amended by removing Table I–1 from § 1915.118.

7. Section 1915.134 is amended by revising paragraph (j) to read as follows:

§ 1915.134 Abrasive wheels.

* * * * *

(j) All employees using abrasive wheels shall be protected by eye protection equipment in accordance with the requirements of Subpart I of this part except when adequate eye protection is afforded by eye shields which are permanently attached to the bench or floor stand.

8. Section 1915.135 is amended by revising paragraph (b)(9) to read as follows:

§ 1915.135 Powder actuated fastening tools.

* * * * *

(b) * * *

(9) Employees using powder actuated fastening tools shall be protected by personal protective equipment in accordance with the requirements of subpart I of this part.

* * * * *

9. Subpart I of Part 1915 is revised to read as follows:

Subpart I—Personal Protective Equipment (PPE)

Sec.

1915.151 Scope, application and definitions.
1915.152 General requirements.
1915.153 Eye and face protection.
1915.154 Respiratory protection.
1915.155 Head protection.
1915.156 Foot protection.
1915.157 Hand and body protection.
1915.158 Lifesaving equipment.

1915.159 Personal fall arrest systems (PFAS).
1915.160 Positioning device systems.
Appendix A to subpart I—Non-mandatory Guidelines for Hazard Assessment, Personal Protective Equipment (PPE) Selection, and PPE Training program.
Appendix B to subpart I— General Testing Conditions and Additional Guidelines for Personal Fall Protection Systems.

Subpart I—Personal Protective Equipment (PPE)

§ 1915.151 Scope, application and definitions.

(a) *Scope and application.* This subpart applies to all work in shipyard employment regardless of geographic location.

(b) *Definitions applicable to this subpart.*

Anchorage means a secure point of attachment for lifelines, lanyards, or deceleration devices.

Body belt means a strap with means for both securing it about the waist and attaching it to a lanyard, lifeline, or deceleration device.

Body harness means straps which may be secured about the employee in a manner that will distribute the fall arrest forces over at least the thighs, shoulders, chest and pelvis with means for attaching it to other components of a personal fall arrest system.

Connector means a device which is used to couple (connect) parts of a personal fall arrest system or parts of a positioning device system together. It may be an independent component of the system, such as a carabiner, or it may be an integral component of part of the system (such as a buckle or D-ring sewn into a body belt or body harness or a snaphook spliced or sewn to a lanyard or self-retracting lanyard).

Deceleration device means any mechanism, such as a rope grab, ripstitch lanyard, specially woven lanyard, tearing or deforming lanyard, or automatic self-retracting lifeline/lanyard, which serves to dissipate a substantial amount of energy during a fall arrest, or otherwise limit the energy imposed on an employee during fall arrest.

Deceleration distance means the additional vertical distance a falling employee travels, excluding lifeline elongation and free fall distance, before stopping, from the point at which the deceleration device begins to operate. It is measured as the distance between the location of an employee's body belt or body harness attachment point at the moment of activation (at the onset of fall arrest forces) of the deceleration device during a fall, and the location of that attachment point after the employee comes to a full stop.

Equivalent means alternative designs, materials, or methods to protect against a hazard which the employer can demonstrate will provide an equal or greater degree of safety for employees than the method or item specified in the standard.

Free fall means the act of falling before a personal fall arrest system begins to apply force to arrest the fall.

Free fall distance means the vertical displacement of the fall arrest attachment point on the employee's body belt or body harness between onset of the fall and just before the system begins to apply force to arrest the fall. This distance excludes deceleration distance, and lifeline/lanyard elongation, but includes any deceleration device slide distance or self-retracting lifeline/lanyard extension before the device operates and fall arrest forces occur.

Lanyard means a flexible line of rope, wire rope, or strap which generally has a connector at each end for connecting the body belt or body harness to a deceleration device, lifeline, or anchorage.

Lifeline means a component consisting of a flexible line for connection to an anchorage at one end to hang vertically (vertical lifeline), or for connection to anchorages at both ends to stretch horizontally (horizontal lifeline), and which serves as a means for connecting other components of a personal fall arrest system to the anchorage.

Lower levels means those areas or surfaces to which an employee can fall. Such areas or surfaces include but are not limited to ground levels, floors, ramps, tanks, materials, water, excavations, pits, vessels, structures, or portions thereof.

Personal fall arrest system means a system used to arrest an employee in a fall from a working level. It consists of an anchorage, connectors, body belt or body harness and may include a lanyard, a deceleration device, a lifeline, or a suitable combination of these. As of January 1, 1998, the use of a body belt for fall arrest is prohibited.

Positioning device system means a body belt or body harness system rigged to allow an employee to be supported at an elevated vertical surface, such as a wall or window, and to be able to work with both hands free while leaning.

Qualified person means a person who by possession of a recognized degree or certificate of professional standing, or who, by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems related to the subject matter and work.

Restraint (tether) line means a line from an anchorage, or between anchorages, to which the employee is secured in such a way as to prevent the employee from walking or falling off an elevated work surface. Note: A restraint line is not necessarily designed to withstand forces resulting from a fall.

Rope grab means a deceleration device which travels on a lifeline and automatically, by friction, engages the lifeline and locks so as to arrest the fall of an employee. A rope grab usually employs the principle of inertial locking, cam/level locking or both.

§ 1915.152 General requirements.

(a) *Provision and use of equipment.* The employer shall provide and shall ensure that each affected employee uses the appropriate personal protective equipment (PPE) for the eyes, face, head, extremities, torso, and respiratory system, including protective clothing, protective shields, protective barriers, personal fall protection equipment, and life saving equipment, meeting the applicable provisions of this subpart, wherever employees are exposed to work activity hazards that require the use of PPE.

(b) *Hazard assessment and equipment selection.* The employer shall assess its work activity to determine whether there are hazards present, or likely to be present, which necessitate the employee's use of PPE.

Note 1 to paragraph (b): A hazard assessment conducted according to the trade or occupation of affected employees will be considered to comply with paragraph (b) of this section, if the assessment addresses any PPE-related hazards to which employees are exposed in the course of their work activities. If such hazards are present, or likely to be present, the employer shall:

(1) Select the type of PPE that will protect the affected employee from the hazards identified in the occupational hazard assessment;

(2) Communicate selection decisions to affected employees;

(3) Select PPE that properly fits each affected employee; and

(4) Verify that the required occupational hazard assessment has been performed through a document that contains the following information: occupation, the date(s) of the hazard assessment, and the name of the person performing the hazard assessment.

Note 2 to paragraph (b): Non-mandatory Appendix A to this subpart contains examples of procedures that will comply with the requirement for an occupational hazard assessment.

(c) *Defective and damaged equipment.* Defective or damaged PPE shall not be used.

(d) *Reissued equipment.* The employer shall ensure that all unsanitary PPE, including that which has been used by employees, be cleaned and disinfected before it is reissued.

(e) *Training.* (1) The employer shall provide training to each employee who is required, by this section, to use PPE (exception: training in the use of personal fall arrest systems and positioning device systems training is covered in Sections 1915.159 and 1915.160). Each employee shall be trained to understand at least the following:

(i) When PPE is necessary;

(ii) What PPE is necessary;

(iii) How to properly don, doff, adjust, and wear PPE;

(iv) The limitations of the PPE; and,

(v) The proper care, maintenance, useful life and disposal of the PPE.

(2) The employer shall ensure that each effected employee demonstrates the ability to use PPE properly before being allowed to perform work requiring the use of PPE.

(3) The employer shall retrain any employee who does not understand or display the skills required by paragraph (e)(2) of this section. Circumstances where retraining is required include, but are not limited to, situations where:

(i) Changes in occupation or work render previous training obsolete; or

(ii) Changes in the types of PPE to be used render previous training obsolete; or

(iii) Inadequacies in an affected employee's knowledge or use of assigned PPE indicate that the employee has not retained the requisite understanding or skill.

(4) The employer shall verify that each affected employee has received the required training through a document that contains the following information: name of each employee trained, the date(s) of training, and type of training the employee received.

§ 1915.153 Eye and face protection.

(a) *General requirements.* (1) The employer shall ensure that each affected employee uses appropriate eye or face protection where there are exposures to eye or face hazards caused by flying particles, molten metal, liquid chemicals, acid or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

(2) The employer shall ensure that each affected employee uses eye or face protection that provides side protection when there is a hazard from flying objects. Detachable side protectors (e.g., a clip-on or slide-on side shield) meeting the pertinent requirements of this section are acceptable.

(3) The employer shall ensure that each affected employee who wears prescription lenses while engaged in operations that involve eye hazards wears eye protection that incorporates the prescription in its design, unless the employee is protected by eye protection that can be worn over prescription lenses without disturbing the proper position of either the PPE or the prescription lenses.

(4) The employer shall ensure that each affected employee uses equipment with filter lenses that have a shade number that provides appropriate protection from injurious light radiation. Table I–1 is a listing of appropriate shade numbers for various operations. If filter lenses are used in goggles worn under a helmet which has a lens, the shade number of the lens in the helmet may be reduced so that the shade numbers of the two lenses will equal the value as shown in Table I–1, § 1915.153.

TABLE I–1.—FILTER LENSES FOR PROTECTION AGAINST RADIANT ENERGY

Operations	Electrode size 1/32 in.	Arc current	Minimum protective shade
Shielded metal arc welding	Less than 3	Less than	7
	3–5	60	8
	5–8	60–160	10
	More than 8	160–250	11
		250–550	
Gas metal arc welding and flux cored arc welding.		Less than	7
		60	10
		60–160	10
		160–250	10
		250–500	
Gas Tungsten arc welding		Less than	8
		50	8
		50–150	10
		150–500	
Air carbon	(Light)	Less than	10
Arc cutting	(Heavy)	500	11
		500–1000	
Plasma arc welding		Less than	6
		20	8
		20–	10
		100	11
		100–	
		400	
		400–	
		800	
Plasma arc cutting	(light)**	Less than 300	8
	(medium)**	300–400	9
	(heavy)**	400–800	10
Torch brazing			3
Torch soldering			2
Carbon Arc welding			14

** These values apply where the actual arc is clearly seen. Lighter filters may be used when the arc is hidden by the workpiece.

FILTER LENSES FOR PROTECTION AGAINST RADIANT ENERGY

Operations	Plate thickness— inches	Plate thickness— mm	Minimum* protective shade
Gas welding:			
Light	Under ⅛	Under 3.2	4
Medium	⅛ to ½	3.2 to 12.7	5
Heavy	Over ½	Over 12.7	6
Oxygen cutting			
Light	Under 1	Under 25	3
Medium	1 to 6	25 to 150	4
Heavy	Over 6	Over 150	5

* As a rule of thumb, start with a shade that is too dark to see the weld zone. Then go to a lighter shade which gives sufficient view of the weld zone without going below the minimum. In oxyfuel gas welding or cutting where the torch produces a high yellow light, it is desirable to use a filter lens that absorbs the yellow or sodium line in the visible light of the (spectrum) operation.

(b) *Criteria for Protective Eye and Face Devices*

(1) Protective eye and face devices purchased after (insert effective date of final rule) shall comply with the American National Standards Institute, ANSI Z87.1–1989, ''Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference as specified in § 1915.5, or shall be demonstrated by the employer to be equally effective.

(2) Eye and face protective devices purchased before (insert effective date of final rule) shall comply with ''American National Standard Practice for Occupational and Educational Eye and Face Protection, Z87.1 –1979,'' which is incorporated by reference as specified in § 1915.5, or shall be demonstrated by the employer to be equally effective.

§ 1915.154 Respiratory protection.

Respiratory protection for shipyard employment is covered by 29 CFR 1910.134.

§ 1915.155 Head protection.

(a) *Use.* (1) The employer shall ensure that each affected employee wears a protective helmet when working in areas where there is a potential for injury to the head from falling objects.

(2) The employer shall ensure that each affected employee wears a protective helmet designed to reduce electrical shock hazards where there is potential for electric shock or burns due to contact with exposed electrical conductors which could contact the head.

(b) *Criteria for protective helmets.* (1) Protective helmets purchased after August 22, 1996 shall comply with ANSI Z89.l–1986, ''Personnel Protection—Protective Headwear for Industrial Workers-Requirements,'' which is incorporated by reference, as specified in § 1915.5, or shall be demonstrated by the employer to be equally effective.

(2) Protective helmets purchased before August 22, 1996 shall comply with the ''American National Standard Safety Requirements for Industrial Head Protection, Z89.1–1969,'' which is incorporated by reference as specified in 1915.5, or shall be demonstrated by the employer to be equally effective.

§ 1915.156 Foot protection.

(a) *Use.* The employer shall ensure that each affected employee wears protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects or objects piercing the sole.

(b) *Criteria for protective footwear.* (1) Protective footwear purchased after August 22, 1996 shall comply with ANSI Z41–1991, ''American National Standard for Personal Protection-Protective Footwear,'' which is incorporated by reference, as specified in § 1915.5, or shall be demonstrated by the employer to be equally as effective.

(2) Protective footwear purchased before August 22, 1996 shall comply with the ''American National Standard for Personal Protection- Protective Footwear Z41–1983,'' which is incorporated by reference, as specified in § 1915.5, or shall be demonstrated by the employer to be equally effective.

§ 1915.157 Hand and body protection.

(a) *Use.* The employer shall ensure that each affected employee uses appropriate hand protection and other protective clothing where there is exposure to hazards such as skin absorption of harmful substances, severe cuts or lacerations, severe abrasions, punctures, chemical burns, thermal burns, harmful temperature extremes, and sharp objects.

(b) *Hot work operations.* The employer shall ensure that no employee wears clothing impregnated or covered in full or in part with flammable or combustible materials (such as grease or oil) while engaged in hot work operations or working near an ignition source.

(c) *Electrical Protective Devices.* The employer shall ensure that each affected employee wears protective electrical insulating gloves and sleeves or other electrical protective equipment, if that employee is exposed to electrical shock hazards while working on electrical equipment.

§ 1915.158 Lifesaving equipment.

(a) *Personal flotation devices.* (1) Personal flotation devices (PFD) (life preservers, life jackets and work vests) worn by each affected employee shall be any United States Coast Guard (USCG) approved and marked Type I PFD, Type II PFD, or Type III PFD; or PFDs shall be a USCG approved Type V PFD which is marked for use as a work vest, for commercial use, or for use on vessels. USCG approval is pursuant to 46 CFR part 160, subpart Q, Coast Guard Lifesaving Equipment Specifications.

(2) Prior to each use, personal floatation devices shall be inspected for dry rot, chemical damage, or other defects which may affect their strength and buoyancy. Defective personal floatation devices shall not be used.

(b) *Ring life buoys and ladders.* (1) When work is being performed on a floating vessel 200 feet (61 m) or more in length, at least three 30-inch (0.76 m) U.S. Coast Guard approved ring life buoys with lines attached shall be located in readily visible and accessible places. Ring life buoys shall be located one forward, one aft, and one at the access to the gangway.

(2) On floating vessels under 200 feet (61 m) in length, at least one 30-inch (0.76 m) U.S. Coast Guard approved ring life buoy with line attached shall be located at the gangway.

(3) At least one 30-inch (0.76 m) U. S. Coast Guard approved ring life buoy with a line attached shall be located on each staging alongside of a floating

vessel on which work is being performed.

(4) At least 90 feet (27 m) of line shall be attached to each ring life buoy.

(5) There shall be at least one portable or permanent ladder in the vicinity of each floating vessel on which work is being performed. The ladder shall be of sufficient length to assist employees to reach safety in the event they fall into the water.

§ 1915.159 Personal fall arrest systems (PFAS).

The criteria of this section apply to PFAS and their use. Effective January 1, 1998, body belts and non-locking snaphooks are not acceptable as part of a personal fall arrest system.

(a) Criteria for connectors and anchorages. (1) Connectors shall be made of drop forged, pressed, or formed steel or shall be made of materials with equivalent strength.

(2) Connectors shall have a corrosion-resistant finish, and all surfaces and edges shall be smooth to prevent damage to the interfacing parts of the system.

(3) D-rings and snaphooks shall be capable of sustaining a minimum tensile load of 5,000 pounds (22.2 Kn).

(4) D-rings and snaphooks shall be proof-tested to a minimum tensile load of 3,600 pounds (16 Kn) without cracking, breaking, or being permanently deformed.

(5) Snaphooks shall be sized to be compatible with the member to which they are connected to prevent unintentional disengagement of the snaphook caused by depression of the snaphook keeper by the connected member, or shall be of a locking type that is designed and used to prevent disengagement of the snap-hook by contact of the snaphook keeper by the connected member.

(6) Snaphooks, unless of a locking type designed and used to prevent disengagement from the following connections, shall not be engaged:

(i) directly to webbing, rope or wire rope;

(ii) to each other;

(iii) to a D-ring to which another snaphook or other connector is attached;

(iv) to a horizontal lifeline; or

(v) to any object that is incompatibly shaped or dimensioned in relation to the snaphook such that unintentional disengagement could occur by the connected object being able to depress the snaphook keeper and release itself.

(7) On suspended scaffolds or similar work platforms with horizontal lifelines that may become vertical lifelines, the devices used for connection to the horizontal lifeline shall be capable of locking in any direction on the lifeline.

(8) Anchorages used for attachment of personal fall arrest equipment shall be independent of any anchorage being used to support or suspend platforms.

(9) Anchorages shall be capable of supporting at least 5,000 pounds (22.2 Kn) per employee attached, or shall be designed, installed, and used as follows:

(i) as part of a complete personal fall arrest system which maintains a safety factor of at least two; and

(ii) under the direction and supervision of a qualified person.

(b) *Criteria for lifelines, lanyards, and personal fall arrest systems.*

(1) When vertical lifelines are used, each employee shall be provided with a separate lifeline.

(2) Vertical lifelines and lanyards shall have a minimum tensile strength of 5,000 pounds (22.2 Kn).

(3) Self-retracting lifelines and lanyards that automatically limit free fall distances to 2 feet (0.61 m) or less shall be capable of sustaining a minimum tensile load of 3000 pounds (13.3 Kn) applied to a self-retracting lifeline or lanyard with the lifeline or lanyard in the fully extended position.

(4) Self-retracting lifelines and lanyards which do not limit free fall distance to 2 feet (0.61 m) or less, ripstitch lanyards and tearing and deforming lanyards shall be capable of sustaining a minimum static tensile load of 5,000 pounds (22.2 Kn) applied to the device when they are in the fully extended position.

(5) Horizontal lifelines shall be designed, installed, and used under the supervision of a qualified person, and shall only be used as part of a complete personal fall arrest system that maintains a safety factor of at least two.

(6) Effective November 20, 1996, personal fall arrest systems shall:

(i) limit the maximum arresting force on a falling employee to 900 pounds (4 Kn) when used with a body belt;

(ii) limit the maximum arresting force on a falling employee to 1,800 pounds (8 Kn) when used with a body harness;

(iii) bring a falling employee to a complete stop and limit the maximum deceleration distance an employee travels to 3.5 feet (1.07 m), and

(iv) have sufficient strength to withstand twice the potential impact energy of an employee free falling a distance of 6 feet (1.8 m), or the free fall distance permitted by the system, whichever is less;

Note to paragraph (b)(6) of this section: A personal fall arrest system which meets the criteria and protocols contained in Appendix B, is considered to comply with paragraph (b)(6). If the combined tool and body weight is 310 pounds (140 kg) or more, systems that meet the criteria and protocols contained in Appendix B will be deemed to comply with the provisions of paragraphs (b)(6) only if they are modified appropriately to provide protection for the extra weight of the employee and tools.

(7) Personal fall arrest systems shall be rigged such that an employee can neither free fall more than 6 feet (1.8 m) nor contact any lower level.

(c) *Criteria for selection, use and care of systems and system components.* (1) Lanyards shall be attached to employees using personal fall arrest systems, as follows:

(i) The attachment point of a body harness shall be located in the center of the wearer's back near the shoulder level, or above the wearer's head. If the free fall distance is limited to less than 20 inches, the attachment point may be located in the chest position; and

(ii) The attachment point of a body belt shall be located in the center of the wearer's back.

(2) Ropes and straps (webbing) used in lanyards, lifelines and strength components of body belts and body harnesses shall be made from synthetic fibers or wire rope.

(3) Ropes, belts, harnesses, and lanyards shall be compatible with their hardware.

(4) Lifelines and lanyards shall be protected against cuts, abrasions, burns from hot work operations and deterioration by acids, solvents, and other chemicals.

(5) Personal fall arrest systems shall be inspected prior to each use for mildew, wear, damage, and other deterioration. Defective components shall be removed from service.

(6) Personal fall arrest systems and components subjected to impact loading shall be immediately removed from service and shall not be used again for employee protection until inspected and determined by a qualified person to be undamaged and suitable for reuse.

(7) The employer shall provide for prompt rescue of employees in the event of a fall or shall ensure that employees are able to rescue themselves.

(8) Body belts shall be at least one and five eighths inches (4.1 cm) wide.

(9) Personal fall arrest systems and components shall be used only for employee fall protection and not to hoist materials.

(d) *Training.* Before using personal fall arrest equipment, each affected employee shall be trained to understand the application limits of the equipment and proper hook-up, anchoring, and tie-off techniques. Affected employees shall also be trained so that they can demonstrate the proper use, inspection, and storage of their equipment.

§ 1915.160 Positioning device systems.

Positioning device systems and their use shall conform to the following provisions:

(a) *Criteria for connectors and anchorages.* (1) Connectors shall have a corrosion-resistant finish, and all surfaces and edges shall be smooth to prevent damage to interfacing parts of this system.

(2) Connecting assemblies shall have a minimum tensile strength of 5,000 pounds (22.2 Kn).

(3) Positioning device systems shall be secured to an anchorage capable of supporting at least twice the potential impact load of an employee's fall.

(4) Snaphooks, unless each is of a locking type designed and used to prevent disengagement, shall not be connected to each other. As of January 1, 1998, only locking type snaphooks shall be used in positioning device systems.

(b) *Criteria for positioning device systems.* (1) Restraint (tether) lines shall have a minimum breaking strength of 3,000 pounds (13.3 Kn).

(2) The following system performance criteria for positioning device systems are effective November 20, 1996:

(i) A window cleaner's positioning system shall be capable of withstanding without failure a drop test consisting of a 6 foot (1.83 m) drop of a 250 pound (113 kg) weight. The system shall limit the initial arresting force to not more than 2,000 pounds (8.89 Kn), with a duration not to exceed 2 milliseconds. The system shall limit any subsequent arresting forces imposed on the falling employee to not more than 1,000 pounds (4.45 Kn);

(ii) All other positioning device systems shall be capable of withstanding without failure a drop test consisting of a 4- foot (1.2 m) drop of a 250-pound (113 kg) weight.

Note to paragraph (b)(2) of this section: Positioning device systems which comply with the provisions of Section 2 of Non-mandatory Appendix B to this subpart shall be deemed to meet the requirements of this paragraph (b)(2).

(c) *Criteria for the use and care of positioning device systems.* (1) Positioning device systems shall be inspected before each use for mildew, wear, damage, and other deterioration. Defective components shall be removed from service.

(2) A positioning device system or component subjected to impact loading shall be immediately removed from service and shall not be used again for employee protection, unless inspected and determined by a qualified person to be undamaged and suitable for reuse.

(d) *Training.* Before using a positioning device system, employees shall be trained in the application limits, proper hook-up, anchoring and tie-off techniques, methods of use, inspection, and storage of positioning device systems.

Appendix A to Subpart I—Non-mandatory Guidelines for Hazard Assessment, Personal Protective Equipment (PPE) Selection, and PPE Training Program

This Appendix is intended to provide compliance assistance for hazard assessment, selection of personal protective equipment (PPE) and PPE training. It neither adds to or detracts from the employer's responsibility to comply with the provisions of this subpart.

1. Controlling hazards. Employers and employees should not rely exclusively on PPE for protection from hazards. PPE should be used, where appropriate, in conjunction with engineering controls, guards, and safe work practices and procedures.

2. Assessment and selection. Employers need to consider certain general guidelines for assessing the hazardous situations that are likely to arise under foreseeable work activity conditions and to match employee PPE to the identified hazards. The employer should designate a safety officer or some other qualified person to exercise common sense and appropriate expertise to assess work activity hazards and select PPE.

3. Assessment guidelines. In order to assess the need for PPE the following steps should be taken:

a. Survey. Conduct a walk-through survey of the area in question to identify sources of hazards.

Categories for Consideration:

(1) Impact
(2) Penetration
(3) Compression (roll-over)
(4) Chemical
(5) Heat
(6) Harmful dust
(7) Light (optical) radiation
(8) Drowning
(9) Falling

b. *Sources.* During the walk-through survey the safety officer should observe:

(1) Sources of motion; for example, machinery or processes where any movement of tools, machine elements or particles could exist, or movement of personnel that could result in collision with stationary objects.

(2) Sources of high temperatures that could result in burns, eye injury or ignition of protective equipment.

(3) Types of chemical exposures.

(4) Sources of harmful dust.

(5) Sources of light radiation, for instance, welding, brazing, cutting, heat treating, furnaces, and high intensity lights.

(6) Sources of falling objects or potential for dropping objects.

(7) Sources of sharp objects which might pierce or cut the hands.

(8) Sources of rolling or pinching objects which could crush the feet.

(9) Layout of work place and location of co-workers.

(10) Any electrical hazards.

(11) Review injury/accident data to help identify problem areas.

Organize data. Following the walk-through survey, it is necessary to organize the data and other information obtained. That material provides the basis for hazard assessment that enables the employer to select the appropriate PPE.

d. *Analyze data.* Having gathered and organized data regarding a particular occupation, employers need to estimate the potential for injuries. Each of the identified hazards (see paragraph 3.a.) should be reviewed and classified as to its type, the level of risk, and the seriousness of any potential injury. Where it is foreseeable that an employee could be exposed to several hazards simultaneously, the consequences of such exposure should be considered.

4. *Selection guidelines.* After completion of the procedures in paragraph 3, the general procedure for selection of protective equipment is to:

(a) become familiar with the potential hazards and the types of protective equipment that are available, and what they can do; for example, splash protection, and impact protection;

(b) compare the hazards associated with the environment; for instance, impact velocities, masses, projectile shapes, radiation intensities, with the capabilities of the available protective equipment;

(c) select the protective equipment which ensures a level of protection greater than the minimum required to protect employees from the hazards; and

(d) fit the user with the protective device and give instructions on care and use of the PPE. It is very important that users be made aware of all warning labels and limitations of their PPE.

5. *Fitting the device.* Careful consideration must be given to comfort and fit. The employee will be most likely to wear the protective device if it fits comfortably. PPE that does not fit properly may not provide the necessary protection, and may create other problems for wearers. Generally, protective devices are available in a variety of sizes and choices. Therefore employers should be careful to select the appropriate sized PPE.

6. *Devices with adjustable features.* (a) Adjustments should be made on an individual basis so the wearer will have a comfortable fit that maintains the protective device in the proper position. Particular care should be taken in fitting devices for eye protection against dust and chemical splash to ensure that the seal is appropriate for the face.

(b) In addition, proper fitting of hard hats is important to ensure that the hard hat will not fall off during work operations. In some cases a chin strap may be necessary to keep the hard hat on an employee's head. (Chin straps should break at a reasonably low force to prevent a strangulation hazard). Where manufacturer's instructions are available, they should be followed carefully.

7. *Reassessment of hazards.* Compliance with the hazard assessment requirements of § 1915.152(b) will involve the reassessment of work activities where changing circumstances make it necessary. a. The

employer should have a safety officer or other qualified person reassess the hazards of the work activity area as necessary. This reassessment should take into account changes in the workplace or work practices, such as those associated with the installation of new equipment, and the lessons learned from reviewing accident records, and a reevaluation performed to determine the suitability of PPE selected for use.

8. *Selection chart guidelines for eye and face protection.* Examples of occupations for which eye protection should be routinely considered are carpenters, engineers, coppersmiths, instrument technicians, insulators, electricians, machinists, mobile equipment mechanics and repairers, plumbers and ship fitters, sheet metal workers and tinsmiths, grinding equipment operators, machine operators, welders, boiler workers, painters, laborers, grit blasters, ship fitters and burners. This is not a complete list of occupations that require the use of eye protection. The following chart provides general guidance for the proper selection of eye and face protection to protect against hazards associated with the listed hazard ''source'' operations.

EYE AND FACE PROTECTION SELECTION CHART

Source	Assessment of hazard	Protection
Impact:		
Chipping, grinding machining, masonry work, woodworking, sawing, drilling, chiseling, powered fastening, riveting, and sanding.	Flying fragments, objects, large chips, particles, sand, dirt, etc.	Spectacles with side protection, goggles, face shields. See notes (1), (3), (5), (6), (10). For severe exposure, use face shield.
Heat:		
Furnace operations, pouring, casting, hot dipping, and welding.	Hot sparks	Face shields, goggles, spectacles with side protection. For severe exposure use face shield. See notes (1), (2), (3).
	Splash from molten metals	Face shields worn over goggles. See notes (1), (2), (3).
	High temperature exposure	Screen face shields, reflective face shields. See notes (1), (2), (3).
Chemicals:		
Acid and chemicals handling, degreasing, plating.	Splash	Goggles, eyecup and cover types. For severe exposure, use face shield. See notes (3), (11).
	Irritating mists	Special-purpose goggles.
Dust:		
Woodworking, buffing, general dusty conditions	Nuisance dust	Goggles, eyecup and cover types. See note (8).
Light and/or Radiation:		
Welding: Electric arc	Optical radiation	Welding helmets or welding shields. Typical shades: 10–14. See notes (9), (12).
Welding: Gas	Optical radiation	Welding goggles or welding face shield. Typical shades: gas welding 4–8, cutting 3–6, brazing 3–4. See note (9).
Cutting, Torch brazing, Torch soldering	Optical radiation	Spectacles or welding face-shield. Typical shades, 1.5–3. See notes (3), (9).
Glare	Poor vision	Spectacles with shaded or special-purpose lenses, as suitable. See notes (9), (10).

Notes to Eye and Face Protection Selection Chart

(a) Care should be taken to recognize the possibility of multiple and simultaneous exposure to a variety of hazards. Adequate protection against the highest level of each of the hazards should be provided. Protective devices do not provide unlimited protection.

(b) Operations involving heat may also involve light radiation. As required by the standard, protection from both hazards must be provided.

(c) Face shields should only be worn over primary eye protection (spectacles or goggles).

(d) As required by the standard, filter lenses must meet the requirements for shade designations in § 1915.153(a)(4). Tinted and shaded lenses are not filter lenses unless they are marked or identified as such.

(e) As required by the standard, persons whose vision requires the use of prescription (Rx) lenses must wear either protective devices fitted with prescription (Rx) lenses or protective devices designed to be worn over regular prescription (Rx) eye wear.

(f) Wearers of contact lenses must also wear appropriate eye and face protection devices in a hazardous environment. It should be recognized that dusty and/or chemical environments may represent an additional hazard to contact lens wearers.

(g) Caution should be exercised in the use of metal frame protective devices in electrical hazard areas.

(h) Atmospheric conditions and the restricted ventilation of the protector can cause lenses to fog. Frequent cleansing may be necessary.

(i) Welding helmets or face shields should be used only over primary eye protection (spectacles or goggles).

(j) Non-side shield spectacles are available for frontal protection only, but are not acceptable eye protection for the sources and operations listed for ''impact.''

(k) Ventilation should be adequate, but well protected from splash entry. Eye and face protection should be designed and used so that it provides both adequate ventilation and protects the wearer from splash entry.

(l) Protection from light radiation is directly related to filter lens density. See note (d). Select the darkest shade that allows task performance.

9. *Selection guidelines for head protection.* (a) Hard hats are designed to provide protection from impact and penetration hazards caused by falling objects. Head protection is also available which provides protection from electric shock and burn. When selecting head protection, knowledge of potential electrical hazards is important. Class A helmets, in addition to impact and penetration resistance, provide electrical protection from low-voltage conductors. (They are proof tested to 2,200 volts.) Class B helmets, in addition to impact and penetration resistance, provide electrical protection from high-voltage conductors. (They are proof tested to 20,000 volts.) Class C helmets provide impact and penetration resistance. (They are usually made of aluminum, which conducts electricity and should not be used around electrical hazards.)

(b) Where falling object hazards are present, head protection must be worn. Some examples of exposure include: working below other workers who are using tools and materials which could fall; working around or under conveyor belts which are carrying parts or materials; working below machinery or processes which might cause material or objects to fall; and working on exposed energized conductors.

(c) Examples of occupations for which head protection should be considered are: carpenters, electricians, machinists, boilermakers, erectors, plumbers, coppersmiths, ship fitters, welders, laborers and material handlers.

10. *Selection guidelines for foot protection.* (a) Safety shoes and boots must meet ANSI Z41–1991 and provide impact and compression protection to the foot. Where necessary, safety shoes can be obtained which provide puncture protection. In some work situations, metatarsal protection should be provided, and in some other special situations electrical conductive or insulating safety shoes would be appropriate.

(b) Safety shoes or boots with impact protection would be required for carrying or handling materials such as packages, objects, parts or heavy tools, which could be dropped, and for other activities where objects might fall onto the feet. Safety shoes or boots with compression protection would be required for work activities involving skid trucks (manual material handling carts) around bulk rolls (such as paper rolls) and around heavy pipes, all of which could potentially roll over an employees' feet. Safety shoes or boots with puncture protection would be required where sharp objects such as nails, wire, tacks, screws, large staples, scrap metal etc., could be stepped on by employees, causing an injury.

(c) Some occupations (not a complete list) for which foot protection should be routinely considered are: shipping and receiving clerks, stock clerks, carpenters, electricians, machinists, boiler makers, plumbers, copper smiths, pipe fitters, ship fitters, burners, chippers and grinders, erectors, press operators, welders, laborers, and material handlers.

11. *Selection guidelines for hand protection.* (a) Gloves are often relied upon to prevent cuts, abrasions, burns, and skin contact with chemicals that are capable of causing local or systemic effects following dermal exposure. OSHA is unaware of any gloves that provide protection against all potential hand hazards, and commonly available glove materials provide only limited protection against many chemicals. Therefore, it is important to select the most appropriate glove for a particular application and to determine how long it can be worn, and whether it can be reused.

(b) It is also important to know the performance characteristics of gloves relative to the specific hazard anticipated, e.g., chemical hazards, cut hazards, and flame hazards. These performance characteristics should be assessed by using standard test procedures. Before purchasing gloves, the employer should request documentation from the manufacturer that the gloves meet the appropriate test standard(s) for the hazard(s) anticipated.

(c) other general factors to be considered for glove selection are:

(A) As long as the performance characteristics are acceptable, in certain circumstances, it may be more cost effective to regularly change cheaper gloves than to reuse more expensive types; and,

(B) The work activities of the employee should be studied to determine the degree of dexterity required, the duration, frequency, and degree of exposure to the hazard, and the physical stresses that will be applied.

(d) With respect to selection of gloves for protection against chemical hazards:

(A) The toxic properties of the chemical(s) must be determined; in particular, the ability of the chemical to cause local effects on the skin or to pass through the skin and cause systemic effects or both;

(B) Generally, any ''chemical resistant'' glove can be used for dry powders;

(C) For mixtures and formulated products (unless specific test data are available), a glove should be selected on the basis of the chemical component with the shortest breakthrough time, since it is possible for solvents to carry active ingredients through polymeric materials; and,

(D) Employees must be able to remove the gloves in such a manner as to prevent skin contamination.

12. *Cleaning and maintenance.* (a) It is important that all PPE be kept clean and be properly maintained. Cleaning is particularly important for eye and face protection where dirty or fogged lenses could impair vision.

(b) For the purposes of compliance, PPE should be inspected, cleaned, and maintained at regular intervals so that the PPE provides the requisite protection.

(c) It is important to ensure that contaminated PPE which cannot be decontaminated is disposed of in a manner that protects employees from exposure to hazards.

13. *Examples of work activities, trades and selection of basic PPE.*

Example 1: *Welder.* Based on an assessment of the work activity area hazards to which welders are exposed, the equipment listed below is the basic PPE required for this occupation. This does not take into account a job location in which additional PPE may be required, such as where the welder works from an elevated platform without guard rails. In this situation the welder must also wear the proper fall protection equipment, such as a body harness.

—Hard hat
—Welding Shield (Face)
—Welding Gloves
—Safety Glasses
—Safety Shoes
—Welding Sleeves (welding in the overhead position)
(Signed and dated)

Example 2: *Yard Maintenance Worker.* Based on an assessment of the workplace hazards to which shipyard maintenance workers are exposed, the equipment listed below is the basic PPE required for this occupation. Where maintenance workers are exposed to other hazards, such as asbestos, the insulation on a pipe is being repaired, maintenance workers must be provided with the appropriate supplemental PPE (requirements for asbestos PPE are set out in 1915.1001).

—Hard Hat
—Safety Glasses
—Work Gloves
—Safety Shoes
(Signed and Dated)

Example 3: *Chipper and Grinder Worker.* Based on an assessment of the workplace hazards to which shipyard chipper and grinder workers are exposed, the equipment listed below is the basic PPE required for this occupation. Where workers are exposed to other hazards, such as hazardous dust from chipping or grinding operations, chipper and grinder workers must be provided with the appropriate supplemental PPE.

—Safety Glasses
—Transparent Face Shields
—Hearing Protection
—Foot Protection
—Gloves
(Signed and Dated)

Example 4: *Painter.* Based on an assessment of the workplace hazards to which shipyard painters are exposed, the equipment listed below is the basic PPE required for this occupation. Where painters are exposed to other hazards, such as a fall from an elevation where no guardrails are present, painters must be provided with the appropriate supplemental PPE.

—Hard Hats
—Safety Glasses
—Disposable Clothing
—Gloves
—Respiratory Protection, including Airline Respirators when working in Confined Spaces
—Barrier Creams
(Signed and Dated)

Example 5: *Tank Cleaner.* Tank cleaning operations and the basic PPE required for them depend largely upon the type of cargo shipped in the tank. Therefore, the following example is given for a tank in which gasoline has been shipped. Based on an assessment of the workplace hazards to which shipyard tank cleaners are exposed, specifically benzene and flammability hazards, the equipment listed below is the basic PPE required for this situation. Other tank cleaning operations will require variations in the PPE listed below.

—Respiratory Protection, Airline Respirators for working in confined spaces or where personal exposure limits could be exceeded.
—Chemically resistant clothing
—Face Shields
—Chemically resistant boots
—Chemically resistant gloves
—Fall Protection
—Non sparking tools and equipment
—Explosion-proof Lighting
(Signed and Dated)

Appendix B to Subpart I—General Testing Conditions and Additional Guidelines for Personal Fall Protection Systems (Non-mandatory)

1. *Personal fall arrest systems*—(a) *General test conditions.* (1) Lifelines, lanyards, and deceleration devices should be attached to an anchorage and connected to the body-belt or body harness in the same manner as they would be when used to protect employees, except that lanyards should be tested only when connected directly to the anchorage, and not when connected to a lifeline.

(2) The anchorage should be rigid, and should not have a deflection greater than .04 inches (1 cm) when a force of 2,250 pounds (10 Kn) is applied.

(3) The frequency response of the load measuring instrumentation should be 100 Hz.

(4) The test weight used in the strength and force tests should be a rigid, metal cylindrical or torso-shaped object with a girth of 38

inches plus or minus 4 inches (96.5 cm plus or minus 10 cm).

(5) The lanyard or lifeline used to create the free fall distance should be the one supplied with the system, or in its absence, the least elastic lanyard or lifeline available to be used by the employee with the system.

(6) The test weight for each test should be hoisted to the required level and should be quickly released without having any appreciable motion imparted to it.

(7) The system's performance should be evaluated, taking into account the range of environmental conditions for which it is designed to be used.

(8) Following the test, the system need not be capable of further operation.

(b) *Strength test.* (1) During the testing of all systems, a test weight of 300 pounds plus or minus 5 pounds (136 kg plus or minus 2.27 kg) should be used. (See paragraph (a)(4) above.)

(2) The test consists of dropping the test weight once. A new unused system should be used for each test.

(3) For lanyard systems, the lanyard length should be 6 feet plus or minus 2 inches (1.83 m plus or minus 5 cm) as measured from the fixed anchorage to the attachment on the body belt or harness.

(4) For rope-grab-type deceleration systems, the length of the lifeline above the center line of the grabbing mechanism to the lifeline's anchorage point should not exceed 2 feet (0.61 m).

(5) For lanyard systems, for systems with deceleration devices which do not automatically limit free fall distance to 2 feet (0.61 m) or less, and for systems with deceleration devices which have a connection distance in excess of 1 foot (0.3 m) (measured between the centerline of the lifeline and the attachment point to the body belt or harness), the test weight should be rigged to free fall a distance of 7.5 feet (2.3 m) from a point that is 1.5 feet (46 cm) above the anchorage point, to its hanging location (6 feet (1.83 m) below the anchorage). The test weight should fall without interference, obstruction, or hitting the floor or the ground during the test. In some cases, a non-elastic wire lanyard of sufficient length may need to be added to the system (for test purposes) to create the necessary free fall distance.

(6) For deceleration device systems with integral lifelines or lanyards which automatically limit free fall distance to 2 feet (0.61 m) or less, the test weight should be rigged to free fall a distance of four feet (1.22 m).

(7) Any weight which detaches from the belt or harness should constitute failure for the strength test.

(c) *Force test general.* The test consists of dropping the respective test weight once. A new, unused system should be used for each test.

(1) For lanyard systems. (i) A test weight of 220 pounds plus or minus three pounds (100 kg plus or minus 1.6 kg) should be used (see paragraph (a)(4) above).

(ii) Lanyard length should be 6 feet plus or minus 2 inches (1.83 m plus or minus 5 cm) as measured from the fixed anchorage to the attachment on the body belt or body harness.

(iii) The test weight should fall free from the anchorage level to its handling location (a total of 6 feet (1.83 m) free fall distance) without interference, obstruction, or hitting the floor or ground during the test.

(2) For all other systems. (i) A test weight of 220 pounds plus or minus 3 pounds (100 kg plus or minus 1.6 kg) should be used (see paragraph (a)(4) above).

(ii) The free fall distance to be used in the test should be the maximum fall distance physically permitted by the system during normal use conditions, up to a maximum free fall distance for the test weight of 6 feet (1.83 m), except as follows:

(A) For deceleration systems which have a connection link or lanyard, the test weight should free fall a distance equal to the connection distance (measured between the center line of the lifeline and the attachment point to the body belt or harness).

(B) For deceleration device systems with integral life lines or lanyards which automatically limit free fall distance to 2 feet (0.61 m) or less, the test weight should free fall a distance equal to that permitted by the system in normal use. (For example, to test a system with a self-retracting lifeline or lanyard, the test weight should be supported and the system allowed to retract the lifeline or lanyard as it would in normal use. The test weight would then be released and the force and deceleration distance measured.)

(3) Failure. A system fails the force test if the recorded maximum arresting force exceeds 1,260 pounds (5.6 Kn) when using a body belt, or exceeds 2,520 pounds (11.2 Kn) when using a body harness.

(4) Distances. The maximum elongation and deceleration distance should be recorded during the force test.

(d) *Deceleration device tests—general.* The device should be evaluated or tested under the environmental conditions (such as rain, ice, grease, dirt, type of lifeline, etc.) for which the device is designed.

(1) Rope-grab-type deceleration devices. (i) Devices should be moved on a lifeline 1,000 times over the same length of line a distance of not less than 1 foot (30.5 cm), and the mechanism should lock each time.

(ii) Unless the device is permanently marked to indicate the type of lifelines which must be used, several types (different diameters and different materials) of lifelines should be used to test the device.

(2) Other-self-activating-type deceleration devices. The locking mechanisms of other self-activating-type deceleration devices designed for more than one arrest should lock each of 1,000 times as they would in normal service.

2. *Positioning device systems*—(a) *Test Conditions.* (1) The fixed anchorage should be rigid and should not have a deflection greater than .04 inches (1 cm) when a force of 2,250 pounds (10 Kn) is applied.

(2) For linemen's body belt and pole straps, the body belt should be secured to a 250 pound (113 kg) bag of sand at a point which simulates the waist of an employee. One end of the pole strap should be attached to the rigid anchorage and the other end to the body belt. The sand bag should be allowed to free fall a distance of 4 feet (1.2 m). Failure of the pole strap and body belt should be indicated by any breakage or slippage sufficient to permit the bag to fall free to the ground.

(3) For window cleaner's belts, the complete belt should withstand a drop test consisting of a 250 pound (113 kg) weight falling free for a distance of 6 feet (1.83 m). The weight should be a rigid object with a girth of 38 inches plus or minus four inches (97 cm plus or minus 10 cm). The weight should be placed in the waistband with the belt buckle drawn firmly against the weight, as when the belt is worn by a window cleaner. One belt terminal should be attached to a rigid anchor and the other terminal should hang free. The terminals should be adjusted to their maximum span. The weight fastened in the freely suspended belt should then be lifted exactly 6 feet (1.83 m) above its ''at rest'' position and released so as to permit a free fall of 6 feet (1.83 m) vertically below the point of attachment of the terminal anchor. The belt system should be equipped with devices and instrumentation capable of measuring the duration and magnitude of the arrest forces. Any breakage or slippage which permits the weight to fall free of the system constitutes failure of the test. In addition, the initial and subsequent arresting force peaks should be measured and should not exceed 2,000 pounds (8.9 Kn) for more than 2 milliseconds for the initial impact, nor exceed 1,000 pounds (4.45 Kn) for the remainder of the arrest time.

(4) All other positioning device systems (except for restraint line systems) should withstand a drop test consisting of a 250 pound (113 kg) weight falling free for a distance of 4 feet (1.2 m). The weight should be a rigid object with a girth of 38 inches plus or minus 4 inches (96 cm plus or minus 10 cm). The body belt or harness should be affixed to the test weight as it would be to an employee. The system should be connected to the rigid anchor in the manner that the system would be connected in normal use. The weight should be lifted exactly 4 feet (1.2 m) above its ''at rest'' position and released so as to permit a vertical free fall of 4 feet (1.2 m). Any breakage or slippage which permits the weight to fall free to the ground should constitute failure of the system.

10. Section § 1915.5 is revised as follows:

§ 1915.5 Incorporation by reference.

(a) Specifications, standards, and codes of agencies of the U.S. Government, to the extent specified in the text, form a part of the regulations of this part. In addition, under the authority vested in the Secretary under the Act, the specifications, standards, and codes of organizations which are not agencies of the U.S. Government, in effect on the date of the promulgation of the regulations of this part as listed below, to the extent specified in the text, form a part of the regulations of this part.

(b) The materials listed in paragraph (d) of this section are incorporated by reference in the corresponding sections noted as they exist on the date of the approval, and a notice of any change in

these materials will be published in the Federal Register. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(c) Copies of the following standards that are issued by the respective private standards organizations may be obtained from the issuing organizations. The materials are available for purchase at the corresponding addresses of the private standards organizations noted below. In addition, all are available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington DC, and through the OSHA Docket Office, room N2625, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210, or any of its regional offices.

(d)(1) The following material is available for purchase from the American National Standards Institute, 11 West 42nd Street, New York, NY 10036.

(i) ANSI A14.1–1959 Safety Code for Portable Wood Ladders, IBR approved for § 1915.72(a)(6)

(ii) ANSI A14.2–1956 Safety Code for Portable Metal Ladders, IBR approved for § 1995.72(a)(4)

(iii) ANSI B7.1–1964 Safety Code for the Use, Care, and Protection of Abrasive Wheels, IBR approval for § 1915.134(c)

(iv) ANSI Z87.1–1989 Practice for Occupational and Educational Eye and Face Protection, IBR approved for § 1915.153(b)(1).

(v) ANSI 87.1–1979 Practice for Occupational and Educational Eye and Face Protection, IBR approved for § 1915.153(b)(2)

(vi) ANSI Z89.1–1986 Personnel Protection—Protective Headgear for Industrial Workers Requirements, IBR approved for § 1915.155(b)(1)

(vii) ANSI Z89.1–1969 Safety Requirement for Industrial Head Protection, IBR approved for § 1915.155(b)(2).

(viii) ANSI Z41–1991 Personal Protection—Protective Footwear, IBR approved for § 1915.156(b)(1)

(ix) ANSI Z41–1983 Personal Protection—Protective Footwear, IBR approved for § 1915.156(b)(2).

(2) The following material is available for purchase from the American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017:

(i) ASME Boiler and Pressure Vessel Code, Section VIII, Rules for Construction of Unfired Pressure Vessels, 1963, IBR approved for § 1915.172(a).

(3) The following material is available for purchase from the American Conference of Governmental Industrial Hygienists (ACGIH), 1014 Broadway, Cincinnati, OH 45202:

(i) Threshold limit values, 1970, IBR approved for §§ 1915.12(b) and 1915.1000, table Z.

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Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Fair Housing and Equal Opportunity; NOFA for Fair Housing Initiatives Program; FY 1996 Competitive Solicitation; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4047–N–01]

Office of the Assistant Secretary for Fair Housing and Equal Opportunity; NOFA for Fair Housing Initiatives Program; FY 1996 Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: This NOFA announces the availability of up to $12,106,000 of 1996 Fiscal Year (FY) funding for the Fair Housing Initiatives Program (FHIP). This program assists projects and activities designed to enforce and enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. In the body of this document is information concerning the purpose of the NOFA, eligibility, available amounts, selection criteria, how to apply for funding, and how selections will be made.

DATES: An application kit for funding under this Notice will be available following publication of the NOFA. The actual application due date will be specified in the application kit. However, applicants will be given at least 60 days from today's date, until July 23, 1996, to submit their applications. Applications will be accepted if they are received on or before the application due date, or are received within 7 days after the application due date, but with a U.S. postmark or receipt from a private commercial delivery service (such as, Federal Express or DHL) that is dated on or before the application due date.

ADDRESSES: To obtain a copy of the application kit, please write the Fair Housing Information Clearinghouse, P.O. Box 9146, McLean, VA 22102, or call the toll free number 1–800–343–3442 (voice) or 1–800–290–1617 (TTY). Please also contact this number if information concerning this NOFA is needed in an accessible format.

FOR FURTHER INFORMATION CONTACT: Sharon Bower, Special Assistant, Office of Fair Housing Initiatives and Voluntary Programs, Room 5234, 451 Seventh Street, S.W., Washington, D.C. 20410–2000. Telephone number (202) 708–0800. A telecommunications device for hearing and speech impaired persons is available at (202) 708–0800. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2529–0033. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

I. Purpose and Substantive Description

(a) Authority

Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601–19 (Fair Housing Act), charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate action with State and local agencies administering fair housing laws and to cooperate with, and render technical assistance to, public or private entities carrying out programs to prevent and eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616 note, established the Fair Housing Initiatives Program (FHIP) to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. This program assists projects and activities designed to enforce and enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. Implementing regulations are found at 24 CFR part 125.

Three general categories of activities were established at 24 CFR part 125 for FHIP funding under section 561 of the Housing and Community Development Act of 1987: the Administrative Enforcement Initiative, the Education and Outreach Initiative, and the Private Enforcement Initiative. Section 905 of the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102–550, approved October 28, 1992), amended section 561 by adding specific eligible applicants and activities to the Education and Outreach and Private Enforcement Initiatives, as well as an entirely new Fair Housing Organizations Initiative.

More significantly, section 905 has established FHIP as a permanent program. The final rule implementing these statutory amendments was published on November 27, 1995 (60 FR 58446).

The primary objective of this NOFA is to provide funds for the purpose of sustaining and supporting the activities of fair housing enforcement organizations. The limited amount of funding prevents the Department from embarking on new projects or initiatives. Instead, it prompts the Department to promote supporting those new fair housing enforcement organizations created under previous FHIP competitions and giving preference to those FHIP recipients whose grants expire between September 30, 1995 and December 31, 1996.

Definitions: The term ''qualified fair housing enforcement organization'' (the only eligible applicants under this NOFA) is given a specific definition in section 905. In addition, the November 27, 1995 final rule defines the term ''meritorious claim,'' which is used in the statutory definition of ''qualified fair housing enforcement organization.'' Applicants should note that the definition of ''meritorious claim'' is only relevant as a part of the definition of QFHO, and does not impose a limit on the kinds of activities that may be funded under FHIP. These definitions, which apply to this NOFA, are as follows:

Qualified fair housing enforcement organization (QFHO) means any organization, whether or not it is solely engaged in fair housing enforcement activities, that—

(1) Is organized as a private, tax-exempt, nonprofit, charitable organization;

(2) Has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

(3) Is engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims at the time of application for FHIP assistance. For the purpose of meeting the 2-year qualification period for these activities it is not necessary that the activities were conducted simultaneously, as long as each activity was conducted for 2 years. It is also not necessary for the activities to have been conducted for 2 consecutive or continuous years. An organization may aggregate its experience in each activity over the 3 year period preceding its application to meet the 2-year qualification period requirement.

Meritorious claims means enforcement activities by an

organization that resulted in lawsuits, consent decrees, legal settlements, HUD and/or substantially equivalent agency (under 24 CFR 115.6) conciliations and organization initiated settlements with the outcome of monetary awards for compensatory and/or punitive damages to plaintiffs or complaining parties, or other affirmative relief, including the provision of housing.

On July 14, 1995, HUD announced a public meeting to be held July 21, 1995 (60 FR 36301). The purpose of the meeting was to solicit comments on the FHIP. Additionally, on August 3, 1995, HUD invited written public comments on the FHIP (60 FR 39769). During the comment period, which ended August 15, 1995, HUD received public comments. HUD is grateful for public comments and has considered them in the development of the FY 1996 FHIP NOFA and Application Kit.

The program components of FHIP are described in the Catalog of Federal Domestic Assistance at 14.409, Education and Outreach Initiative; 14.410, Private Enforcement Initiative; and 14.413, Fair Housing Organizations Initiative.

(b) Allocation Amounts

For FY 1996, The Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134, approved April 26, 1996) appropriated $30 million for Fair Housing activities, of which $17 million is being made available for the FHIP. Of this amount, $4,894,000 is being utilized for the FY 1996 funding of FY 1995 awards. These awards were made to nine organizations that submitted applications under the FY 1995 FHIP NOFA and received scores making them the next eligible applicants for funding, but that did not receive FY 1995 funding. The remaining $12,106,000 is being made available on a competitive basis to eligible organizations that submit timely applications and are selected in response to this NOFA. The funding selections will be made on the basis of criteria for eligibility, factors for award, and completeness of budget information, and any other factors described in this NOFA under the heading, below, Selection Process.

The full cost of FY 1996 multi-year awards under the Private Enforcement Initiative will be funded from FY 96 funds. Recipients of 48 month PEI FHIP grant awards based upon applications submitted under the FY 1995 FHIP NOFA, RFA–95–1 (FR–3878, published April 11, 1995, 60 FR 18444), may not apply in the FY 1996 competition for multi-year Private Enforcement Initiative awards.

The Department retains the right to shift funds among the FHIP Initiatives listed below, within statutorily prescribed limitations. The amounts included in this NOFA are subject to change based on fund availability. The amount of FY 1996 funding available for the FHIP is divided among three FHIP Initiatives as follows:

(1) *Education and Outreach Initiative (EOI).* The amount of $2,000,000 in FY 1996 funds is being used for the Education and Outreach Initiative for single year projects. Of this amount, $185,677 is made available under this NOFA for national Education and Outreach Initiative programs, with an award cap of $185,677, and $1.0 million in FY 1996 funds is made available under this NOFA for regional, local, and community based programs, with an award cap of $125,000. Furthermore, $814,323 will be utilized for the FY 1996 funding of FY 1995 awards.

(2) *Private Enforcement Initiative (PEI).* The amount of $12 million in FY 1996 funds is being used for the PEI. Funds are made available under this NOFA in the amount of $7,920,323 for 24 to 36 month projects, with an award cap of $500,000 and with incremental funding during the life of the award subject to periodic performance reviews. The amount of $4,079,677 will be used for the FY 1996 funding of FY 1995 awards.

Recipients of multi-year PEI awards based upon applications submitted under RFA 95–1 for 48-month projects may not apply for multi-year PEI funds made available under this NOFA. This restriction does not apply to 24 month projects with FY 95 funding.

(3) *Fair Housing Organizations Initiative (FHOI).* The amount of $3,000,000 is made available under this NOFA for the FHOI, to be used for the continued development of fair housing enforcement organizations, with an award cap of $250,000.

(c) Eligibility

Eligible activities, eligible applicants, and additional requirements under each Initiative are listed below. All activities and materials funded by FHIP must be reasonably accessible to persons with disabilities.

(1) *Education and Outreach Initiative.*

(i) *Eligible applicants.* The only organizations that are eligible to receive FY 1996 funding under the Education and Outreach Initiative are qualified fair housing enforcement organizations (QFHOs);

(ii) *Eligible activities.* (A) *In general.* Each application for Education and Outreach Initiative funding must identify if it proposes a national, regional, local, or community-based program. The kinds of activities that may be funded through this Initiative may include (but are not limited to) the following:

(*1*) Activities that support the Fair Housing planning requirement of State and local governments subject to the Consolidated Plan (24 CFR part 91). These activities include (a) conducting an analysis of impediments to fair housing choice and (b) undertaking actions to eliminate the identified impediments.

(*2*) Informing persons with disabilities, and/or their support organizations and service providers, housing providers, and the general public on the rights of disabled persons under the Fair Housing Act and on the location or availability of accessible housing or the modification of non-accessible housing;

(*3*) Providing guidance to housing providers on meeting their Fair Housing Act obligation to make reasonable accommodations for persons with disabilities;

(*4*) Providing fair housing counseling services, including the subjects of pre- and post-purchase counseling (mortgage lending, appraisal, and insurance and/or rental);

(*5*) Developing informative material on fair housing rights and responsibilities;

(*6*) Developing fair housing and affirmative marketing instructional material for educational programs for housing industry groups;

(*7*) Providing educational materials, seminars and working sessions for schools, civic associations, neighborhood organizations, and other groups to support community based education and outreach efforts;

(*8*) Developing media campaigns regarding fair housing;

(*9*) Bringing housing industry and civic or fair housing groups together to identify illegal real estate practices and to determine how to correct them;

(*10*) Developing mechanisms for the identification of, and quick response to, housing discrimination cases involving the threat of physical harm;

(*11*) Developing materials and providing technical assistance to support compliance with housing adaptability and accessibility guidelines contained in the 1988 Fair Housing Amendments Act;

(*12*) Developing or implementing Fair Housing Month activities.

(B) *National programs.* (*1*) Activities eligible to be funded as national programs shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair

housing media products or educational materials that may appropriately be used on a nationwide basis. All activities listed in paragraph I.(c)(2)(ii)(A) above are eligible as national projects.

(*2*) National program applications will receive a preference of up to ten additional points if they:

(*i*) Demonstrate cooperation with real estate industry organizations (up to five points); and/or

(*ii*) Provide for the dissemination of educational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Amendments Act of 1988 (up to five points).

(C) *Regional, local and community-based programs.* (*1*) Activities eligible to be funded as regional, local and community-based programs include any of the activities, to be implemented on a regional, local or community-based level, listed in paragraph I.(c)(2)(ii)(A) above, of this NOFA.

(*2*) For the purposes of this NOFA, activities that are ''local'' in scope are activities that are limited to a single unit of general local government, meaning a city, town, township, county, parish, village, or other general purpose political subdivision of a State. Activities that are ''regional'' in scope are activities that cover adjoining States or two or more units of general local government within a State. Activities that are ''community based'' in scope are those which are focused on particular neighborhoods within a unit of general local government. Community-based programs include school, church and community presentations, conferences or other educational activities.

(iii) *Additional requirements.* The following requirements are applicable to all applications under the Education and Outreach Initiative:

(A) All projects must address or have relevance to housing discrimination based on race, color, religion, sex, handicap, familial status or national origin.

(B) Projects may range in length from twelve to eighteen months in duration. National projects have an award cap of $185,677. Regional, local and community based projects have an award cap of $125,000. Applications which request FHIP funding in excess of the award cap will be deemed ineligible.

(C) Projects that appear to be aimed solely or primarily at research or data-gathering, including surveys and questionnaires, will not be eligible under this NOFA. Such data-gathering activities require OMB approval under the Paperwork Reduction Act before commencement of the activity.

(D) All proposals must contain a description of how the activities or the final products of the projects can be used by other agencies and organizations and what modifications, if any, would be necessary for that purpose.

(E) Coordination of activities. Each non-governmental applicant for funding under the Education and Outreach Initiative Regional, Local and Community-Based Component that is located within the jurisdiction of a State or local enforcement agency or agencies administering a fair housing law that has been certified by the Department under 24 CFR part 115 as being a substantially equivalent fair housing law must provide, with its application, documentation (such as letters between the two organizations) that it has consulted with the agency or agencies to coordinate activities to be funded under the Education and Outreach Initiative. This coordination will ensure that the activities of one group will minimize duplication and fragmentation of activities of the other. Failure to submit the documentation required by this section will be treated as a technical deficiency in accordance with section IV., below, of this NOFA.

(F) Every application must include as one of its activities a procedure for referring persons with Fair Housing complaints to State or local agencies administering substantially equivalent laws, private attorneys, HUD or the Department of Justice for further enforcement processing.

(2) *Private Enforcement Initiative (PEI).*

(i) *Eligible applicants.* The only organizations that are eligible to receive FY 1996 funding assistance under the PEI are qualified fair housing enforcement organizations (QFHOs). NOTE: Recipients of multi-year (48 month) PEI FHIP grant awards based upon applications submitted under RFA–95–1 may not apply in the FY 1996 competition for multi-year PEI awards.

(ii) *Eligible activities.* Applications are solicited for multi-year project proposals as described in this NOFA. Applications may designate up to 20% of requested funds to conduct education and outreach to promote awareness of the services provided by the project, but such promotion must be necessary for the successful implementation of the project.

(A) *Bonus Points.* PEI applications from FHIP grant recipients whose period of performance for all FHIP grants expired/will expire between September 30, 1995 and December 31, 1996, will receive a bonus of ten additional points.

(B) Project applications may involve, but are not limited to, the following:

(*1*) Discovering and providing remedies for discrimination in the public or private real estate markets and real estate-related transactions, including, but not limited to, the making or purchasing of loans and the provision of other financial assistance for sales and rentals of housing, such as property insurance, appraisal practices, and housing advertising;

(*2*) Conducting investigations of systemic housing discrimination for further enforcement processing by HUD or State or local agencies which administer laws that are substantially equivalent to the Fair Housing Act, or for referral to private attorneys or the Department of Justice;

(*3*) Professionally conducting testing or other investigative support for administrative and judicial enforcement of fair housing laws;

(*4*) Linking fair housing organizations regionally in enforcement activities designed to combat broader housing market discriminatory practices;

(*5*) Building the capacity to investigate, through testing and other investigative methods, housing discrimination complaints covering all protected classes, including persons with mental and physical disabilities;

(*6*) Carrying out special projects, including the development of prototypes to respond to new or sophisticated forms of discrimination against persons protected under title VIII, such as in the areas of independent living and architectural barriers;

(*7*) Providing funds for the costs and expenses of litigating fair housing cases, including expert witness fees.

(iii) *Additional requirements.*

(A) Testers in testing activities funded with PEI funds must not have prior felony convictions or convictions of crimes involving fraud or perjury, and they must receive training or be experienced in testing procedures and techniques. Testers and the organizations conducting tests, and the employees and agents of these organizations may not:

(*1*) Have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury;

(*2*) Be a relative of any party in a case;

(*3*) Have had any employment or other affiliation, within one year, with the person or organization to be tested; or

(*4*) Be a licensed competitor of the person or organization to be tested in the listing, rental, sale, or financing of real estate.

(B) Multi-year projects must be for 24–36 months in duration, with an award cap of $500,000. Successful projects will receive incremental funding during the life of the award subject to periodic performance reviews. Applications which request FHIP funding in excess of the award cap will be deemed ineligible.

(C) Projects that appear to be aimed solely or primarily at research or data-gathering, including surveys and questionnaires unrelated to existing or planned fair housing enforcement programs, will not be eligible for funding under this NOFA. Data-gathering activities require OMB approval under the Paperwork Reduction Act before commencement of the activity.

(D) In accordance with 24 CFR 125.104(f), no recipient of assistance under the PEI may use any funds provided by the Department for the payment of expenses in connection with litigation against the United States.

(E) Recipients of funds under the Private Enforcement Initiative shall be required to record, in a case tracking log (or Fair Housing Enforcement Log) to be supplied by HUD, information appropriate to the funded project relating to the number of complaints of discrimination received; the basis of these complaints; the type and number of tests utilized in the investigation of each allegation; the time for case processing, including administrative or judicial proceedings; the cost of testing activities and case processing; and case outcome or relief provided. The recipient must agree to make this log available to HUD.

(F) All proposals must certify that the applicant will not solicit funds from or seek to provide fair housing educational or other services or products for compensation, directly or indirectly, to any person or organization which has been the subject of testing by the applicant during a 12 month period following the test. This requirement does not preclude settlements based on investigative findings.

(3) *Fair Housing Organizations Initiative (FHOI).*

(i) *Purpose: Continued Development of Existing Organizations.*

(A) *Eligible applicants.* The only organizations eligible under this NOFA to apply under this purpose of the FHOI are: qualified fair housing enforcement organizations (QFHOs).

(B) *Eligible activities.* Eligible activities for funding under this purpose of the FHOI are any activities listed as eligible under the Private Enforcement Initiative in section I.(c)(2)(ii) of this NOFA and carried out as twelve to eighteen month projects. However, all applications must be for the sole purpose of providing direct services/support to sustain the operations of the new fair housing enforcement organizations created under the FY 93 FHIP NOFA (58 FR 68000, December 22, 1993) and the FY 94 FHIP NOFA (59 FR 25532, May 16, 1994). (The full listing of these organizations will be included in the Application Kit.)

The list of eligible activities are examples only, and is not all inclusive. In addition to the examples listed in section I.(c)(2)(ii), other eligible activities include:

(*1*) Technical assistance and mentoring services for the new organization(s);

(*2*) Training for the staff of the new organization(s);

(*3*) Up to 20% of requested funds to conduct education and outreach to promote awareness of the services provided by the new organization(s), but such promotion must be necessary for the successful implementation of the project;

(*4*) Other costs relating to the operations of the new organization(s):

(*i*) Salaries and fringe benefits;

(*ii*) Rent, leases, supplies and other direct costs;

(*iii*) Travel connected with funded activities;

(*iv*) Testing and litigation expenses, and

(*v*) Indirect costs.

(C) *Additional Requirements.* The following requirements apply to activities funded under the Continued Development of Existing Organizations purpose of the FHOI:

(*1*) *Limitation on Sponsorship.* Applicants may only propose to support up to two (2) new fair housing enforcement organizations under a single award. Applicants must include with their applications letters of support for the proposed activities from the new organization(s) identified for sponsorship and detailed budgets for both the applicant and the new organization(s).

(*2*) *Limitation on Awards.* The limitation of receiving one award cited in this NOFA at I.(d)(3) will be modified for applicants that submit successful applications under the FHOI. In such cases, FHOI recipients will also be eligible to receive one additional award under either the PEI or EOI.

(*3*) *Eligible applications involving the same new fair housing enforcement organization(s).* If more than one eligible application proposes to support the same new organization(s), the applicant receiving the higher overall score will be selected for funding.

(*4*) *Capacity building.* Capacity building activities must be directed toward building capacity of the new fair housing enforcement organization(s) to provide fair housing enforcement. Thus, applications which include non-enforcement related activities as a part of the project will not be approved and corresponding budget reductions will be made to the award.

(*5*) *Operating budget limitation.* Funding provided under this purpose of the FHOI may not exceed more than 50 percent of the operating budget of a recipient organization for any one year. For purposes of the limitation in this paragraph, *operating budget* means the applicant's total planned budget expenditures from all sources, including the value of in-kind and monetary contributions, in the year for which funding is sought. Additionally, the grant recipient is limited to expending no more than 25% of the amount requested in the application for the purpose of covering the grantee's costs in providing sponsorship support to the new organization(s).

(*6*) *Term of grant.* One-year projects may be from twelve to eighteen months in duration, with an award cap of $250,000. Applications which request FHIP funding in excess of the award cap will be deemed ineligible.

(*7*) Testers in testing activities funded with FHIP funds must not have prior felony convictions or convictions of crimes involving fraud or perjury, and they must receive training or be experienced in testing procedures and techniques. Testers and the organizations conducting tests, and the employees and agents of these organizations may not:

(*i*) Have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury;

(*ii*) Be a relative of any party in a case;

(*iii*) Have had any employment or other affiliation, within one year, with the person or organization to be tested; or

(*iv*) Be a licensed competitor of the person or organization to be tested in the listing, rental, sale, or financing of real estate.

(*8*) Projects that appear to be aimed solely or primarily at research or data-gathering including surveys and questionnaires will not be eligible for funding under this NOFA. Data-gathering activities require OMB approval under the Paperwork

Reduction Act before commencement of the activity.

(*9*) Each applicant under the continued development of existing organizations purpose of the Fair Housing Organizations Initiative must submit an operating budget that describes the applicant's total planned expenditures from all sources, including the value of in-kind and monetary contributions, in the 12–18 months for which funding is sought. This operating budget will be used for the purposes of determining the extent of the 50% funding limitation on operating expenses.

(*10*) All proposals for testing under the Fair Housing Organizations Initiative must certify that the applicant will not solicit funds from or seek to provide fair housing educational or other services or products for compensation, directly or indirectly, to any person or organization which has been the subject of testing by the applicant during a 12 month period following the test. This does not preclude settlement based on investigative findings.

(d) Selection Criteria/Rating Factors

(1) Selection Criteria for Rating Applications for Assistance

In addition to the preference points indicated in section I.(c)(1)(ii)(B)(*2*) for particular activities, and in section I.(c)(1)(ii)(A) for PEI applications from FHIP grant recipients whose period of performance for all FHIP grants expired/will expire, all projects proposed in applications will be rated on the basis of the following criteria for selection:

(i) *The anticipated impact of the project proposed on the concerns identified in the application.* (20 points) In determining the anticipated impact of the proposed project, HUD will consider the degree to which a proposed project addresses problems and issues that are significant fair housing problems and issues, as explained in the application, or based upon other information available to HUD. (The clarity and thoroughness of the project description can be considered in this determination.) This criterion will be judged on the basis of the applicant's submissions in response to paragraph III.(a)(1) of this NOFA under the heading ''Checklist of Application Submission Requirements.''

(ii) *The extent to which the project will provide benefits in support of fair housing after funded activities have been completed.* (20 points) In determining the extent to which the project will provide benefits after funded activities have been completed, HUD will consider the degree to which the project will be of continuing use in dealing with housing discrimination after funded activities have been completed. This criterion will be judged on the basis of the applicant's submissions in response to paragraphs III.(a)(6) and III.(a)(7) of this NOFA under the heading ''Checklist of Application Submission Requirements.''

(iii) *The extent to which the project will provide the maximum impact on the concerns identified in a cost-effective manner.* (20 points) In determining the extent to which the project will provide the maximum impact on the concerns identified in a cost effective manner, HUD will consider the quality and reasonableness of the proposed activities, timeline and budget for implementation and completion of the project. HUD will consider as well the adequacy and clarity of proposed procedures to be used by the agency for monitoring the progress of the project and ensuring its timely completion. These procedures may consist of a system for checking whether or not the milestones established by the project's timeline are being met. The applicant's capability in handling financial resources (e.g., adequate financial control procedures, accounting procedures) will be taken into account as part of the assessment. This may be evidenced by the applicant's financial management of previous FHIP grants or other civil rights project management, a certification from the cognizant auditor, and other documentation. This criterion will be judged on the basis of the applicant's submissions in response to paragraphs III.(a)(2), and III.(a)(5) of this NOFA under the heading ''Checklist of Application Submission Requirements.''

(iv) *The extent to which the applicant's professional and organizational experience will further the achievement of project goals.* (30 points) In determining the extent to which the applicant's professional and organizational experience will further the achievement of the project's goals, HUD will consider the applicant's experience in formulating and carrying out programs to prevent or eliminate discriminatory practices, including the applicant's management and performance under past and current FHIP or other civil rights projects, the experience and qualifications of existing personnel identified for key positions, or a description of the qualifications of new staff that will be hired and the experience of subcontractors/consultants. For organizations submitting an application under the Education and Outreach Initiative, HUD will consider both fair housing experience and experience in implementing education, outreach or public information programs. This criterion will be judged on the basis of the applicant's submissions in response to paragraph III.(a)(3) of this NOFA under the heading ''Checklist of Application Submission Requirements.''

(v) *The extent to which the project utilizes other public or private resources that may be available.* (10 points) Both monetary and in-kind resources identified in the application are eligible for determining the extent to which other public or private resources will be used. The resources that will be considered must be targeted specifically for the proposed project, and must be over and above the resources available to the applicant as a part of its usual, non-project operations for such expenses as salaries, equipment, supplies, and rent. This criterion will be judged on the basis of the applicant's submissions in response to paragraph III.(a)(4) of this NOFA under the heading ''Checklist of Application Submission Requirements.''

(2) Selection Process

Each application for funding will be evaluated competitively, and awarded points based on the Selection Criteria for Rating Applications for Assistance identified in section I.(d)(1) of this NOFA. The final decision rests with the Assistant Secretary for Fair Housing and Equal Opportunity or designee. After eligible applications are evaluated against the factors for award and assigned a score, they will be organized by rank order. The rank ordering will be done separately for four categories: PEI; EOI-National; EOI-Regional, local and community-based; and FHOI-Continued Development of Existing Organizations. Awards for each category listed above will be funded in rank order until all available funds have been obligated, or until there are no acceptable applications, with one exception. If more than one eligible application under the FHOI competition proposes to support the same new fair housing enforcement organization(s), the applicant receiving the higher overall score will be selected for funding. The Assistant Secretary will have the discretion to make awards out of rank order to provide broader geographic representation among funded organizations and to provide enforcement of fair housing rights for all protected classes in a particular geographic region. When there is a tie in the overall total score, the award will be made to the applicant that receives a total higher number of cumulative

points under Selection Criteria (i) and (iv) of section I.(d)(1), above. If these scores are identical then geographical consideration will be the next variable, followed by the grant with the lower request for FHIP funding.

(3) Applicants Limited to a Single Award

Applicants may apply for funding for more than one project or activity. However, applicants are limited to one award under this NOFA, with one exception. The limitation of receiving one award will be modified for applicants that submit successful applications under the FHOI. In such cases, FHOI recipients will also be eligible to receive one additional award under either the PEI or EOI. In all other cases, if more than one eligible application is submitted by an applicant and both are within funding range, the Department will select the application which the applicant has indicated as its preference for award should more than one application submitted be within funding range.

(4) Independence of Awards

Each project or activity proposed in an application must be independent and capable of being implemented without reliance on the selection of other applications submitted by the applicant or other applicants. However, this provision does not preclude an applicant from submitting a proposal which includes other organizations as subcontractors to the proposed project or activity.

(5) Project Starting Period

The Department has determined that all applications must propose that the project will begin during the period October 1–December 1, 1996.

(6) Page Limitation

Applicants will be limited to 10 pages of narrative responses for each of the five selection criteria (this does not include forms or documents which are required under each criterion). Furthermore, brochures, news articles or other examples included in the application will not be considered in the evaluation process. Applicants that exceed the 10-page limit for each criterion will only have the first 10 pages evaluated for each criterion. Failure to provide narrative responses to all five criteria will result in an application being deemed as ineligible.

(e) Applicant Notification and Award Procedures

(1) Notification

No information will be available to applicants during the period of HUD evaluation, approximately 90 days, except for notification in writing to those applicants that are determined to be ineligible or that have technical deficiencies in their applications that may be corrected. Selectees will be announced by HUD upon completion of the evaluation process, subject to final negotiations and award.

(2) Negotiations

After HUD has ranked the applications and made an initial determination of applicants whose scores are within the funding range (but before the actual award), HUD may require that applicants in this group participate in negotiations to determine the specific terms of the cooperative or grant agreement. In cases where it is not possible to conclude the necessary negotiations successfully, awards will not be made.

If an award is not made to an applicant whose application is in the initial funding threshold because of an inability to complete successful negotiations, and if funds are available to fund any applications that may have fallen outside the initial funding threshold, HUD will select the next highest ranking applicant and proceed as described in the preceding paragraph.

(3) Funding Instrument

HUD expects to award a cost reimbursable or fixed-price cooperative or grant agreement to each successful applicant. HUD reserves the right, however, to use the form of assistance agreement determined to be most appropriate after negotiation with the applicant.

(4) Reduction of Requested Grant Amounts and Special Conditions

HUD may approve an application for an amount lower than the amount requested, fund only portions of an application, withhold funds after approval, and/or require the grantee to comply with special conditions added to the grant agreement, in accordance with 24 CFR 84.14, the requirements of this NOFA, or where:

(i) HUD determines the amount requested for one or more eligible activities is unreasonable or unnecessary;

(ii) The applicant has proposed an ineligible activity in an otherwise eligible project;

(iii) Insufficient amounts remain in that funding round to fund the full amount requested in the application and HUD determines that partial funding is a viable option;

(iv) The applicant has demonstrated an inability to manage HUD grants, particularly Fair Housing Initiatives Program grants; or

(v) For any other reason where good cause exists.

(5) Performance Sanctions

A recipient failing to comply with the procedures set forth in its grant agreement will be liable for such sanctions as may be authorized by law, including repayment of improperly used funds, termination of further participation in the FHIP, and denial of further participation in programs of the Department or of any Federal agency.

II. Application Process

An application kit is required as the formal submission to apply for funding. The kit includes information on the Management Work Plan and Budget for activities proposed by the applicant. An application may be obtained by writing the Fair Housing Information Clearinghouse, P.O. Box 9146, McLean, VA 22102, or by calling the toll free number 1–800–343–3442 (voice) or 1–800–290–1617 (TTY). To ensure a prompt response, it is suggested that requests for application kits be made by telephone.

Completed applications are to be submitted to: Maxine B. Cunningham, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Room 5234, 451 Seventh Street, S.W., Washington, DC 20410.

The application due date will be specified in the application kit. However, applicants will be given at least 60 days from today's date, until July 23, 1996, to submit their applications. Applications will be accepted if they are received on or before the application due date, or are received within 7 days after the application due date, but with a U.S. postmark or receipt from a private commercial delivery service (such as, Federal Express or DHL) that is dated on or before the application due date.

The application deadline is firm as to date. In the interest of fairness to all competing applicants, the Department will treat as *ineligible for consideration* any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. A

transmission by facsimile machine (''FAX'') will not constitute delivery.

An applicant may apply for funding for more than one project or activity, but a separate application must be submitted for each of the following categories of funding:

(1) National programs under the Education and Outreach Initiative;

(2) Regional or local and community-based activities under the Education and Outreach Initiative;

(3) Multi-year projects under the Private Enforcement Initiative; and

(4) Continued Development of Existing Organizations activities under the Fair Housing Organizations Initiative.

Although a separate application is required for each funding category, an application may propose more than one type of eligible activity under each category. For example, both production and distribution of a public service message may be proposed in a single application for a national program under the Education and Outreach Initiative.

Applicants must submit all information required in the application kit and must include sufficient information to establish that the applicant and its application meet eligibility requirements as set forth above and the application meets the selection criteria set forth in section I.(d), above, of this NOFA.

III. Checklist of Application Submission Requirements

(a) *General requirements.* The application kit will contain a checklist of application submission requirements to complete the application process. Each application for FHIP funding must contain the following items:

(1) A description of the activities proposed for funding, and the practice or practices at the community, local, regional or national level that have adversely affected the achievement of the goal of fair housing, and that will be addressed by the proposed activities. This description must include a discussion and analysis of the housing practices identified, including available information and studies relating to discriminatory housing practices and their historical background, and relevant demographic data indicating the nature and extent of the impact of the described practices on persons seeking dwellings or services related to the sale, rental or financing of dwellings, in the general location where the applicant proposes to undertake activities.

(2) A budget—which must include a set-aside of $5,000 for single-year projects and $10,000 for multi-year projects to be used for travel and associated costs for training sponsored or approved by the Department—and a timeline for the implementation of the proposed activities, consisting of a description of the specific activities to be conducted with FHIP funds, the geographic areas to be served by the activities, any reports to be produced in connection with the activities, and a schedule for the implementation and completion of the activities.

(3) A description of the applicant's experience in formulating or carrying out programs to prevent or eliminate discriminatory housing practices or in implementing other civil rights programs, the experience and qualifications of existing personnel identified for key positions, or a description of the qualifications of new staff to be hired, and the experience of subcontractors/consultants.

(4) A statement indicating the need for FHIP funding in support of the proposed project and an estimate of other public or private resources that will be used to assist the proposed activities.

(5) A description of the procedures to be used by the applicant for monitoring the progress of the proposed activities and the applicant's planned or implemented financial control procedures that will demonstrate the applicant's capability in managing financial resources.

(6) A description of the fair housing benefits that successful completion of the project will produce, and the indicators by which these benefits are to be measured.

(7) A description of the degree to which the project will be of continuing use in addressing housing discrimination after funded activities have been completed;

(8) HUD Form 2880, Applicant Disclosures;

(9) Fair Housing Organizations Initiative applicants must include with their applications letters of support for the proposed activities from the new organization(s) identified for sponsorship, and detailed budgets for both the applicant and the new organization(s).

(10) A listing of any current or pending grants or contracts, or other business or financial relationships or agreements, to provide training, education, and/or self-testing services between the applicant and any entity or organization of entities involved in the sale, rental, advertising or provision of insurance, brokerage or lending services for housing. The listing must include the name and address of the entity or organization; a brief description of the services being performed or for which negotiations are pending; the dates for performance of the services; and the amount of the contract or grant. This listing must be updated during the grant negotiation period, at the end of the grant term, and for grants that will run for more than twelve months, at the end of each year of the multi-year project.

(11) The applicant must submit a certification and disclosure in accordance with the requirements of section 319 of the Department of the Interior Appropriations Act (Pub. L. 101–121, approved October 23, 1989), as implemented in HUD's interim final rule at 24 CFR part 87, published in the Federal Register on February 26, 1990 (55 FR 6736). This statute generally prohibits recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. If warranted, the applicant should include the Disclosure of Lobbying Activities form (SF–LLL).

(12) Prior to award execution, successful applicants must submit a certification that they will comply with the certification requirements contained in the application kit.

(13) Each application must include documentation which demonstrates that the applicant meets all of the requirements of a qualified fair housing enforcement organization (QFHO), as defined under the heading *Definitions*, in section I.(a), above, of this NOFA.

IV. Corrections to Deficient Applications

Applicants will not be disqualified from being considered for funding because of technical deficiencies in their application submission, e.g., an omission of information such as regulatory/program certifications, or incomplete signatory requirements for application submission.

HUD will notify an applicant in writing of any technical deficiencies in the application. The applicant must submit corrections within 14 calendar days from the date of HUD's letter notifying the applicant of any technical deficiency.

The 14-day correction period pertains only to non-substantive, technical deficiencies or errors. Technical deficiencies relate to items that:

1. Are not necessary for HUD review under selection criteria/ranking factors; and

2. Would not improve the substantive quality of the proposal.

V. Other Matters

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of Section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the ''Byrd Amendment'') and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients and sub-recipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's 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 is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that the policies announced in this Notice would not have a significant impact on the formation, maintenance, and general well-being of families except indirectly to the extent of the social and other benefits expected from this program of assistance.

Executive Order 12612, Federalism

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, that the policies contained in this Notice will not have federalism implications and, thus, are not subject to review under the Order. The promotion of fair housing policies is a recognized goal of general benefit without direct implications on the relationship between the national government and the states or on the distribution of power and responsibilities among various levels of government.

Drug-Free Workplace Certification

The Drug-Free Workplace Act of 1988 requires grantees of Federal agencies to certify that they will provide drug-free workplaces. Thus, each applicant must certify that it will comply with drug-free workplace requirements in accordance with 24 CFR part 24, subpart F.

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 final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), 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, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

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 five-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. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its Federal Register notice of all recipients of HUD assistance awarded on a competitive basis.

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

Section 103 HUD Reform Act. HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule 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 part 4 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 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) A telecommunications device for persons with speech and hearing impairments is available at 1–800–877–8339. 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, or Headquarters counsel for the program to which the question pertains.

Authority: 42 U.S.C. 3601–3619; 42 U.S.C. 3616 note.

Dated: May 10, 1996.

Elizabeth K. Julian,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 96–13073 Filed 5–23–96; 8:45 am]

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Friday
May 24, 1996

Part V

Department of Education

Foreign Language Assistance Grants (Local Education Agencies); Inviting Applications for New Awards for Fiscal Year 1996; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.293B]

Foreign Language Assistance Grants (Local Educational Agencies); Notice Inviting Applications for New Awards for Fiscal Year (FY) 1996

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for an award under this competition.

Purpose of Program: This program provides grants to pay for the Federal share of the cost of innovative model programs providing for the establishment, improvement, or expansion of foreign language study for elementary and secondary school students.

In awarding grants under this program, the Secretary supports projects that—(A) show the promise of being continued beyond their project period; (B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and (C) may include a professional development component.

Eligible Applicants: Local educational agencies.

Deadline for Transmittal of Applications: June 24,1996.

Deadline for Intergovernmental Review: August 23,1996.

Available Funds: $6,039,000.

Estimated Range of Awards: $50,000-$175,000.

Estimated Average Size of Awards: $112,500.

Estimated Number of Awards: 54.

Note: The Department is not bound by any estimates in this notice.

Project Period: 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 75 (Direct Grant Programs).

(2) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(3) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(4) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(5) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(6) 34 CFR Part 82 (New Restrictions on Lobbying).

(7) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

Description of Program: Part B of Title VII of the Elementary and Secondary Education Act of 1965, as amended (the Act), authorizes the Foreign Language Assistance Grants program. Appropriations for this program are authorized by section 7206 of the Act. Section 7203(c)(3) of the Act provides that at least 75 percent of the funds appropriated under section 7206 shall be used for the expansion of foreign language learning in elementary grades. The Secretary does not fund projects that propose Native American languages.

Priorities: Under 34 CFR 75.105(c)(2)(i) the Secretary gives preference to applications that meet the following competitive priority. The Secretary awards five points to an application that meets this competitive priority in a particularly effective way. These points would be in addition to any points the application earns under the selection criteria for the program:

Competitive Preference Priority 1—Less Commonly Taught Languages of Major Economic and Political Importance to the United States (5 points).

Supplementary Information: The Senate Committee on Appropriations noted that three-fourth's of the world's population, including some major United States trading partners, speak Japanese, Chinese, Russian, Arabic, or Korean. S. REP. No. 318, 103rd Cong. 2nd Sess. 187 (1994). In addition, the Committee pointed out that these languages are seldom offered in our schools and that truly effective language training must begin in the elementary grades. In order to address this important concern, the Secretary gives an additional five points to an application that meets the competitive priority in a particularly effective way.

Priority

Projects that propose to establish, improve, or expand foreign language learning in the elementary grades and that focus on any of the following languages: Japanese, Chinese, Russian, Arabic, or Korean.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Department of Education to offer interested parties the opportunity to comment on proposed priorities. Because of the lateness of Congress in passing the fiscal year 1996 budget for this agency, the Department has determined that publication of a proposed priority would interfere with an orderly, responsible grant award process. The Secretary, therefore, has determined, pursuant to 5 U.S.C. 553(b)(B), that publication of a proposed priority is impracticable and contrary to the public interest.

Under 34 CFR 75.105(b)(2)(iv) and (c)(2)(i) and section 7204(b) of the Act (20 U.S.C. 7514(b)), the Secretary gives preference to applications that meet the following competitive priority. The Secretary awards three points to an application that meets this competitive priority in a particularly effective way. These points would be in addition to any points the application earns under the selection criteria for the program:

Competitive Preference Priority 2—Special Considerations (3 points).

Priority

Projects that propose to carry out one or more of the following activities: (1) intensive summer foreign language programs for professional development; (2) linking non-native English speakers in the community with the schools in order to promote two-way language learning; or (3) promoting the sequential study of a foreign language, beginning in elementary schools.

Selection Criteria

(a)(1) The Secretary uses the following selection criteria to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria.*—(1) *Meeting the purposes of the authorizing statute.* (37 points) The Secretary reviews each application to determine how well the project will meet the purpose of Part B of Title VII of the Act, including consideration of—

(i) The objectives of the project; and

(ii) How the objectives of the project further the purposes of the Act.

(2) *Extent of need for the project.* (20 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the Act, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition; and

(vi) For grants under a program that requires the applicant to provide an opportunity for participation of students enrolled in private schools, the quality of the applicant's plan to provide that opportunity.

(4) *Quality of key personnel.* (7 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(4)(i) (A) and (B) of this section will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i) (A) and (B) of this section, the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (8 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the recipient.)

(7) *Adequacy of resources.* (3 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the Federal Register on August 10, 1995 (60 FR 40980 and 40981).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.293B, U.S. Department of Education, Room 6213, 600 Independence Avenue, S.W., Washington, D.C. 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Eastern time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Instructions for transmittal of applications:

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.293B), Washington, D.C. 20202–4725 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Eastern time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.293B), Room #3633, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instruction and Forms

The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden, guidance on addressing the EDGAR selection criteria, and various

assurances, certifications, and required documentation. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

Part III: Application Narrative.

Additional Materials

a. Estimated Public Reporting Burden.

b. Part B of Title VII of the Elementary and Secondary Education Act of 1965, as amended (the Act).

c. Guidance on Addressing the EDGAR Selection Criteria.

d. Additional Non-Regulatory Guidance: Questions and Answers.

e. Group Application Certification.

f. Student Data.

g. Assurances—Non-Construction Programs (Standard Form 424B) and instructions.

h. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

i. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

Note: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

j. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions. This document has been marked to reflect statutory changes. See the notice published by the Office of Management and Budget at 61 FR 1413 (January 19, 1996).

k. Notice to All Applicants.

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. All applicants must submit ONE original signed application, including ink signatures on all forms and assurances, and TWO copies of the application. Please mark each application as ''original'' or ''copy''. No grant may be awarded unless a completed application form has been received.

For Further Information Contact: Harpreet Sandhu, U.S. Department of Education, 600 Independence Avenue, S.W., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–9808. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases); or on the World Wide Web (at http://www.ed.gov/money.html). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 20 U.S.C. 7511–7514.

Dated: May 20, 1996.

Delia Pompa,

Director, Office of Bilingual Education and Minority Languages Affairs.

BILLING CODE 4000–01–P

Appendix

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☒ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*: _____

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 2 9 3 B

TITLE: Foreign Language Assistance Program (Local Educational Agency Grants)

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1875-0102

Expiration Date: 9/30/98

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

BILLING CODE 4000-01-C

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202–4651; and the Office of Management and Budget, Paperwork Reduction Project 1875–0102, Washington, D.C. 20503.

Instructions for ED Form No. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A—Budget Summary, U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1–11.

Lines 1–11, columns (a)–(e):

For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1–11, column (f):

Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)–(e):

Show the total budget request for each project year for which funding is requested.

Line 12, column (f):

Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B—Budget Summary, Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1–11 of Section B.

Line 1–11, columns (a)–(e):

For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1–11, column (f):

Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)–(e):

Show the total matching or other contribution for each project year.

Line 12, column (f):

Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C—Other Budget Information, Pay Attention to Applicable Program Specific Instructions, if Attached

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem, necessary.

Instructions for Application Narrative

Before preparing the Application Narrative an applicant should read carefully the description of the program, the information regarding priorities, and the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract, that is, a summary of the proposed project;

2. Described the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application package; and

3. Include any other pertinent information that might assist the Secretary in reviewing the application.

Applicants should note the non-regulatory guidance provided on subsequent pages in regard to addressing the EDGAR selection criteria. Under the listed EDGAR criteria, selected provisions are quoted from the authorizing statute in order to indicate where applicants may appropriately address these provisions. These provisions are statutory requirements and must be addressed in order to receive a grant.

The narrative must be limited to no more than 35 double-spaced, typed pages (on one side only), including appendices. This limit applies to the pages containing the narrative and any accompanying tables, graphs, and charts; regardless of the pagination shown on these pages, the total number of these pages must not exceed 35 sheets. The page limit does not apply to the application forms, assurances, certifications, and attachments to those forms, assurances, and certifications. Applications that exceed the page limit specified above will not be considered for funding.

Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1885–0528. (Expiration date: April 1998). The time required to complete this information collection is estimated to average 120 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. *If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to:* U.S. Department of Education, Washington, D.C. 20202–4651. *If you have comments or concerns regarding the status of your individual submission of this form, write directly to:* Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 600 Independence Avenue, S.W., Washington D.C. 20202–6510.

BILLING CODE 4000–01–M

"PART B—FOREIGN LANGUAGE ASSISTANCE PROGRAM

Foreign Language Assistance Act of 1994.

"SEC. 7201. SHORT TITLE. 20 USC 7511.

"This part may be cited as the 'Foreign Language Assistance Act of 1994'.

"SEC. 7202. FINDINGS. 20 USC 7512.

"The Congress finds as follows:

"(1) Foreign language proficiency is crucial to our Nation's economic competitiveness and national security. Significant improvement in the quantity and quality of foreign language instruction offered in our Nation's elementary and secondary schools is necessary.

"(2) All Americans need a global perspective. To understand the world around us, we must acquaint ourselves with the languages, cultures, and history of other nations.

"(3) Proficiency in two or more languages should be promoted for all American students. Multilingualism enhances cognitive and social growth, competitiveness in the global marketplace, national security, and understanding of diverse people and cultures.

"(4) The United States lags behind other developed countries in offering foreign language study to elementary and secondary school students.

"(5) Four out of five new jobs in the United States are created from foreign trade.

"(6) The optimum time to begin learning a second language is in elementary school, when children have the ability to learn and excel in several foreign language acquisition skills, including pronunciation, and when children are most open to appreciating and valuing a culture other than their own.

"(7) Foreign language study can increase childrens' capacity for critical and creative thinking skills and children who study a second language show greater cognitive development in areas such as mental flexibility, creativity, tolerance, and higher order thinking skills.

"(8) Children who have studied a foreign language in elementary school achieve expected gains and score higher on standardized tests of reading, language arts, and mathematics than children who have not studied a foreign language.

"SEC. 7203. PROGRAM AUTHORIZED. 20 USC 7513.

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary and secondary school students.

"(2) DURATION.—Each grant under paragraph (1) shall be awarded for a period of three years.

"(b) REQUIREMENTS.—

"(1) GRANTS TO STATE EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

"(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a local educational agency, the Secretary shall support programs that—

"(A) show the promise of being continued beyond the grant period;

"(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

"(C) may include a professional development component.

"(c) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share for each fiscal year shall be 50 percent.

"(2) WAIVER.—The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.

"(3) SPECIAL RULE.—Not less than three-fourths of the funds appropriated under section 7206 shall be used for the expansion of foreign language learning in the elementary grades.

"(4) RESERVATION.—The Secretary may reserve not more than 5 percent of funds appropriated under section 7206 to evaluate the efficacy of programs under this part.

20 USC 7514.

"SEC. 7204. APPLICATIONS.

"(a) IN GENERAL.—Any State educational agency or local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

"(b) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications describing programs that—

"(1) include intensive summer foreign language programs for professional development;

"(2) link non-native English speakers in the community with the schools in order to promote two-way language learning; or

"(3) promote the sequential study of a foreign language for students, beginning in elementary schools.

BILLING CODE 4000–01–C

Guidance on Addressing the EDGAR Selection Criteria

1. *Meeting the purposes of the authorizing statute.* (See section 75.210(b)(1) of EDGAR)

''IN GENERAL.—The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary and secondary school students.''

(20 U.S.C. 7513)

2. *Extent of need for the project.* (See section 75.210(b)(2) of EDGAR)

3. *Plan of operation.* (See section 75.210(b)(3) of EDGAR)

''(b) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications describing programs that—

''(1) include intensive summer foreign language programs for professional development;

''(2) link non-native English speakers in the community with the schools in order to promote two-way language learning; or

(3) promote the sequential study of a foreign language for students, beginning in elementary schools.''

(20 U.S.C. 7514)

''(1) GRANTS TO STATE EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.''

''(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a local education agency, the Secretary shall support programs that—

''(A) show promise of being continued beyond the grant period;

''(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

''(C) may include a professional development component.''

(20 U.S.C. 7513)

4. *Quality of key personnel.* (See section 75.210(b)(4) of EDGAR)

5. *Budget and cost effectiveness.* (See section 75.210(b)(5) of EDGAR)

''(1) IN GENERAL.—The Federal share for each fiscal year shall be 50 percent.

''(2) WAIVER.—The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.''

(20 U.S.C. 7513)

6. *Evaluation plan.* (See section 75.210(b)(6) of EDGAR)

7. *Adequacy of resources.* (See section 75.210(b)(7) of EDGAR)

Foreign Language Assistance Program Grants to Local Educational Agencies, Additional Non-Regulatory Guidance

(Questions and Answers)

Q. How will the Secretary comply with the statutory requirement, set out in Section 7204(b) of the Elementary and Secondary Education Act, to give special consideration to applications that describe programs that (1) include intensive summer foreign language programs for professional development; (2) link non-native English speakers in the community; or (3) promote the sequential study of a foreign language for students, beginning in elementary schools?

A. The Secretary has established a competitive priority to comply with this statutory requirement. Under that priority, the Secretary awards three additional points to applications that propose to carry out one or more of the activities specified in Section 7204(b) of the Act in a particularly effective way. These points would be in addition to any points the application earns under the Selection Criteria. This priority is set out in full in the Application Notice.

Q. How can an applicant promote two-way language learning?

A. Two-way language learning is promoted through encouraging interaction between non-native English speakers and foreign language learners in an instructional setting for purposes of facilitating foreign language acquisition. Although improvement of the English language skills of non-native English speakers is a desirable ancillary benefit of a project that utilizes two-way language learning, the primary focus of projects funded under the Foreign Language Assistance program must be on foreign language learning. As a consequence, funds received under the Foreign Language Assistance program should not be used to fund English language instruction.

Q. What is the definition of ''elementary school'' or ''secondary school?''

A. The definitions of these two terms are set out in 34 CFR 77.1(c). The term ''elementary school'' means: ''a day or residential school that provides elementary education, as determined under State law.'' The term ''secondary school'' means: ''a day or residential school that provides secondary education as determined under State law. In the absence of State law, the Secretary may determine, with respect to that State, whether the term includes educational beyond the twelfth grade.''

Q. What is the State of LEA's share of costs for the Foreign Language Assistance program for each fiscal year?

A. The State or LEA's share is 50 percent. However, a waiver may be granted for an LEA if the Secretary determines that the LEA does not have adequate resources to pay the non-Federal share of the cost of the activities. (Section 7203(c), 20 U.S.C. 7513(c)). The Education Department General Administrative Regulations, at 34 CFR 80.24, also addresses Federal Cost sharing requirements.

Q. How does an LEA apply for a waiver of the non-Federal share of costs?

A. The Secretary suggests that local educational agencies—wishing to do so—request a waiver from the requirements of Section 7203(c) of the Act as a part of their grant application. This waiver request should include information that will assist the Secretary in determining whether the local educational agency seeking a waiver ''does not have adequate resources to pay the non-Federal share of the costs of the activities assisted under the Foreign Language Assistance program.'' (Section 7203(b) of the Act, 20 U.S.C. 7513(c)(2)).

Q. Under this program, may an applicant propose to hire foreign language teachers?

A. Yes, program funds may be used to hire foreign language teachers?

Q. May two districts apply together if they are already working together in an elementary school foreign language program?

A. Yes, the statute does not prohibit school districts from applying together. The requirements on group applications are in 34 CFR 75.127–75.129.

Q. How will the Secretary give priority to projects that propose to teach Japanese, Chinese, Russian, Arabic or Korean?

A. The Secretary awards five points to an application that meets the following competitive priority in a particularly effective way. These points would be in addition to any points the application earns under the Selection Criteria. This priority is set out in full in the Application Notice.

Projects that propose to establish, improve or expand foreign language learning in the elementary grades and that focus on any of the following languages: Japanese, Chinese, Russian, Arabic or Korean.

Q. How can an LEA ensure that their proposed program design will lead to an enhanced and effective foreign language program?

A. An LEA may consider the National and State foreign language content standards when designing their program.

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GROUP APPLICATION CERTIFICATION

NOTE: This form must be completed by eligible parties applying as a group for a grant. This form must be accompanied by a group agreement that details the activities that each member of the group plans to perform under the grant.

(34 CFR 75.128(b)-(c)).

To the best of my knowledge and belief, all data in this application are true and correct. I agree to be bound to every statement and assurance made in this application.

Authorized Representative					Name of Institution/ Organization
Typed Name	Title	Signature	Date Signed	Telephone Number (including Area Code)	

FOREIGN LANGUAGE DATA

Name of Local Educational Agency

NOTE: This section must be completed by local educational agencies applying under the following program:

- Foreign Language Assistance Grants

1. Total number of students in the school district	
2. Total number of students in the district enrolled in a foreign language program	

3. Foreign languages taught in the school district

Elementary	Secondary

4. Name of project school	Language(s) to be taught	Grade(s) to be served	Number of students to be served

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10;000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED

SF 424B (4-88 Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying ~~Entity~~ Registrant
(if individual, last name, first name, MI):

b. Individuals Performing Services *(including address if different from No. 10a)*
(last name, first name, MI):

~~(attach Continuation Sheet(s) SF-LLL-A, if necessary)~~

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

~~(attach Continuation Sheet(s) SF-LLL-A, if necessary)~~

15. ~~Continuation Sheet(s) SF-LLL-A attached:~~ ~~☐ Yes~~ ~~☐ No~~

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C.1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

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Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. ~~Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate~~. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the ~~lobbying entity~~ registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. ~~Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.~~

12. Check the appropriate box(es). ~~Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.~~

13. Check the appropriate box(es). ~~Check all boxes that apply. If other, specify nature.~~

14. Provide a specific and detailed ~~description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.~~

15. ~~Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.~~

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503

BILLING CODE 4000–01–C

BILLING CODE 4000–01–C

Notice to all Applicants

Thank you for your interest in this program. The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provisions is section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103–382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new discretionary grant awards under this program. *All applicants for new awards must include information in their applications to address this new provision in order to receive funding under this program.*

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its federally-assisted program for students, teachers, and other program beneficiaries with special needs.

This section allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation that you may address: gender, race, national origin, color, disability, or age. Based on local circumstances, you can determine whether these or other barriers may prevent your students, teachers, etc. from equitable access or participation. Your description need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information my be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What Are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it tends to conduct ''outreach'' efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement

Accordingly to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1801–0004 (Exp. 8/31/98). The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202–4651.

[FR Doc. 96–13093 Filed 5–23–96; 8:45 am]

BILLING CODE 4000–01–M

federal register

Friday
May 24, 1996

Part VI

Department of Education

Foreign Language Assistance Grants (State Education Agencies); Inviting Applications for New Awards for Fiscal Year 1996; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.293C]

Foreign Language Assistance Grants (State Educational Agencies); Notice Inviting Applications for New Awards for Fiscal Year (FY) 1996

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for an award under this competition.

Purpose of Program: This program provides grants to pay for the Federal share of the cost of innovative model programs providing for the establishment, improvement, or expansion of foreign language study for elementary and secondary school students.

In awarding grants under this program, the Secretary supports projects that promote systemic approaches to improving foreign language learning in the State.

Eligible Applicants: State educational agencies.

Deadline for Transmittal of Applications: June 24, 1996.

Deadline for Intergovernmental Review: August 23,1996.

Available Funds: $1,500,000.

Estimated Range of Awards: $30,000–$70,000.

Estimated Average Size of Awards: $50,000.

Estimated Number of Awards: 30.

Note: The Department is not bound by any estimates in this notice.

Project Period: 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 75 (Direct Grant Programs).

(2) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(3) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(4) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(5) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(6) 34 CFR Part 82 (New Restrictions on Lobbying).

(7) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

Description of Program: Part B of Title VII of the Elementary and Secondary Education Act of 1965, as amended (the Act), authorizes the Foreign Language Assistance Grants program. Appropriations for this program are authorized by section 7206 of the Act. Section 7203(c)(3) of the Act provides that at least 75 percent of the funds appropriated under section 7206 shall be used for the expansion of foreign language learning in elementary grades. The Secretary does not fund projects that propose Native American languages.

Priorities: Under 34 CFR 75.105(c)(2)(i) the Secretary gives preference to applications that meet the following competitive priority. The Secretary awards five points to an application that meets this competitive priority in a particularly effective way. These points would be in addition to any points the application earns under the selection criteria for the program:

Competitive Preference Priority 1—Less Commonly Taught Languages of Major Economic and Political Importance to the United States (5 points).

Supplementary Information: The Senate Committee on Appropriations noted that three-fourth's of the world's population, including some major United States trading partners, speak Japanese, Chinese, Russian, Arabic, or Korean. S. REP. No. 318, 103rd Cong. 2nd Sess. 187 (1994). In addition, the Committee pointed out that these languages are seldom offered in our schools and that truly effective language training must begin in the elementary grades. In order to address this important concern, the Secretary gives an additional five points to an application that meets the competitive priority in a particularly effective way.

Priority

Projects that propose to establish, improve, or expand foreign language learning in the elementary grades and that focus on any of the following languages: Japanese, Chinese, Russian, Arabic, or Korean.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedures Act (5 U.S.C. 553), it is the practice of the Department of Education to offer interested parties the opportunity to comment on proposed priorities. Because of the lateness of Congress in passing the fiscal year 1996 budget for this agency, the Department has determined that publication of a proposed priority would interfere with an orderly, responsible grant award process. The Secretary, therefore, has determined, pursuant to 5 U.S.C. 553(b)(B), that publication of a proposed priority is impracticable and contrary to the public interest.

Under 34 CFR 75.105(b)(2)(iv) and (c)(2)(i) and section 7204(b) of the Act (20 U.S.C. 7514(b)), the Secretary gives preference to applications that meet the following competitive priority. The Secretary awards three points to an application that meets this competitive priority in a particularly effective way. These points would be in addition to any points the application earns under the selection criteria for the program:

Competitive Preference Priority 2—Special Considerations (3 points).

Priority

Projects that propose to carry out one or more of the following activities: (1) intensive summer foreign language programs for professional development; (2) linking non-native English speakers in the community with the schools in order to promote two-way language learning; or (3) promoting the sequential study of a foreign language, beginning in elementary schools.

Selection Criteria

(a)(1) The Secretary uses the following selection criteria to evaluate applications for the new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria.*—(1) *Meeting the purposes of the authorizing statute.* (37 points) The Secretary reviews each application to determine how well the project will meet the purpose of Part B of Title VII of the Act, including consideration of—

(i) The objectives of the project: and

(ii) How the objectives of the project further the purposes of the Act.

(2) *Extent of need for the project.* (20 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the Act, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (20 points) The Secretary reviews each application to

determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition; and

(vi) For grants under a program that requires the applicant to provide an opportunity for participation of students enrolled in private schools, the quality of the applicant's plan to provide that opportunity.

(4) *Quality of key personnel.* (7 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(4)(i) (A) and (B) of this section will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i) (A) and (B) of this section, the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (8 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the recipient.)

(7) *Adequacy of resources.* (3 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the Federal Register on August 10, 1995 (60 FR 40980 and 40981).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.293C, U.S. Department of Education, Room 6213, 600 Independence Avenue, S.W., Washington, D.C. 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Eastern time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.293C), Washington, D.C. 20202–4725 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Eastern time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.293C), Room #3633, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden, guidance on addressing the EDGAR selection criteria, and various assurances, certifications, and required documentation. These parts and additional materials are organized in the same manner that the submitted

application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

Part III: Application Narrative.

Additional Materials

a. Estimated Public Reporting Burden.

b. Part B of Title VII of the Elementary and Secondary Education Act of 1965, as amended (the Act).

c. Guidance on Addressing the EDGAR Selection Criteria.

d. Additional Non-Regulatory Guidance: Questions and Answers.

e. Group Application Certification.

f. State Educational Agency Data Form.

g. Assurances—Non-Construction Programs (Standard Form 424B) and instructions.

h. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

i. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions. (NOTE: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

j. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions. This document has been marked to reflect statutory changes. See the notice published by the Office of Management and Budget at 61 FR 1413 (January 19, 1996).

k. Notice to All Applicants.

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. All applicants must submit ONE original signed application, including ink signatures on all forms and assurances, and TWO copies of the application. Please mark each application as ''original'' or ''copy''. No grant may be awarded unless a completed application form has been received.

For Further Information Contact: Harpreet Sandhu, U.S. Department of Education, 600 Independence Avenue, S.W., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–9808. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases); or on the World Wide Web (at http://www.ed.gov/money.html). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 20 U.S.C. 7511–7514.

Dated: May 20, 1996.

Delia Pompa,

Director, Office of Bilingual Education and Minority Languages Affairs.

BILLING CODE 4000–01–P

Appendix

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier	
3. DATE RECEIVED BY STATE	State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier	

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☒ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address (give city, county, state, and zip code):

Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☒ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

9. NAME OF FEDERAL AGENCY:
U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 2 9 3 C
TITLE: Foreign Language Assistance Program (State Educational Agency Grants)

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:
a. Applicant
b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:
DATE: _____
b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1875-0102

Expiration Date: 9/30/98

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

BILLING CODE 4000-01-C

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and the Office of Management and Budget, Paperwork Reduction Project 1875–0102, Washington, DC 20503.

Instructions for ED Form No. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A—Budget Summary, U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1–11.

Lines 1–11, columns (a)–(e):

For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1–11, column (f):

Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)–(e):

Show the total budget request for each project year for which funding is requested.

Line 12, column (f):

Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B—Budget Summary, Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1–11 of Section B.

Lines 1–11, columns (a)–(e):

For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1–11, column (f);

Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)–(e):

Show the total matching or other contribution for each project year.

Line 12, column (f):

Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this blank.

Section C—Other Budget Information, Pay Attention to Applicable Program Specific Instructions, if Attached

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the types of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

Instructions for Application Narrative

Before preparing the Application Narrative an applicant should read carefully the description of program, the information regarding priorities, and the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract, that is, a summary of the proposed project;

2. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application package; and

3. Include any other pertinent information that might assist the Secretary in reviewing the application.

Applicants should note the non-regulatory guidance provided on subsequent pages in regard to addressing the EDGAR selection criteria. Under the listed EDGAR criteria, selected provisions are quoted from the authorizing statute in order to indicate where applicants may appropriately address these provisions. These provisions are statutory requirements and must be addressed in order to receive a grant.

The narrative must be limited to no more than 35 double-spaced, typed pages (on one side only), including appendices. This limit applies to the pages containing the narrative and any accompanying tables, graphs, and charts; regardless of the pagination shown on these pages, the total number of these pages must not exceed 35 sheets. The page limit does not apply to the application forms, assurances, certifications, and attachments to those forms, assurances, and certifications. Applications that exceed the page limit specified above will not be considered for funding.

Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid MOB control number. The valid OMB control number for this information collection is 1885–0528. (Expiration date: April 1998). The time required to complete this information collection is estimated to average 120 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. *If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to:* U.S. Department of Education, Washington, D.C. 20202–4651. *If you have comments or concerns regarding the status of your individual submission of this form, write directly to:* Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 600 Independence Avenue, S.W., Washington D.C. 20202–6510.

BILLING CODE 4000–01–M

"PART B—FOREIGN LANGUAGE ASSISTANCE PROGRAM

Foreign Language Assistance Act of 1994.
20 USC 7511.

"SEC. 7201. SHORT TITLE.

"This part may be cited as the 'Foreign Language Assistance Act of 1994'.

"SEC. 7202. FINDINGS.

20 USC 7512.

"The Congress finds as follows:

"(1) Foreign language proficiency is crucial to our Nation's economic competitiveness and national security. Significant improvement in the quantity and quality of foreign language instruction offered in our Nation's elementary and secondary schools is necessary.

"(2) All Americans need a global perspective. To understand the world around us, we must acquaint ourselves with the languages, cultures, and history of other nations.

"(3) Proficiency in two or more languages should be promoted for all American students. Multilingualism enhances cognitive and social growth, competitiveness in the global marketplace, national security, and understanding of diverse people and cultures.

"(4) The United States lags behind other developed countries in offering foreign language study to elementary and secondary school students.

"(5) Four out of five new jobs in the United States are created from foreign trade.

"(6) The optimum time to begin learning a second language is in elementary school, when children have the ability to learn and excel in several foreign language acquisition skills, including pronunciation, and when children are most open to appreciating and valuing a culture other than their own.

"(7) Foreign language study can increase childrens' capacity for critical and creative thinking skills and children who study a second language show greater cognitive development in areas such as mental flexibility, creativity, tolerance, and higher order thinking skills.

"(8) Children who have studied a foreign language in elementary school achieve expected gains and score higher on standardized tests of reading, language arts, and mathematics than children who have not studied a foreign language.

"SEC. 7203. PROGRAM AUTHORIZED.

20 USC 7513.

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary and secondary school students.

"(2) DURATION.—Each grant under paragraph (1) shall be awarded for a period of three years.

"(b) REQUIREMENTS.—

"(1) GRANTS TO STATE EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

"(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a local educational agency, the Secretary shall support programs that—

"(A) show the promise of being continued beyond the grant period;

"(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

"(C) may include a professional development component.

"(c) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share for each fiscal year shall be 50 percent.

"(2) WAIVER.—The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.

"(3) SPECIAL RULE.—Not less than three-fourths of the funds appropriated under section 7206 shall be used for the expansion of foreign language learning in the elementary grades.

"(4) RESERVATION.—The Secretary may reserve not more than 5 percent of funds appropriated under section 7206 to evaluate the efficacy of programs under this part.

20 USC 7514.

"SEC. 7204. APPLICATIONS.

"(a) IN GENERAL.—Any State educational agency or local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

"(b) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications describing programs that—

"(1) include intensive summer foreign language programs for professional development;

"(2) link non-native English speakers in the community with the schools in order to promote two-way language learning; or

"(3) promote the sequential study of a foreign language for students, beginning in elementary schools.

BILLING CODE 4000-01-C

Guidance on Addressing the EDGAR Selection Criteria

1. *Meeting the purposes of the authorizing statute*. (See section 75.210(b)(1) of EDGAR)

''IN GENERAL.—The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary and secondary school students.''

(20 U.S.C. 7513)

2. *Extent of need for the project*. (See section 75.210(b)(2) of EDGAR)

3. *Plan of operation*. (See section 75.210(b)(3) of EDGAR)

''(b) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications describing programs that—

''(1) include intensive summer foreign language programs for professional development;

''(2) Link non-native English speakers in the community with the schools in order to promote two-way language learning; or

''(3) promote the sequential study of a foreign language for students, beginning in elementary schools.''

(20 U.S.C. 7514)

''(1) GRANTS TO STATE EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.''

''(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a local educational agency, the Secretary shall support programs that—

''(A) show promise of being continued beyond the grant period;

''(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

''(C) may include a professional development component.''

(20 U.S.C. 7513)

4. *Quality of key personnel*. (See section 75.210(b)(4) of EDGAR)

5. *Budget and cost effectiveness*. (See section 75.210(b)(5) of EDGAR)

''(1) IN GENERAL.—The Federal share for each fiscal year shall be 50 percent.

''(2) WAIVER.—The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.''

(20 U.S.C. 7513)

6. *Evaluation plan*. (See section 75.210(b)(6) of EDGAR)

7. *Adequacy of resources*. (See section 75.210(b)(7) of EDGAR)

Foreign Language Assistance Program Grants to State Educational Agencies Additional Non-Regulatory Guidance

(Questions and Answers)

Q. How can State educational agencies support programs that promote systemic approaches to improving foreign language learning in the States?

A. Activities may include staff development, curriculum development, development of State standards and appropriate assessment strategies, and use of instructional technology to improve foreign language learning in the State.

Q. How will the Secretary comply with the statutory requirement, set out in Section 7204(b) of the Elementary and Secondary Education Act, to give special consideration to applications that describe programs that (1) include intensive summer foreign language programs for professional development; (2) link non-native English speakers in the community; or (3) promote the sequential study of a foreign language for students, beginning in elementary schools?

A. The Secretary has established a competitive priority to comply with this statutory requirement. Under that priority, the Secretary awards three additional points to applications that propose to carry out one or more of the activities specified in Section 7204(b) of the Act in a particularly effective way. These points would be in addition to any points the application earns under the Selection Criteria. This priority is set out in full in the Application Notice.

Q. How can an applicant promote two-way language learning?

A. Two-way language learning is promoted through encouraging interaction between non-native English speakers and foreign language learners in an instructional setting for purposes of facilitating foreign language acquisition. Although improvement of the English language skills of non-native English speakers is a desirable ancillary benefit of a project that utilizes two-way language learning, the primary focus of projects funded under the Foreign Language Assistance program must be on foreign language learning. As a consequence, funds received under the Foreign Language Assistance program should not be used to fund English language instruction.

Q. What is the definition of ''elementary school''or ''secondary school?''

A. The definitions of these two terms are set out in 34 CFR 77.1(c). The term ''elementary school'' means: ''a day or residential school that provides elementary education, as determined under State law.'' The term ''secondary school'' means: ''a day or residential school that provides secondary education as determined under State law. In the absence of State law, the Secretary may determine, with respect to that State, whether the term includes education beyond the twelfth grade.''

Q. What is the State or Lea's share of costs for the Foreign Language Assistance program for each fiscal year?

A. The State or LEA's share is 50 percent. However, a waiver may be granted for an LEA if the Secretary determines that the LEA does not have adequate resources to pay the non-Federal share of the cost of the activities. (Section 7203(c), 20 U.S.C. 7513(c)). The Education Department General Administrative Regulations, at 34 CFR 80.24, also addresses Federal Cost sharing requirements.

Q. How will the Secretary give priority to projects that teach Japanese, Chinese, Russian, Arabic or Korean?

A. The Secretary awards five points to an application that meets the following competitive priority in a particularly effective way. These points would be in addition to any points the application earns under the Selection Criteria. This priority is set out in full in the Application Notice.

Projects that propose to establish, improve or expand foreign language learning in the elementary grades and that focus on any of the following languages: Japanese, Chinese, Russian, Arabic or Korean.

Q. What is the ultimate goal of effective foreign language education programs?

A. The ultimate goal of effective foreign language education programs is to develop communicative competency in a foreign language. The Secretary interprets ''communicative competency'' to mean the ability to communicate in meaningful and effective ways in a foreign language.

BILLING CODE 4000–01–M

GROUP APPLICATION CERTIFICATION

NOTE: This form must be completed by eligible parties applying as a group for a grant. This form must be accompanied by a group agreement that details the activities that each member of the group plans to perform under the grant.

(34 CFR 75.128(b)-(c)).

To the best of my knowledge and belief, all data in this application are true and correct. I agree to be bound to every statement and assurance made in this application.

Authorized Representative					Name of Institution/ Organization
Typed Name	Title	Signature	Date Signed	Telephone Number (including Area Code)	

FOREIGN LANGUAGE DATA

Name of State Educational Agency

NOTE: This section must be completed by State educational agencies applying under the following program:

- Foreign Language Assistance Grants

1. Total number of local educational agencies (LEAs) in the State	
2. Total number of LEAs in the State providing foreign language programs	

3. Foreign languages taught

Elementary	Secondary

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying ~~Entity~~ Registrant
(if individual, last name, first name, MI):

b. Individuals Performing Services *(including address if different from No. 10a)*
(last name, first name, MI):

~~(attach Continuation Sheet(s) SF-LLL-A, if necessary)~~

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

~~(attach Continuation Sheet(s) SF-LLL-A, if necessary)~~

15. ~~Continuation Sheet(s) SF-LLL-A attached:~~ ~~☐ Yes~~ ~~☐ No~~

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C.1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

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Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. ~~Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate~~. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the ~~lobbying entity~~ registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. ~~Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.~~

12. ~~Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.~~

13. ~~Check the appropriate box(es). Check all boxes that apply. If other, specify nature.~~

14. ~~Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.~~

15. ~~Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.~~

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

BILLING CODE 4000–01–C

Notice to all Applicants

Thank you for your interest in this program. The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L 103–382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new discretionary grant awards under this program. *All applicants for new awards must include information in their applications to address this new provision in order to receive funding under this program.*

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its federally-assisted program for students, teachers, and other program beneficiaries with special needs.

This section allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation that you may address: gender, race, national origin, color, disability, or age. Based on local circumstances, you can determine whether these or other barriers may prevent your students, teachers, etc. from equitable access or participation. Your description need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What Are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it tends to conduct ''outreach'' efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1801–0004 (Exp. 8/31/98). The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202–4651.

[FR Doc. 96–13092 Filed 5–23–96; 8:45 am]

BILLING CODE 4000–01–M

federal register

Friday
May 14, 1996

Part VII

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171 and 173

Temporary Prohibition of Oxygen Generators as Cargo in Passenger Aircraft; Interim Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 173

[Docket No. HM–224, Amdt No. 171–146, 173–254]

RIN 2137–AC89

Temporary Prohibition of Oxygen Generators as Cargo in Passenger Aircraft

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Interim final rule.

SUMMARY: To protect life and property, RSPA is issuing an interim final rule temporarily prohibiting the offering for transportation and transportation of oxygen generators as cargo in passenger-carrying aircraft. This rule applies to both foreign and domestic passenger-carrying aircraft entering, leaving or operating in the United States and to any person offering an oxygen generator for transportation on any passenger-carrying aircraft.

DATES: *Effective date*: This interim final rule is effective May 24, 1996.

Comment date: Comments must be received by July 23, 1996.

ADDRESSES: Address comments to the Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, room 8421, 400 Seventh Street, SW, Washington, DC 20590–0001. Comments should identify the docket number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. The Dockets Unit is located in the Department of Transportation headquarters building (NASSIF Building) at the above address on the eighth floor. Public dockets may be reviewed there between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William E. Vincent, Acting Director, Office of Policy and Program Support, (202) 366–4831, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW, Washington DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

Under a Secretarial delegation (49 CFR 1.53(b)), the Research and Special Programs Administration (RSPA) is the administration within the Department of Transportation (DOT) primarily responsible for issuing regulations implementing the Federal hazardous material transportation law (Federal hazmat law), 49 U.S.C. 5101–5127. Under this delegated authority, RSPA has issued the Hazardous Materials Regulations (HMR), 49 CFR Parts 171–180.

Under delegations from the Secretary of Transportation (49 CFR Part 1), the authority for enforcement under the Federal hazmat law is shared by RSPA and each of four modal administrations: the Federal Highway Administration, the Federal Railroad Administration, the Federal Aviation Administration (FAA), and the United States Coast Guard. FAA has primary enforcement authority concerning transportation and shipments of hazardous materials by air. 49 CFR 1.47(k).

The National Transportation Safety Board and the FAA are investigating a recent accident involving a passenger-carrying aircraft. Preliminary evidence indicates that oxygen generators (chemical) were carried as cargo on board the aircraft and may have caused, or contributed to the severity, of the accident. Oxygen generators are safely installed inside thermal protective casings in the cabins of many passenger-carrying aircraft to provide oxygen in emergencies to passengers and certain crew members.

Some persons have offered, and some air carriers have transported, uninstalled generators as cargo on passenger-carrying aircraft under authority in the HMR, including §§ 175.10(a)(2) and 171.11 (which authorizes use of the International Civil Aviation Organization (ICAO) Technical Instructions).

In order to preclude the possibility that an oxygen generator carried as cargo may cause or contribute to a future incident in air commerce, RSPA is issuing this interim final rule prohibiting until January 1, 1997, with one exception, transportation in passenger-carrying aircraft, and offering for transportation in passenger-carrying aircraft, any oxygen generator as cargo. This regulation applies to both foreign and domestic aircraft entering, leaving or operating in the United States and to any person offering an oxygen generator for transportation on any of those aircraft as cargo.

This regulation applies to oxygen generators (chemical) and not to cylinders containing compressed oxygen. Unlike oxygen generators (chemical), compressed oxygen cylinders do not involve heat-producing mixing of chemicals to create oxygen. To clarify the applicability of the prohibition in this rule, RSPA is adding a definition of ''oxygen generator (chemical)'' to 49 CFR § 171.8. That definition reads ''a device containing chemicals that upon activation release oxygen as a product of chemical reaction.''

Exceptions to the prohibition are provided for an oxygen generator for medical use of a passenger that is carried in the passenger cabin and meets the specific safety requirements of § 175.10(a)(7) and for a small oxygen generator for personal use that is transported as checked baggage and meets the specific safety requirements of § 175.10(a)(24).

Because of the potential safety risk posed by continued transportation of oxygen generators as cargo in passenger-carrying aircraft, RSPA has determined that good cause exists for making this rule effective less than 30 days from its issuance and that notice and comment is impractical and contrary to public interest.

Based on currently available information, RSPA believes that at least a temporary ban on offering and transportation of the generators is justified on an emergency basis because of the potential for loss of life and damage to property. Although an opportunity for public comment on this rule has not been provided prior to issuance of this interim final rule, RSPA seeks public comment. Based on comments received, NTSB and FAA investigation, and RSPA and FAA joint inspection of contract maintenance vendors, RSPA may make the ban permanent, terminate or modify the ban, or otherwise amend the provisions of this rule. As an interim final rule, however, this regulation is in effect and binding upon publication in the Federal Register.

RSPA encourages interested persons to participate in this rulemaking by submitting written views, data and information concerning this interim final rule. Commenters should provide a reason or basis for each comment. RSPA will consider all public comments and will make changes to this rule if public comments indicate a change is necessary.

II. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is considered a significant regulatory action under section 3(f) of Executive Order 12866 and therefore is subject to review by the Office of Management and Budget. The rule is significant according to the Regulatory Policies and Procedures of

the Department of Transportation (44 FR 11034).

The changes adopted in this rule should not result in any significant additional costs to persons subject to the HMR. About 150,000 of these oxygen generators are installed on about 1,000 U.S. passenger-carrying aircraft. Because of their typical effective life of about ten years, it is not necessary to frequently transport these generators as uninstalled or not-in-use materials. In addition, alternative transportation is available for these generators because this rule does not prohibit or inhibit their transportation by highway, rail, water or cargo aircraft. Because of the minimal economic impact of this rule, a full regulatory evaluation is not warranted.

Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 12612 (''Federalism'') and does not have sufficient Federalism impacts to warrant the preparation of a federalism assessment.

Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule imposes a limited prohibition on certain persons subject to the HMR. However, there are limited adverse economic impacts on small businesses or other organizations.

Paperwork Reduction Act

There are no information collection requirements in this final rule.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

In consideration of the foregoing, 49 CFR Parts 171 and 173 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for Part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

2. In § 171.8, a definition for ''oxygen generator (chemical)'' is added in alphabetical order to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Oxygen generator (chemical) means a device containing chemicals that upon activation release oxygen as a product of chemical reaction.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

3. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

4. In § 173.21, paragraph (k) is added to read as follows:

§ 173.21 Forbidden materials and packages.

* * * * *

(k) Notwithstanding any other provision of this subchapter, including §§ 171.11 and 175.10(a)(2) of this subchapter, an oxygen generator (chemical) as cargo on a passenger-carrying aircraft until January 1, 1997. This prohibition does not apply to an oxygen generator for medical or personal use of a passenger that meets the requirements of § 175.10(a)(7) or § 175.10(a)(24) of this subchapter.

Issued in Washington, DC on May 23, 1996 under authority delegated in 49 CFR part 1.

D.K. Sharma,

Administrator, Research and Special Programs Administration.

[FR Doc. 96–13404 Filed 5–23–96; 12:31 pm]

BILLING CODE 4910–60–P

federal register

Friday
May 24, 1996

Part VIII

Department of Transportation

Federal Aviation Administration

Enforcement Policy; Emergency Notice

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Emergency Notice of Enforcement Policy

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Emergency notice of enforcement policy.

SUMMARY: This emergency notice of enforcement policy is necessary to address safety concerns regarding air transportation of oxygen generators arising from investigation of a recent accident involving a passenger-carrying aircraft.

EFFECTIVE DATE: May 23, 1996.

FOR FURTHER INFORMATION CONTACT: Peter J. Lynch, Assistant Chief Counsel for Enforcement, Enforcement Division, Office of the Chief Counsel, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9956

The text of the FAA emergency notice of enforcement policy follows: The National Transportation Safety Board and the FAA are investigating a recent accident involving a passenger aircraft. Preliminary evidence indicates that oxygen generators (containing a chemical or chemicals intended to release oxygen upon activation) were carried as cargo on board the aircraft and may have caused or contributed to the severity of the accident.

The Research and Special Programs Administration has amended the Department of Transportation (DOT) Hazardous Materials Regulations, to prohibit the offering for transportation or transportation of oxygen generators as cargo in passenger-carrying aircraft. The rule applies to both foreign and domestic aircraft entering, leaving, or operating in the United States and to any person offering an oxygen generator for transportation on any of those aircraft.

The FAA enforces the DOT Hazardous Materials Regulations as they apply to the shipment of transportation of such materials by air. Any person who violates these regulations is subject to a civil penalty of up to $25,000 for each violation. In determining the amount of the civil penalty, the FAA considers, among other things, the nature, circumstances, extent, and gravity of the violation. The FAA considers the offering or transporting of such oxygen generators in violation of the regulations to be an extremely serious offense.

TAKE NOTICE that, effective immediately, any person who, in violation of the DOT Hazardous Materials Regulations, offers for transportation or transports oxygen generators as cargo aboard a passenger-carrying aircraft will be subject to swift enforcement action, including, but not limited to significant civil penalties and appropriate judicial remedies.

Further, any person who willfully violates a DOT Hazardous Materials Regulations is subject to criminal penalties of up to 5 years in prison and/or fines.

Issued in Washington, DC, on May 23, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–13414 Filed 5–23–96; 1:31 pm]

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LIST OF PUBLIC LAWS

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